



Handouts for November 6 Task Force Meeting

- Email from FTA to TSG
- Letter from Wei Chiu
- List of TSG Consultants
- Article provided by John Dyckman
- Letter from Ed Moore
- Letter from Robert Zweben, City Attorney

Subject: Following Up on October 30 Task Force Meeting

From: Fern Tiger <fern@ferntiger.com>

Date: 10/31/2011 10:58 AM

To: Ari Huber <ari.huber@stronachgroup.com>

CC: Cleve Livingston <clivingston@bclslaw.com>, Wei Chiu <wchiu@newellrea.com>, liz newman <liz@ferntiger.com>, Fidel Contreras <fidel@ferntiger.com>, Beth Pollard <bpollard@albanyca.org>, Robert Zweben <rjzlaw@aol.com>, Bond Jeffrey <jbond@albanyca.org>

Hi Ari-

I'm following up on last week's email and on last night's Task Force meeting.

As you know we will be meeting November 6th, 13th, and 20th (and the Council Workshop will be on December 4th).

The topics for the next two meetings will be as follows:

November 6

Environmental Issues

and continuing discussion on "the initiative"

November 13

Economic Impacts (including revenues, taxes, AUSD budget, city services, scenarios, and implications of diverse ownership possibilities)

Note: the city's economic consultants will be present for this meeting

As we did at last night's meeting, the Task Force will comment and discuss the new information as well as information provided at previous meetings in an effort to understand the project in its entirety and how the different aspects affect one another. In other words, the topics for each session are not meant to be viewed in isolation or abstraction.

As noted in several previous emails, the information requested (and which will be presented and/or discussed) on these topics is listed in the notes from the October 9th TF session, and supplemented with additional questions and requests in the notes from the October 16th meeting (and the soon to be released minutes of the October 30th meeting; you can also view the meeting immediately on the City's website). We need to get the information you are submitting for the November 6th and 13th meetings (as well as for all subsequent topics including Traffic, and Open Space) as soon as possible, and most definitely we need the November 6th information NO LATER THAN TUESDAY, NOVEMBER 1st in order to prepare the packets and meet the legal posting deadlines in a logical way. Given that the broad information requests were provided to you immediately following the October 9th meeting and that your team has attended each subsequent meeting and heard the additional requests (as well as the concerns of the TF about information that has not yet been received), I'm sure you can understand the frustration of both our firm (who needs to work until the wee hours -- when we get the information at the last minute -- to get everything ready for each meeting) and the Task Force which is working extremely hard to absorb

core data for a complex project in a very short period of time (a schedule which is heavily dictated by the Stronach team's timeline set by LBNL).

It is my understanding that much of the information requested for November 6th is in the environmental studies that have been done over the previous months, so that package should be easy to get to us fairly quickly.

In preparation for the meeting for November 13th we need as much information as possible (in advance) regarding your economic studies. This information is one of the most important issues to the community, and also some of the most complicated, so we would like to send that packet out as far ahead as possible so that people can review it appropriately... and in the context of the other information they've been reviewing.

Additionally, please review the open questions that are showing up in each of the meeting sessions, and provide as many responses as possible (or acknowledge that you don't have that information). This includes the views that have been requested repeatedly.

Based on last night's meeting and the request by the Task Force, this note officially requests both a short presentation and advance written materials related to your proposed initiative. Essentially, I think what the committee needs is an outline of the contents of the planned initiative (not the full text). I also think the Task Force would like to understand your timeline better (as well as the plans for coordination with site approvals in Berkeley, insofar as the presentations to date have indicated that approvals for both cities are essential to the project). I am assuming that Cleve will make this presentation. Please confirm so that the agenda can be clear.

Please also let us know who from your team will make a brief presentation on the environmental issues (related directly to the information that has been requested over these past weeks). Again, please confirm who (it could be more than one person) will be present to do the presentation. Similarly, let me know who will be at the November 13th meeting to present the economic information.

If you have any questions, please feel free to call me directly.

Fern

P.S. Also, please indicate if there are any changes to site plan or other information previously provided so that the TF can keep up with this appropriately. Note that the information posted for the Task Force is being accessed by many other residents and electeds in both Albany and Berkeley.



2 November 2011

Ms. Fern Tiger
Fern Tiger Associates
201 Clay Street
Oakland, CA 94607

Re: City of Albany Task Force, LBNL Second Campus

Dear Fern:

Pursuant to our discussion earlier today, this letter is to confirm the attendance of members of the Golden Gate Fields development team at this Sunday's Task Force Meeting (11/6/11).

Site Environmental Studies

Because of LBNL confidentiality issues in releasing our site's submittals, we are unable to provide the full reports, but are able to make a presentation of what studies have been done and to answer questions.

Ballot Initiative

Cleve Livingston and I attended the Task Force meeting of 10/30/11. We believe there is some misunderstanding of the Initiative based on the discussion we heard and would also like to make a brief presentation and to answer questions about this matter.

We will need a projector for the Environmental Studies presentation. Our presentations should each be about 20 minutes. Let me know if you have any questions.

Best regards,

Wei Chiu
Development Manager

Design Team

RMW Architecture & Interiors, *Architecture, Planning & Management*

William McDonough + Partners, *Community Design & Sustainability*

RFD, *Research Facilities Design (Labs)*

SWA, *Landscape Architecture*

Environmental and Technical Team

ECORP Consulting Inc., *Field Ecology*

ENGEO, *Geo-Technical Engineers*

Forell/Elessor, *Structural Engineers*

McKay & Somps, *Civil Engineers*

Moffatt & Nichols, *Coastal Engineers*

WSP Flack & Kurtz, *Building Systems Engineers (MEP)*

Fehr & Peers, *Traffic Engineers*

FMS Corp., *EMI/EMF Consultants*

Colin Gordon & Associates, *Vibration Consultants*

Fiscal Impact Analysis

Economic Planning Systems, *Fiscal & Economic Analysis*

Commentary: LBNL: 75 Years of Science, 75 Years of Pollution. Category: Comments from The Berkeley Daily Planet

<http://www.berkeleydailyplanet.com/issue/2006-08-25/article/24944?headline=Commentary-LBNL-75-Years-of-Science-75-Years-of-Pollution>

November 3, 2011

This weekend marks the 75th anniversary of the Lawrence Berkeley National Laboratory. Established a decade prior to World War II, the “rad lab,” as it was first called, has maintained a strong presence at the UC Berkeley campus since that time. Today the national laboratory is operated by the Department of Energy and it continues with its radiation research.

The founders’ day activities at this private gala will undoubtedly evoke many memories of the good old days, including scientific advancements, Nobel Prizes, and recognition of those men and women who put the lab and Berkeley on the world map. It’s unlikely that very many will speak about its legacy of pollution and the undeniable impact that has had on the facility and its environs.

During the 1940s, expansion shifted most the lab’s operations to the hill above the campus. As a result, most of the lab’s research has been hidden from public view. For over half a century, Berkeley’s “stealth” laboratory has operated in a climate that has promoted little thought for the public or environmental management.

This “scientific” mindset at LBNL has been difficult to overcome and has been accompanied by an academic arrogance that seems to be associated with higher education and Nobel Prizes. Few residents have been able to question the lab’s poor environmental record without feeling the brunt of LBNL’s self-righteous rhetoric and endless recitations of its connections with the Manhattan Project, breast cancer research and solar panels.

However, there has to be more to science than generating new discoveries. It is also about taking responsibility for the dangers produced by research. Perhaps it’s unfair to point to the lab’s environmental transgressions during the war since little was understood about radiation and its deadly effects at that time. But today, it is fair to look at LBNL’s more recent history and necessary to challenge its failed responsibility to environmental stewardship.

No buffer, no cleanup, few monitors

One would have to go back to the late 1980s to find the first attempts to address the impact of LBNL’s research activities. The passage of the Resource Conservation and Recovery Act (RCRA) spurred these investigations. Consequently, LBNL was forced to undertake a review of its facility. Back then, DOE’s Tiger Team gathered documentation of the lab’s historic and current research operations. The goal of the RCRA investigation was to define the onsite contamination and then produce a cleanup plan.

More than 15 years later, the RCRA corrective action report has finally been daylighted. Unfortunately, DOE chose to limit the investigation and cleanup by restricting the funding. Certainly, the current Washington political climate and Bush’s dismantling of the US EPA have helped shape this non-cleanup policy.

Many US brownfield sites, like the lab’s “old town” area, and Hunter’s Point in San Francisco, are now struggling for local cleanup dollars and to get the federal government to meet its full responsibility. In Berkeley, LBNL’s cleanup has stalled out. In fact, now the lab is proposing that the University of California Regents grant them a deed restriction that would essentially halt any further cleanup on the hill.

Sometime in the last decade, DOE’s site investigations must have triggered the realization that the rad lab has no buffer zone between it and nearby residents and the adjacent central campus. These

evaluations also flagged radiation emissions from two of the lab's commercial user facilities, the Bevatron and the National Tritium Labeling Facility. Subsequently, both of these labs were forced to close during the 90s.

The proximity of LBNL to hillside homes has caused residents to question the adequacy of air monitoring at the facility. This public controversy eventually resulted in the City of Berkeley hiring an independent consultant to examine LBNL's environmental records. Unable to draw very many conclusions from the lab's scant data, the consultant noted that the radiation laboratories at LBNL were inadequately monitored and clearly not on a par with what is expected of other national research facilities.

In the last decade, DOE has continued to run the lab as though it's still the good old days. Operating with a grossly outdated, long-range development plan and a fifteen-year-old environmental assessment, LBNL has refused to consider the growing impacts of lab expansion and research.

At the same time, DOE is pushing to redevelop LBNL on a scale not seen in many decades, demonstrated most egregiously by DOE's placement of the new molecular foundry in Strawberry Canyon. It's criminal that LBNL can force this nano-technology lab onto hill residents, some of whom live within a quarter mile of the stacks, while refusing to invest in a full environmental impact report. This speaks volumes about the current lack of responsible regulatory oversight and what may be in store for Berkeley in the future.

The Bevatron: quick n' dirty

Nothing exemplifies this cavalier attitude more than the recently proposed demolition of the Bevatron, Berkeley's own particle accelerator. Built in the early part of the cold war, this laboratory was funded by the Atomic Energy Commission. Despite being recently nominated for the National Register of Historic Places, LBNL insists this world famous building must be torn down.

The proposed demolition has raised more than just preservation concerns. DOE proposes that the Bevatron, constructed of concrete, lead, and asbestos, be crushed on site. If approved, the demolition is expected to last through 2012 and at the cost of 90 million taxpayer dollars!

During that time, thousands of trucks burdened with hazardous and radioactive demolition debris will snake through the streets of Berkeley before being shipped off to communities in three states. The City of Berkeley has long been opposed to the injustice of sending waste to other communities and has expressed this to LBNL. The responsible solution is to preserve the Bevatron so the structure's hazardous and radioactive materials will remain safely contained on site.

In a public review of the proposed demolition of the Bevatron earlier this year, the project's proponents said that the environmental impact would be limited. They claim the building itself would be used for containment of dust during the removal process. However, it appears that a new demolition plan has been drawn up which, of course, has not been re-circulated for public review. The revised plan calls for a quick n' dirty knockdown of this historic structure.

DOE, in typical developer fashion, claims that it is two years behind schedule with the demolition and has used this as justification for throwing all caution to the wind. This new scheme to unleash the Bevatron's legacy of contamination is nothing short of an environmental atrocity for nearby residents, UC students and those living along the proposed truck routes.

Clearly, the environmental choices being made reflect the fact that LBNL is in crisis. With seemingly little to lose, the lab is scrambling to meet the future and reinvent itself. There seems to be very little goodwill or concern for the public's safety. Those at LBNL and in Washington who are driving this unprecedented expansion need to be reminded that research work at the lab is for the public good, and not the other way around. Responsible stewardship is needed now. After 75 years, it's about time.

L A Wood is a Berkeley resident.

EDWARD C. MOORE
ATTORNEY AT LAW¹

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November 3, 2011

Albany LBNL Task Force
C/o Fern Tiger, Fern Tiger & Associates
City of Albany, California

PDF TRANSMITTAL
Noon 11/03/11

Dear Task Force:

Three weeks ago I was *informally* assured by people allied with The Stronach Group (TSG) that their newly announced intention to qualify a ballot initiative would *not* in itself seek to set up a new master plan for developing Golden Gate Fields. Tentatively envisioned (as I heard it), what the initiative would do is *bind* the cities of Albany and Berkeley, TSG *and* the Golden Gate Fields real property *to a process* by which a conceptual framework for developing Golden Gate Fields *would be* adopted by local city councils and developed *without* a further vote by the public at large. This framework would be adopted *only after* environmental reviews are certified as complete. Hearing the word “binding,” I assumed mutuality to the effect that if an initiative passed, neither municipality nor TSG could *back out* of the LBNL project *before or after* a fully mitigated framework for Golden Gate Fields’ development is officially adopted as the site of a second LBNL campus.

A more threatening form of ballot initiative was discussed by the Albany city attorney (*not by TSG personnel*) at the Task Force meeting on October 30, 2011. If drafted as *discussed*, this alternative form of initiative would *in effect* create a new master plan for developing Golden Gate Fields *before* environmental review is even begun. The city attorney supposed a ballot initiative that specifies “development criteria” to tailor in effect a master plan allowing 4.5-million square feet of new development at Golden Gate Fields. Because critical land-use decisions would be erected into law *by the initiative*, environmental reviews commenced *after* passage would seem little more than full-employment window dressing. Environmental reviews would surely seek to mitigate the adverse impacts of a phased, 4.5-million-square-foot development. But public officials could not prevent the scale of development without disappointing the “investment-backed expectations” of TSG or their

¹Voluntarily inactive as of March 1, 2010

Letter to Albany LBNL Task Force
Re: Forms of a Potential Ballot Initiative
Date: November 3, 2011

assigns for permits to build to the maximum specified under the development criteria spelled out in the very ballot initiative TSG developers drafted and qualified for up-or-down public votes.

The first aforementioned form of initiative would bind TSG and the cities of Albany and Berkeley to an environmental-review *process* through which a fully mitigated project for development of Golden Gate Fields as the site of a 2d LBNL campus would be officially adopted and thereafter developed. Presumably TSG would *commit* the entire Golden Gate Fields real property to this *process*. TSG's current proposal for LBNL at Golden Gate Fields would be just one of several alternatives investigated incident to environmental and historic-preservation reviews under state and federal laws. Our municipalities and TSG, however, would be bound by what is officially adopted as the fully mitigated CEQA/NEPA/NHPA development project.

The second aforementioned form of initiative would define new development criteria at the Waterfront *before any* environmental review of TSG's proposal for Golden Gate Fields is even begun. Such criteria could specify, *for example*, that "4.5-million square feet of total development is allowable at heights ranging from 65 to 110 feet." In effect a new conceptual framework (i.e., a master plan) for Golden Gate Fields would be erected into law *under which* later environmental review would occur. If attempts were made to scale back development allowable by law, disappointed "investment-backed expectations" of TSG or its assigns could easily be leveraged into claims of inverse-condemnation by "regulatory taking."

Thus the form a ballot initiative takes can determine *for better or worse* what development will take place at Golden Gate Fields. What frightens me is how ready so many of you seem to be to just *overthrow* more than 60 years endeavor to build a public re-creational area at one of the most significant landscape sites in the entire world. And doing so without *ever* subjecting this site to the full panoply of environmental protections our laws provide while giving unquestioned credence to *self-serving claims* of TSG developers that *economic necessity* drives the scale of what they propose to build.

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This does not bode well for our collective future, folks. In playing one potential site against the others (none of which have the significances of Golden Gate Fields), are we to assume UC/LBNL/DE is *unwilling* to pay the actual costs for a new LBNL campus? If Golden Gate Fields is selected, would that not mean UC/LBNL/DE are allowing themselves to be used as the excuse for 2.5-million square feet of *additional private* Waterfront development so as to pay the freight for the federal campus? Hopefully the TSG proposal is just one of several possibilities that can make good business *and* aesthetic sense in siting a 2d LBNL campus at Golden Gate Fields. Much regarding goodness in either sense, however, hinges on what the fair market value of Golden Gate Fields real property is *today*.

Very truly yours,
ECM
EDWARD C. MOORE

Subject: Citizen involvement with the TSG initiative

From: Rjzlaw@aol.com

Date: 11/02/2011 4:11 PM

To: fern@ferntiger.com

CC: BPollard@albanyca.org

Fern,

I understand that a Task Force member has asked whether there would be some problem if a Task Force member participated in one form or another with the initiative.

The City is not responsible for the activities that a private individual involves himself/herself in. There are restrictions that a public agency or a public employee must be mindful of. These matters were addressed in a memo that was previously sent to you.

So long as a private citizen does not involve the City or use City resources, that person essentially can choose what he/she wishes to do to assist or to oppose an initiative. If that person is a member of a city committee or commission, the involvement may affect the public's perception of the person's actions on that committee. While other conflict of interest questions could be raised, it is difficult to comment on those in the abstract.

The matters expressed above are not intended as advice to someone acting in his/her private capacity. I hope this brings some clarity to the situation.

Robert