COUNCIL AGENDA: 12-01-09
ITEM: 4.3

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: **DRAFT SIGNAGE STRATEGY FOR THE SIGN ORDINANCE UPDATE**

DATE: November 17, 2009

Approved Paul Krutko Date 11/17/09

COUNCIL DISTRICT: Citywide
SNI AREA: All

RECOMMENDATION

Staff recommends that the City Council accept the report and direct the Administration to prepare an ordinance to revise Title 23 of the San Jose Municipal Code (the Sign Ordinance) consistent with the proposed draft signage strategy and conduct additional community outreach.

OUTCOME

With this item, the City Council would endorse or modify the following recommendations (known as the draft signage strategy) for the Sign Ordinance:

1. Allow freeway signs with a digital/electronic component for large shopping centers near freeways. Allow attached signage for freeway occupancy frontages and remove restriction on signs facing freeways.
2. Revise the parameters for electronic/digital signs (programmable display signs) for large ground-floor spaces in the Downtown Sign Zone, allow programmable display signs as freestanding signs within a subarea of the Stevens Creek Boulevard Signage Area, within the Capitol Expressway Auto Mall Signage Area and within the proposed Blossom Hill Boulevard Signage Area; and allow electronic/digital signs for large assembly uses citywide.
3. Allow large "supergraphic" signs as temporary signs on blank walls in the Downtown Sign Zone subject to specific parameters.
4. Retain the existing billboard ban for both static and electronic/digital billboards.
5. Delay action regarding off-site advertising on public property until resolution of a non-San Jose lawsuit currently on appeal provides clearer legal guidance on whether a city can have a billboard ban while allowing off-site advertising on public property.

The recommended signage strategy also includes additional recommended changes to the Sign Ordinance that are scheduled to be brought forward to the Council on December 15, 2009. These recommendations will include, but are not limited to, provision for skyline signs citywide, greater flexibility for temporary signage in the Downtown Sign Zone, and a number of other revisions regarding the placement and types of signs allowed in the Downtown Sign Zone, in Neighborhood Business Districts and citywide. Council direction on the strategy will enable staff to prepare revised sign regulations that balance the City's goals for visually vibrant development, successful commercial businesses, and attractive streetscapes.

EXECUTIVE SUMMARY

The following matrix outlines current Sign Ordinance provisions and the recommended revisions proposed by staff regarding four key signage issues.

Recommendations for Key Signage Issues		
Category	**Existing Regulations**	**Proposed Regulations**
Freeway Signs	•Large pylon signs for shopping centers not allowed. •Attached signs on freeway building frontages not allowed if no intervening parking/street/plaza.	•Allow one pylon sign for 25+ acre shopping centers located within 200 ft. of a freeway. Max area: 400 sq.ft./Height: 60 ft. Programmable Display Sign (PDS) allowed for 50% of sign area. On-site/non-commercial messages only. Need traffic safety parameters. • Allow attached signs for bldg. frontages next to a freeway. Allow signs to face a freeway.
Programmable Display Signs (PDS)	•Allowed on a limited basis in the Downtown (DT), Urban Mixed Use and Airport Sign Zones. •Small time and temperature signs allowed citywide.	•Increase allowed size of attached signs for large ground-floor spaces in the DT Sign Zone to 50 sq.ft. Reduce frontage requirement. •Allow PDS signs up to 50% of freestanding signs for large sites in specific areas of Stevens Creek Blvd., Capitol Exp. and Blossom Hill Rd. •For all PDS signs, allow on-site or non-commercial messages only. Develop parameters to address traffic safety and compatibility.
Supergraphics in the Downtown Sign Zone	Banners over 1200 sq.ft. not allowed.	•Allow in DT Sign Zone as temporary signs (60 days) up to 5,000 sq.ft. Maximum 5 signs at one time. Cannot cover or surround windows.
Billboards/Offsite Advertising on Public Property	Not allowed.	•Retain existing billboard ban for private property. Delay decision on off-site signs on public property pending resolution of a lawsuit currently on appeal regarding whether a city can allow off-site signs on public property only.

In adopting the budget for the current fiscal year, the City Council directed the Administration to explore a citywide advertising program involving off-site advertising on City property that would generate revenue for core City services and to identify necessary changes to the Sign Ordinance. Budget Document 3 provides staff direction to generate general fund revenue through commercial advertising at the following specific locations in the city:

1) trash and recycling receptacles in the downtown, the Neighborhood Business Districts (NBDs) and parks;

2) public toilets in the downtown; and

3) free-standing advertising kiosks throughout the downtown core, within NBDs and at city-owned property (like the Convention Center and Mexican Heritage Plaza).

The Council also provided specific direction on sign technology (24/7 backlighting) and a desire to limit alcohol and tobacco advertising and suggests that the Arts Commission function as the review body supported by staff. The direction asks for staff to identify the necessary changes in the Sign Code to implement Council direction. Due to a pending lawsuit with another jurisdiction, staff is recommending that San Jose delay its consideration of off-site advertising. The resolution of this lawsuit, currently on appeal, should provide clearer legal guidance about maintaining a billboard ban while allowing off-site advertising on public property.

ORGANIZATION OF THIS MEMORANDUM

The summary of the recommendations and a matrix of how these recommendations affect the current regulations are contained in the Executive Summary. The rest of the memorandum and attachments present the analysis of the Department of Planning, Building and Code Enforcement, in close coordination with the City Attorney's Office, that resulted in the proposed recommendations. The Background section summarizes the following:

- Prior City Council Direction, pg. 4
- Recent Ordinance Amendments, pg. 5 to pg. 6
- Outreach Process, pg. 6 to pg. 7
- Overview of the Legal Considerations, pg. 7

The Analysis Section provides a brief presentation of the recommendations regarding four key signage categories and references a complete analysis for each category included as Attachments I-IV. The signage categories discussed in the Attachments, which are incorporated herein by this reference, are:

• Freeway Signs	Attachment I
• Electronic/Digital Signs	Attachment II
• Large Banner/Supergraphic Signs	Attachment III
• Billboards on Private Property and Off-site Advertising on City Property	Attachment IV

BACKGROUND

City Council Direction

The last comprehensive update of the Sign Ordinance, Title 23 of the San Jose Municipal Code, was adopted by the City Council in November, 1992. When the original Sign Ordinance was adopted by the City, the main concern the City wanted to address was the prevention and minimalization of visual clutter and visual blight resulting from a proliferation of signage citywide. Over the past 17 years, the Council has approved a number of revisions to the Sign Ordinance to refine and update the City's signage regulations in response to changing needs of businesses, increasingly urban development patterns, and evolving community attitudes towards signage. These incremental changes (including a number of recent amendments that have focused on the Downtown Sign Zone) have expanded signage options but have not provided a comprehensive look at signage regulation to determine how it can best support the City's additional objectives for economic development, urban design, and greater visual vibrancy in the Downtown, while continuing to balance a desire to prevent visual blight.

Initiatives for the Downtown have highlighted enhanced signage as a strategy for enlivening the streetscapes of the City's urban core and have highlighted the need for a more comprehensive review of the Sign Ordinance to better align it with the City's overall vision for the Downtown. The discussion of enhanced signage for the Downtown Sign Zone over the past few years has focused on the amount and location of signage, specific types of signage (specifically programmable display, skyline and roof signs), the notion of art as signage, and the current billboard ban. In response to these and other signage issues, the City Council included a $150,000 allocation in the 07-08 Adopted Operating Budget to fund a consultant team to assist with an update of the Sign Ordinance.

Due to time and funding constraints, staff recommended that the first phase of the update focus primarily on the Downtown Sign Zone and that it not include a comprehensive review of all of the City's sign regulations or a complete restructuring of the Sign Ordinance. On December 11, 2007, the City Council provided direction on a work plan for an initial phase of the Sign Code Update requesting that staff focus primarily on the Downtown Sign Zone, but also consider, to the extent feasible, changes to signage regulations outside of the Downtown within the Neighborhood Business Districts and in other commercial and industrial areas. The Update was to examine existing sign regulations to identify changes needed to support the City's goals for business development and a visually vibrant urban landscape, while continuing to promote attractive streetscapes free of excessive visual clutter. The Council further directed that staff do as much as possible to improve the language of the Sign Ordinance so that the regulations are clearer and more readily accessible to the business community and the public at large.

Recent Ordinance Amendments

Staff has continued over the past several years to improve the Sign Ordinance to create a vibrant city and reduce unnecessary restrictions. These changes have allowed businesses to erect a wide variety of creative sign types. Three amendments to the Sign Ordinance have been approved by the City Council since initiation of the Sign Code Update process that addressed time-sensitive issues that could not wait for completion of the Update and that expanded the ability of the business community to build better signage.

The first ordinance, adopted by the City Council on June 2, 2009, established the Stevens Creek Boulevard Signage Area (covering the south side of Stevens Creek Boulevard between Winchester Boulevard and the City Limit line) with regulations intended to allow freestanding signs in San Jose, on the south side of Stevens Creek Boulevard, commensurate in size with freestanding signs allowed in the City of Santa Clara, on the north side of the street. Based on this ordinance, auto dealers and other commercial uses within the Stevens Creek Boulevard Signage Area may display freestanding signs up to 40 feet in height and 150 square feet in sign area (per side) and may display additional freestanding signs within outdoor retail display areas. During discussion of this item, Councilmember Constant requested that the ordinance also allow freestanding signage to include programmable display signs. In response, the City Council directed staff to explore this issue further.

The second ordinance, adopted by the City Council on June 16, 2009, made changes to the provisions for vertical projecting signs in the Urban Mixed-Use Sign Zone to provide greater flexibility for such signs on major street frontages, like the one on Winchester Boulevard shown in Figure 1.

The third ordinance, adopted by the City Council on September 1, 2009, amended the regulations of the Downtown Sign Zone to allow large ground-floor commercial spaces to display attached programmable display signs up to 35 square feet in area and 25 feet above grade. This amendment was intended to allow greater flexibility for large retailers and other large ground-floor establishments, like the new Downtown Safeway, to use a limited amount of programmable display signs while the City completes a more comprehensive review of what role this type of sign should play in the Downtown Sign Zone.

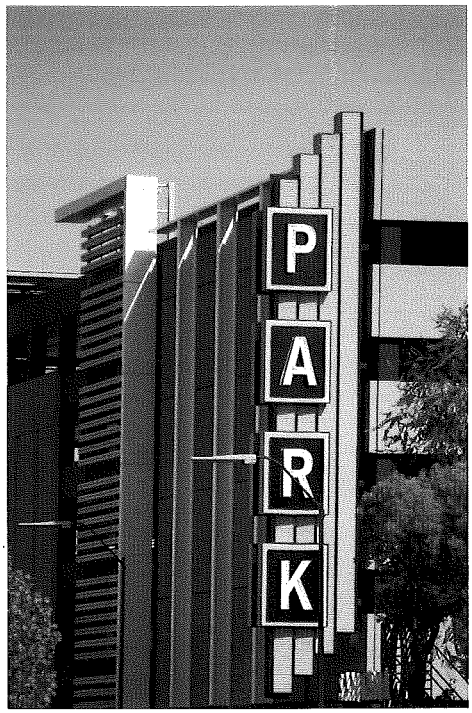

Figure 1. Santana Row Vertical Projecting Sign

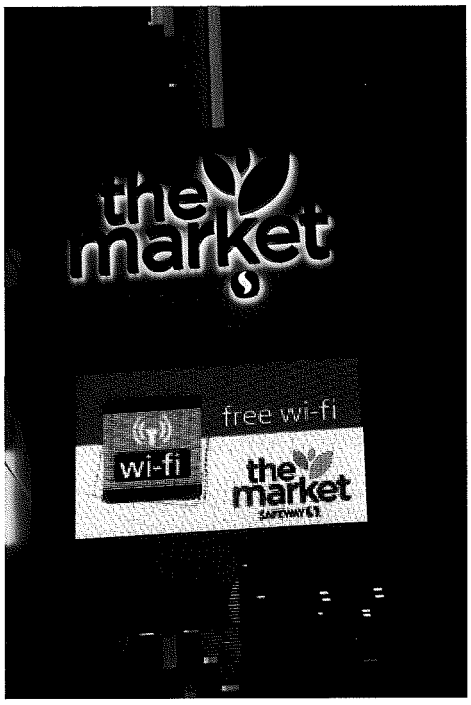

Figure 2. Programmable Display Sign at the New Downtown Safeway

Overview of the Update Process

The Sign Code Update process to this point has consisted of three primary components: staff research, general public outreach and an Internet Visual Preference Survey. These components, discussed briefly below, form the basis for the proposed preferred signage strategy presented in this report.

The research component has included information collection and analysis regarding existing signage in San Jose, review of the signage regulations of other cities, identification of Caltrans regulations applicable to off-site advertising, review of available literature regarding signage and traffic safety, consultation with other City Departments and the Redevelopment Agency regarding signage needs, and review of key legal issues in regard to signage regulation.

The public outreach component has consisted of a four-phase series of public outreach meetings initiated in March of 2009 to elicit public input regarding signage regulation in San Jose. PMC, a planning consultant firm, assisted staff with these meetings. The first phase of outreach focused on identifying signage issues to be addressed in the Update. The second and third phases explored sign preferences through visual preference materials, and the final phase considered alternative signage strategies. Each phase included two community meetings and three or four focus groups. Focus group meetings sought input from residents, business representatives, sign industry representatives and property owners. In addition, staff met with

five Strong Neighborhoods Initiative Neighborhood Action Coalitions to discuss signage preferences, and with the Chamber of Commerce and representatives of the outdoor advertising industry to elicit input on the alternative signage strategies.

The Internet Visual Preference Survey was conducted in July and August of 2009 by Fairbanks, Maslin, Maullin and Associates, a firm specializing in opinion research and public policy. This email-driven survey assessed the signage preferences of a sample of 400 San Jose residents whose demographic characteristics generally reflect those of the San Jose population as a whole. The results of the survey and summaries of the community and focus group meetings may be viewed on the City's website at http://www.sanjoseca.gov/planning/zoning/sign.asp, and are discussed in the Analysis section below.

Overview of Key Legal Considerations

Signage is a form of "speech" that is protected by the constitutions of the United States and the State of California. Prior challenges to regulations that affect the ability to communicate messages have resulted in a body of case law that establishes general principles for jurisdictions to respect and observe when seeking to regulate signs. Generally, for a signage regulation ordinance to meet constitutional standards, an ordinance must constitute a reasonable time, place and manner regulation or restriction on this type of speech. This means that the signage regulations should be limited to where, when and how signage can be installed, but should not regulate the content of the speech (in other words, generally must be content-neutral and not regulate speech based upon what message is being communicated), must serve a significant governmental interest and must leave open ample alternative channels for effectively communicating information. Courts have found that local governments do have a significant governmental interest in establishing regulations to further the aesthetics of their jurisdiction (such as the prevention of visual clutter or visual blight) and to promote and preserve traffic safety. Traffic safety signage can include traditional right of way signs (such as stop signs, yield signs, street name signs, speed limit signs, one-way traffic signs, and crosswalk signs) as well as other way-finding signage.

Because signage regulations implicate free speech principles, those regulations also must be clearly written, narrowly tailored (meaning that the regulations should not overly intrude into free speech interests) and cannot leave unfettered or unchecked discretion in the hands of a government official to determine what signage is allowed under a regulation.

Staff's initial recommendations regarding the Preferred Signage Strategy, as discussed in the Analysis section below, have been created to achieve the goal of vibrant, high quality signs while taking into consideration these legal considerations. Additional clarification regarding key legal principles applicable to specific signage parameters is provided in the Analysis section below.

ANALYSIS

Signs provide an essential form of communication in our community. They allow businesses and other organizations to announce the presence of their goods, services or activities and assist the public in understanding and locating the wide range of facilities and services available in San Jose. Signs also have the potential to add visual interest to the urban landscape and contribute to the unique character of specific neighborhoods and areas within San Jose. The purpose of this focused Sign Code Update is to revise the Sign Ordinance to reflect modern sign technology and allow more diverse types of signs and sign locations to maximize these positive benefits.

The community outreach process for the Sign Code Update confirmed that regulating signs effectively is essential to maximizing the benefits of signs. Community participants were generally very open to new sign types and locations, but also pointed out that signage can be very problematic when sign regulations are disregarded. They had observed that when sign regulations are not followed, the positive benefits of signs are often not achieved, that too many signs or poor quality signs can be confusing or result in blight.

Figure 3. Signs help us find things and can enliven the urban landscape.

Figure 4. Where sign regulations are not followed the positive benefits of signs can be diminished.

Through the Update process, staff has developed recommendations that are intended to enhance the positive contribution that signs can make to our community in facilitating way finding to goods and services or activities and enhancing the streetscape. This report provides recommendations regarding four key signage issues: 1) freeway signs, 2) electronic/digital signs, 3) large banner/supergraphic signs, and 4) billboards on private property and off-site advertising in the public right-of-way. These recommendations are summarized below. A complete analysis of each issue is provided in Attachments I-IV. Staff will bring forward a more comprehensive review of Downtown signage and a number of other recommendations for revising the Sign Ordinance on December 15, 2009.

I. Freeway Signs

Staff is recommending additional provision for attached signs along freeway frontages, elimination of restrictions on signs facing freeways and allowance for large freeway pylon signs for major shopping centers near freeways. The existing and proposed Sign Ordinance regulations are summarized in Table 1. A thorough discussion of these recommendations is provided in Attachment I, including a summary of community input, photographs of freeway signs in other communities, and an analysis of the rationale for and implications of the proposed sign regulations.

Table 1. Freeway Signs

	Current Regulations	Recommended Regulations
Signs on Freeway Frontages	• Generally, signs may not face a freeway unless there is an intervening street or driveway. • Building frontages immediately adjacent to a freeway do not qualify for attached signage.	• Eliminate restriction on signs facing freeways. • Allow building frontages on freeways to qualify for attached signage.
Freeway Signs For Large Shopping Centers	• Freeway frontages do not qualify for a freestanding sign. • Signs generally not allowed to face a freeway. • Maximum area of a freestanding shopping center sign is 120 sq. ft. and maximum height is 20 ft.	• Allow 25+ acre shopping centers located within 200 feet of a freeway to display 1 freestanding freeway sign: -Height: maximum 60 ft. -Size: maximum 400 sq. ft. -Programmable display elements may comprise up to 50% of the total sign area. -Develop parameters for traffic safety. -Allow on-site or non-commercial messages only.

II. Electronic/Digital Signs

Staff is recommending that the Sign Ordinance be revised to make additional allowance for electronic/digital signs (called programmable display signs in the Sign Ordinance) in three areas: 1) provision for larger programmable display signs in the Downtown Sign Zone on somewhat smaller occupancy frontages; 2) provision for programmable display signs as freestanding signs in a subarea of the Stevens Creek Boulevard Signage Area, in the Capitol Expressway Auto Mall Signage Area, and in the proposed Blossom Hill Road Signage Area; and 3) allowance for programmable display signs for large assembly uses on a citywide basis. A summary of the existing and proposed sign regulations for each of these categories is provided in Tables 2-4 below. A complete analysis of the recommendations is provided in Attachment II. This

analysis includes a summary of community input, information regarding the regulations of other communities, a discussion of the rationale for the proposed parameters and a summary of additional work that needs to be done to develop the specific regulations.

Table 2. Programmable Display Signs (PDS) in the Downtown Sign Zone

	Current Regulations	Recommended Regulations
Programmable Display Signs (PDS) for Large Ground-floor Spaces	• One attached PDS allowed for ground-floor occupancy frontage[1] of 150+ linear feet as follows: 1. Size: maximum 35 sq. ft.; 2. Height: maximum 25 ft.; Can be integrated with a larger conventional sign; 4. Sign cannot be mounted on or illuminate that portion of a building containing residential living units; and 5. Cannot be mounted on or cover a window.	• Revise to allow one attached PDS for each ground-floor occupancy frontage of 100+ ft. (maximum of 2 signs), <u>or</u> one attached PDS for any ground floor occupancy with a total occupancy frontage of 150+ ft. on one or more public streets, as follows: 1. Size: maximum 50 sq. ft.; 2. Height: maximum 25 feet; 3. PDS must comprise no more than 50% of the total sign area; 4. PDS cannot be mounted on or illuminate that portion of a building containing residential living units; 5. Cannot be mounted on or cover a window; 6. Only on-site or noncommercial messages allowed; and 7. Develop parameters to address sensitive uses and traffic safety.

Table 3. Programmable Display Signs (PDS) on Stevens Creek Blvd, Capitol Expressway and Blossom Hill Road

	Current Regulations	Recommended Regulations
Programmable Display Signs on Stevens Creek Boulevard, Capitol Expressway, and Blossom Hill Road	Not currently allowed.	• Allow PDS as part of a freestanding sign in a subarea of the Stevens Creek Boulevard Signage Area, in the Capitol Auto Mall Signage Area, and in the proposed Blossom Hill Road Signage Area, for sites with a minimum frontage of 350 linear feet subject to the following parameters: • Programmable display sign must be integrated with conventional signage and comprise no more than 50% of the total sign area; • Develop parameters to address traffic safety; and • Allow on-site or non-commercial messages only.

[1] Occupancy frontage means the length of a business or other use abutting a parking lot, driveway, plaza or street.

Table 4. Programmable Display Signs (PDS) for Assembly Uses Citywide

	Current Regulations	Recommended Regulations
Programmable Display Signs for Assembly Uses in the Downtown Sign Zone and Citywide	Not currently allowed.	• Allow attached or freestanding PDS for large assembly uses with a building code occupancy of 500+ in the Downtown Sign Zone and citywide. Develop maximum area regulations based on maximum building code occupancy of the assembly area and that reflect a consideration of nearby sensitive uses. Develop parameters to address traffic safety. Allow on-site or non-commercial messages only.

III. Large Banner Signs/Supergraphics

Staff is recommending that the Sign Ordinance be revised to allow supergraphics on blank walls of buildings in the Downtown Sign Zone. Supergraphics are very large banner signs consisting of a message printed on flexible material (generally plastic-based) attached to a building with adhesive, anchor bolts or a frame structure. A summary of the existing and proposed sign regulations for supergraphics in the Downtown Sign Zone is provided in Table 5 below. A complete analysis of these recommendations is provided in Attachment III, including a summary of community input, photographs of supergraphics in other cities, information regarding the regulations of other communities, and a discussion of the rationale for the proposed parameters.

Proposed parameters for large temporary banner signs in the North San Jose and Edenvale industrial areas and at the airport will be included in subsequent recommendations.

Table 5. Large Banner Signs/Supergraphics in the Downtown Sign Zone

Category	Current Regulations	Recommended Regulations
Large Permanent Banner Signs in the Downtown Sign Zone	• Buildings with a footprint of 75,000 square feet or greater in area may display banners consistent with overall sign area limitations and the following: 1) Maximum number: 5; 2) Maximum height: 80 ft.; and 3) Size: 1 banner up to 1200 sq. ft. & up to 4 additional banners that total 600 sq. ft. or less	• Retain existing regulations

Table 5 Continued.		
Category	**Current Regulations**	**Recommended Regulations**
Temporary Signs in the Downtown Sign Zone	• Buildings with a footprint of 5,000+ sq. ft. allowed temporary signs in conformance with the following: 1) Number: 1 sign; 2) Maximum Size: 65 sq. ft.; and 3) Duration: maximum of 30 consecutive days/year. • Buildings with a footprint of 20,000+ sq. ft. allowed temporary signs in conformance with the following: 1) Number: 1 sign; 2) Maximum size:125 sq.ft.; and 3) Duration: maximum 30 consecutive days/year.	• Retain current regulations; in addition, allow one large temporary attached sign on a parcel as follows: 1) Height: Cannot extend above the cornice/parapet. 2) Size: 1,200 to 5,000 sq. ft. 3) Duration: maximum 60 consecutive days/calendar year; 4) Number: Maximum 5 in the Downtown Core at any time 5) Sign may not cover or surround windows or doors; 6) Requires a ministerial Permit Adjustment; and 7) On-site or non-commercial messages only.

IV. Billboards on Private Property and Off-site Advertising on City Property

Billboards

In 1985 the City Council adopted an ordinance banning new billboards in the City of San Jose. Since that time, new billboards have not been allowed except through a relocation process for existing, legal non-conforming billboards. As part of the Sign Code Update, staff has looked closely at the issue of billboards to determine if modification or elimination of the current prohibition on new billboards would better support the City's goals for business development and a vibrant urban landscape.

Attachment IV details staff's investigation of this issue and includes the following: discussion of existing City regulations for billboards, a summary of relevant state regulations, a synopsis of community input, a review of existing San Jose billboards in two San Jose census tracts, and a summary of the regulations of other cities. Based on this analysis, staff has concluded the following:

1) Staff's review of existing billboards in San Jose does not support the premise that new billboards would contribute to economic vitality or a unique, vibrant or creative urban environment;

2) San Jose residents have overall indicated a moderate level of acceptance of billboards but have indicated a strong preference for on-site signage due to its way-finding and informational benefits and its connection with local business;

3) Major cities vary in their approach to billboard regulation – San Francisco has recently banned new billboards and Los Angeles has taken action to significantly limit billboards based on recent community concerns;

4) State preemption regarding billboards means that any decision to allow new billboards has long-term implications and that options for removing billboards, once they are in place, are likely to be limited and/or expensive regardless of changes in community expectations and public policy.

Based on these considerations, staff is recommending that the City Council retain the existing billboard ban for both static and electronic/digital billboards. A full discussion of these issues is included in Appendix IV.

Off-Site Advertising on City Property

In adopting the budget for the current fiscal year, the City Council directed the Administration to explore a citywide advertising program involving off-site advertising on City property that would generate revenue for core City services and to identify necessary changes to the Sign Ordinance. Budget Document 3 provides staff direction to generate general fund revenue through commercial advertising at the following specific locations in the city:

1) trash and recycling receptacles in the downtown, the Neighborhood Business Districts (NBDs) and parks;

2) public toilets in the downtown; and

3) free-standing advertising kiosks throughout the downtown core, within NBDs and at city-owned property (like the Convention Center and Mexican Heritage Plaza).

The Council also provided specific direction on sign technology (24/7 backlighting) and a desire to limit alcohol and tobacco advertising and suggests that the Arts Commission function as the review body supported by staff. The direction asks for staff to identify the necessary changes in the Sign Code to implement Council direction.

The Sign Ordinance does not currently allow private entities to place signage in the public right-of-way. Any proposal to allow off-site commercial advertising in public right-of-way locations would require amendments to the Sign Ordinance to make provision for such signage. In response to City Council direction regarding this issue, staff conducted community outreach regarding newsracks in the public right-of-way as part of the Update process. Community response to this type of signage was generally very positive.

A lawsuit involving the signage regulations of another city is currently on appeal regarding the ability of a city to have a billboard ban while allowing off-site advertising on public property. If the Council chooses to retain the existing billboard ban for private property, the legal guidance from this appellate case would be very important to any decision to allow off-site advertising on public property. Staff is recommending that the Council retain the current regulations for billboards on private property and that the Council delay a decision regarding off-site advertising on public property until the outcome of this case can provide guidance on these two issues. The City Attorney's Office is tracking this appeal and staff will bring forward recommendations for public right-of-way signage when legal guidance resulting from the case is available.

Conclusion

The recommendations for amending the Sign Ordinance included in this report provide greater flexibility for implementation of signage in the Downtown Sign Zone and citywide and support the City's goals for business development and visually vibrant urban development, while maintaining appropriate levels of signage intensity in the Downtown and other areas to prevent excessive visual clutter.

EVALUATION AND FOLLOW-UP

Based on direction from the City Council regarding recommendations presented in this report and additional recommendations to be brought forward on December 15, 2009, staff will draft specific amendments to the Sign Ordinance. This work will entail: 1) conducting additional analysis to develop and refine detailed numeric parameters in support of the Preferred Signage Strategy; 2) developing specific ordinance language incorporating these detailed parameters into the existing Sign Ordinance; 3) recommending changes to existing ordinance language in the affected sections to improve clarity; and 4) editing the Sign Ordinance as a whole to accommodate new definitions, provide appropriate cross references and ensure consistency. Following is a brief schedule for drafting the ordinance, conducting public outreach, completing environmental review, and bringing the ordinance forward for consideration by the City Council.

Complete Draft Sign Ordinance	March 31, 2010
Hold Community Meetings	April 20-22, 2010
Complete Initial Study/Circulate Draft Negative Declaration	April 23, 2010
Present Draft Sign Ordinance to City Council	May 18, 2010

Staff will bring forward recommendations for public right-of-way signage when legal guidance from a pending lawsuit is available regarding the ability of a city to have a billboard ban while allowing off-site advertisement in the public right-of-way.

POLICY ALTERNATIVES

Following are alternatives considered in the development of the recommendations included in this report:

Alternative #1: Revise the Sign Ordinance to allow static and electronic/digital billboards in the Downtown Core Area, including the central business area and along Route 87, based on relocation of billboards from elsewhere in the City.

Pros: If a market exists for billboards in the Downtown Core Area in the locations where they are not restricted by Caltrans regulations, this alternative may encourage relocation of existing billboards from other areas of the city where they may be less desirable.

Cons: State restrictions regarding placement of billboards on landscaped freeways significantly limit the placement of billboards along Route 87and outdoor advertising representatives have indicated that traffic is insufficient elsewhere in the downtown to support billboards. Since the City generally cannot control the content of billboard messages, new billboards may not provide any way-finding benefits. Based on past experience, billboards can present an impediment to new development and cause blight and visual clutter.

Reason for not recommending: New billboards may not be feasible in the Downtown Core Area and may not achieve the City's objectives for a visually vibrant downtown while facilitating way finding to local establishments.

Alternative #2: Revise the Sign Ordinance to allow all signage to include programmable display signs in commercial and mixed use areas throughout the city.

Pros: This provision would allow businesses and other organizations to communicate messages through a more intense and flexible form of signage.

Cons: Allowing programmable display signs broadly could significantly change the visual character of existing areas and allow an intense level of signage throughout the city that has not yet been tested in the Downtown Core.

Reason for not recommending: Limiting new opportunity for programmable electronic signs to: 1) the Downtown Sign Zone; 2) a subarea of the Stevens Creek Boulevard Signage Area, the Capitol Expressway Auto Mall Signage Area, and the proposed Blossom Hill Road Signage Area; and 3) large assembly uses citywide, would allow the city to assess community acceptance of this type of signage before implementing programmable display signs more broadly.

Alternative #3: In addition to the current proposed revisions to the Sign Ordinance, undertake a comprehensive revision of the structure of the sign regulations and the format of the document to improve clarity and usability.

Pros: A more comprehensive restructuring of the Sign Ordinance regulations would allow for clarifying improvements to the document that cannot be achieved through a focused update.

Cons: A comprehensive restructuring of the Sign Ordinance would add three months to the update process.

Reason for not Recommending: There is an urgent need to provide targeted changes to the Sign Ordinance which would be delayed by a more comprehensive update.

PUBLIC OUTREACH/INTEREST

☐ **Criteria 1**: Requires Council action on the use of public funds equal to $1 million or greater.

☑ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**

☐ **Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach.

Public outreach for this proposal conforms to the City Outreach Policy. A notice of the public hearing for this item was emailed to a list of community groups, other organizations, business interests, sign industry representatives and interested individuals, and was posted on the City's website. Public outreach conducted over a five-month period included a total of 8 community meetings; 15 focus group/stakeholder meetings; meetings with 5 Strong Neighborhood Initiative groups; representatives of the outdoor advertising industry and the Chamber of Commerce; and an Internet Visual Preference Survey of San Jose residents. In addition, staff has discussed specific signage issues with numerous individuals and development representatives to obtain input regarding the proposed regulations. This staff report and attachments are available for review on the City's website.

Written comments received during the Update process are included in Attachment V. These include emails from Phil Foster and Helen Bliven of the McLaughlin Corridor Neighborhood Association expressing a preference for English language signs; an email from Phil Strong of Strong Leadership Systems pointing to sign clutter on Tully and Senter Roads and expressing a preference for English language signs; an email from Terry Kelly, of Kelly Properties, providing suggestions regarding the placement of real estate open house signs; an email from Tom Utic suggesting removal of specific billboards facing The Alameda; a letter from Les Keyak in support of the current billboard relocation provisions of the Sign Ordinance; a letter from Adam Kates of Silicon View in support of revisions to the Sign Ordinance that would allow new programmable electronic billboards without a requirement for relocation of existing billboards, and a letter from Joanie Jones expressing concern regarding potential changes to the current provisions for relocation of billboards.

COORDINATION

This project was coordinated with the City Attorney's Office, the Redevelopment Agency, the Office of Economic Development, the Department of Transportation, the Public Works Department and the Department of Parks, Recreation and Neighborhood Services.

FISCAL/POLICY ALIGNMENT

This project is consistent with applicable General Plan and City Council policies.

COST SUMMARY/IMPLICATIONS

Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

Not a Project.

JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Carol Hamilton, Senior Planner, at 408-535-7837.

Attachment I: Freeway Signs
Attachment II: Electronic/Digital Signs
Attachment III: Large Banner Signs/Supergraphics
Attachment IV: Billboards on Private Property and Off-Site Advertising on City Property
Attachment V: Public Correspondence