

# **CITY COUNCIL COMMITTEE**

## **POLICY DEVELOPMENT AND INTERNAL OPERATIONS**

**Mayor Laura Hoffmeister, Chair**  
**Ron Leone, Committee Member**

**5:30 p.m.**  
**Thursday, April 14, 2016**

**Wing A, Garden Conference Room**  
**1950 Parkside Drive, Concord**

### **ROLL CALL**

### **PUBLIC COMMENT PERIOD**

- 1. UPDATE** – PG&E Pipeline Safety Initiative – Coming off pause. Report by Justin Ezell, Director of Parks & Recreation.
- 2. DISCUSSION** – Process Overview if the City Council decides to place the question of having an elected Mayor on the ballot. Report by Joelle Fockler, City Clerk

### **3. ADJOURNMENT**

In accordance with the Americans with Disabilities Act and California Law, it is the policy of the City of Concord to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. If you are disabled and require a copy of a public hearing notice, or an agenda and/or agenda packet in an appropriate alternative format; or if you require other accommodation, please contact the ADA Coordinator at (925) 671-3361, at least five days in advance of the meeting. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility.

Distribution: City Council  
Valerie Barone, City Manager  
Jovan Grogan, Deputy City Manager  
Brian Libow, Interim City Attorney  
Justin Ezell, Director of Parks & Recreation  
Joelle Fockler, City Clerk

**REPORT TO COUNCIL COMMITTEE ON  
POLICY DEVELOPMENT AND INTERNAL OPERATIONS****TO THE HONORABLE COMMITTEE MEMBERS:**

DATE: April 14, 2016

**SUBJECT: PG&E PIPELINE SAFETY INITIATIVE – COMING OFF PAUSE****Report in Brief**

In April 2014 the City Council adopted a resolution demanding Pacific Gas and Electric Company (PG&E) to refrain from all tree removal activities in the City of Concord as a part of its Pipeline Pathways Project (what is now called *Pipeline Safety Initiative*). The company complied with the order and has returned to the City with a revised program and approach. This report provides background and history on the PG&E Pipeline Safety Initiative and recommends that the Policy Development and Internal Operations Committee consider the information and provide direction to staff.

**Background**

Pacific Gas & Electric Company (PG&E) planned to cut down 730 trees in Concord as part of a project to survey its natural gas pipeline, effectively clear-cutting a 20-foot swath through the City, and many others in the State, without regard for the impact to the community or the environment. Although the City supported the need for measures to ensure pipeline safety, the concern was that PG&E's Pipeline Pathway Project was not an either/or situation but rather a "protect safety" and "protect the quality of life" issue.

In response to requests from numerous cities (including Concord) and many members of the public, PG&E formally decided to "pause" their Pathways Project while they worked to respond to the myriad of concerns being expressed by cities and community members. The City of Concord followed PG&E's action of pausing the project by adopting Resolution No. 14-21 (Attachment A), demanding Pacific Gas & Electric Company to refrain from all tree removal activities in the City of Concord until certain conditions had been met.

In the fall of 2015 PG&E returned to the City with a revised approach that incorporated a safety assessment on the following data: tree species, size at maturity, distance from the pipe, as well as information about the pipe itself and the environment around it to determine if a tree poses a risk to the pipeline. This approach reduced the total number of trees identified for removal from 730 to 272. In addition PG&E identified 287 trees that they felt could be left in place but they needed to continue to monitor.

**Discussion**

Of the 272 trees identified as a risk and considered by PG&E as necessary for removal, 75 of them are protected under the City of Concord’s Protected Tree Ordinance. Approximately 40 of the 75 trees are protected because they were required to be planted, relocated, or preserved as a condition of approval of a Tree Permit or other discretionary permit, and/or as environmental mitigation for a discretionary permit. The remaining trees are protected due to their species, age and size. Only six (6) of the 272 trees identified for removal are City-owned. These six City-owned trees are located at the Diablo Creek Golf Course. Staff calculates that the total value of the 272 trees identified as a risk is \$168,140.00.

PG&E and City staff met several times to negotiate agreement terms that would enable PG&E to resume their Pipeline Safety Initiative program. Initially, City and PG&E staff believed those acceptable terms may have been met, although no formal agreement was ever reached. The initial terms would have included a significant amount of landscaping improvements at Len Hester Park performed by PG&E. Unfortunately, the landscaping improvements were opposed by residents of the Len Hester Park neighborhood and talks between the City and PG&E needed to be resumed.

The recent negotiations between City and PG&E staff have been amicable; however, they are now at a stand-still because City staff believe that PG&E can (and should) provide a substantive community benefit in exchange for a City permit to remove 272 trees, of which 75 are protected. As a result, PG&E has requested that the Policy Development and Internal Operations Committee listen to and consider the following terms in exchange for the City’s authorization to recommence the Pipeline Safety Initiative work:

- a. PG&E will work cooperatively with the individual property owners and the City to develop restoration plans that meet the needs of both the property owner and City to mitigate the removal of the 272 unacceptable risk trees; and
- b. PG&E will obtain the necessary ministerial permits associated with the Pipeline Safety Initiative work and will pay to the City a flat fee of \$50,000.

**Fiscal Impact**

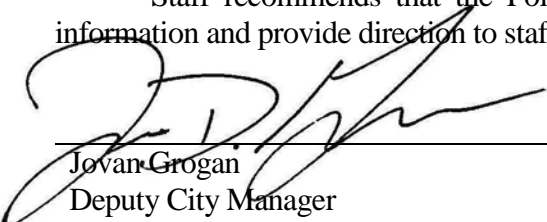
None at this time.

**Public Contact**

The City Council Agenda was posted. PG&E representatives will be in attendance to discuss the program and answer questions.

**Recommendation for Action**

Staff recommends that the Policy Development and Internal Operations Committee consider the information and provide direction to staff.



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**REPORT TO COUNCIL COMMITTEE ON  
POLICY DEVELOPMENT AND INTERNAL OPERATIONS****TO HONORABLE COMMITTEE MEMBERS:**

DATE: April 14, 2016

**SUBJECT:   PROCESS OVERVIEW IF THE CITY COUNCIL DECIDES TO PLACE THE  
QUESTION OF HAVING AN ELECTED MAYOR ON THE BALLOT****Report in Brief**

This report discusses the process required if the City Council desires to pursue placing the question of a directly elected Mayor before the voters.

**Background**

On January 6, 2016, a Notice of Intent was filed with the City Clerk. The Notice advised that an initiative petition would be circulated in the City of Concord to provide for a directly elected mayor. The City Attorney prepared a title and summary of the proposed initiative measure. At the January 26, 2016, City Council meeting, the City Council requested that the Policy Development and Internal Operations (PD&IO) Committee review the authority and procedure, including election procedure, to convert to an elected mayor.

Of the 19 cities/towns in Contra Costa County, five currently have a directly elected mayor. These are the cities of Antioch, Brentwood, Martinez, Richmond, and San Ramon. The mayor is a member of the city council and has all of the powers and duties of a member of the city council. Aside from ceremonial duties, the primary distinction between an elected mayor and the other council members is that the Mayor acts as the presiding officer during Council meetings. An elected mayor may also be entitled to more compensation than other councilmembers. Whether directly elected or annually appointed, the Mayor typically has authority to make certain appointments to boards and commissions, subject to City Council approval, although how much authority is given the Mayor varies from city to city. Otherwise, the powers of the office are similar to those of the elected councilmembers.

**Discussion**

The following sets forth the authority and procedure, including election procedure, for the City Council to pursue a conversion to an elected mayor in the City of Concord.

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QUESTION OF HAVING AN ELECTED MAYOR ON THE BALLOT**

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**a. Authority and Procedure.**

Although mayors of general law cities are generally selected by vote of the city council (Government Code Section 36801,) upon vote of the people, a general law city may establish a directly-elected mayor (Government Code Sections 34900-34906.) The office could be established by City Council action to place a measure on the ballot, the form of which is specifically controlled by Government Code Section 34901 as follows:

*“The question shall be printed on the ballots use at the election in substantially the following form:*

*Shall the electors elect a mayor and four city councilmembers?*

*Shall the term of office of mayor be two years?*

*Shall the term of office of mayor be four years?”*

The term of office for mayor shall be that preferred by a majority of those voting on the proposition. It is important to note that nothing precludes a subsequent election to alter the term from two to four years or vice versa. If the measure passes, then at the next succeeding election one of the council seats on the ballot will be designated as the mayor’s seat and the post is filled (Government Code Section 34902.)

In general law cities with an elected mayor, the mayor, with approval of the city council, makes all appointments to boards, commissions and committees unless otherwise specifically provided for by statute (Government Code Section 40603.) With the consent of the electorate or by ordinance an elected mayor may draw a salary in addition to the salary established for members of the city council (Government Code Section 36516, see also 57 Cal. Ops. Atty. Gen. 625 (1974).)

**b. Procedures and Timing**

In California, general law cities are obligated to conduct either general or special elections in accordance with the California Elections Code (see Sections 10101 et. seq.) Accordingly, a city council may submit a measure such as “an elected mayor” on its own for voter consideration (Elections Code Section 9222.)

If a city council determines that it wishes to call a special election on such a measure, Elections Code Section 9225 provides that “when a special election is to be called under this article, it shall be held not less than 88 or more than 103 days after the date of the presentation of the proposed ordinance to the legislative body...”

In the event a city council does not wish to call a special election on this issue, the measure may simply be submitted to the voters at a regular election in accordance with the applicable requirements under the Elections Code. If the City Council wishes to place this item before the voters in the November 2016 election, the calendar of events is as follows:

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November 8, 2016 General Election

Filing Period	
July 26 <i>E-105</i>	City Council passes resolution, formally placing the measure on the November 2016 ballot
August 12 <i>E-88</i>	Deadline to submit ballot measure to County Clerk
August 24 <i>E-76</i>	Primary arguments must be filed with County Clerk through City offices
August 29 <i>E-71</i>	Rebuttal arguments, if allowed by the City Council, must be filed with County Clerk through City offices
November 8	Election

Local Measures are published in the Voter Information Guide with an Impartial Analysis, Arguments in Favor and Against Measures, and rebuttal arguments, if allowed by the City Council. Note that, pursuant to Elections Code section 9285, the provisions allowing rebuttal arguments apply only if, not later than the day on which the city council calls an election, the council adopts its provisions by majority vote, in which case those provisions will apply at the next municipal election and at each municipal election thereafter, unless later repealed by the city council.

The City Attorney prepares an Impartial Analysis of a city measure. The Impartial Analysis may be up to 500 words. Arguments in Favor or Against a Measure are filed with the City Clerk. The arguments may be up to 300 words, and each argument may have up to five signers. A Rebuttal Argument is a statement which refutes an Argument in Favor or Argument Against a Measure. Rebuttal Arguments may be up to 250 words.

Arguments, Rebuttal Arguments, and analyses are printed in the Voter Information Guide, which is mailed to all registered voters in the jurisdiction eligible to vote for the particular measure. The information will appear in the following order:

1. Measure Wording
2. Impartial Analysis
3. Fiscal Analysis or Tax Rate Statement (if applicable)
4. Argument in Favor
5. Argument Against
6. Rebuttal to Argument in Favor
7. Rebuttal to Argument Against
8. Full Text (optional)

The City Council, any individual voter who is eligible to vote on the measure, a bona fide association of citizens, or any combination of these voters and associations may file a written Argument in Favor or Argument Against a measure placed on the ballot by the governing body or by initiative.

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Arguments in Favor and Against the Measure are sent immediately after the submission deadline to those arguing the opposite position for the purpose of preparing a rebuttal statement. Rebuttal Arguments must be signed by the same authors of the arguments unless the original signers of the arguments authorize, in writing, others to sign the Rebuttal Arguments.

**Recommendation for Action**

No recommended action. Staff requests that the Committee discuss the information and provide direction to staff on next steps.

**Financial Impact**

The Contra Costa Elections Division has provided an estimate for the cost of the November 2016 election, and the cost is estimated to be \$112,000 (\$1.50 to \$2.00 per registered voter.) There would be an extra charge for putting the elected mayor ballot measure on the November ballot for additional pages in the Voter Information Guide with an estimate of no greater than \$9,000.

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