



**TO THE HONORABLE MAYOR AND COUNCIL:**

DATE: April 8, 2014

**SUBJECT: ADOPT RESOLUTION NO. 14-21 DEMANDING THAT PACIFIC GAS & ELECTRIC COMPANY REFRAIN FROM ALL TREE REMOVAL ACTIVITIES IN THE CITY OF CONCORD**

**Report in Brief**

Staff is recommending that the City Council adopt Resolution No. 14-21, demanding that Pacific Gas & Electric Company refrain from all tree removal activities in the City of Concord until certain conditions have been met. While PG&E has recently agreed to “pause” their Pathways Project in the East Bay, it remains important for the City Council to express their position formally, through the proposed resolution.

**Background**

Pacific Gas & Electric Company (PG&E) plans to cut down over 700 trees in Concord and over 3,000 trees countywide as part of its Pipeline Pathways Project (“Project”), the stated purpose of which is to enhance the safety of PG&E’s gas transmission pipelines and to facilitate access to and monitoring of those pipelines. If carried out, the Project will clear-cut trees and bushes in a 20-foot swath throughout many portions of the City, without regard for the harmful impact to the community and the environment.

Although staff supports the need for measures to ensure pipeline safety, PG&E is pursuing the Project without any meaningful dialogue with the City and other stakeholders, and without regard for viable alternatives and/or mitigation measures.

In response to requests from numerous cities, including Concord, and many members of the public, on Thursday March 27<sup>th</sup>, PG&E issued a statement formally acknowledging that they have decided to “pause” their Pipeline Pathways Project while they work to respond to the myriad concerns being expressed by the affected cities (including Concord) and community members.

**Discussion**

Many of the trees slated for pruning or destruction under the Pipeline Pathways Project are protected under the City of Concord’s Protected Tree Ordinance, owing to their age and size; some of these protected trees were in place before PG&E installed its gas pipeline. It is possible some may also be protected under the City’s Heritage Tree Ordinance.

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PG&E erroneously maintains that it is exempt from local tree protection ordinances, and that it need not comply with environmental review of the Project's impacts. Further, the sum total of PG&E's proposed mitigation measures consist of providing the City with two 15 gallon tree saplings for each tree that it removes. Given that some of the trees at issue are decades old, this offer falls woefully short of meaningful replacement. Moreover, PG&E has refused to make any commitment to funding the significant costs that the City will incur in nurturing the trees to maturity. Additionally, many of the trees slated for destruction—such as those at Len Hester Park— were planted as part of a comprehensive design to enhance aesthetic beauty, shade and privacy. It is difficult to envision mitigation measures that would provide an adequate substitute.

Staff objects to the approach taken by PG&E, and to the fact that PG&E developed its plans without consultation with the City or the community. Significantly, PG&E has acknowledged that none of its pipelines in the City face an imminent safety threat due to the presence of nearby trees, and it also acknowledges that the California Public Utilities Commission did not specifically order PG&E to proceed with this Project. Additionally, PG&E has failed to provide evidence that this is a necessary step and that no alternatives exist. Staff believes that there are many alternatives that should be explored before PG&E simply cuts down over 700 trees in Concord and over 3,000 trees in Contra Costa County.

It is the contention of staff that PG&E should back up their assertion stated in a March 17, 2014 letter, that they have no interest in haphazardly removing trees that do not impact the safety and reliability of the gas transmission system. They should do so by placing the Pipeline Pathway Project on hold and by taking the following steps:

1. Providing the City with the precise locations of the trees/flora under consideration for removal, demonstrating the necessity of removing them to protect PG&E's gas transmission pipelines;
2. Conducting a meaningful dialogue with all stakeholders to consider appropriate alternatives and mitigation measures.
3. Complying with all applicable federal, state and local laws, including the California Environmental Quality Act (CEQA) and the permitting process set forth in the City's Tree Protection Ordinances.
4. PG&E agrees to provide full reimbursement to the City and to affected private homeowners for all mitigation and other costs incurred as a result of PG&E's Pipeline Pathways Project.

The proposed Resolution underscores the Council's concern over the Project, and articulates its insistence that PG&E take the measures stated above.

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**Fiscal Impact**

The assessed value of trees which are proposed for removal by PG&E is unknown and will not be known until PG&E provides more accurate data which staff can use for tree inspection purposes. Additionally, the cost to water and maintain mitigation trees until full maturity has not been determined.

**Public Contact**

Posting of the agenda.

**Recommendation for Action**

Staff recommends the City Council adopt Resolution No. 14-21 demanding that Pacific Gas & Electric Company refrain from all tree removal activities in the City of Concord until certain conditions have been met.

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**BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD  
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A Resolution Demanding that Pacific Gas & Electric  
Company Refrain from all Tree Removal Activities in  
City of Concord**

**Resolution No. 14-21**

**WHEREAS**, the City of Concord (“City”) was incorporated in 1905. Included within the rights and responsibilities that it assumed as a city under the California Constitution and State Laws is the right to own and manage the public rights-of-way, parks and other public property, and to adopt laws furthering the health, safety and general welfare of the citizens of Concord ; and

**WHEREAS**, in managing the public rights-of-way and public property, the City must balance many interests, including: vehicular, bicycle and pedestrian traffic; water, sewer, storm water, gas, electric and telecommunications utilities both above ground and underground; pipelines carrying fuel, telecommunication fiber or other materials; environmental protection; the visual attractiveness of the community, whether in a business or rural setting; environmental concerns, including protection of the habitat for flora and fauna and the interests of neighboring property owners and the residents in the communities comprising the City; and

**WHEREAS**, trees in our City provide not only life-sustaining oxygen, but also shade, privacy, mitigation of topsoil erosion and flood hazards, wind protection, beauty, and critical habitat for birds and many wildlife species; and

**WHEREAS**, since 1981, Concord has been named a Tree City USA community, and since 1998 the City has received a Tree City Growth Award by the National Arbor Day Foundation for demonstrating progress in our community forestry program and for recognizing the value of trees in our community by planting and nurturing hundreds of trees; and

**WHEREAS**, the presence of landscaping, and particularly mature trees, increases the value of property, whether public or private, and is often critical in economic development efforts in our communities throughout the City;

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1           **WHEREAS**, the shade provided by trees mitigates the degradation of roadway surfaces  
2 caused by prolonged exposure to direct sunlight, prolonging the life of affected roadways and  
3 resulting in attendant cost savings to the City; and

4           **WHEREAS**, the City has adopted Tree Protection Ordinances in both its Municipal and  
5 Development Codes (Concord Municipal Code Chapter 8.40, Concord Development Code Sections  
6 122-825 through 122-832 ), to provide oversight and protection of City-owned trees and shrubs and  
7 privately owned trees that meet specified species and size requirements. In particular, the Tree  
8 Protection Ordinances preclude the removal, trimming or impairment of any City-owned trees  
9 growing in, along or upon any street, park or public place without written approval by the City  
10 Manager. The Tree Protection Ordinances also establish a discretionary permitting process and  
11 provide a detailed set of criteria that must be met before any protected trees on private property may  
12 be removed. The purpose of the Tree Protection Ordinances is to ensure the proper care of trees,  
13 shrubs, and hedges in parks, in public places, and streets; to provide for the public health, safety, and  
14 general welfare; to contribute to the attractiveness of the City and the quality of life of citizens and  
15 visitors; to maintain the climatic and ecological balance of the area; and to protect large native trees,  
16 trees of historic or cultural significance, groves and stands of mature trees, and mature trees in  
17 general; and

18           **WHEREAS**, the City supports Pacific Gas & Electric's ("PG&E") goal of ensuring that  
19 improvements and trees and other flora planted over or near gas transmission pipelines not  
20 compromise the safe operation of those pipelines, and recognizes PG&E's interest in efficiently  
21 accessing its gas transmission pipelines; and

22           **WHEREAS**, the City nevertheless disagrees with the manner in which PG&E is pursuing its  
23 Pipeline Pathways Program, which threatens the destruction of over 700 public and privately owned  
24 trees throughout the City. Many of those trees are decades old, are expressly protected under the  
25 City's Tree Protection Ordinances, and were growing in place before PG&E constructed its gas  
26 transmission pipelines. Notwithstanding PG&E's acknowledgment that the California Public Utilities  
27 Commission has not issue any orders specifically requiring implementation of the Program, and that  
28 none of PG&E's gas transmission pipelines in the City are in imminent danger of tree-related damage

1 or compromised structural safety, PG&E has attempted to institute its Program with minimal advance  
2 notice, without any meaningful dialogue with City representatives or other stakeholders, without  
3 following the permitting requirements set forth in the City's Tree Protection Ordinances, without  
4 complying with the procedures of California's Environmental Quality Act (CEQA), and without  
5 considering viable alternatives or mitigation measures; and

6 **WHEREAS**, PG&E does not have the legal authority to unilaterally remove or prune either  
7 private or City-owned tree and other flora, as reflected in the Franchise Act of 1937 and decisions  
8 issued by the California Supreme Court; and

9 **WHEREAS**, in response to PG&E's actions and the stated intentions of its Pipeline Pathways  
10 Program, the City is compelled to demand that PG&E cease its tree removal activities under that  
11 Program until the issues described above can be addressed to the satisfaction of the City and other  
12 stakeholders;

13 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES**  
14 **RESOLVE AS FOLLOWS:**

15 **Section 1.** PG&E provides the City with the precise locations of the trees /flora under  
16 consideration for removal, and demonstrates the necessity of removing them to protect its gas  
17 transmission pipelines.

18 **Section 2.** Discussions are held to consider appropriate alternatives and mitigation measures  
19 to achieve the goals of all stakeholders, including adequate compensation for any trees/flora that  
20 ultimately are removed by PG&E.

21 **Section 3.** PG&E complies with all applicable federal, state and local laws, including the  
22 California Environmental Quality Act (CEQA) and the permitting process set forth in the City's Tree  
23 Protection Ordinances.

24 **Section 4.** PG&E agrees to provide full reimbursement to the City and to affected private  
25 homeowners for all mitigation and other costs incurred as a result of PG&E's Pipeline Pathways  
26 Project.

27 **Section 4.** This resolution shall become effective immediately upon its passage and adoption.

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