

TO: AIRPORT COMMISSION

FROM: Matthew Kazmierczak
Manager of Strategy and Policy

SUBJECT: Background Billboard Information
For January 5, 2022

DATE: December 21, 2021

Airport Commission Special Study Session and Special Meeting for January 5, 2022 at 6pm.

Process

- Study Session – The Airport will first hold a conversational study session. The purpose of the study session is to hold an in-depth conversation to learn more.
- Special Meeting – After the study session, we have scheduled an Airport Commission Special Meeting to allow the Commission to make a motion and/or take a position.

Details on the Proposed Airport Electronic Billboards

- Details on the parameters of the proposed Airport electronic billboards are available:
 - In the EIR report
 - The November 8, 2021 Airport Commission meeting PowerPoint
 - The November 30, 2021 Council meeting
 - Links to these items are included below on the last page of this memo

Changes Since the November 8, 2021 Airport Commission Meeting

- **Clear Channel has agreed to the request by the Airport Commission to remove eight (8) billboards within the boundaries of the City of San José**
 - Will follow the terms outlined in Council Policy 6-4
 - Will be from locations that are unsightly or incompatible with surrounding land uses
 - Potential to remove billboards from residential locations
 - Potential to address equity issues as billboards likely to come from lower income neighborhoods
 - Proposed Airport billboards
 - Don't face residential locations. Faces the freeway and the fuel farm.
 - Is not in an incompatible location as outlined in Council Policy 6-4, there are nearly identical billboards north of De La Cruz
 - Follows International Dark-Sky Association's guidelines, including being turned off between midnight and 6am

- **Labor Support** – Teamsters Local 853 came out in support of the project. Their members are residents of San José and asked that the City consider the workers and their families when considering this project.
- While not a change, just a reminder that **Caltrans requires 2 billboards to be removed** along the freeways in California

Historical Run Through

- September 2018 - Council adopted Council Policy 6-4, which provides the policy, regulations, and process for electronic signs. Council Policy 6-4 included proposed sites on Airport property.
- August 6, 2019 - Council approved allowing the Airport to use Clear Channel for its proposed digital billboards (vote was 11-0)
- February 2020 - Clear Channel was approved for the development and operation of an electronic billboard under the guidelines outlined in Council Policy 6-4
- February 25, 2021 - Council vote to reaffirm and go forward with City owned sites (vote was 11-0)
- May 2021 – Agenized for Airport Commission – Staff was still working on EIR materials and details of the project, so staff were not ready to provide a report. Item deferred to August.
- July/August 2021 – 30-day Public Comment period on EIR conducted voluntary effort not required by CEQA
- August 2021 – Airport Commission reviewed the details of the project and were invited to provide comments and questions as part of the EIR process
- November 2021 – Airport Commission reviewed the responses to the EIR report and had additional non-EIR questions and suggestions.

Q&A – Process for Council Policy 6-4

- This policy was advanced by the Office of Economic Development (OED) and the City Council Committee on Community and Economic Development. Was not an Airport item.
- OED brought this item to the Planning Commission, County’s Airport Land Use Commission, Committee on Community and Economic Development, and ultimately to the City Council. All documents and meetings were open and available to the public.
- Citywide initiatives are not under the scope of the Airport. Managed by the subject matter expert or City Manager’s Office.

Q&A – Business Case

- Revenue Sharing is 55%
 - Clear Channel first proposed 30-40%, but had to agree to 55% because of the current contract.
 - Revenue sharing for billboards at other airports:
 - 35% at New Orleans Airport
 - 35% at Victoria International Airport
 - 37% at Piedmont Triad International Airport (NC)
- Minimum Annual Guarantee (MAG): \$490,000/year or \$2.5 million over the 5-year term
 - For the past 3 fiscal years, Clear Channel exceeded their MAG, ranging from 77% to 89% over MAG. If the billboards exceeded their MAG by the same average rate, this proposed project could generate nearly \$900,000/year.
This would be \$4.5m over the term of the project.
 - Of the 16 concessionaires at the airport, only 4 generate more than \$490,000/year in revenue to the Airport
 - Billboards revenue is \$3,141 per square foot. Normal ground rate - \$3.25 s/f. In the terminal the FY22 rate is \$209 s/f (from our May 2021 meeting)
 - In FY21, Clear Channel brought in more revenue to the Airport than food and beverage (F&B) and retail combined
 - Airport advertising is quite profitable for the Airport
 - Once up and running, very little staff time and/or maintenance
 - Advertising is significantly more profitable than F&B and retail
- Other ideas for the site
 - Looked into other concepts for the proposed site (additional parking, solar). The revenue for these items was a small fraction. Uncertain, if these would even be profitable to the City given the necessary infrastructure and other costs.
- Free Advertising for the Airport
 - Airport gets 10% of the time to promote the San José Airport's direct destinations (currently about 40), including 7 international destinations
 - Worth over \$250,000 to the Airport
 - San José Airport now ranks 3rd in the Bay Areas (fell behind Oakland)
 - November passenger counts at SJC are 65% of pre-pandemic levels compared to 84% nationwide
 - San José Airport also ranks near the bottom as a percent of pre-pandemic level passengers when compared with the top 50 airports

Q&A - Environmental

- Trees - Clear Channel has agreed to follow the City's tree replacement policy, which includes up to 5 new trees to be planted for each tree removed for native trees and up to 4 new trees for non-native
- Electricity - Clear Channel will be using electricity from San José Clean Energy which is 90% carbon free. The remaining 10% is unspecified sources from the grid through open-market transactions and may include carbon free sources.

Q&A – Indemnification

- Clear Channel indemnifies the City and assumes all risk and responsibility
- In addition to the indemnification language, Clear Channel is also required to maintain insurance at sufficient thresholds to protect the City
- Project indemnification is set by the City Attorney's Office and insurance requirements are set by the City's Risk Management Office, minimizing the risk to the City

Q&A – Health Issues

- Spoke with the Epilepsy Foundation
 - There is no scientific evidence that LED lights as a light source create issues for people that are photosensitive
 - There are no ADA issues with LEDs as a light source. Confirmed with a former U.S. Department of Justice official who worked on ADA issues.
 - The issue for people who are photosensitive is when the lights are flashing, such as in the gaming or entertainment industry
 - Flashing and/or moving lighting are prohibited on billboards in San Jose

By voting to advance this project, the Airport Commission has the potential to spell out their recommended precedent and terms for billboards in the City of San José. This precedent could set the framework for any future billboards, including the need to respect brightness requirements, follow the recommendations from Lick Observatory, and take-down four in San José for every proposed one to go up. These rules and regulations could help provide additional tools for fighting against rogue billboards that don't conform to the requirements, including being too bright.

The current proposal before you today represents a balanced compromise that provides a win for the residents of San José. At the last Commission meeting, the Airport Commission clearly shared their desire to have Clear Channel to follow the 4-1 take down provisions of Council Policy 6-4. Clear Channel heard you and now proposes to take down eight billboards in San José as the Airport Commission requested. By removing eight billboards in San José, residents get a benefit from the removal of billboards in their residential neighborhoods, from incompatible locations, or in unsightly locations. The two billboards being proposed face strict guidelines on brightness and are in a location that already has similar billboards.

The residents of San José also benefit from the additional funding for the San José Airport. As an enterprise fund, the Airport does not use local tax money to operate and as such, it needs to be self-sustaining. Revenue to run the Airport comes from multiple sources. While much of this funding comes directly from aeronautical sources: the airlines, airfield activity, and passenger facility charges, the airport also relies on non-aeronautical sources to supplement this. This project will generate a minimum of \$2.5 million over the terms of the project (a more likely estimate is \$4.5 million based on historical trends), and this is money that does not need to be collected from other operations (such as through higher parking rates or higher charges to the Airlines). Similarly, the Airport would not need to cut expenses by delaying projects or decreasing passenger services. The ultimate beneficiaries of this funding are the passengers.

The City Council is being asked to adopt a resolution approving the Addendum to the Amendment to the Norman Y. Mineta San Jose International Airport Master Plan Environmental Impact Report (EIR) (SCH# 2018102020), certified by the San Jose City Council on April 18, 2020, in accordance with the California Environmental Quality Act. They are also being asked to conduct a Public Hearing regarding the Project Plan for two (2) Outdoor Advertising Digital Billboards, to fulfill the Public Noticing Requirement under Policy 6-4.

The Airport asks that the Airport Commission vote to accept the Environmental Impact Report Addendum and to support holding a public hearing on this matter.

Below are some related links and information concerning billboards in San José:

Council Meeting from November 30, 2021

- Council memo:
<https://sanjose.legistar.com/View.ashx?M=F&ID=10051505&GUID=282F5BC5-573A-4CF0-80A5-1C950F187615>
- Supplemental EIR Memo:
<https://sanjose.legistar.com/View.ashx?M=F&ID=10301410&GUID=EEC91D4B-622F-4686-A323-F60D3473377E>
- Video of item from the meeting, starts at 5:41
<https://www.youtube.com/watch?v=e0ub7OqUX58&t=22240s>

Airport Commission Presentation from 11/8/2021

<https://www.flysanjose.com/sites/default/files/commission/2021-11-08%20Airport%20Commission%20Presentation.pdf>

Current City Policy on this topic (Council Policy 6-4). Details are available at:

<https://www.sanjoseca.gov/home/showpublisheddocument/50829/637153744794670000>

2020-2021 City Council Policy Priorities Setting Memo (Billboards is #3 on the priority list)

<https://www.sanjoseca.gov/home/showpublisheddocument/54679/637189943126970000>

A link to the EIR documents and details:

<https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/us-101-airport-electronic-signs/-fsiteid-1>

The August 6, 2019 Council Meeting, which includes details to the public on electronic billboards at

the Airport: <https://sanjose.legistar.com/LegislationDetail.aspx?ID=4069004&GUID=5D65FA6C-C368-47D3-AD65-623B431C0E54&Options=&Search=>

The September 25, 2018 Council Meeting, which includes details to the public on electronic billboards at the Airport:

<https://sanjose.legistar.com/LegislationDetail.aspx?ID=3656439&GUID=36BDBC85-5F3F-4E8A-A947-D2F66EC256C7&Options=&Search=>

The August 22, 2018 San José City Planning Commission Meeting, which includes details to the public on electronic billboards at the

Airport: <https://www.sanjoseca.gov/home/showpublisheddocument/42241/637245473712570000>

The June 27, 2018 Santa Clara County Airport Land Use Commission meeting, which heard details about the potential for electronic billboards at their public

meeting: http://sccgov.iqm2.com/Citizens/Detail_Meeting.aspx?ID=9904

The June 5, 2007 City Council Meeting Agenda, which includes the original RFP for Clear Channel as

agenda item 6.3: <http://www3.sanjoseca.gov/clerk/Agenda/060507/060507aa.pdf>