



CITY COUNCIL STAFF REPORT

DATE: September 8, 2010 CONSENT

SUBJECT: PROPOSED ADOPTION OF A RESOLUTION IN SUPPORT OF CONGRESSIONAL ACTION REGARDING PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM.

FROM: David H. Ready, City Manager

BY: Michele Mician, Manager, Office of Sustainability

SUMMARY:

The Federal Housing Finance Agency (FHFA) recently issued a statement that has impacted residential Property Assessed Clean Energy (PACE) Programs across the country. In response, PACEnow, a national coalition of PACE advocates and stakeholders, has launched a campaign to engage local government partners across the country, calling for immediate congressional action to approve legislation allowing PACE to continue.

RECOMMENDATION:

Staff recommends that City Council

- 1) Approve the Resolution in support of immediate congressional action to authorize legislation allowing Property Assessed Clean Energy (PACE) Programs.
- 2) Authorize the Office of Sustainability to file the Resolution with PACE Now.

STAFF ANALYSIS:

On May 5, 2010, Fannie Mae and Freddie Mac issued Lender Letters that stated "PACE loans generally have automatic first lien priority over previously recorded mortgages. The terms of the Fannie Mae/Freddie Mac Uniform Security Instruments prohibit loans that have senior lien status to a mortgage." Fannie Mae and Freddie Mac are regulated by the Federal Housing Finance Agency (FHFA). Subsequent to the housing crisis, both agencies were placed in federal conservatorship under FHFA and the U.S. Treasury.

While the letters did not direct lenders or servicers to take action, this statement indicated that PACE participants could be in violation of their existing mortgage

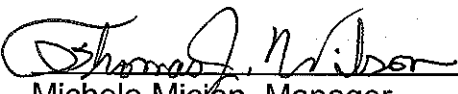
contracts. These statements attracted significant attention including that of Senators, Members of Congress, Governors, and others.

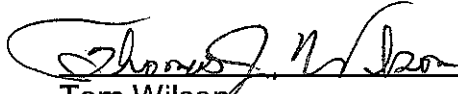
On Friday, July 2, 2010, the House Committee on Energy and Commerce Chair Henry Waxman and Committee on Financial Services Chair Barney Frank issued a letter to Secretaries Geithner and Chu and Director De Marco of FHFA requesting clarification and support for PACE programs across the country.

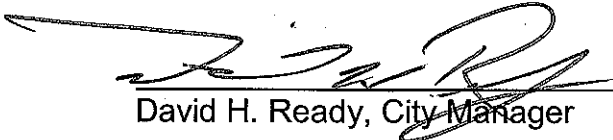
On July 6, 2010, the FHFA posted a statement reaffirming that a senior PACE lien is in violation of any Fannie Mae or Freddie Mac mortgage contract. A nationwide PACE coalition is working to take legislative action that will correct this issue. The coalition has asked all jurisdictions to sign letters to their congressional representatives and pass resolutions in support of PACE.

FISCAL IMPACT:

There is no direct fiscal impact associated with the adoption of this resolution.


Michele Micjan, Manager,
for Office of Sustainability


Tom Wilson
Assistant City Manager


David H. Ready, City Manager

Attachments:

- 1) Resolution No. _____ in support of immediate congressional action to authorize legislation allowing Property Assessed Clean Energy (PACE) Programs.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PALM SPRINGS, CALIFORNIA IN SUPPORT OF IMMEDIATE
CONGRESSIONAL ACTION TO AUTHORIZE LEGISLATION
ALLOWING PROPERTY ASSESSED CLEAN ENERGY
PROGRAMS**

WHEREAS, utility bills represent a major cost of operating costs for home and business owners;

WHEREAS, persistent unemployment, particularly in the construction industry, continues to burden our families and communities;

WHEREAS, residential and commercial buildings consume nearly 40% of all electricity and are responsible for 40% of U.S. annual carbon dioxide emissions;

WHEREAS, investing in cost-effective energy efficiency and renewable energy improvements to homes and businesses can save energy, cut utility bills, create thousands of local jobs, reduce reliance on fossil fuels, and reduce greenhouse gas emissions;

WHEREAS, the upfront cost and potentially long payback periods prevent property owners from making otherwise cost-effective clean energy improvements;

WHEREAS, Property Assessed Clean Energy (PACE) financing programs are an innovative local government solution to help property owners finance energy efficiency and renewable energy improvements – such as energy efficient boilers, upgraded insulation, new windows, solar installations, etc. – to their homes and businesses;

WHEREAS, twenty-two states have passed laws enabling local governments to develop PACE programs.

WHEREAS, White House and the U.S. Department of Energy strongly support PACE, have dedicated \$150 million to develop local PACE programs and issued guidelines to ensure that PACE programs meet safety and soundness requirements and adequately protect both bond buyers and property owners; and,

WHEREAS, despite PACE's great promise, the Federal Housing Finance Agency (FHFA) and the Office of the Comptroller of the Currency (OCC) on July 6th issued administrative rulings that negatively impacted the PACE programs nationwide.

**THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY
RESOLVE AS FOLLOWS:**

SECTION 1. That the City of Palm Springs urges the State of California congressional delegation to support legislation that restores the promise of PACE.

ADOPTED THIS 8TH DAY OF SEPTEMBER, 2010

David H. Ready, City Manager

ATTEST:

James Thompson, City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California