

# Why Clear Channel Won the Digital Billboard Vote

February 2, 2008

## Introduction

On December 6, 2007, San Antonio City Council passed a Digital Billboard ordinance, which allows 15 large, digital, off-premise signs ("digital billboards") to be placed in the city during a one year pilot program. At the end of one year, all pilot billboards remain but any more must be approved as another increment by another vote. City Council was almost unanimous in passing the pilot ordinance, despite solid opposition by citizens and civic groups, at least those who were not aligned with the billboard industry and particularly Clear Channel. (The sole holdout voting against the ordinance was District 7 Councilman Justin Rodriguez.)

The following is my personal analysis of the relevant factors for why Clear Channel, which owns around 90% of the off-premise billboards in San Antonio, won the vote. I do not seek to argue the merits of the ordinance here or weigh alternative solutions. I only try to understand and explain the underlying factors for the odd conundrum of why San Antonio, which prides and markets itself as a 'unique', 'authentic' city, is so billboard friendly. I list these items in roughly descending order of importance.

## #1 - Clear Channel

*(I rate this as the most important factor. Why else would San Antonio, the home of Clear Channel, be so out of step with the other, major Texas cities of Dallas, Austin, and Houston?)*

**a. Well planned and execute campaign.** Obviously someone, or some taskforce, at Clear Channel mapped out an impressive campaign to get this ordinance past the council, despite overwhelming opposition by citizens and civic groups. I do not know who the corporate soldiers were in this fight, but I would bet the farm that they received fat Christmas bonuses after the vote, while San Antonio citizens, and those down wind from us, will get lumps of coal, or more correctly tons of CO2, in the coming years.

**b. Asymmetric advantage.** Clear Channel clearly was the advantaged party in the issue. Clear Channel probably devoted significant resources in terms of executive time, funds (for legal and lobbying support), and influence. Clear Channel enjoyed direct lines of authority and communication, so things got done quickly. With a good strategy in place, Clear Channel staged consistent and effective actions. Their troops were well motivated by money, profits, and bonuses.

**c. Good Old Boys?** The mayor and council members waxed poetic at the December 6 meeting about what fine, upstanding citizens the Clear Channel officers and representatives were. Fair enough, but let us think about this. These individuals are paid big bucks. Clear Channel has reported total compensation of \$9,311,996 for Mark Mays, \$9,282,382 for Randall Mays, \$4,910,040 for Lowry Mays, Chairman, etc. I have no evidence that these folks are not good people with charitable intentions, but I have to wonder whether gaining influence by funding favorite charities of politicos does not enter into their calculus for giving. Call me cynical if you want to, but I think this is a reasonable suspicion.

## #2 - San Antonio City Government

*(Basically, I think City Hall has one fundamental problem and a number of subsidiary ones.)*

**a. Maturity of City Council.** I realize I will offend many of you, but I have to be genuine. What we

had here was . . . failure due to term limits. Many new council members lacked a knowledge of the technical details or history of current ordinances, such as for Urban and Scenic Corridors. These ordinances protect specific San Antonio highways (such as I-10 West, 281 from the airport to downtown, Loop 1604, and the new Wurbach Parkway) and took years of personal effort by people such as former councilperson Bonnie Conner and our own June Kachtik, but the current council persons did not have this personal history to understand what they were giving away (or should I say 'gutting') and lacked the personal investments ('sweat equity') to want to protect them.

**b. Obscure Council Process.** City Council has a strange new process for ordinances that circumvents many of the boards and planning meetings that neighborhood representatives sit on, monitor or attend. Thus the mere fact that the Digital Billboard ordinance was in the works did not become generally known to us until September 2007, when one of our opposition members was tipped off that the ordinance was going before the "Electrical Supervisory Board", whatever the heck that is. So the appearance is that the ordinance was a 'back room deal' and a 'done deal' by the time it saw the light of day. (So if you hear a councilperson say they "held tons of meetings on this issue", it's true, but not so if you only count the meetings held after citizens and civic groups got involved.)

**c. Teamwork as a Negative.** City Council appeared to show pervasive elements of "group think", teamwork as a coercive influence, inertia, and personal investment working in favor of passage. ("We worked so hard on this" is what you will hear.) My own guess is Clear Channel played City Council like Yo Yo Ma plays the cello. It suckered them into 'the issue', schmoozed them at every opportunity, and gained personal buy-in to their solution. All this without public input or scrutiny. Hence, by the time neighbor groups got wind of the ordinance, it was a done deal in its 11th hour.

**d. Advantage - Southside.** The District 3 Councilman Roland Gutierrez was honest and candid to state he was voting for the ordinance because it was going to particularly benefit his district. Paraphrasing his statement: putting large digital billboards on highways (primarily on the Northside) will lead to removal of many of the billboards on secondary roads in his district (on the Southside). (This is locally touchy. Officials in San Antonio try to avoid geopolitics that pit one side of the city against another.)

**e. No Public Record.** Could you imagine a politico running on a platform of 'San Antonio - I am going to make you the Las Vegas of South Central Texas'? Unfortunately, to my knowledge signage and billboards were not even mentioned during the run-ups to the last election in May 2007, hence no one was on record opposing them. Sad. (Warning to San Antonians. Before the next election in 2009, get the candidates on record. Otherwise, all bets are off. And I humbly offer the same advice to the citizens in other cities and states.)

**f. Business is the First Job of Government.** A number of councilpersons appeared hesitant to vote against Clear Channel, which has its corporate headquarters here. I guess the theory (or threat?) is that Clear Channel might move. (This may be the same kind of government-business dynamic that plays out with other issues of private interest versus common good, such as strip-mining in West Virginia or cigarette manufacturing in North Carolina.)

**g. Politics as normal?** If this vote occurred in a vacuum, it may have been decided differently. What was the political calculus? Once the team got behind the "compromise" ordinance - or should I call it the "compromised" ordinance - who was going to fight the trend and risk spoiling other deals? (Statistically, the answer was 1 out of 10 councilpersons.)

**h. City Staff.** From researching billboard fights in other cities (such as Anaheim, CA), I am aware that a city staff frequently presents useful, unbiased information for relocation costs, economic impact, best practices, power usage, sign lay-down, etc. I did not see a significant input of this kind by our city staff at the council meeting. In fact, the council appeared to direct most of their questions to Clear Channel representatives. I may have walked away with the wrong impression, but I believe city staff was not being employed properly or failed in its duties.

### #3 - Citizens and Civic Groups

*(Opponents to Clear Channel were handicapped by a number of limiting factors and simply outclassed.)*

- a. Limited Personnel.** The organizations that formed the opposition group, such as Vance Jackson Neighborhood, Inc, Northside Neighborhoods for Organized Development (NNOD), San Antonio Conservation Society, etc, rely critically on volunteers. Volunteers are typically limited in the amount of time and effort they can devote to an issue. We made good presentations at the December 6<sup>th</sup> City Council meeting, but were probably outclassed by Clear Channel's month-in and month-out 'working group' meetings with council persons and City staff.
- b. Not Agile.** Vance Jackson Neighborhood, Inc. canvassed our members and received over 300 signatures in opposition to the ordinance. Our Home Owners Association (HOA) was the only one in the City with this level of response. Yes, we are a great people along Vance Jackson, who have one of the highest turn-out rates for elections in the city, but we were also lucky. In November, District 8 Councilwoman Diane Cibrian hosted a D8 picnic and graciously allowed us to poll people. Also our November newsletter, which has a circulation of over 3300, was due out, so we added a petition insert. Other HOAs may not have had our awareness or opportunities. (Again I am trying to be charitable here so work with me.) Unless HOAs and other civic groups in San Antonio get involved when the issues comes up again in 2008, the prognosis is not good for San Antonio scenic beauty.
- c. Insufficient Citizen Inputs.** On a per capita basis, who had the greater impact? Clear Channel and its representatives or John Q. Public? Most ordinary citizens are preoccupied by daily life. How do they get their voices heard over that of a corporate entity? Unresolved. (But if you have plodded through the reading this far and are not a billboard partisan, I nominate you to join a civic group such as Scenic San Antonio or San Antonio Conservation Society.)
- d. Failure to Communication.** Generally, HOAs are rather insular. They typically have no need to talk to each other unless there is an issue on a boundary line. Managed and gated HOAs are even worse; they tend to be insulated by their management companies. NNOD is a good group for coordinating and networking individual HOAs in Districts 8 and 9, and was very active on this issue under the leadership of Chuck Saxer. There are some other groups in San Antonio like NNOD, but overall, HOAs are not well networked. How do we fix this? Don't know.
- e. Self Censorship.** Non-profit groups in town indicated to us that they could not speak out against the ordinance, Clear Channel interests and council decisions because they did not want to jeopardize future grants. San Antonio Conservation Society (SACS) might appear to be an exception to this rule, but isn't. SACS does not rely on Clear Channel for money and so had the luxury to follow sound principles without the risk of negative consequences. Too bad the other civic and charitable groups are not so free to follow their conscience.

### #4 - Public Policy

*(While I do not attempt to argue the merits of the ordinance, here is a listing of the issues with my - partisan? - scoring. It is my contention that the technical merits received the least weight in the decision making process.)*

- a. Public Safety.** Mayor Phil Hardberger stated with great Texan aplomb that no one had shown him a dead body yet so whether Digital Billboards are dangerous is only hypothetical at this time. (And on behalf of the mayor, I would like to extend an invitation to anyone who wants to prove that these signs are dangerous to please do so by registering with the Bexar County Morgue, 7337 Louis Pasteur Drive, San Antonio, Texas 78229-4565.)

**b. City Aesthetics and Tourism.** Not a big deal apparently. And according to City Council, at least the new billboards “will not make the City look any worse”. (Wow, now that is an agenda for progress, isn't it.)

**c. Environmental Concerns?** Does San Antonio have a strong environmental ethic? As a strong abiding core value, no. Data was presented that the increased power consumption by digital billboards would more than wipe out what was saved by the City buying hybrids. This information went over with the council like a lead balloon. Why?

Here are my pet theories. [1] The generous side of me says Green is a new consideration for the City. Environmental impact analysis is not formalized and so was not ordered of the Planning Department. [2] The cynical side of me says City Council already has Green, ‘poster child’ projects and so can point to these at re-election time. [3] Finally, San Antonio has a dirty little secret. The City owns City Public Service (CPS), which sells electricity. When customers consume more electricity, resulting in tons of CO2 emissions, the City government rakes in pounds of cold hard cash.

**d. Content Control.** How would the content of digital messages be controlled to meet community standards? Would you be driving with your family down the highway, that you paid for, and be exposed to adult-themed messages? At the meeting, the city attorney stated there was little that could legally be done, under protection of freedom of speech. Council had a ready answer though. Clear Channel is a good corporate citizen and can be relied upon to be responsible. (Boy, I got tired of hearing this as the solution to every problem.) But we have the same risk now, don't we? Yes and No. Digital billboards allow great flexibility in programming. (PREDICTION: In 5 years with much fanfare, Clear Channel will announce a ‘family hours’ policy that will promise only ‘family friendly’ messages between the hours of 6AM and 10PM each day. Don't ask about the other hours of operation.)

**e. Taxpayer Liability for Sign Relocations.** If a sign has to be relocated due to highway modifications, the owners can be compensated at taxpayer expense. The current, old technology signs are expensive. Imagine what the new signs will cost under this scenario. (Basically the companies will gain tech refreshes at public expense.) Not sure City Council really wanted to hear or understand the issue. Need to educate.

## #5 - Conspiracy Theories

*(These are the plausible explanations that one could apply to almost any failure by government to deliver a desired result. I include them for completeness, but do believe they are true or proven. I list them in no particular order.)*

**a. Corruption.** I agree that there are experience and process problems at City Hall, but I have no reason to believe corruption was in play there. Also as you may have guessed, I am no fan of Clear Channel, but again I have no hint of foul play on their part. Yes, I believe they worked all the angles they could, but I know of nothing outside the bounds of ethics.

**b. Campaign Contributions?** Did Clear Channel influence city council members with legal campaign contributions by its associates (executives, employees and representatives)? The City of San Antonio has an ethics web site where you can find out what was reported in contributions for city office races. I have down loaded the names of 2007 contributors for council seats and the mayor's office. While I did not have any sure way to cross-reference these names to Clear Channel, at least I did not recognize any obvious names for Clear Channel. So I can not answer this question positively one way or the other. Also, while Clear Channel officers have a healthy track record for campaign donations and could have made promises for future donations, again I have no way to prove this is true or not.

**c. Conflict of Interest?** Yes, in all fairness, District 1 Councilwoman Mary Alice Cisneros appeared to have a conflict of interest on this vote. Her husband, Henry, sat on a board of directors of Live Nation,

which was formerly CCE Spinco, and Clear Channel Entertainment before that; prior to the meeting she stated to opposition members that she was going to recuse herself to avoid a conflict of interest. But when it came time to vote, she voted for the ordinance. So Mary Alice's vote looked bad, but according to Helen Valkavich, Assistant City Attorney, City of San Antonio, there was no legal breach of ethics, "Your inquiry was forwarded to me. Mr. Cisneros does not serve on the Clear Channel board. Mr. Cisneros currently serves on the board of Live Nation, which is not part of the Clear Channel Corporation." And as of December 21, 2007, the question became moot because Live Nation, Inc. announced that Henry Cisneros tendered his resignation as a director of the Company effective immediately. So to be fair, her primary problem was a PR faux pas; the freshman councilperson should have publicly addressed the issue prior to her vote. That's my story and I'm sticking to it.

## Conclusion

So that is my post mortem assessment of why Clear Channel won their Digital Billboard ordinance on Thursday, December 6, 2007 at City Council in San Antonio. Citizen interests and public policy were the big elephants in the room, but they didn't seem to carry much weight.

To the 300+ persons in our association who signed petitions in opposition to these signs, I thought you deserved an explanation.

Personally, I have not given up and I hope you do not either, but honestly Clear Channel has an impressive 'home court advantage' and the track record of San Antonio governance is not encouraging. Either citizens must become more active individually or collectively in civic groups, such as HOAs, SACS or Scenic San Antonio, or they will be destined to passively watch a re-play of 'business as usual' - San Antonio style.

Ted Trakas, President  
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## Links

City of San Antonio Development Services Department, which includes a copy of the actual ordinance:  
<http://www.sanantonio.gov/dsd/?res=1280&ver=true>

City of San Antonio Campaign Finance Search Page for campaign contributions: <https://epay.sanantonio.gov/campfin/search.aspx>

City of San Antonio Council Page, which includes contact information: <http://www.sanantonio.gov/council/?res=1280&ver=true>

Clear Channel: <http://www.clearchannel.com/>

Clear Channel Outdoor: <http://www.clearchanneloutdoor.com/>

Clear Channel 3-party Description: [http://en.wikipedia.org/wiki/Clear\\_Channel\\_Communications](http://en.wikipedia.org/wiki/Clear_Channel_Communications)

Houston: [http://www.khou.com/news/local/houstonmetro/stories/khou080109\\_ac\\_billboarddeal.6538b21.html](http://www.khou.com/news/local/houstonmetro/stories/khou080109_ac_billboarddeal.6538b21.html)

Political contributions: [http://www.newsmeat.com/media\\_political\\_donations/](http://www.newsmeat.com/media_political_donations/) OR <http://www.opensecrets.org/pacs/>

San Antonio Conservation Society: <http://www.saconservation.org/news/preserve.htm>

San Antonio Northside Neighborhoods for Organized Development: <http://www.nnod.org/>

Scenic Texax (with links to major cities): <http://www.scenictexas.org/>

U.S. Securities and Exchange Commission, Executive Compensation Disclosure for Clear Channel Communications:  
<http://216.12.130.224/compensation/action/main/compensation.action?cik=739708>

Vance Jackson Neighborhood, Inc.: [www.vjni.com](http://www.vjni.com)