

August 9, 2021

To: Matthew Kazmierczak , Manager of Strategy and Policy
From: Dan Connolly (Commissioner 10), Catherine Hendrix (District 9 Commissioner), Ken Pyle (Vice-Chair)
Subject: Concerns and Questions regarding 08/09/21 Airport Commission Meeting Agenda Item, VIIIA, *Clear Channel Electronic Billboard Project*

After studying what we could find online, we have many questions with regards to Agenda Item, VIIIA, *Clear Channel Electronic Billboard Project*. The following represent questions and concerns and are categorized for convenience for the reader. The numbers are for reference only and do not represent priority. Please include this in the public record for tonight's meeting.

Business Issues:

1. Is Clear Channel SJC's partner on this project?
2. If so, was their bid part of the earlier RFP that Clear Channel won for the in-terminal marketing/sponsorship program?¹
3. According to the August 2019 council direction, it looks like outdoor billboard advertising would be addressed after the in-terminal marketing/sponsorship program was decided. This direction indicated an RFP would be created.²
 - a. When was that RFP issued?
 - b. May we see the RFP?
4. What is SJC's net revenue for existing indoor advertising? Does net revenue figure include associated overhead costs? The 2019 gross revenue is \$5.13M or \$5.02M and increased to \$6.96M out of \$229.9M total revenue. This means current advertising provides approximately 3 cents for every dollar of total airport revenue.³ Neither of these reports provide associated expenses, so it is impossible to understand the net revenue and associated gross margin on these products.
5. Similarly what is the projected gross and net revenue (after associated overhead expenses) for outdoor billboard advertising? According to SJC's September 2020 ACDBE submission, gross revenue for outdoor advertising is projected at \$13,045,946 for 2021 to 2023.⁴
6. Is there a minimum guarantee for SJC?

¹ See this Oct. 3, 2019 news release for the announcement <https://www.prnewswire.com/news-releases/nations-first-all-digital-airport-advertising-network-d ebuts-with-82-screens-at-norman-y-mineta-san-jose-international-airport-300930906.html>

² See page 4 of the memo found here <https://drive.google.com/file/d/1oMGfPGcZhGnPnpHj4iLKDDg6zgVDUIFQ/view?usp=sharing>

³ [SJC's ACDBE submission to the FAA](#), suggests \$5.13M, while page 88 of [SJC's 2020 Comprehensive Annual Financial Report suggests \\$5.02M](#) revenue for 2019 and \$6.96M for 2020.

⁴ See page 5, table 2 <https://www.flysanjose.com/sites/default/files/strategy-and-policy/SJC%20ACDBE%20Goal%20Methodology%20FFY%202021-2023.pdf>

7. Will the city receive 55% of gross revenues as per their current deal?⁵
8. To what extent is San Jose and SJC indemnified by potential negative outcomes, such as inappropriate advertising, crashes caused by distracted drivers, or the need to remove the billboards prior to the end of the agreement?
9. If a billboard needs to be removed (e.g. road widening) prior to the end of the lease, will SJC have to pay cash compensation to the owner of the billboard?

Economic Development and Quality of Life

1. With greater than 90% strongly or somewhat opposed to digital billboards, according to the City of San Jose's own March 2021 survey, why is the city continuing to pursue a change in billboard policy?⁶
2. To what extent does implementation of phase 1 (billboards on city/public properties) put the City of San Jose in legal jeopardy if it decides not to move forward with phase 2? That is, can the city legally allow digital billboards on public properties, while not allowing billboards on private properties?⁷
3. Does the current proposal adhere to item 6 of the Sign Approval Process outline in policy document 6-4, that requires the removal of 4 existing billboards for each new sign?⁸ If not, why not?
4. How many advertising spots will SJC receive as part of the deal (e.g. % of ad space devoted to SJC associated ads)?
5. How much will this cost the city in terms of dealing with permits, enforcement, etc.? Where will those costs show up in terms of budgets (e.g. SJC, City of San Jose, etc.)?
6. How much is being invested by the city, and SJC to launch this project?
7. If the advertising was 100% SJC-related (i.e., on-premises), would the approval process be the same? That is, would it be considered a billboard, or would it be signage like any other business has? If it is signage, then what would be the limitations (e.g. size, frequency of ads, etc.)?
8. How do these billboards improve urban vibrancy?

⁵ As reported by the Mercury News on October 3rd, 2019

<https://www.mercurynews.com/2019/10/03/high-tech-ads-dazzle-travelers-san-jose-airport-travel-tech-google/>

⁶ See page 8 <https://www.sanjoseca.gov/home/showpublisheddocument/70836/637527140641700000>

⁷ Outfront recommended that "From a CEQA perspective, it is preferable for the City to select proposals for RFP Phase 1 and RFP Phase 2 at the same time....vulnerable to a CEQA challenge on the basis that it is not adequately defining the 'whole of the project' or properly analyzing the cumulative effect of approving both Phase 1 and Phase 2."

https://drive.google.com/file/d/1IW8_uALZjnC_FxxR1kAth8UkN8CbMZJm/view?usp=sharing

⁸ See page <https://www.sanjoseca.gov/home/showpublisheddocument/50829/637153744794670000>

Environmental

1. Can this project be sited where it is, given that it is at the intersection of 101 and 87? Per page 16 of the Initial Study/Addendum (ISA), "Further, this Act generally prohibits signs within 300 feet of the point of intersection of a highway or highway and railroad lines..."⁹
2. What is the discretionary review process for this project, as per CD-1.28 (referenced on page 18 of the ISA)?
3. Per VN-2.3 (page 18 of the ISA), how has the public been given "the opportunity to provide input on the design of public and private development within their community"?
4. Because of the V-shaped nature of the billboards, does this project really consist of four billboards (one on the front/one on the rear for each proposed billboard)?¹⁰
5. Has any analysis been done of the potential carbon footprint for this project? Section 3.3 of the ISA doesn't seem to have that analysis.
6. The ISA analysis suggests that 43 non-native, ornamental trees will be removed. Some of these trees are substantial - up to 38 feet tall and 323 inches in circumference (page 71).
 - a. What is the carbon impact of such a removal?
 - b. When were these trees planted, by what entity, and what was the purpose (e.g. to block the view from the freeway)?
 - c. Explain this statement, 'All trees to be removed, with the exception of one (a raywood ash [*Fraxinus oxycarpa*]), are nonnative species, which provide little ecological value...' Doesn't this contradict San Jose's Community Forest Goals of building our urban forest?¹¹
 - d. Table 3.4-1 is confusing. It appears as if there are different replacement ratios for the size of the tree being removed. What is the bottom-line number of trees to be planted in exchange for the removal of these 43 trees?
7. Per Section 3.6.1.2 of the ISA
 - a. It seems like MS-16.2 (page 104) should apply, as there could be potential for solar on these sites.
 - b. According to data on page 88, 118 MegaWatts per year (323 kW/day or about 18 kWh total or 9kWh per sign location) will be needed to power these signs. Why isn't onsite energy generation (e.g. solar on the billboards) being considered as a way to offset power needs?
 - c. Based on the average power consumption of 482 kWh per month per San Jose Clean Energy (5.8 MWh per year), these two signs would be the equivalent of adding approximately 20 houses.¹² This seems like a significant impact, despite what it says on page 110.
8. Per page 54 of ISA, it appears that the South sign is the closest to the aquatic and riparian corridor. The wording is confusing. Is it outside the corridor? Is it part of the

⁹ See <https://www.sanjoseca.gov/home/showpublisheddocument/75599/637629018744800000>

¹⁰ Comment: In today's world of digital manipulation, it seems like much better renderings could have been made than what was presented in the EIR.

¹¹ See <https://sanjosecfmp.com/#why-trees>

¹² From the San Jose Clean Energy website (8/9/21) <https://sanjosecleanenergy.org/residential-rates/>

CDFW and RWQCB jurisdiction and, as such, does that mean it would need approval by the USACE?

9. Will there be any impact on Lick Observatory or will the horizontal shading louvers prevent upward light from leaking out? It appears that is the case, given the steps to eliminate light leaking towards the control tower, for instance.

Safety

1. There doesn't seem to be an analysis of the potential for crashes due to driver inattention. Granted [the studies](#) are mixed as to what it could mean from a crash perspective.¹³ Still, where is the cost-benefit analysis of the potential safety risk versus revenue generation?
2. How does this achieve San Jose's Vision Zero policy?
3. If implemented, will there be provisions to change parameters if future research indicates things, such as ad dwell time, brightness, etc. need to be changed to ensure safety?
4. Figure 7 of the Comprehensive Land Use Plan Santa Clara County Norman Y. Mineta San Jose International Airport Amended 11/16/16 outlines Airport Safety Zones for SJC. Are the two proposed electronic billboards outside the Runway Protection Zone?

Operational

1. How many billboards are there in San Jose?
2. Is there an inventory/map of these billboards?
3. How many billboards will there be in San Jose if they are all converted to electronic?
4. How many billboards would be removed if these four billboards go up? 8 or 16?
5. It is assumed that all personnel required to maintain and operate these billboards will be from SJC's private partner. Is that correct and, if so, what will be the impact on SJC personnel in terms of having to support this private partner?

Process:

1. Why weren't these proposed billboards included as part of the Airport Master Plan, approved in 2020? It is important to note that the Airport Commission was not part of the Airport Master Plan process. With that said several commissioners submitted comments at various stages of the Airport Master Plan process.¹⁴

¹³ See this 2019 meta-study and how digital billboards impact different age groups and skill level drivers. <https://www.sciencedirect.com/science/article/pii/S0965856418310632>. An earlier study suggests "they do cause greater distraction and longer eye glances than standard billboards."

https://drive.google.com/file/d/1Og69vQ_oJXLiUTw8nmvGRh8mNbAnGRhy/view?usp=sharing

¹⁴ See pages 27-31 of the public comments.

<https://www.sanjoseca.gov/home/showpublisheddocument/61644/637304476558530000>. Note, these comments submitted on January 13th 2020 by Commissioner Pyle do not appear in the public record.

■ File PP18-103- Comments on Airport Master Plan-200113 - Pyle.pdf

2. The proposed billboard locations were not referenced in the July 15th, 2019 staff memo. The sites listed in that memo are 2400 Seaboard Avenue, 2200 Airport Boulevard, 1128 Coleman Avenue, and 2341 Airport Boulevard.¹⁵
 - a. What was the motivation for this change?
 - b. In what public forum was this change proposed?
3. It appears that the city is preventing political or religious advertising on the billboards. Can it Constitutionally do so?¹⁶ Political or religious restrictions are not included in Policy 6-4, effective November 9th, 2018.¹⁷
4. The aforementioned November 9th 2018 policy suggested that the “FAA requires City receive fair market value for use of the property.” How has this been assured?
5. Attachment A, List 1 has a footnote referring to 2500 Seaboard Avenue and 2341 Airport Boulevard that states, ““State law restricts to on-site commercial speech and large arena sponsorship signage.” Does this mean that off-site commercial speech is not allowed at those sites? Does this mean the sites currently under consideration also can’t have site commercial speech (advertising)?

¹⁵ See Table 3 on page 3 of the memo found here <https://drive.google.com/file/d/1oMGfPGcZhGnPnpHj4iLKDDg6zgVDUIFQ/view?usp=sharing> What is odd about that memo is that it suggests that the 2500 Seaboard Avenue site, which is home to SJC’s fuel tanks, is managed by the “Sharks Sports and Entertainment as part as part of their Arena Management Agreement with the City of San Jose (SAP Center, Hwy 87 and West Hedding, and 2500 Seaboard Ave...”

¹⁶ See page 4 under the “Commercial advertising policy” <https://drive.google.com/file/d/1oMGfPGcZhGnPnpHj4iLKDDg6zgVDUIFQ/view>

¹⁷ See page 7, Item 1 under *Message Limitations* <https://www.sanjoseca.gov/home/showpublisheddocument/50829/637153744794670000>

Appendix A - Select Comments from the Public

With over 150 emails submitted on this topic (all in opposition), we have never seen so much public passion around an agenda item brought before the Airport Commission. Although we don't necessarily endorse the following, we felt the comments below provide food for thought, particularly for City Council in its decision regarding digital billboards.

- “Other types of signs without these problems are available to be installed. NOT ELECTRONIC BILLBOARDS...NONE!!!”
- “Billboards benefit only their owners and advertisers; every passerby pays the ‘attention tax’ price, making them a loss overall for society.”
- “The city's own survey shows that nearly 93% of the public strongly oppose this scheme as well.”
- “Whatever money this would raise for the city is not worth it – raise our taxes instead.”
- “I am very concerned about the direction the City is going in.”
- “Can I ENCOURAGE you to concentrate more on the existing issues that plague our ONCE wonderful city, homelessness, crime rate, trash, infrastructure, traffic, etc., etc., etc...”
- “The city putting them up, is like the city endorsing looking at text messages while driving!!!!!!”
- “I find it odd/suspicious that the many opposition letters to Phase 2 that apply to Phase 1 are omitted from the official record;...I'm requesting this email and my previous letter (re-attached) be added to the official record” (letter from July 2020).
- “The fact that running six-second [actually, it is 8-second duration] commercials on huge electronic billboards will create divided attention on our roadways is completely against San Jose's Vision Zero. Where is the common sense?”

Appendix B Suggested Road Signage at the Airport

Although somewhat off-topic, a simple improvement in SJC wayfinding would be the addition of road markings, such as what is depicted in the crude rendering, below. Simply, it is easy to get confused as to which lane one should be in when navigating the airport road system.

