

RESOLUTION NO. _____

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX SUPPORTING
AB 37 – ASSEMBLYMEMBER HUFFMAN
CONSUMER CONCERNS WITH SMARTMETERS**

WHEREAS, Pacific Gas & Electric Company's deployment of its Smart Meter system presents potential risks to public health, domestic privacy, and consumer rights; and

WHEREAS, the fact that the California Public Utilities Commission has not established safeguards for privacy in its regulatory approval of smart meters may violate the principles set forth by the U.S. Supreme Court in *Kyllo v. United States* (2001), 533 U.S. 27; and

WHEREAS, current Federal Communications Commission standards do not exist for chronic long-term exposure to single or multiple sources of non-ionizing electro-magnetic frequency; and

WHEREAS, electro-magnetic sensitivity has been recognized as a potentially protected condition under the Americans with Disabilities Act; and

WHEREAS, the Town of Fairfax has longstanding ordinances which require public notice and local governmental approval before installation of wireless telecommunications broadcasting equipment; and

WHEREAS, PG&E installed powered "Data Collection Units" at four key points in Fairfax's public rights of way without first applying for a use permit from the Fairfax Planning Commission as required under Fairfax Municipal Code Chapter 19.04; and

WHEREAS, PG&E's installation was in conflict with longstanding legal authority which compels utilities to consult with local agencies when constructing improvements under Public Utilities Code sections 6203 and 2902; and

WHEREAS, in recognition of the risks involved in the deployment of the Smart Meter system, on August 4, 2010, the Fairfax Town Council passed urgency ordinance 752, imposing a one year moratorium on further installation within the Town of Fairfax; and

WHEREAS, PG&E has not committed to complying with Ordinance 752 and has challenged its legal authority; and

WHEREAS, AB 37 was introduced by Assembly Member Jared Huffman on December 6, 2010, will require the California Public Utilities Commission to identify alternative electrical power metering system options; and

WHEREAS, the alternative options shall provide equivalent levels of efficiency and reliability as other approved smart meter devices; and,

WHEREAS, AB 37 directs each utility deploying Smart Meter type advanced metering initiative devices to disclose to customers information about the devices used including radio frequency, magnitude and duration of frequency; and

WHEREAS, AB 37 directs the California Public Utilities Commission to suspend deployment of the smart meter system until its requirements are met,

NOW, THEREFORE BE IT HEREBY RESOLVED, that the Town Council of Fairfax commends Assembly Member Huffman for the introduction of AB 37 and urges the California State Legislature to pass AB 37 and for Governor-Elect Brown to sign it without delay. The Council hereby directs the Town Clerk to send a copy of this resolution to Assembly Member Huffman, Senator Mark Leno and Governor Elect Jerry Brown.

Adopted at an adjourned meeting of the Town Council of the Town of Fairfax on this 15th day of December 2010, by the following vote:

AYES:

NOES:

ABSENT:

Larry Bragman, Mayor

Attest:

Town Clerk