#### PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY

Meeting Date:	July 12, 2016	_	] ]	Consent Ordinance	[×] []	Regular Public Hearing
Department:	County Administ	trat	ion			
	I. E	EXE	CUT	IVE BRIEF		

**Motion and Title: Staff Requests Board direction:** regarding the implementation of Property Assessed Clean Energy (PACE) in Palm Beach County. Items requiring direction include:

- A) Implementation of PACE Countywide;
- B) Implementation of residential or commercial PACE or both;
- C) Creation of an PACE program administered by County staff; or
- D) Participation in one (1) or more established PACE programs

**Summary:** The Florida PACE Legislation was authorized in 2010 under Section 163.08, F.S. The legislation provides a general framework within which local governments (municipality, county, dependent special district or separate legal entity) have flexibility to create and administer PACE programs. PACE programs allow a qualified property owner, residential or commercial, to voluntarily finance energy efficiency improvements and repay through a non-ad valorem assessment, which is repaid through their annual tax bill. Eligible projects can include energy efficiency, renewable energy and wind resistance improvements. The PACE structure addresses a barrier to implementing these types of improvements by providing financing to the property owner. Assessments are secured by the property itself and nonpayment generally results in the same set of repercussions as failure to pay any other portion of a tax bill.

Local governments have two (2) options to implement PACE: 1) creation of its own PACE program; or 2) participate in one (1) or more established PACE programs. The majority of PACE programs in Florida were formed by local governments to operate for local governments and utilize a third party administrator. The most active PACE programs in Florida include: RenewPACE, formerly known as Florida Green Energy Works (Authority: Florida Green Finance Authority, Administrator: Renew Financial); The E-Vest Program (Authority: Florida PACE Funding Agency, Administrator: Counterpointe Energy Solutions); and the Clean Energy Green Corridor (Authority: Clean Energy Corridor District, Administrator: Ygrene). To join an existing program, the County would be required to enter into an interlocal agreement or subscription agreement. Additionally, agreements between an Authority and the County Property Appraiser and Tax Collector are required to levy, assess and collect the payments. Establishment of a PACE program for Palm Beach County residents aligns with the County's Go Green Initiative and the Southeast Florida Regional Climate Compact. <u>Countywide</u> (JB)

**Background and Justification:** PACE programs first evolved in California back in 2008 and grew with great momentum, but that slowed in 2010 due to concerns raised by the Federal Housing and Finance Agency (FHFA), Fannie Mae (Fannie), and Freddie Mac (Freddie) regarding the seniority of the PACE lien over mortgages. Several Federal legislative attempts in 2011 and 2012 to resolve these concerns failed to pass. Federal litigation against FHFA, Fannie and Freddie occurred from 2010 to 2013, along with court-mandated federal rulemaking process that was later suspended. Appeals to several PACE related bond validation proceedings in Florida slowed progress but those have since been resolved.

#### Attachments:

1. Presentation

Approved by:

Shannetty	/ 7/7/1/0
Assistant County Administrator	Date

REVISED

#### II. FISCAL IMPACT ANALYSIS

#### A. Five Year Summary of Fiscal Impact:

Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures Operating Costs External Revenues Program Income (County)	\$0 0 0	\$0 0 0 0	\$0 0 0 0	\$0 0 0 0	\$0 0 0 0
In-Kind Match (County)	0	0	0	0	0
NET FISCAL IMPACT	\$0	\$0	\$0	\$0	\$0
# Additional FTE Positions (Cumulative)	0	0	0	0	0
ls Item Included in Current Budget:		Yes		No	

Budget Account No:

Reporting Category \_\_\_\_\_

B. Recommended Sources of Funds/Summary of Fiscal Impact:

Departmental Fiscal Review:

#### **III. REVIEW COMMENTS**

A. OFMB Fiscal and/or Contract Development & Control Comments:

OFMB 6/30

And Jacobard 716116 Contract Development & Control 44/14

A. Legal Sufficiency:

Assistant/County Attorney

A. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.



Property Assessed Clean Energy PACE

> Palm Beach County Board of County Commissioners

> > July 12, 2016



### **Presentation Topics**

- What is PACE?
- Historical Obstacles
- Potential Benefits
- Administrative Models
- Summary
- Decision Points
- Next Steps
- Questions

What is PACE? Property Assessed Clean Energy

- Established in 2010 by Florida statute
- Allows for levying of non-ad valorem assessments for qualifying improvements
- Local government can create and operate its own program or participate in an existing one
- Sets minimum standards for property eligibility
- Includes safeguards and protections for property owners, mortgage holders, and lenders

## What is PACE?

- Voluntary program
- Applies to commercial and residential property
- Provides property owner access to financing
- Repaid as ongoing non-ad valorem assessment
- Repayment obligation can potentially transfer

### **Eligible Improvements**

- Energy conservation
- Energy efficiency
- Renewable energy
- Wind resistance

### **Key Components**

#### **PACE Program**

Palm Beach County created/administered

Existing program/third party administered

#### **Governmental Partners**

Tax Collector Property Appraiser

**Property Owner** 

Contractors

### Key Statutory Consumer Protections

**PACE** application and review process must determine:

- Property taxes are current
- No involuntary liens
- Mortgage current
- PACE assessment ≤ 20% of market value

## **Historical Obstacles**

Constitutionality of Florida PACE statute and PACE bond validations



Florida's Supreme Court upheld the constitutionality of the statute and local government's authority to issue bonds to finance qualifying improvements

### **Historical Obstacles**

# Availability of funding for qualifying improvements



Most existing PACE programs have access to capital

### **Ongoing Concerns** Consumer, Mortgage Holder, and Lender Protections

**Resolved** 

Florida PACE statute sets minimum protection standards for: Property Eligibility Assessment Limits Notice Requirements Existing PACE programs vary with regards to additional protections beyond the statutory minimums

**Unresolved** 

#### **Ongoing Concerns** Senior Lien Status of PACE Assessments

PACE assessment has a priority over pre-existing mortgages



Existing PACE program administrators assert:

- Default risk minimal
- Statutory protections mitigate concern
- Notice provided to Fannie Mae/Freddie Mac



- New FHA mortgages may require homeowner to pay off PACE lien prior to loan closure
- FHA announced it will issue senior lien status guidelines

**Ongoing Concerns** Limited Program Data in Florida Federal and state-level litigation has slowed implementation

Resolved

Power and ability to levy, record, and collect assessments is well-established
Bond validations upheld



Too few PACE assessments to date in Florida and Palm Beach County to evaluate program successes



### Ongoing Concerns Tax Collector

- Potential administrative burden
- Potential loss of home due to nonpayment of PACE assessment
- Questionable economic return on investment to property owner
- Non-negotiable payment of 2% administrative fee

### **Potential Benefits**

- Reduction in energy consumption
- Aligns with Southeast Florida Regional Climate Change Compact
- Stimulates local economy through job creation
- Provides property owner access to financing
- Reduced risk to state-backed insurance portfolio

### Administrative Models

Third Party Administrator Model

County Administered Model

## Third Party Administrator Model

### Existing PACE Programs (Most Active in Florida)

Program Name	Clean Energy Green Corridor	Evest	Renew PACE		
Levy & Collection Agency	Clean Energy Green Corridor	Florida PACE Funding Agency	Florida Green Finance Authority		
Program Administrator	Ygrene Florida	Counterpointe Energy Solutions	Renew Financial		
Geographic Area	4 Districts: Select areas within Alachua County Select areas within Broward County Miami-Dade County Orange County	Statewide	Statewide		
Interlocal Agreements within Palm Beach County	0	1 Riviera Beach	8 Boynton Beach Delray Beach Lake Worth Lantana Mangonia Park North Palm Beach Tequesta West Palm Beach		

### Existing PACE Programs (Most Active in Florida)

		Clean Energy Green Corridor			Evest			Renew PACE			TOTAL		
Closed Projects Number & Amoun	t												
	Commercial	13	\$	4,085,637.00	2	\$	616,990.00	3	\$	2,300,000.00			
Florida	Residential	949	\$	21,277,265.00	161	\$	2,762,807.00	0	\$	-	1128	\$	31,042,699.00
	Total	962	\$	25,362,902.00	163	\$	3,379,797.00	3	\$	2,300,000.00			
Palm Beach County	Commercial	0	\$	-	0	\$	-	3	\$	2,300,000.00			
	Residential	0	\$	-	0	\$	-	0	\$	-	3	\$	2,300,000.00
	Total	0	\$	-	0	\$	-	3	\$	2,300,000.00			

### County Administered Model

### **County Administered Model Challenges**

- Budget Impacts
  - No general funds currently available
  - Requires issuance of bonds to fund program
- Staffing Impacts
  - Requires hiring of additional staff to:
    - Respond to property owner inquiries
    - Process applications
    - Determine applicant eligibility
    - Qualify projects
    - Qualify contractors
    - Conduct inspections
    - Record assessments
    - Promote and market the program
    - Manage complaints

## Summary

- PACE is a "newer" concept; functionality of special assessment power is not new
- Property owners voluntarily apply
- Many PACE concerns have been overcome; others remain
- Participation in an existing PACE program is less costly and carries less financial risk to the County

## **Decision Points**



- A. Should there be implementation of PACE countywide? Staff recommends approval
- B. Should there be implementation of residential or commercial PACE or both? Staff recommends implementation of both residential and commercial
- C. Should the County create and administer its own PACE program?

Staff does not recommend a County created and administered program

### Should the County participate in one or more established PACE program?

Staff recommends an open process whereby multiple programs can operate in Palm Beach County once vetted by County staff

## **Next Steps**

Within three to six months, draft an Ordinance which:

- Allows for Countywide implementation of multiple PACE programs
- Establishes consumer protection standards
- Sets criteria for evaluating if an established PACE program can operate in Palm Beach County

Questions and **Discussion**  