



## Presentation to the San José Airport Commission January 26<sup>th</sup> 2022

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Video: <https://www.youtube.com/watch?v=dhWYWzj2bjc>  
Petition: <https://scenic.salsalabs.org/sanjosebillboardsaugust2020/index.html>

# No Digital Billboards in San José

# History

(1972)

Councilman Goglio moves adoption of the policy that the City prohibit the future location of billboards on City-owned land, and that all existing billboards on City-owned land be removed within a period of five years, seconded by Councilman Colla and adopted. Ayes: Councilmen - Colla, Garza, Goglio, and Mineta. Noes: Councilmen - Hayes and Hays. Absent: Councilman - Naylor.

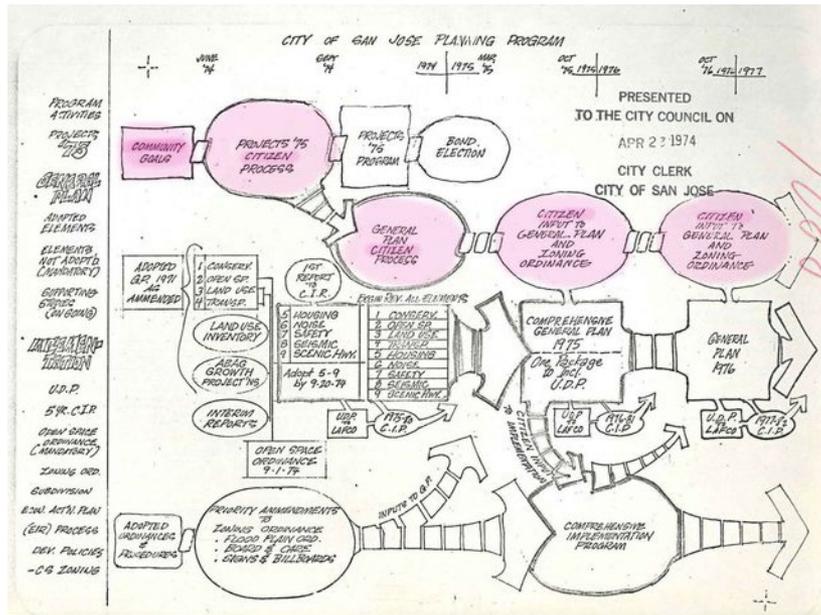
(1985) *"The planning commission did a three year study and determined that an abundance of billboards is "visual blight." City officials said, reducing this kind of conspicuous advertising will improve the overall appearance of the city, and this in turn will encourage economic development."* – Mercury News article 1985

(1985) *"Planning department officials say the ordinance is designed to encourage the revitalization of downtown and major thoroughfares."* – Mercury News article 1985

(1985) *"The ban is an expression of a very strong commitment on the part of the city council to beautify the city"* – Gary Schoennauer Director of Planning

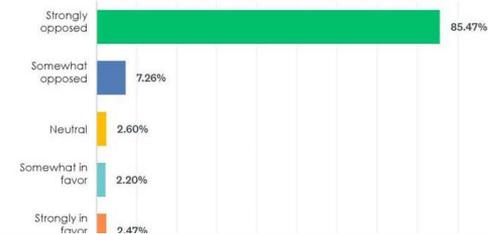
# A Public Consensus Issue

- Over 2,000 respondents to a Planning Department survey oppose digital billboards. Almost 93% oppose them on freeway facing property. 80% oppose them on buildings in Downtown San Jose.



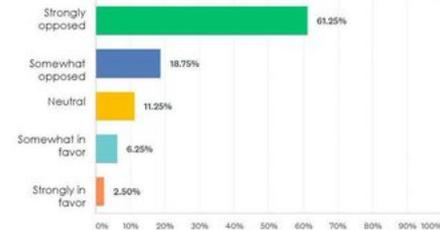
## City of San José Survey: Digital Billboards

Item 3: In general, how do you feel about allowing new digital billboards to be built along freeways in San José?



## City of San José Survey: Digital Billboards

Item 11: In addition to free-standing digital billboards along freeways, the City is considering allowing both digital and static advertising signs attached to buildings within the Downtown. How do you feel such signs being attached to buildings in Downtown San José?



Responses: 2203  
Skipped: 31

13

No Digital Billboards in San José

- Airport billboards would be giant symbols of disregard for the City’s Climate Smart & Carbon Neutral 2030 policies.
- Any project that increases power consumption for the sake of advertising needs a deep look.
- Last minute ideas to suddenly make electronic billboards environmentally friendly are unproven and should have been detailed a long time ago.

## California readies to prevent blackouts, but threats remain

*California's top energy regulators say the state is better prepared to avoid last summer's rotating blackouts*

By ADAM BEAM Associated Press  
May 19, 2021, 7:39 AM • 4 min read

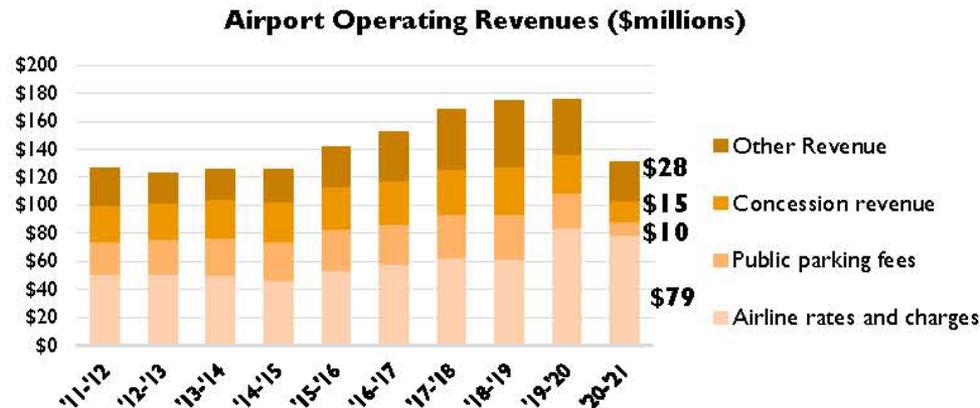


The Associated Press

FILE - In this Aug. 15, 2020, file photo, high voltage signs are posted on the Department...[Read More](#)

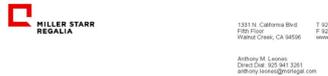
# Revenue Reality

- |                            |      |         |                            |
|----------------------------|------|---------|----------------------------|
| ▪ SJC Special Allocations: | 2021 | \$15.8M | Year 1 Infrastructure Bill |
|                            | 2021 | \$1.6M  | Concessions Relief         |
|                            | 2021 | \$55.5M | Airport Rescue Grant       |
|                            | 2020 | \$65.6M | CARES Act                  |
- Total Revenue 2020/2021: \$132M
- Conclusion – Billboard Annual Revenue (\$490K) would be a Drop in the Bucket (<0.3% of annual revenue). And that is only top line revenue.



# Litigation Risk

- Clear Channel & Outfront seem ready to sue San Jose over differing interpretations of the 2007 agreement between the Airport and Clear Channel.
- If San Jose continues to pursue billboard projects exclusively on public property, it will face litigation on the grounds that the city cannot go into the billboard business while denying that opportunity to others on private property.
- The City Council has a fiduciary responsibility to their stakeholders, the residents of San Jose, to heed warning signs in factoring the total cost-benefit to our community in pursuing digital billboards.



August 17, 2021

#### VIA E-MAIL AND U.S. MAIL

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Re: US 101 Airport Electronic Signs Addendum (File No. ER 21-015)

Dear Mr. Petersen:

This office represents Outfront Media LLC ("Outfront") regarding the City of San Jose's Initial Study (IS) Addendum (the "Addendum") for the proposed addition of two V-shaped electronic displays adjacent to Highway 101 on portions of the Norman Y. Mineta San Jose International Airport (the "Project"). Outfront submits this comment because the Addendum does not accurately describe the procedure required to complete the Project, which are clearly outlined in City Council Policy 6 ("Policy 6-4"). Policy 6-4 expressly requires that the City "seek proposals" for new billboards on city-owned land. When the City selects a proposal for a new billboard on city-owned land, Policy 6-4 then requires the City to enter into a lease or other contractual agreement, subject to review under the California Environmental Quality Act ("CEQA") and with the issuance of a building permit. Policy 6-4 does not require approval of a site development permit or design review as the Addendum indicates.

As described in the Addendum, 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 excluded billboard advertising ("Master Concession Agreement"). Neither the Master Concession Agreement, nor any of its six amendments authorize Clear Channel to complete the Project. To allow the Project to move forward as contemplated in the Addendum would violate Policy 6-4 and deny the City the benefit of a competitive process meant to select the entity best suited to complete the Project in an advantageous manner for the City.

Outfront respectfully requests that the City comply with its own governing policies and solicit proposals from qualified bidders before moving forward with the Project.

GLYNN, FINLEY, MORTL, HANLON & FRIEDENBERG, LLP

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December 28, 2021

#### BY FIRST-CLASS MAIL AND EMAIL

Honorable Mayor Liccardo  
Vice Mayor Jones  
City Councilmembers  
Office of the City Clerk  
200 E. Santa Clara St.  
San Jose, CA 95113  
[cityclerk@sanjoseca.gov](mailto:cityclerk@sanjoseca.gov)

RE: US 101 Airport Electronic Signs Project

Dear Mayor, Vice Mayor and Councilmembers:

This office represents Clear Channel Outdoor, Inc. ("Clear Channel") with respect to the approval of Clear Channel Outdoor Digital Billboards-San Jose International Airport Project Plan. This is in response to the November 22, 2021, correspondence from counsel for Outfront Media LLC ("Outfront") regarding the approved outdoor billboards adjacent to Highway 101 on portions of the Norman Y. Mineta San Jose International Airport and Council's action taken November 30, 2021, related to the Addendum to EIR addressing these billboards.

Outfront contends that outdoor billboards are prohibited both by the terms of the Advertising Concession Agreement ("Agreement") between the City of San Jose and Clear Channel and the terms of City Regulation Policy 6-4. Apparently, as a result of these objections and other concerns related to billboards, the City Council ("Council") declined to accept the Amended EIR and instead is considering an RFP for these outdoor billboards at the San Jose Airport. For the reasons addressed in this letter, the objections raised by Outfront are unfounded and untimely as these billboards were properly approved by Council and awarded to Clear Channel.

The Outdoor Billboard Project ("Project") was properly proposed and approved under the terms of the amended Agreement in February 2020. Any objections or concerns related to that Project should have been raised at that time. The Addendum to the EIR, which was required as part of the Project plan, was completed in July 2021, and



## The San Jose Problem

October 5, 2018 12:05 am

By Jennifer Sloane, Esq.

As an attorney for the OOH industry, I love to see comments by local governmental officials such as those pointed out in the article [New Digital Signs Headed For San Jose, CA](#). In that article, the city councilperson stated, in summary, that they wanted to allow billboards on city land but not on private land because if they allowed billboards on private land "...it makes it more competitive and it makes it more difficult for the city to get the ad revenue." These comments are setting the City up for a potential suit challenging the law that would preclude advertising on private property so that the City can get their hands on all of the ad revenue spent within their City limits. This, my unsuspecting city councilmember, constitutes a violation of the Sherman Act that precludes anticompetitive legislation.

"I would gladly take the call of any OOH operator that wants to challenge a San Jose law that allows the City to have billboards on their land, but not grant the same rights to the citizens of San Jose. It's a no-brainer!" Law Office of Jennifer Sloane, Esq.



# No Digital Billboards in San José

# Better Ideas → New RFP Concept

## Re-imagine this important Gateway to San Jose

The City created an ugly garage, then did the worst possible signage, and now they want to make it worse by putting gigantic digital billboards with advertising in front of it. Let's re-imagine this gateway...

Marketing [#SJC](#). A little creativity please...

How about an RFP to LOCAL artists and creators instead of national billboard companies? Imagine the faces of this (ugly) structure with an improved ON-PREMISE sign, murals, & public art as an iconic welcome to [#SanJose](#).

### On-Premise Sign

- 100% SJC & San Jose Content
- Compliant with existing sign code
- No risk of **association** with advertising and unknown content



# Nothing New

- Nothing presented today by Staff changes the fact that there was no competitive bidding
- Nothing presented today by Staff changes the myriad of reasons stacked up to oppose this project
- It is too late to talk about billboard swaps. The entire concept needs to be revisited as part of a review of Council Policy 6-4 because:

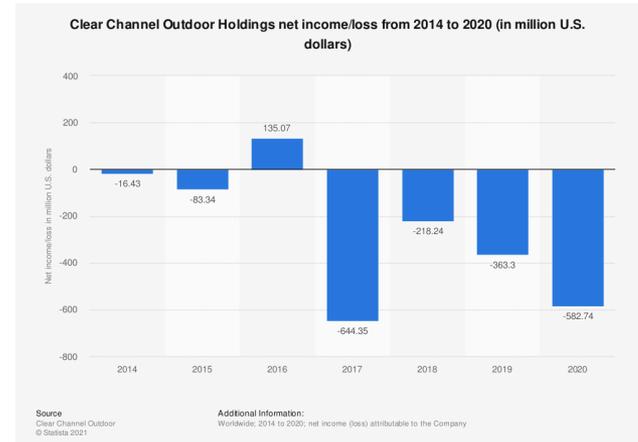
It is disingenuous to refer to (2) billboards. There are (2) sites each with (2) 1000 square foot screens (one facing north and the other facing south) = 4 billboards. This project should require 16 static billboards to be removed.

This is an example of how flawed Council Policy 6-4 is. Even the most basic definition of how to count billboards is not clear.

The original 4:1 take down concept is also flawed because it only stipulates a number – treating all sites equally and with the outdoor media company choosing which site would be designated. This would mean billboards from low impact locations would be removed first and others in most visible locations would remain.

# Why Would You Support This?

How can the City ask for support for Clear Channel and ignore their poor record as a community partner?



No Digital Billboards in San José

# What Should the Airport Commission Do ?

- Reject the Airport Billboard Plan – Again
- Request a new and different kind of RFP for a beautifying SJC Gateway facing HWY 101
- Highlight the need for the City Council to review Policy 6-4 and SJC contract processes
- Recommend that if the City Council has any doubt about where the public stands then put this issue on the ballot in 2022.

*Thank you for the opportunity to present our view*