

MARLBOROUGH CITY COUNCIL

CLIMATE RESILIENCY COMMITTEE

MARCH 21, 2022

MEETING PACKET



IN CITY COUNCIL

Marlborough, Mass., FEBRUARY 28, 2022

ORDERED:

That the Information on the MassDevelopment PACE (Property Assisted Clean Energy) program and impact/opportunities for Marlborough, be and is herewith referred to the **CLIMATE RESILIENCY COMMITTEE.**

ADOPTED

ORDER NO. 22-1008523

Steven Kerrigan

Subject: FW: For next regular meeting agenda from Councilor Doucette: MassDevelopment PACE program details and impact/opportunities in Marlborough
Attachments: PACE Program Guidelines.pdf; ATT00001.htm; PACE Massachusetts 2-2022 Dolan.pdf; ATT00002.htm

RECEIVED
CITY OF MARLBOROUGH
2022 FEB 23 A 9:30

From: "David Doucette"

To: "Mike Ossing", "Mark Oram", "Samantha Perlman", "Kathleen Robey", "Laura Wagner", "Christian Dumais", "Teona Brown", "John Irish", "Sean Navin", "Don Landers"

Cc: "City Council", "Mayor", "Legal"

Subject: MassDevelopment PACE program details and impact/opportunities in Marlborough

Fellow Councilors,

On February 15, 2022, I attended a Zoom meeting by the Energy and Sustainable Development Committee, part of Massachusetts Development Finance Agency (MassDevelopment) in coordination with the Massachusetts Department of Energy Resources (DOER). President Ossing also attended. Thanks to Councilor Robey letting me know about this meeting.

The meeting covered the Property Assisted Clean Energy (PACE) program, which funds improvements in buildings owned by businesses, non-profits and housing complexes with 5 or more units by reducing their use of carbon fuels and installing renewable energy systems, including insulation, solar, geothermal, and required building upgrades such as new roofs, windows, etc. It is critical that any improvements to the building are exceeded by the energy savings over time. This is typically not a high barrier to achieve in old buildings.

The key to the PACE program is to fund the upgrades through municipal betterment assessments that last up to 20 years. This approach means that the debt burden of the project is not on the books of the property owner, and the projects are funded by a 3rd party private financing company. For this to happen, the municipality needs to approve the program since the cities and towns are responsible for including these additional assessments on their tax bill, and paying the financing company.

While the program was started in July, 2020, it has had only 2 deals so far. These programs are in place in other states (CT approved theirs in 2011). Any property owner of buildings 20+ years or older who is planning / confronting building upgrades should consider this funding option to increase the property value, reducing their carbon footprint, while reaping savings in operating costs. There are plenty of properties in Marlborough that fit that category.

I've attached a copy of the presentation from 2/15, the PACE program guidelines from the MassDevelopment web site, and draft wording that needs to be approved by the city council to allow properties in Marlborough apply for the program. I'm not sure if the mayor also needs to approve this (that's a question for legal) but I included that wording in this draft.

Please include this material as an item in the next City Council meeting. I expect this to be sent to the Climate Resiliency Committee.

Sincerely,
David Doucette
Ward 2 City Councilor, Marlborough MA

Vote/Resolution Authorizing the City/Town of Marlborough to Participate in the Massachusetts Commercial Property Assessed Clean Energy Program (PACE Massachusetts)

WHEREAS, pursuant to M.G.L. c. 23M, as amended (the "PACE Act"), the Commonwealth has established a commercial sustainable energy program known as the Massachusetts Property Assessed Clean Energy Program ("PACE Massachusetts") to provide a financing mechanism ("PACE financing") to private owners of commercial and industrial properties for certain qualifying commercial energy improvements ("improvements"); and

WHEREAS, pursuant to the PACE Act, PACE Massachusetts is administered by the Massachusetts Development Finance Agency ("MassDevelopment"), in consultation with the Massachusetts Department of Energy Resources; and

WHEREAS, under PACE Massachusetts, the owner of the commercial or industrial property benefitting from the improvements (the "benefitted property") is required to repay the PACE financing through the payment of a betterment assessment (a "PACE betterment assessment") placed on such benefitted property by the municipality in which the benefitted property is located; and

WHEREAS, in order for an owner of commercial or industrial property to participate in PACE Massachusetts, Section 2 of the PACE Act requires that the municipality in which such property is located must elect to participate in PACE Massachusetts; and

WHEREAS, the City/Town of Marlborough (the "Municipality") has determined that it is in the best interest of the Municipality to participate in PACE Massachusetts as a "participating municipality," as provided in the PACE Act, to permit the owners of commercial and industrial properties located in the Municipality to access PACE financing for qualifying commercial energy improvements through PACE Massachusetts;

WHEREAS, NOW THEREFORE, BE IT [VOTED/RESOLVED], as follows:

The [City Council of the City of Marlborough, with the approval of the Mayor, hereby approves the Municipality participating in PACE Massachusetts pursuant to the PACE Act, and authorizes the [Mayor/Town Manager] to enter into a PACE Massachusetts Municipal Assessment and Assignment Agreement (the "Agreement") with MassDevelopment, pursuant to which the Municipality will agree to (i) levy PACE betterment assessments and impose PACE betterment assessment liens on benefitted properties located in the Municipality, in the amounts determined by MassDevelopment to be sufficient to repay the PACE financing, (ii) assign the PACE betterment assessment liens to MassDevelopment, which MassDevelopment may in turn assign to the providers of the PACE financing (each a "capital provider"), as collateral for such PACE financing, (iii) include on the property tax bills for the benefitted properties the installment payments necessary to repay the PACE betterment assessments, in the amounts and at the times as determined by MassDevelopment, (iv) collect and pay over to MassDevelopment or its designee, the PACE betterment assessment installment payments, as and when collected, and (v) enforce, to the extent required by the Agreement, the PACE betterment assessments and liens; the Agreement to be substantially in the form presented to this meeting, with such changes, modifications and insertions as the [Mayor/Town Manager] may approve as being in the best interest of the Municipality. The Collector Treasurer of the City/Town or such other City/Town agency as may be designated in the Agreement is authorized to levy such PACE betterment assessments and impose the PACE betterment assessment liens on behalf of the City/Town without further authorization by this legislative body.

Notwithstanding any other provision of law to the contrary, officers and officials of the Municipality, including, without limitation, municipal tax assessors and tax collectors, are not personally liable to MassDevelopment or to any other person for claims, of whatever kind or nature, under or related to PACE Massachusetts, including, without limitation, claims for or related to uncollected PACE betterment assessments. Other than fulfillment of the obligations specified in the Agreement, the Municipality has no liability to the owner of the benefitted property or to any capital provider related to the Municipality's participation in PACE Massachusetts.

ACTIVE 6211540v7

Pace Guidelines

Please find Pace Guidelines
Information Packet on the
City's Calendar

March 21, 2022

City of Marlborough Public Meeting Posting

The following City Council Committees will meet on Monday, March 21, 2022 in the City Council Chamber, second floor, City Hall, 140 Main Street, Marlborough, MA.

These meetings will be held in the City Council Chamber and are open to the public. They will be televised on WMCT-TV (Comcast Channel 8) or Verizon/Fios Channel 34) or you can view the meetings using the link under the Meeting Videos tab on the city's website, home page (www.marlborough-ma.gov). Please note per Mass Open Meeting (OML) Law requirements meetings may start later than the appointed time but not before the time posted herein.

Personnel Committee at 6:00 PM to review Order No.22-1008511: Reappointment of George LaVenture to the Planning Board for a five-year term to expire February 1, 2027.

Operations & Oversight Committee at 6:10 PM to review Order No.22-1008513: Succession Planning Project information submitted by Mayor Vigeant.

Climate Resiliency Committee at 6:35 PM to review Order No.22-1008523 Information from MassDevelopment PACE (Property Assisted Clean Energy) program and impact/opportunities.

Legislative & Legal Affairs Committee at 7:00 PM to review Order No.22-1008516: Communication from Engineering Design Consultants on behalf of Lacombe Business Center re: Sewer Taking and Easement relative to certain parcels on Lacombe Street.

Finance Committee at 7:20 PM to review the following Orders:

- 1) Order No.22-1008525: Transfer in the amount of \$361,080.93 from PEG Funds to Marlborough Cable Trust to fund the operation of WMCT-TV for FY2023.
- 2) Order No.22-1008526: Proposed Order for the establishment of the West Side Fire Station Stabilization Account.
- 3) Order No.22-1008402B-2: Proposed amended Transfer request relative to the acquisition of 100 Locke Drive for a new Fire Station clarifying the funding sources.
- 4) Order No.21-1008402A-1: Proposed Order to authorize the purchase of 100 Locke Drive for the purpose of building a new Fire Station.

THE LISTING OF TOPICS THAT THE CHAIR REASONABLY ANTICIPATES WILL BE DISCUSSED AT THE MEETING IS NOT INTENDED AS A GUARANTEE OF THE TOPICS THAT WILL HAVE BEEN DISCUSSED. NOT ALL TOPICS LISTED MAY IN FACT BE DISCUSSED, AND OTHER TOPICS NOT LISTED MAY ALSO BE BROUGHT UP FOR DISCUSSION TO THE EXTENT PERMITTED BY LAW.

The public should take due notice that the Marlborough City Council may have a quorum in attendance due to Standing Committees of the City Council consisting of both voting and non-voting members. However, members attending this duly posted meeting are participating and deliberating only in conjunction with the business of the Standing Committee.

Electronic devices, including laptops, cell phones, pagers, and PDAs must be turned off or put in silent mode upon entering the City Council Chamber, and any person violating this rule shall be asked to leave the chamber. Express authorization to utilize such devices may be granted by the President for recordkeeping purposes.