



April 30, 2021

Re: Item 7.1 on the 4/5/21 Agenda: Urban Confluence by Light Tower Corporation

Dear Mayor Liccardo and Council members,

The undersigned organizations represent thousands of residents who care about the environment in San Jose, and about the future of the City. Our organizations include youth and climate action groups as well as environmental groups that work to protect, enhance, restore, and clean our waterways and our riparian corridors, and to educate the public about the ecology of these important ecosystems.

We are all concerned about the illuminated structure that is proposed by the Light Tower Corporation at Arena Green. Not only are we concerned with the environmental impacts of the selected design, but we are also perplexed at the prioritization of this project at this time. So many of our fellow citizens are struggling to provide basic necessities for their families, and Parks and Recreation and Neighborhood Services (PRNS) resources are stretched so thin. This project sends the wrong message about San Jose's priorities during a time of historic turmoil and suffering.

Project conflicts with San Jose Park's vision and goals

Based on San Jose planning documents and ordinances, staff concludes that future projects in Arena Green should:

- **Promote nature-based and ecological education.** This project promotes light pollution, which is now recognized as a driver of environmental harm. It is contrary to nature-based and ecological education.
- **Encourage art.** San Jose's murals and small sculptures, even the City's utility boxes, recognize art in San Jose. Is a \$150 million tribute to tech companies, designed by an Australian group, the right approach to encouraging art in San Jose?
- **Increase social cohesion and community health.** There is scientific consensus in the environmental and medical fields that Artificial Light at Night (ALN) is harmful to humans, plants, animals and ecosystem health. A San Jose "iconic structure" that exudes light pollution in a densely populated area next to a major riparian corridor cannot by any stretch of imagination symbolize a healthy community.
- **Advance the identity of San Jose.** The project solely promotes Silicon Valley tech companies. San Jose should be proud of its identity and its symbols should capture the rich, colorful and diverse culture of San Jose. Five hundred lighted identical poles say nothing about San Jose.
- **Enhance the connectivity / accessibility to the park from all neighborhoods.** Arena Green is a popular gathering space for public events. This project will fill the space currently available for these gatherings, limiting not enhancing accessibility.

Project conflicts with City policies, plans and ordinances

- The Staff report states, "*It seems likely that the proposed SJLTC project has certain elements that may not be viable under the city's current ordinances*". Staff does not clarify the elements or the ordinances that make the project unviable.
- Staff also says that amendments to the Guadalupe River Park Master Plan may be needed.
- Furthermore, we maintain that the project is inconsistent with the Riparian Corridor Policy and the San Jose General Plan.
- From previous staff communications, we understand that a charter amendment may be necessary to allow the project to operate in a way that will bring in revenue.

Fiscal Responsibility

There is an anticipated need to spend an increasing amount of staff time to support the project development. This comes at a time when priorities for the Parks Department are split between supporting cleanups, maintenance services, preschool programs, and food support. The pandemic has stretched already thin resources for this department, and we are concerned that the budget for additional staff time will take away resources from other needed projects, especially those that serve underserved communities.

For example, it seems that a comprehensive process will be needed for staff to identify all the inconsistencies with City policies, ordinances, and planning documents. Some of these inconsistencies may require new planning documents and environmental review. The efforts to identify the inconsistencies and ways to move forward will consume staff time and community resources, all at the time that the City and its residents are still recovering from the impacts of the COVID-19 pandemic. Not surprisingly, the Light Tower Corporation letter (page 3) asks the City to “treat the staff reimbursement issue with a tempered approach.”

- Does this mean that the City should continue to invest in the project with no guarantee of reimbursement?

We are concerned that the Light Tower Corporation will not be able to reimburse the City and furthermore, that their expressed commitment to funding the maintenance and operation of the finished project will not be realized. The pandemic has shown us that we cannot make such an in-perpetuity commitment in full expectation that it will be realized. San Jose should be cautious and look the gift tower in the mouth.

Environmental and ecological concerns

1. (Un) Sustainability

The Breeze of Innovation purports to convey a message of hope in the face of climate change. It seems ironic that a structure inspired by sustainability should promote lighting-up the environment, at great harm to biodiversity and ecosystem health, all at the confluence of two major waterways. Climate change combined with other human activities continues to cause environmental degradation, loss and fragmentation of habitat, leading to a loss of biodiversity and extinction of species. These changes to our ecosystems and ecosystem services have impacts on human health and well-being.

This illuminated artistic structure design is fundamentally contradictory: it strives to symbolize sustainability, but will actually cause lasting, anthropogenic harm to our already compromised environment and wildlife.

2. Ecological impacts: Creek ecosystems

Light at night is harmful to all living things and to entire ecosystems. This is because life on earth evolved to respond to light/dark cycles and to seasonal changes in day length. In plants, light regulates biological functions such as timing of germination, flowering, fruiting, dropping leaves in fall and re-leafing in springtime. In animals, light triggers behaviors such as reproduction, feeding, migration. Lighting the night disrupts biological synchrony and harms our plants, wildlife and ecosystems.

Creek corridor ecosystems are, by nature, continuous. Disruptions such as light can curtail migration in the aquatic or riparian ecosystems, with regionally devastating impacts. This is why the City's Riparian Policy recommends that highly lit facilities, such as sports fields, should be set 200-ft back from creeks. It is unfortunate that the light tower project is proposed so close to and will loom over the confluence of two waterways.

Because plants and animal species respond differently to light (wavelength, brightness, correlated heat temperature etc.), mitigation of the impacts in riparian corridors is not enough. Lighting should be avoided.

3. Ecological impacts: Birds

San Jose is located on the Pacific Flyway for migratory birds. The vast majority of these birds fly at night, and often concentrate along oceans, wetlands and waterways. Nocturnal migratory birds are attracted to light. This attraction can be fatal due to collision with both light-emitting and nearby structures. It can also lead to disorientation and exhaustion as birds are "captured" by the light and circle ceaselessly around and above the light source.

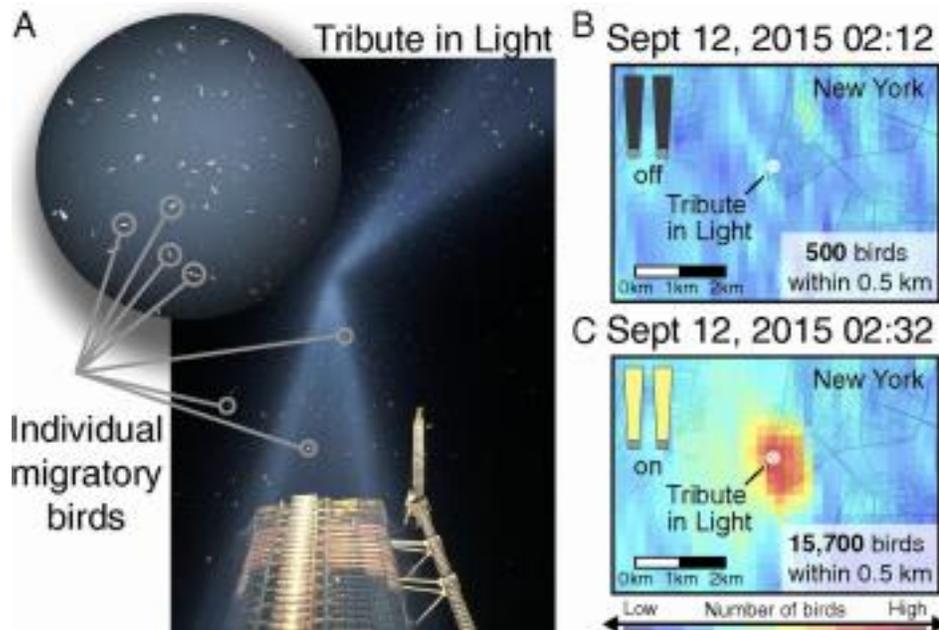


Birds' attraction to light should not come as a surprise to the City of San Jose, given historical reports of birds and insects that swarmed the original light tower, including that "[b]irds and insects came in violent contact with the tower and the electric wires and fell to the ground below dead. A couple of bushels of them could be gathered up on the street." The Wikipedia entry for the tower states that "the police on the local beat made money selling birds that collided with the tower to local restaurants."

The Tribute in Light iconic memorial to the Twin Towers in New York City is lit only once a year, on September 11th. A 7-yearlong study of bird behavior showed that when the installation was illuminated, birds congregated in high densities, followed circular flight paths, and vocalized frequently. Bird densities near the installation exceeded magnitudes 20 times greater than surrounding baseline densities during each year's observations. These significant behavioral alterations occurred even though this is a heavily light polluted environment. The Tribute in Light study used visual, auditory and radar methodology to estimate the number of birds that were

attracted to the light. Figure 1 below shows one night in which the number of birds within 0.5-km of the iconic light plume increased from 500 to 15,700 within 20 minutes. The birds circled the light until it was extinguished.

Figure 1: Tribute in Light site. Observations from the September 2015 Tribute in Light depicting altered behaviors of nocturnally migrating birds. (A) Direct visual observation. (B) Radar observation without TiL illumination and (C) with TiL illumination. Source: <https://www.pnas.org/content/early/2017/09/26/1708574114#sec-1>



The proposed Urban Confluence project is likely to attract a large number of birds to Arena Green in San Jose from surrounding areas. The project site is immediately adjacent to the Outer Safety Zone - South. It is reasonable to expect that birds will be attracted to the installation and will circle the sky, disoriented, within the safety zone, at various heights. This risk of attracting flocks of nocturnally migrating birds into the airspace near the airport poses an unacceptable hazard to aircraft.

Public process, inclusion and equity

The process that ended in the selection of the “Breeze of Innovation” project was not supported by grassroots sentiment and does not represent San Jose’s diverse community and culture. The entire process has been top-down, with community, environmental and equity concerns dismissed. Furthermore, despite early indication by the Light Tower Corporation that the project

will not be a light tower, the winning design is a massive illuminated object that will be seen from Mt. Hamilton to Mt. Umunhum.

The business plan for the project promises that the project will generate revenue. We expect a charge to be required for community members to enjoy the amenities, programming and events. Will less affluent residents suffer the light pollution, but be excluded from the benefits?

We are especially concerned about the staff report's suggestion that the Light Tower Corporation continue to conduct public outreach for the Light Tower project, while PRNS lead community engagement and outreach regarding redesign of the park and for modification of the Guadalupe River Park Master Plan (should that be necessary).

Should the City elect to continue processing the acceptance of the "gift" of light pollution, we ask that PRNS should conduct ALL public outreach, starting with an unbiased City-Wide survey, similar to the one that was conducted for Phase 2 of the electronic signs.

We live in challenging times. Global climate change, global loss of biodiversity and the ongoing and reverberating impacts of the Covid-19 pandemic on our society should wake us to a transformed reality. We must take better care of our planet, our nature, and each other.

The pandemic sharpened our senses and helped us appreciate the value of nature, of birdsong, of dark starry nights and the beauty of the Milky Way. An illuminated tower anywhere in the city will be harmful to our environment and should not be promoted in the 21st century. It is time for San Jose to reconsider this project, and, hopefully, direct philanthropy in the city to better causes.

We ask you not to approve any staff and budget resources that would allow this project to advance.

Respectfully,



Shani Kleinhaus
Environmental Advocate
Santa Clara Valley Audubon Society

Dave Poeschel
Conservation Chair, Guadalupe Regional Group
Sierra Club Loma Prieta Chapter

Steve Holmes
Founder and Executive Director
South Bay Clean Creeks Coalition

Maggie Dong,
Co-Lead, San Jose Action Team
Silicon Valley Youth Climate Action

Esther Duong
Co-Lead, San Jose Action Team
Silicon Valley Youth Climate Action

Monica Mallon
Transit Lead, Climate Advocate
Silicon Valley Youth Climate Action

Deb Kramer
Executive Director
Keep Coyote Creek Beautiful

Linda Ruthruff
Conservation Chair
California Native Plant Society, Santa Clara Valley Chapter

Susan Butler-Graham
Chapter Coordinator
Mothers Out Front Silicon Valley

Rhonda Berry
Executive Director
Our City Forest

Justin Wang
Advocacy Manager
Greenbelt Alliance

Brian Schmidt
Legislative Advocacy Director
Green Foothills