

STAFF REPORT

TO: Finance Committee DATE: April 26, 2016

FROM: Barbara Whitehorn, CFO
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VIA: Cathy Ball, Executive Director of Planning and Multimodal Transportation
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SUBJECT: Property Assessed Clean Energy (PACE)

Summary Statement: Provide the Finance Committee with an update on the City of Asheville's Community Clean Energy Policy Framework addressing PACE; explore required actions for PACE implementation.

Background:

In 2015, the Asheville City Council created Resolution 15-200 adopting a Community Clean Energy Policy Framework for the City. The Community Clean Energy Policy Framework is a short-term workplan that aligns with the City's efforts to support Resolution 13-228 Supporting a Clean Energy Economy and Resolution 07-90 Establishing Energy Conservation Goals. PACE-NC Advisory Board, a group comprised of green business owners, nonprofits and builders, approached the City about the idea of developing a PACE program as a way to allow residents and commercial businesses to finance energy efficiency improvements. In order to thoroughly evaluate the possibility of a local PACE program, the City consulted bond counsel, Scott Leo, of Parker, Poe, Adams & Bernstein.

Review:

The framework of PACE programs is based on cities providing or enabling financing to private persons or entities to install energy efficiency improvements. Cities place a special assessment on the property where the improvement is made and provide that the assessment be paid over time.

Statutory Authority: N.C.G.S. §160A-239.1 allows the City to issue revenue bonds payable from special assessments on benefited property for the purpose "of financing the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to residential, commercial, industrial, or other real property." The assessments against the property where the improvements are made would be pledged to repay the bonds.

Financing: Staff's analysis indicates that Qualified Energy Conservation Bonds (QECCB), leftover from the American Recovery and Reinvestment Act, would need to be utilized. QECCB's are qualified tax credit bonds which allow the borrower to only pay back the principal and the bondholder receives federal tax credits in lieu of traditional bond interest. QECCB's are allocated to states which then make allocations to local jurisdictions. For the City of Asheville to receive QECCB funding, the City would apply to the State for a portion of the existing QECCB Federal allocation. QECCB funding would also require LGC approval.

There is no guarantee that the City will be able to offer a lower cost option than property owners can get on their own through a standard bank loan. Prospective borrowers would be subject to the same credit guidelines as they would in any loan application.

Assessment Process: It is assumed that the City would offer loans periodically during the course of the program and therefore the City would need to go through the assessment process each time that properties are identified and loans given for energy efficiency improvements. This moves the City into a new area of business that would require a level of specialization and expertise, necessitating the addition of multiple full-time staff to manage the program.

The assessment process would likely consist of the following steps:

- 1) A petition from the property owner(s);
- 2) Adoption of a preliminary resolution by Council;
- 3) At least 3 weeks after the preliminary resolution, Council holds a public hearing;
- 4) At least 10 days after the public hearing, Council adopts a final assessment resolution;
- 5) When total project costs are determined (this seems to mean after construction is complete), City prepares a preliminary assessment;
- 6) City Council holds public hearing and confirms (or modifies) final assessment roll;
- 7) After 20 days from adoption of final assessment roll, tax collector publishes notice of assessment role confirmation

Issues to Consider

- Use of special assessment bonds in North Carolina is rare and is customarily used for infrastructure purposes and has not been implemented for a PACE program in the State. Evaluation and implementation of the program will likely require significant cost and time commitment.
- If a borrower fails to pay its assessment, state law requires the City to enforce the payment of assessments, including foreclosure of the property.
- Defaults in the payment of special assessment bonds could potentially impact the City's credit rating and ability to borrow in the future. The special obligation bonds will have the City's name on them and default, therefore, technically would be a default of a City debt obligation.
- The lien of special assessments will be superior to all liens, except liens for State, local, and federal taxes and therefore will impact existing mortgage holders on those properties. In addition, the borrower's mortgage may not allow for this type of lien without causing a default on the mortgage.
- There are a limited number of financial institutions that have current programs to implement a PACE program and that may be further limited if the program includes residential borrowers. If a financial institution is identified, an evaluation of the financial institution's current ability to implement the program and longer term commitment to fund the program would be necessary to ensure the long-term viability of the program.

Other Communities: There are no PACE programs in North Carolina at this time. Nationwide, communities with successful PACE programs, including Houston, Texas, and Fayetteville, Arkansas, operate under State programs that are well-defined and administered at the State level in partnership with banking institutions.

Staff Recommendations

- Staff and Council should work to encourage the State of North Carolina to adopt PACE-specific legislation based on the models in Texas, Arkansas or other states in which programs have been successfully implemented.
- Allow the Energy Innovation Task Force (Duke/county/city partnership) to further discuss opportunities for energy efficiency loans through the Duke partnership.