

From: No Digital Billboards in San Jose < >  
Sent: Tuesday, October 19, 2021 11:12 AM  
To: Airport Commission 9; Airport Commission 10; Airport Commission CW;  
Airport Commission 1;  
Airport Commission 2; Kazmierczak, Matthew; Airport Commission 7; Airport  
Commission 4; Airport  
Commission 6; Airport Commission 8  
Cc: Connolly, Dan; John Miller; Jason Hemp; Les Levitt  
Subject: NDBSJ Op-ed: Airport Violates City Rules When It Comes to  
Digital Billboards

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[External Email]

Dear Airport Commissioners,

We just published an op-ed with the San Jose Inside regarding the airport billboards, along with some history on how they came into being. Link below.

Airport Violates City Rules When It Comes to Digital Billboards  
<https://www.sanjoseinside.com/opinion/airport-violates-city-rules-when-it-comes-to-digital-billboards/>

Also, in case you missed our earlier op-ed that was published in San Jose Spotlight last month on the same topic, here's a link to that again as well.

Airport Commission should not rubber stamp digital billboards at SJC  
<https://sanjosespotlight.com/op-ed-airport-commission-should-not-rubber-stamp-digital-billboards-at-sjc/>

Regards,  
Jason Hemp, Les Levitt, & John Miller  
No Digital Billboards In San Jose - Steering Committee

Sign our petition here  
Visit us on FaceBook here  
Email us: NoSJBillboards@gmail.com  
Follow us on Twitter @BillboardsNo  
Instagram: @nobillboardssj

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From: No Digital Billboards in San Jose < >  
Sent: Wednesday, November 3, 2021 6:15 PM  
To: Airport Commission 9; Airport Commission 10; Airport Commission CW;  
Airport Commission 1;  
Airport Commission 2; Airport Commission 7; Airport Commission 4; Airport  
Commission 6; Airport  
Commission 8; Kazmierczak, Matthew  
Cc: City Clerk; Connolly, Dan; John Miller; Jason Hemp; Les Levitt;  
Maggie Angst - Mercury News  
Subject: Billboard topic for Nov 8 Airport Commissioner meeting  
Attachments: NDBSJ Rebuttal To IS-Addendum Response\_Nov3-2021.pdf

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[External Email]

Dear Airport Commissioners & SJC staff,

We are submitting the following for inclusion in the public record associated with agenda item VII.B on Electronic Billboards for the upcoming Nov 8 meeting. Specifically, we ask that the following items be reviewed and addressed:

1) Recommend not to approve staff report - we believe an approval of the staff report will send the message that the Airport Commission is rubber-stamping the electronic billboard project to proceed.

2) Submit letter to City Council opposing the project - as part of rejecting the staff report, we recommend the Airport Commission make a motion to submit a letter of recommendation to City Council opposing the Electronic Billboards project on Airport property, and to halt any further work on this deprioritized item.

3) Environmental Impact Report - 198 responses to comments on the IS/Addendum (ER21-015) have been posted on the City's Planning Dept website. The overall conclusion by the consultant states "no subsequent EIR need be prepared." We encourage you to review the consultant's responses to various government agencies, organizations, and individuals, including responses to Commissioners Connolly, Hendrix, and Pyle (pages 13-

24):

<https://www.sanjoseca.gov/home/showpublisheddocument/79122/637713582408438072>

4) Rebuttal to the IS/Addendum responses - Please see attached PDF with our responses to the above item, highlighting concerns about the City downplaying legitimate concerns or dismissing them outright without further consideration.

5) Omission of deprioritization of Electronic Billboards in SJC memo - In the Oct 29, 2021 memo to the Airport Commission from SJC staff Matthew K. (link), there is a reference to an outdated memo from Feb, 2020 regarding Electronic Billboards as being #3 on the list of Council Priorities for 2020-2021. However, since then on Feb 22, 2021 Mayor Liccardo and Councilmember Peralez had submitted memos to City Council (link & link) to de-prioritize all work on electronic billboards for the 2020-2021 FY. This was approved by the Council as part of a larger motion of halting Phase2 work regarding Electronic Billboards.

6) Recent article - If you have not already reviewed our recent op-eds or other articles published in local media on this topic, we encourage you to do so. The links to those articles are included here for reference.

Airport Violates City Rules When It Comes to Digital Billboards  
<https://www.sanjoseinside.com/opinion/airport-violates-city-rules-when-it-comes-to-digital-billboards/>

Op-ed: Airport Commission should not rubber stamp digital billboards at SJC  
<https://sanjosespotlight.com/op-ed-airport-commission-should-not-rubber-stamp-digital-billboards-at-sjc/>

'Intent on ignoring the public': San Jose plans to add more digital billboards  
The city has proposed building two new LED-illuminated billboards next to the Mineta San Jose International Airport  
<https://www.mercurynews.com/2021/07/29/new-digital-billboards-are-coming-to-san-jose-freeways-whether-residents-like-it-or-not/>

7) Incomplete draft minutes - The draft minutes from the Aug 9 Airport Commission meeting for item 8a "Clear Channel Electronic Billboard Project" doesn't reference our presentation made to the Airport

Commission, public comments made during the meeting on this subject, the over 140 letters submitted by the public opposing the billboards, nor the discussion that led to the motion for a follow-up discussion. Link:  
[https://www.flysanjose.com/sites/default/files/commission/21-08-09%20DRAFT%20Minutes%20of%20the%20Airport%20Commission%20Meeting\\_0.pdf](https://www.flysanjose.com/sites/default/files/commission/21-08-09%20DRAFT%20Minutes%20of%20the%20Airport%20Commission%20Meeting_0.pdf)

We hope you take our above concerns under consideration during your deliberations. Thank you.

Regards,  
Jason Hemp, Les Levitt, & John Miller  
No Digital Billboards In San Jose - Steering Committee

Sign our petition here  
Visit us on FaceBook here  
Email us: NoSJBillboards@gmail.com  
Follow us on Twitter @BillboardsNo  
Instagram: @nobillboardssj

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From: Mark Baker < >  
Sent: Tuesday, September 28, 2021 11:00:43 AM  
To: Aitken, John <JAitken@sjc.org>; Adams, Janelle <JAdams@sjc.org>  
Cc:  
Subject: LED Billboards Violate the Americans with Disabilities Act

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[External Email]

Dear Janelle Adams, Administrative Assistant, San Jose Airport,

Please submit these public comments to each of the San Jose Airport commissioners.

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Dear San Jose Airport Commissioners,

LEDs emit a non-uniform luminance, directed-beam light that interrupts the proper functioning of the human central nervous system. We estimate that 20% of the population experiences strong negative effects from LEDs, including epileptic seizures, migraines and psychological trauma. For example,

because of this interference with the central nervous system, a person with even mild autism will not be able to see, think or concentrate when exposed to an image from an LED billboard, whether changing or not.

The San Jose Airport is at risk of losing federal funding for failing to comply with the Americans with Disabilities Act. This situation will occur if the airport installs, or allows to be installed, LED billboards. These LED billboards will prevent people who are LED-reactive from accessing the airport.

SoftLights.org advocates for the safety and protection of persons with epilepsy, autism and migraines. We have expertise in the area of LED light discrimination and we have contacts at the federal agencies tasked with enforcing the ADA such as the General Services Administration, Department of Justice, and US Access Board.

Clear Channel will likely tell the commission something such as "we comply with all regulations" or present biased studies that show that the LED billboards cause no harm. However, the commission can read these personal stories from our members to know that LED billboards are dangerous and unacceptable in public spaces. [www.softlights.org/stories](http://www.softlights.org/stories)

To ensure the protection of people with disabilities, to ensure compliance with the ADA, and to ensure that federal funding is not withheld, we urge the commission to vote against any LED billboard installations.

Sincerely,

Mark Baker, B.S.E.E.  
SoftLights.org

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From: Nina Heldt < >  
Sent: Friday, November 5, 2021 1:16 PM  
To: Airport Commission 1; Airport Commission 2; Airport Commission 3;  
Airport Commission 4;  
Airport Commission 5; Airport Commission 6; Airport Commission 7; Airport  
Commission 8; Airport  
Commission 9; Airport Commission 10; Airport Commission CW; Kazmierczak,  
Matthew  
Cc: Liccardo, Sam; Jones, Chappie; Cohen, David; Davis, Dev; Carrasco,  
Magdalena; Mahan, Matt;  
Esparza, Maya; Foley, Pam; Peralez, Raul; Jimenez, Sergio; Arenas, Sylvia;  
Petersen, Adam; City Clerk;  
NoSJBillboards@gmail.com  
Subject: I oppose the electronic billboards proposal on airport  
property

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

[External Email]

Dear Airport Commissioners and City Council,

I am opposed to the installation of new electronic billboards on airport  
property, and I urge you to vote  
to oppose the project from proceeding any further at the Airport  
Commissioner meeting on August 9th,  
2021.

Trashing the natural environment of San Jose cannot be allowed to happen.  
The razing of 43 healthy  
trees for these new digital billboards is unacceptable. The arguments for  
digital billboards are bogus.  
There's no significant money in it for the city, nor is it worth  
sacrificing our natural environment,  
architectural integrity and specifically the riparian wildlife along the  
Guadalupe River. Digital billboards  
will not improve the local economy. They certainly will not generate so-  
called "urban vibrancy" for  
which there is no data or evidence.

By allowing these first digital billboards in San Jose, the City may be  
opening the floodgates%

Nina Heldt

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From: Michelle < >  
Sent: Friday, August 13, 2021 9:01 AM  
To: Airport Commission 1; Airport Commission 2; Airport Commission 3;  
Airport Commission 4;  
Airport Commission 5; Airport Commission 6; Airport Commission 7; Airport  
Commission 8; Airport  
Commission 9; Airport Commission 10; Airport Commission CW; Kazmierczak,  
Matthew  
Cc: Liccardo, Sam; Jones, Chappie; Cohen, David; Davis, Dev; Carrasco,  
Magdalena; Mahan, Matt;  
Esparza, Maya; Foley, Pam; Peralez, Raul; Jimenez, Sergio; Arenas, Sylvia;  
Petersen, Adam; City Clerk;  
NoSJBillboards@gmail.com  
Subject: NO to Digital Billboards Along the Guadalupe Trail!

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[External Email]

Dear Airport Commissioners and City Council,  
I am opposed to the installation of new electronic billboards on airport  
property, and I urge  
you to vote to oppose the project from proceeding any further at the  
Airport Commissioner  
meeting on August 9th, 2021.  
Trashing the natural environment of San Jose cannot be allowed to happen.  
The razing of  
43 healthy trees for these new digital billboards is unacceptable. The  
arguments for digital  
billboards are bogus. There's no significant money in it for the city, nor  
is it worth sacrificing  
our natural environment, architectural integrity and specifically the  
riparian wildlife along  
the Guadalupe River. Digital billboards will not improve the local  
economy. They certainly  
will not generate so-called "urban vibrancy" for which there is no data or  
evidence.  
By allowing these first digital billboards in San Jose, the City may be  
opening the floodgates  
for dozens of additional billboards and litigation, like what has happened  
in Los Angeles.  
Thirty-six years ago, the City Council enacted a ban on new billboards.  
The ban was  
established based on the belief that beautification was the best way to  
encourage economic  
development, a concept the city's current leaders have been hell-bent to  
reverse. The city's

own survey shows that nearly 93% of the public strongly oppose this scheme as well. Please listen to them.  
Thank you,  
Michelle R.

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From: Catherine Martinez < >  
Sent: Monday, August 16, 2021 7:04 PM  
To: Airport Commission 1; Airport Commission 2; Airport Commission 3; Airport Commission 4; Airport Commission 5; Airport Commission 6; Airport Commission 7; Airport Commission 8; Airport Commission 9; Airport Commission 10; Airport Commission CW; Kazmierczak, Matthew  
Cc: Liccardo, Sam; Jones, Chappie; Cohen, David; Davis, Dev; Carrasco, Magdalena; Mahan, Matt; Esparza, Maya; Foley, Pam; Peralez, Raul; Jimenez, Sergio; Arenas, Sylvia; Petersen, Adam; City Clerk; NoSJBillboards@gmail.com  
Subject: I oppose the electronic billboards proposal on airport property

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[External Email]

Dear Airport Commissioners and City Council,<BR><BR>I am opposed to the installation of new electronic billboards on airport property, and I urge you to vote to oppose the project from proceeding any further at the Airport Commissioner meeting on August 9th, 2021. <BR><BR>Trashing the natural environment of San Jose cannot be allowed to happen. The razing of 43 healthy trees for these new digital billboards is unacceptable. The arguments for digital billboards are bogus. There's no significant money in it for the city, nor is it worth sacrificing our natural environment, architectural integrity and specifically the riparian wildlife along the Guadalupe River. Digital billboards will not improve the local economy. They certainly will not generate so-called "urban vibrancy" for which there is no data or evidence. <BR><BR>By allowing these first digital billboards in San Jose, the City may be opening the

floodgates%

Sent from my iPhone

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From: Sally Redfield < >  
Sent: Friday, August 20, 2021 10:41 AM  
To: Airport Commission 1; Airport Commission 2; Airport Commission 3; Airport Commission 4; Airport Commission 5; Airport Commission 6; Airport Commission 7; Airport Commission 8; Airport Commission 9; Airport Commission 10; Airport Commission CW; Kazmierczak, Matthew  
Cc: Liccardo, Sam; Jones, Chappie; Cohen, David; Davis, Dev; Carrasco, Magdalena; Mahan, Matt; Esparza, Maya; Foley, Pam; Peralez, Raul; Jimenez, Sergio; Arenas, Sylvia; Petersen, Adam; City Clerk; NoSJBillboards@gmail.com  
Subject: I oppose the electronic billboards proposal on airport property

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[External Email]

> I am opposed to the proposed installation of new electronic billboards on airport property or anywhere in San Jose.

>

> The so called "urban vibrancy" is a vague and unsubstantiated claim, how is it supposed to make out town more "vibrant"? Digital billboards are a blight on our lovely city. It's the open sky and trees that make life in San Jose approachable and livable for people who don't want to live in areas with constant noise and lights. We should be proud to be different than other highly populated urban areas and embrace the fact that we are surrounded by natural beauty. Instead of trying to be something else. Tearing down trees to install billboards is aesthetically and environmentally questionable.

>

> I know that studies have mixed results but I personally find them very distracting when driving and I know others do as well. Do we want to chance even one accident?

>  
> By allowing these first digital billboards in San Jose, the City may be opening the floodgates for dozens of additional billboards and litigation, like what has happened in Los Angeles.  
>  
> Thirty-six years ago, the City Council enacted a ban on new billboards. The ban was established based on the belief that beautification was the best way to encourage economic development, a concept the city's current leaders want to reverse. We are a city of over 1,000,000 people and I don't think the City Council is representing very many of us in this matter.  
>  
> Regards,  
>  
> Sally Redfield  
> Shasta Hanchett Neighborhood

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From: David Muhlitner < >  
Sent: Friday, November 5, 2021 2:57 PM  
To: Kazmierczak, Matthew  
Cc: David Muhlitner; District 6  
Subject: Electronic Billboards

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Electronic billboards are dangerous and an eyesore. They look bad and make San Jose look like a second class city.

David Muhlitner  
Sent from Mail for Windows

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From: plynam < >

Sent: Tuesday, August 24, 2021 9:50 PM  
To: Kazmierczak, Matthew  
Subject: 101 Airport Electronic Signs Addendum - City of San Jose File  
No: ER21-015

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Dear Airport Commissioners,

I write to formally register the concerns of the University of California's Lick Observatory in response to the electronic billboard(s) project being pursued by San Jose International Airport (SJC) staff to install new structures supporting four electronic billboards on airport property, to be located steps away from the Guadalupe River and US freeway 101.

For almost 140 years, the people of the Valley of Heart's Delight and the University of California's Lick Observatory have enjoyed a fruitful relationship. The city fathers of the Bay Area have consistently supported the observatory's ability to stay at the forefront of astronomy and technological innovation. Strategically located atop Mount Hamilton since the 1880s, the observatory's threshold is crossed by some 35,000 visitors annually. Thousands more enjoy its scenic approaches and hinterland for recreation. New worlds continue to be discovered from within sight of the City of San Jose. Lick Observatory maintains a global reputation as an authority on astronomical matters. Contrary to popular belief, Lick Observatory serves scientists from across all ten campuses on the University of California, their international collaborators, a number of national laboratories as well as industrial partners. Hundreds of scientists travel to-and-from Lick Observatory every year. For the vast majority of these people, the city of San Jose and its airport serve as the primary access point. For decades, the observatory has advised on lighting ordinances, including (in the 1960s and 1970s) the deployment of sodium lighting, subsequent upgrades to light emitting diode (LED) technologies and, most recently, the deployment of electronic billboards. Measures explicitly to protect Lick Observatory are encoded into lighting ordinances.

Naturally, from a purely astronomical perspective, it would be best to have no electronic billboards at

all. However, guidelines to minimize damage to dark skies by electronic billboards, developed by the International Dark-Sky Association, inform Lick Observatory's recommendations to reduce negative impacts. They include: limits on brightness, a curfew for turning off signs at 11 p.m. or midnight, constraints on sign direction, size and density, use of lower-temperature (less blue light) LEDs, tilting electronic billboards downwards by 15 degrees and ensuring that mechanical shielding is installed to reduce light being scattered upwards. Artificial Light At Night (ALAN) is the major contributor to the phenomenon commonly referred to as light pollution. In large part, light pollution is a consequence of the physics of ever-present aerosols (e.g. water vapor, particles, etc.), which preferentially redirect light. Hence, mechanical design of responsible lighting fixtures seeks to minimize wasted light. In contrast, billboards intentionally project light laterally. Thus, billboards disproportionately compound already-vexatious light pollution via two mechanisms. First, billboards add intensity. The efficiency of electronic illumination represents a many-fold increase in wasted light, compared with former illumination methods. Second, the nature of LED technology (i.e. combining emission from multiple intensity peaks) contaminates the entire visible spectrum, whereas incandescent or discharge (e.g. sodium) lighting consists of isolated spectral peaks, with adjacent spectral regions free from contamination. In sum, the introduction of electronic billboards along the freeway 101 corridor (including in-and-around the San Jose International Airport) would render a deleterious impact upon Lick Observatory. Of particular concern is the proposal for the faces of two of these extremely large electronic billboards to be oriented such that they project directly in the direction of Mount Hamilton and the Observatory at its summit. Furthermore, it is feared that, should electronic billboards be re-introduced on San Jose International Airport property, it would set a precedent contravening the laudable, existing, decades-long moratorium on the introduction of new billboards in the San Jose area, which would subsequently lead to the proliferation of such fixtures, further threatening the operation of Lick Observatory, jeopardizing the University of California's educational, research and public outreach mission in the physical sciences and eroding Santa Clara's astronomical heritage and future.

Typically, local authorities engage public opinion when considering changes to ordinances. Experience

shows that the overwhelming majority of contributors perceive the most compelling arguments against electronic billboards to be the well-established detrimental consequences on human health and safety, the similarly well-established impacts on wildlife habits and habitats, visual congestion, the often unwelcome and unsightly appearance and the eventual unkempt and untidy nature of both the structures themselves and their immediate vicinity. For the most part, the needs of observatories are well-aligned with majority public opinion. The University of California's Lick Observatory encourages the City of San Jose to perform due diligence during deliberations regarding the proposed deployment of electronic billboards (e.g. by canvassing a fair, balanced representation of community/stakeholder opinion and undertaking a full and proper environmental impact assessment). The observatory remains available to advise on these matters, while continuing to foster the fruitful relationship that has persisted for well over a century.

I request that this communication be disseminated to the Airport Commissioners through the offices of Mr Kazmierczak.

Yours sincerely,

Dr Paul D. Lynam FRAS

Astronomer

University of California Observatories/Lick Observatory

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From: Peter Ross < >  
Sent: Friday, November 5, 2021 8:53 PM  
To: Kazmierczak, Matthew  
Cc: NoSJBillboards@gmail.com  
Subject: in regards to agenda iitem VII.B Electronic Billboards for the Nov 8 Airport Commission meeting

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[External Email]

Matthew,

I am adamantly opposed to the proliferation of electronic billboards in San Jose, whether at the airport or elsewhere, for obvious reasons. San Jose, as the de facto capital of Silicon Valley, deserves better.

Peter Ross

.  
San Jose 95126  
San Jose homeowner since 1988

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From: Freda Hofland < >  
Sent: Friday, November 5, 2021 8:59 PM  
To: Kazmierczak, Matthew  
Subject: agenda item VII.B Electronic Billboards

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[External Email]

Dear Mr. Kazmierczak:

I would like to go on record opposing electronic billboard signs in San Jose. Not only are these digital monstrosities an ugly blight on our landscape but they will also create another driving distraction which we definitely do not need. I truly hope the Council will reconsider this ill-advised campaign and will not approve it.

Sincerely,

Freda B. Hofland  
.  
Los Altos Hills, CA 94022

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From: Vivian Kramp < >  
Sent: Saturday, November 6, 2021 12:16 PM  
To: Kazmierczak, Matthew  
Subject: No digital billboards in San Jose!!!

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[External Email]

Dear Mr Kazmierczak,

I know the Airport Commission will be meeting to consider the issue of putting up digital billboards at the airport on Monday. I wish to comment on this.

I oppose all digital billboards in our city, whether at the airport or elsewhere. They are distracting to drivers and therefore dangerous! I will continue to fight these billboards until the Airport Commission and the City Council listen to the citizens who overwhelmingly oppose them.

Please don't install any more digital billboards in San Jose.

Thank you  
Vivian Kramp  
San Jose

Sent from my iPhone

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From: María Hennesy < >  
Sent: Saturday, November 6, 2021 2:27 PM  
To: Kazmierczak, Matthew  
Subject: VII.B Electronic Billboards

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[External Email]

From: Maria Hennessy  
Sent: Saturday, November 6, 2021 2:22 PM  
To: mkazmierczak@sjc.org <mkazmierczak@sjc.org>; Raul Peralez <district3@sanjoseca.gov>  
Subject: Electronic Billboards

Dear Matt:

Billboards, electronic or otherwise were banned by San Jose City Law in 1972 and passed a citywide ban in 1985. A survey indicated that 93%of San Jose residents disapproved of ANY billboards, including electronic billboards. You are ignoring the will of the general public and kissing the ring of billboard lobbyists.

These signs create visual blight, distract drivers and negatively affect the environment, surrounding wildlife and residents' overall quality of life. They are noisy and constantly hum. They do nothing to beautify the city. We must stop this effort to turn San Jose into Times Square.

If the city council want to pass this, then they should put it up as a proposal for voters in San Jose to approve or disapprove. Any attempt to pass it without a vote is environmental tyranny. I will work my hardest to replace any council members who support these electronic billboards.

Sincerely,

Maria Hennessy  
A taxpaying citizen fo San Jose

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From: Carrick Bartle < >  
Sent: Sunday, November 7, 2021 8:07 AM  
To: Kazmierczak, Matthew  
Subject: Airport billboards

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[External Email]

Hi Matthew,

I'm a resident of San Jose, and I'm deeply disappointed that the staff has recommended that the two new electric billboards at the airport be approved, in the face of high public opposition. Are you aware of why this is? Presumably someone would be getting money from these billboards, but surely the public response has made it clear that however much money San Jose would be getting from the billboards, it isn't worth it.

Carrick

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From: Leslie Levitt < >  
Sent: Monday, November 8, 2021 11:56 AM  
To: Adams, Janelle; Kazmierczak, Matthew  
Cc: ; City Clerk  
Subject: Urgent - Inputs for the Airport Commission Meeting Today  
11/8/21

[External Email]

Hello Matthew & Janelle:

A couple things...

1) We do not see any public comments posted online in advance of today's Airport Commission meeting. Can you explain? We submitted comments last week.

2) We submitted a critical review of the August Airport Commission draft meeting minutes after the minutes were released, yet the minutes are unchanged going into today's meeting. Can you explain?

Here are our inputs:

Lack of detail - As currently written, there is only a couple sentences describing the SJC staff presentation

for New Business item 8a without any mention of the NDBSJ presentation and its content, no mention of public comments made by several people on this topic, nor any description of the lengthy Commission discussion of the topic. This appears misleading and incomplete. More than 1 ½ hours was spent on this agenda item!

Les Levitt  
No Digital Billboards in San Jose Steering Committee Member

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

To: San Jose Airport Commission  
From: No Digital Billboards in San Jose  
Subject: Rebuttal to IS/Addendum Response for Digital Billboards

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Dear Airport Commissioners,

We are submitting the following for inclusion in the public record associated with agenda item VII.B on Electronic Billboards for the upcoming Nov 8 meeting.

198 responses to comments on the IS/Addendum ([ER21-015](#)) has been posted on the City's Planning Dept website. The overall conclusion by the consultant states "no subsequent EIR need be prepared." (link: <https://www.sanjoseca.gov/home/showpublisheddocument/79122/637713582408438072>)

Of those comments, a few asked questions, but the overwhelming feedback to the project were totally opposed - including a letter from billboard company OutFront Media, complaining about the avoidance of competitive bidding through an RFP. There was not one letter in favor of the proposal. Organizations opposed included Audubon/Sierra Club in a joint letter, Our City Forest, and the Secretary of the Guadalupe River Park Conservancy.

**Our rebuttal** - Please see below our rebuttal to a selection of those responses from the City, which highlights several cases where they downplayed legitimate concerns, dismissed them outright without further consideration, or contradicted themselves.

#### Comment on the City's Responses to Public Input

- "The comments do not raise any specific issue with the environmental analysis prepared for the proposed project. Therefore, no additional response or recirculation of the Initial Study/Addendum is required."

This is the City's all-purpose response demonstrating the limitations of the definition of "environmental analysis".

- "As described in Section 3.1 of the Initial Study/Addendum, the project would not result in significant aesthetics impacts." P. 153.

If the Airport billboards do not result in significant aesthetic impacts what would?

- "The proposed project is not a phase of a larger project. It is a stand- alone proposal for two electronic billboards at the Airport and it is not linked to other past or future billboard considerations." P. 179.

This is a total denial of reality and could only be true if the Airport were not an agency of the City.

- “Per the City’s Sign Ordinance (Title 23 of the San Jose Municipal Code), an electronic sign that is visible from two sides is considered as one sign.” P. 18.
- “...none of the details regarding the proposed electronic signs had been determined at the time the Amendment to the Master Plan was developed, so no analysis in the EIR was possible.” P.22.

They knew the locations of proposed billboards at the airport. Knowing a location and knowing the dimensions of most digitals was all that was necessary for inclusion in the EIR.

#### Revenue & Take Down Issues

- Revenue generation at Airport “The Project Plan for the outdoor electronic signs includes the greater of 55% of Gross Revenue or a MAG of \$300,000 on the Northern location and \$190,000 for the Southern location on Airport Boulevard for additional guaranteed annual revenue of \$490,000 for both signs.”

Staff and consulting time so far probably well exceeds that amount. However, the City has not disclosed overhead costs of staff time working on this project to date.

- “Rules regarding removal of signs can be found in Paragraph 6 of the Sign Approval Process in Council Policy 6-4, which stipulates, ‘If the City solicits proposals for reduction or elimination of existing Billboards...’ The project would not fall under this mandate.” P. 116.

Then they said to the Commissioners, “Removal of other billboards in place of the proposed billboards would be dictated by San Jose Airport staff in their agreement with Clear Channel.” P. 21.

#### Outfront Media and the Coming of Litigation

- “The City’s apparent approach is to allow Clear Channel Outdoor to move forward with the Project based on a competitively bid 2007 airport advertising and concession agreement that *expressly excludes* billboard advertising (“Master Concession Agreement”).” P.92, opposition letter from Outfront Media’s attorneys. <https://www.msrllegal.com>
- “The Addendum appears to contemplate allowing Clear Channel to proceed with the Project based on the Master Concession Agreement Clear Channel entered with the City in July of 2007. This Agreement and its amendments contemplate in-terminal and limited outdoor advertising on airport grounds but *expressly excludes* billboard advertising.” P. 93.
- “Policy 6-4 does *not* envision the City granting an entity an approval for new billboards on City-owned land with no competitive bidding process, and under an agreement that always excluded billboards from its scope.” P. 95.

In addition, given there was a ban on billboards in 2007 how can a contract between the airport and Clear Channel allow for the possibility of something that at the time of the contract is clearly not legal?

### Audubon & Sierra Club and an EIR

- Audubon and the Sierra Club submit their comments from April 2020 regarding the EIR for Phase 2. The Planning Dept. states, "...because the scoping letter addresses a different project than the currently proposed project and because the scoping letter was submitted to the City more than a year prior to preparation of the Initial Study/Addendum analyzing the impacts currently proposed project, it cannot be considered a comment letter on the currently proposed project." p. 143.

Common sense would dictate that comments about digitals on private property would apply to digitals on public property, but not according to the City.

- Audubon and Sierra Club "...maintain that the finding that the project will cause no significant unavoidable impacts to the environment cannot be made, and a full, independent EIR is needed." P. 149.
- The Secretary of the Guadalupe River Park Conservancy (p. 57.) says, "this is a new significant impact not previously identified in the Master Plan EIR." p. 58.
- The City responds to Audubon and Sierra saying the 2018, Initial Study that determined the "combined signs (of Phase 1) would not result in significant environmental impacts. This Initial Study/Addendum, therefore, does not fragment the CEQA analysis of the implementation of City Council Policy 6-4. Instead, the Initial Study/Addendum provides project-level environmental review of the specific electronic signs proposed by the project, as required under Policy 6-4. P. 152."

The IS determined there was no need for an EIR and therefore they declared a negative declaration. So why did they determine an EIR was necessary for Phase 2?

- The Audubon Sierra Club letter declares "Alternatives to the proposed project must be studied." P. 152.
- The City says, "The CEQA document prepared for the proposed project is an Addendum to the 2020 Airport Master Plan EIR. The Airport Master Plan EIR included an evaluation of project alternatives in accordance with Section 15126.6 of the CEQA Guidelines. The Initial Study/Addendum prepared for the proposed electronic signs project at the Airport did not identify any new or more significant impacts than those identified in the Airport Master Plan EIR. As a result, no additional discussion of project alternatives is required or warranted." P. 152.

This is why they did not include these billboards in the original Airport EIR.

### City Takes No Responsibility

- According to the City "With respect, the request for copies of City-Clear Channel communications regarding billboard safety and distractibility, no such communications exist. This is based as a search of City files and e-mails. The City does not possess any presentations, research, brochures,

etc. from Clear Channel about the effects of LED billboards and the issues of attention capture, distraction, civil liberties, and ADA compliance. Clear Channel, as the proposed owner and operator of the billboards, has the responsibility of designing the project to comply with applicable regulations.” p. 31.

- “The U.S. 101 Airport Electronic Signs project is an Airport tenant improvement project. This means that the Airport is not awarding the project and the tenant is solely responsible for construction.” P. 40.

The city assumes no responsibility.

- “...during evaluation of the project’s impacts, the City’s biological consultant and lighting consultant, *and the applicant*, coordinated to determine how the project could be designed and operated to ensure that lighting impacts would be less than significant.” P.148.

So the applicant is evaluating whether the impact of the proposal will be significant. What did they think the applicant would conclude?

Thank you for your attention to this important issue whose outcome will very much determine the future of San Jose. As always, we would be pleased to answer any questions.

Respectfully,

Jason Hemp, Les Levitt, & John Miller  
**No Digital Billboards In San Jose - Steering Committee**

Sign our petition [here](#)  
Visit us on FaceBook [here](#)  
Email us: [NoSJBillboards@gmail.com](mailto:NoSJBillboards@gmail.com)  
Follow us on Twitter [@BillboardsNo](#)  
Instagram: [@nobillboardssj](#)

*We are concerned residents and citizens calling ourselves No Digital Billboards in San Jose, working to inspire people who care about San Jose to send the San Jose City Council the explicit message, No Digital Billboards!*

November 8th, 2021

To: Matthew Kazmierczak

From: Ken Pyle (Airport Commission Vice-Chair)

Subject: Questions regarding meeting the FAA obligations regarding Guadalupe Gardens

The following represents questions regarding the recommendations contained in the [city staff's 10/15/2021 memorandum](#) to the City Council.

### **Why Does It Cost So Much to Keep the Property Clean?**

At the bottom of page 3 of the city staff memo, it is suggested that if a fence is not built then the annual cost of the ongoing services is estimated at \$2.15M (compared to \$1.706,000 one-time cost for building a fence). This seems like an extraordinarily high cost.

1. What are the cost components that make up the \$2.15M?
2. One of the costs appears to include an ongoing cost for abatement. Why would abatement be necessary if there were cameras, regular patrols, and enforcement to prevent dumping before it could happen?
3. How much does it cost to maintain the ½-acre next to the cell phone parking lot (pictured below)? This plot of land has no fence and no trash (kudos, SJC).
4. More specifically, is there a variation of option 1 referenced in the above memo, whereby through monitoring and enforcement, the 40-acres could be kept clean without a physical fence?



## Previous Questions

These are slightly refined questions from my 08/09/21 memorandum that have not been addressed

1. How is SJC/the City of San Jose engaging the Guadalupe River Park Conservancy on this short-term plan?
2. What is the maximum number of people that the FAA will allow to congregate for recreational or other (not live or stay overnight) activities at this location?
3. The previous question leads to the question as to what activities would the FAA potentially allow for this location, if any? For instance;
  - a. Disc golf? Observation: The Kelly Park Disc Golf is privately maintained and there are no encampments, despite it having similarities to the Guadalupe location.
  - b. Regular golf?
  - c. Other recreation?
  - d. Farming of any kind?
  - e. Solar arrays or other energy generation?
  - f. Percolation ponds in concert with the Santa Clara Valley Water District