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San José City Council, California

Executive Summary:

San José City Council should reject amendments which would allow construction of billboards, whether static or digital. Billboards are a threat to driver safety, they harm wildlife, they harm nearby properties, and the terms of the proposal offer a bad deal for San José.

Dear San José City Council and Community Members,

As the only national nonprofit that helps citizens safeguard the scenic qualities of America's roadways, countryside and communities, Scenic America actively supports local efforts to preserve scenic beauty and oppose visual blight in cities throughout the United States. Our organization has identified billboards as a particularly harmful form of scenic blight, with significant negative impacts, and for almost 40 years we have worked with national, state, and local officials to ensure that outdoor advertising is properly regulated.

We have learned of the City's intention to consider an amendment to its Sign Ordinance laws. The proposed amendment to Title 23 of the San José Municipal Code would:

1. Allow free-standing billboard structures on freeway-facing non-City-owned sites and consider building-mounted programmable signage and signs displaying off-site commercial speech on certain non-City owned sites within the Downtown Sign Intensification Zone and the North San José Development Policy Area.
2. Explore signage on public right-of-way to allow off-premise commercial advertising along public amenities, street furniture, and transit facilities.
3. Evaluate illumination parameters for illuminated and programmable signs.

Based on the experiences of cities which have enacted similar laws, as well as on robust research evidence, Scenic America recommends that the City of San José reject the proposed amendment. We wish to bring to your attention the hazards to human health and safety and to

ecological health which are posed by billboards, so that the Environmental Impact Analysis can address these concerns. We also wish to alert the City to the harms to local property owners and to governance which are posed by the proposed laws.

First, there is a preponderance of evidence demonstrating the negative impacts digital billboards have on public safety by altering driver behavior. In brief, digital billboards create dangerous and unavoidable driver distractions, by design and for the purpose of drawing driver attention away from the road and toward the advertisements. Human error is the leading cause of traffic accidents, and lawmakers have come to recognize the importance of reducing driver distraction by enacting laws to ban cell phone use while driving. As digital billboards have become more common, an emerging body of research indicates that digital billboards may create similar distraction conditions. For an extensive list of the dangers which digital billboards pose to drivers, please refer to this compendium of research studies which describe the hazards at length.¹

Second, digital and brightly lit static billboards harm wildlife. These structures contribute to the growing problem of light pollution, which disrupts the circadian rhythms and related behavior of local wildlife populations. People are not immune to this kind of pollution, and excessive lighting can negatively impact human health as well as ecosystems.²³⁴

Third, billboards lower property values and reduce the local tax base. Visual blight constitutes a significant threat to property owners and to overall quality of life in a city. The threats to scenic value posed by the proliferation of both digital and static billboards are broadly recognized, and have served as the impetus for the creation of sign ordinance laws in San José and throughout the country. Title 1 of the 1965 Highway Beautification Act explicitly cites the need to regulate signage in order to

“...protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.”⁵

Crucially, research on the impacts of billboards indicates a measurable loss in property values which directly results from proximity of billboards to properties.⁶ Proponents of billboards describe them as sources of economic growth, but there is no evidence that billboards sufficiently offset the losses they impose on others, or that they function as net positive assets for a community. More than 700 towns in America have banned billboards, and billboards are not necessary to support economic growth. Billboards impose significant negative externalities upon the communities which host them, and sign ordinance amendments must account for the considerations which spurred the creation of those laws.

¹ Compendium of Recent Research Studies on Distraction from Commercial Electronic Variable Message Signs (CEVMS), Jerry Wachtel, CPE President, The Veridian Group, Inc. Berkeley, California, Feb., 2016
<https://www.scenic.org/wp-content/uploads/2019/09/billboard-safety-study-compendium-updated-february-2018.pdf>

² <https://www.sciencedirect.com/science/article/pii/S187770581502113X>

³ <https://www.nature.com/articles/srep13557>

⁴ <https://www.nature.com/articles/tp2016262>

⁵ <https://www.law.cornell.edu/uscode/text/23/131>

⁶ https://www.scenic.org/wp-content/uploads/2019/09/Beyond_Aesthetics1.pdf

Last, as a matter of good governance, consider the process for removing multiple static billboards in exchange for approval of a single new digital billboard. This tactic has been employed in other cities and its implications are significant, because it acknowledges that billboards are undesirable, and that reduction in the total number of billboard structures or faces can serve as a compromise to expediate the approval of digital billboards. If they were to accept a compromise like this, the City of San José should understand the exchange ratios which other cities have negotiated.

For example, Kansas City, MO considered a proposal for an equivalent seven to one conversion agreement.⁷ Gulfport, MS had an agreement for a six to one conversion ratio, and Tampa, FL had a ten to one ratio.⁸ The terms in the San José proposed amendment are uncompetitive, with a four to one ratio. Once again, the basis of these provisions is an understanding that billboards in general are bad for communities.

The billboard proposal is bad for the people of San José. It would make driving in San José more dangerous, it would allow billboards to negatively impact human health and the local ecosystem, it would harm property owners, and it would grant undue concessions to billboard companies while increasing visual blight. We therefore strongly recommend that the City Council reject this amendment.

Thank you for consideration, and we will be available to answer your questions and provide additional guidance as needed.

Sincerely,



Mark Falzone,
President, Scenic America

⁷ <https://martincitytelegraph.com/2020/02/07/new-ordinance-allows-more-digital-billboards-in-kc/>

⁸ http://www3.dallascityhall.com/committee_briefings/briefings0411/ECO_DigitalBillboardCodeAmendmentUodate_040411.pdf