

City of Auburn, Maine

"Maine's City of Opportunity"

Office of the City Clerk

Special Council Meeting Agenda Packet

November 10, 2010

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Special City Council Meeting

November 10, 2010

Agenda

5:00 p.m. City Council Meeting

Pledge of Allegiance

I. Consent Items – All items listed with an asterisk (*) are considered as routine and will be approved in one motion. There will be no separate discussion of these items unless a Councilor or citizen so requests. If requested, the item will be removed from the consent agenda and considered in the order it appears on the agenda.

II. Minutes – October 4, 2010*

III. Reports

Mayor

City Councilors

Michael Farrell: Rec Adv Bd, Airport, Audit, Lake Aub Watershed Protection Comm,

Robert Hayes: Planning Bd, Water, Library, and Railroad

Daniel Herrick: MMWAC, Auburn Housing

David Young: School Committee, Cable TV Adv Board

Raymond Berube: Lewiston-Auburn Economic Growth Council, Sewer, Audit, USM-L/A

Belinda Gerry: LA Transit, Neighborhood Stabilization Program, L/A Public Health Committee,

Eric Samson: 9-1-1, Auburn Business Development Corp, Andros Valley Council of Gov

City Manager

IV. Communications, Presentations and Recognitions

V. Open Session – Members of the public are invited to speak to the Council about any issue directly related to City business which is not on this agenda.

VI. Unfinished Business

VII. New Business

- a. 11102010-01 Authorizing the issuance and sale of capital improvement bonds of \$1,000,000, second reading and final adoption.
- b. 11102010-02 Adoption of the Property Assessed Clean Energy (PACE) Ordinance, public hearing and a combined first and second reading, with final adoption.
- c. 11102010-04 Confirmation of the City Manager's appointment of Philip Crowell as Acting Assistant City Manager.

VIII. Open Session - Members of the public are invited to speak to the Council about any issue directly related to City business which is not on this agenda.

IX. Future Agenda/Workshop Items

X. ADJOURNMENT

City of Auburn
Special City Council Meeting
November 10, 2010

Executive Session: On occasion, the City Council discusses matters which are required or allowed by State law to be considered in executive session. Executive sessions are not open to the public. The matters that are discussed in executive session are required to be kept confidential until they become a matter of public discussion. In order to go into executive session, a Councilor must make a motion in public. The motion must be recorded, and 3/5 of the members of the Council must vote to go into executive session. An executive session is not required to be scheduled in advance as an agenda item, although when it is known at the time that the agenda is finalized, it will be listed on the agenda. The only topics which may be discussed in executive session are those that fall within one of the categories set forth in Title 1 M.R.S.A. Section 405. Those applicable to municipal government are:

- A. Discussion of personnel issues
- B. Discussion or consideration by a school board of suspension or expulsion
- C. Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency
- D. Labor contracts
- E. Contemplated litigation
- F. Discussions of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute;
- G. Discussion or approval of the content of examinations administered by a body or agency for licensing, permitting or employment purposes; consultation between a body or agency and any entity that provides examination services to that body or agency regarding the content of an examination; and review of examinations with the person examined; and
- H. Consultations between municipal officers and a code enforcement officer representing the municipality pursuant to Title 30-A, section 4452, subsection 1, paragraph in the prosecution of an enforcement matter pending in District Court when the consultation relates to that pending enforcement matter.



**City Council Meeting
and Workshop
October 4, 2010
Minutes**

Present: Mayor Richard D. Gleason, Councilors Belinda A. Gerry, Michael Farrell, Robert Hayes, David C. Young, Raymond C. Berube, Eric C. Samson, City Manager Glenn Aho, Finance Director Tracy Roy and City Clerk Roberta Fogg.

Councilor Daniel Herrick arrived at 5:45 pm.

The council conducted a workshop beginning at 5:30pm on the following items:

Discussion of proposed Agriculture and Resource Protection zoning district amendment; Update: MDOT on Route 136 detour; Chapter 24 Licensing and Permits Ordinance proposed language; Update: Elections and Presentation of the PACE was presented in open session.

7:00 p.m. City Council Meeting

Mayor Gleason called the meeting to order at 7:10 p.m. in the Council Chambers of Auburn Hall and led the assembly in the salute to the flag.

Consent Items

Councilor Berube, seconded by Councilor Hayes, move to accept the consent agenda items, Minutes of September 20, 2010 as amended; Androscoggin Valley Council of Governments (AVCOG) for approval of temporary signs and fee waiver from Danville Jct. Grange #65 for their annual Business (Victualer) License.

Vote: 6 Yeas - 0 Nays - 1 Abstained - Councilor Young because he is a member of the Danville Jct. Grange #65.

Motion carried 6-0-1.

Reports from Mayor

Reports from City Councilors:

Michael Farrell: None

Robert Hayes: Asked about committee appointments and to be given applications.

Daniel Herrick: MMWAC, Legislative breakfast, calls and complaints about taxes and increases in valuation.

David Young: Responded to questions from Mr. Gray on costs to extend school calendar.

Raymond Berube: unemployment rates & United Way information, asked if there were any Planning Board openings.

Belinda Gerry: Asked to be excused from next LA Public Health meeting, update on the LA Transit Saturday numbers which continue to increase.

Eric Samson: Asked about corner property values and an assessing workshop with Webpro.

Report from City Manager Aho

City Manager Aho explained how the mass appraisal system works; he stated Mike Rogers of the Bureau of Revenue Services, Property Tax Division will be at the November 1st meeting to explain property assessment process. He asked to move the October 19th meeting to November 1st.

Communications, Presentations and Recognitions * - approved in the consent agenda

10042010-01 Communication from Androscoggin Valley Council of Governments (AVCOG) for approval of temporary signs for their medicine disposal collection on November 6, 2010 from 9am to 11:30am at the Lewiston High School. *

10042010-02 Application for fee waiver from Danville Jct. Grange #65 for their annual Business (Victualer) License.
*



**City Council Meeting and Workshop
October 4, 2010
Minutes**

Open Session –

Workshop Item E, Presentation of PACE Program: Jim Wellehan updated the Council on Efficiency Maine Program and Property Assessed Clean Energy (PACE).

Council agreed to bring the PACE model ordinance back for council action. (Do 1st reading, 2nd reading, public hearing and final adoption, ordinance will be effective five days from the date of adoption)

Tim Doughty, 75 Cherryvale Circle spoke about property values and the Patriot System.

City Manager Aho responded to Mr. Doughty's comments.

Larry Pelletier, 129 Second Street asked about the winter parking ban.
City Manager Aho said it would be the same policy as last year.

Matt Read, Gorham resident, property owner on South Main Street, read a statement about being over taxed on his two properties. He stated that he plans to put a question on the May or June ballot to cap all employee pay.

City Manager Aho informed the council of his communications with Mr. Read regarding his property assessments and how the 32% reduction of state revenues affected our budget.

Andy Titus, 17 Lamplighter Circle, spoke about the valuation system to make it fair and equitable. He asked the council to start the budget process sooner because the citizens get lost in the process. He asked the council use the what if process for budgeting, "what if we did without something for one year?"

Joe Gray, Sopers Mill Road, spoke in favor of the slaughter house rezoning. He stated that Public Works is doing a great job on Jordan School Road.

Councilor Berube said that if it were not for the reduction of state revenue the city would have cut our budget this year.

Unfinished Business - none

New Business

Councilor Farrell, seconded by Councilor Gerry, made a motion so suspend the rules to discussion Councilor Gerry's thoughts on voting.

Voted: 7 Yeas – 0 Nays.

Motion carried 7-0.

Councilor Gerry, seconded by Councilor Farrell, made a motion to direct the City Clerk to continue to provide absentee voting to senior disabled complexes and direct the City Manager to release money from the City Council line item dealing with the feasibility of joining the Police and Fire Department Project.

Barker Arms, Towne House, Esplanade, Roak Block, Vincent Block and Heritage Court.

Councilor Hayes made a motion to table this item. Motion to table died for lack of second.

Vote on main motion: 1 Yea – Councilor Gerry - 6 Nays

Motion defeated 1-7.



**City Council Meeting and Workshop
October 4, 2010
Minutes**

Councilor Farrell, seconded by Councilor Gerry, made a motion to suspend the rules in consideration of discussing dissolution of the Planning Board.

Vote: 3 Yeas – Councilors Gerry, Farrell and Herrick. – 4 Nays – Councilors Hayes, Young, Berube and Samson.
Motion defeated 3-4.

Councilor Gerry, seconded by Councilor Berube, made a motion to suspend the rules to discuss next meeting date.
Vote: 7 Yeas – 0 Nays
Motion carried 7-0.

Councilor Samson, seconded by Councilor Young, to suspend the council meeting of October 19th to the November 1st meeting.

Vote: 6 Yeas – 1 Nay – Councilor Hayes.
Motion carried 6-1.

Councilor Gerry, seconded by Councilor Farrell, made a motion for a brief recess so that language can be re-written concerning her request for absentee voting at the senior housing complexes.

Vote: 4 Yeas – Councilors Gerry, Farrell, Herrick and Berube – 3 Nays – Councilors Hayes, Young and Samson.
Motion carried 4-3.

Councilor Gerry, seconded by Councilor Farrell, made a motion to suspend the rules to discuss authorizing the City Manager to expend funds for voting.

Vote: 5 Yeas – 2 Nays – Councilors Young and Samson. Motion carried 5-2.

Councilor Gerry, seconded by Councilor Farrell, made a motion to authorize the City Manager to expend the necessary funds (not to exceed \$2,000.00¹) to expand absentee voting to the following locations pending available staffing: Barker Arms, Towne House, Esplanade, Roak Block, Vincent Block and Heritage Court.

Councilor Berube, seconded by Councilor Samson, made a motion to move the question.

Vote on moving the question: 5 Yeas – 1 Nay – Councilor Farrell - 1 Abstained – Councilor Hayes.
Motion carried 5-1-1.

Roll call vote on main motion: 4 Yeas – Councilor Gerry, Farrell, Herrick and Berube - 3 Nays – Councilors Hayes, Young and Samson.
Motion carried 4-3.

Open Session -

Joe Gray, Sopers Mill Road, asked why the council wouldn't discuss dissolving the Planning Board.

Future Agenda/Workshop Items

Councilor Herrick would like to discuss why we need so many layers of government to move something forward.

Councilor Farrell would like to discuss the Patriot System and Assessing; using CDBG money to fund School Resource Office Program.

¹ The over-expenditure of the City Clerk's Budget will be offset by an under-expenditure of the Joint Services line item with the Mayor and Council Budget.



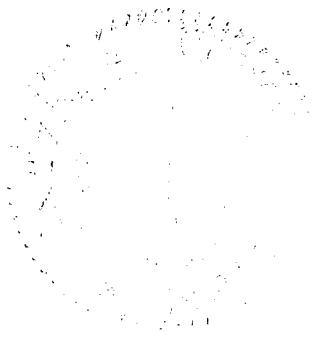
**City Council Meeting and Workshop
October 4, 2010
Minutes**

ADJOURNMENT

Councilor Samson, seconded by Councilor Young, made a motion to adjourn at 9pm.
Vote: 6 Yeas – 1 Nay – Councilor Farrell. Motion carried 6-1.

A true record

Attested: 
Roberta L. Fogg, City Clerk





City Council Information Sheet

Item # 11102010-01

Council Meeting Date: November 10, 2010

Subject: Authorizing the issuance and sale of capital improvement bonds of \$1,000,000

Previous Meetings / Agendas:

July 19, 2010 - 1st reading (passed)
August 2, 2010 - 2nd reading (failed to receive 2/3rd majority)
August 9, 2010 - 2nd reading (passed)

Information: On August 9th, the City Council approved of \$2,500,000 of school capital improvement bond funds, with the caveat that \$1,500,000 of city indebtedness could be leveraged to garner approximately an additional \$1,000,000.

With the State Revolving Renovation Funds (SRRF) award now verified, the City has the opportunity to restructure its bond projects to leverage an approximately an additional \$1,000,000, which will be financed at 0% financing for ten years. In total, \$602,209 of the \$1,000,000 will be forgiven.

Since the City's bonds have already sold, and now the SRRF award verified, this leaves \$1,000,000 previously earmarked for the school now available for city infrastructure projects. The City could have negotiated a reduced bond sale, after-the-fact; however, I believe our rate of 2.037% is lucrative, and any after-the-fact negotiations may adversely affect future bond sales.

Financial: \$1,000,000

Staff Requested Action:

Do you require action at this meeting: Yes X No

If yes why: Approve the second and final reading of the CIP \$1,000,000 Bond, because it is a good interest rate and if we were to have to go back out to bid for bonds it could affect our interest rate and future bids.

Author: Tracy Roy, Finance Director

History: Annual Bonding for Capital Projects

Attachments: Resolve for second and final reading



CITY OF AUBURN

CITY COUNCIL, AUBURN, MAINE

DATE: November 10, 2010

Order #: 18-11102010-01

TITLE: ORDER - AUTHORIZING THE ISSUANCE AND SALE OF CAPITAL IMPROVEMENT BONDS IN THE AMOUNT OF \$1,000,000 (Annual Capital Improvement Program) (First Reading – Public Hearing)

Be It Ordered by the Auburn City Council, following a public hearing duly called and held as required by Article 8, Section 8.13 of the Auburn City Charter, that there be and hereby is authorized the issuance and sale of the City's general obligation bonds in the amount of \$1,000,000, the proceeds of which are hereby appropriated to fund the costs of the following Capital Improvements (including costs of issuance, capitalized interest, and any other costs related or ancillary thereto):

Acquisition of the following capital equipment and the design, construction, renovation, and rehabilitation of the following capital improvements, all constituting part of the City's FY11 Capital Improvement Program:

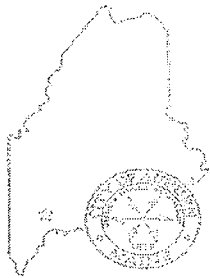
Department	FY11 Projects Only (See CIP for full description)	CIP Page	Proposed Financing	CIP	FY 2011 CIP Bond
Engineering	Street/Drainage Reconstructions, Reclamation, Improvements and Upgrades, Sidewalks and Traffic Improvements		Bond	CIP1	\$1,000,000
TOTALS					\$1,000,000

THAT the bonds, which term shall be deemed to include any Bond Anticipation Notes (BAN's) as described below, shall be issued as authorized hereunder and shall be signed by the Finance Director and City Treasurer, attested by the City Clerk under the seal of the City. A tax levy is hereby provided for each fiscal year that the bonds authorized hereunder remain outstanding to meet the annual installments of principal and interest as may accrue in each respective year. The bonds may be issued at one time or from time to time, either singly or in series, and the authority and discretion to fix method of sale, issue date, maturities, denominations, interest rate, place of payment, form and other details of said bonds and notes, and to take all other actions and to sign and deliver all other documents, certificates and agreements in order to provide for the sale thereof is hereby delegated to the Finance Director and City Treasurer.

THAT the bonds authorized hereunder may be made subject to call for redemption, either with or without premium, on such terms as may be determined by the Finance Director.

THAT in order to finance temporarily the projects described above, the Finance Director is authorized to expend up to \$1,000,000 either from available funds of the City or from the proceeds from BAN's which would be reimbursed or refinanced from bond proceeds.

THAT the authority and discretion to designate the bond or notes, or a portion thereof, as qualified tax-exempt obligations under Section 265 of the Internal Revenue Code of 1986, as amended, is hereby delegated to the Finance Director.



CITY OF AUBURN

CITY COUNCIL, AUBURN, MAINE

DATE: November 10, 2010

Order #: 18-11102010-01

THAT this order is a declaration of official intent pursuant to Treas. Reg. § 1.150-2 and shall be kept available for public inspection during reasonable business hours at the office of the City Clerk.

A Public Notice describing the general purpose of the borrowing and the terms thereof was published the same on October 27, 2010, in the Lewiston Sun-Journal, a daily newspaper published in Androscoggin County.

Motion for acceptance of first reading: Councilor Young

Seconded by: Councilor Samson

Vote: 6 Yeas - 1 Nay – Councilor Herrick

Motion carried 6-1.

Action by the City Council: **November 1, 2010**

Motion for acceptance of second and final reading: Councilor

Seconded by: Councilor

Vote: _____ Yea _____ Nay

Action by the City Council: **November 10, 2010**

ATTEST: _____

Roberta L. Fogg, CITY CLERK



City Council Information Sheet

Item # 11102010-02

Council Workshop Date: November 10, 2010

Subject: Adoption of the Property Assessed Clean Energy (PACE) Ordinance, public hearing and a combined first and second reading.

Previous Meetings / Agendas: October 4, 2010

Information: "Commercial and residential property owners could benefit greatly from State legislation that affords these property owners to apply for loan funds for "hyper energy efficient measures and renewable energy production". Through a Department of Energy \$20 million revolving loan trust fund, the Maine's Home Energy Savings Loan program is offering energy efficiency loans up to \$15,000 per each qualified property owner. The objective of the program is to help the State of Maine achieve its goal of weatherizing 100% of residences and 505 of businesses so as to reduce the State's consumption of liquid fossil fuels by at least 30% by 2030; and reducing peak-load electric demand, reducing greenhouse gases, and creating energy-production jobs.

Through the legislative adoption process, the law underwent many changes. One change that was not amended, but nevertheless remained in the legislation, was that to qualify, the municipality where the property owner resides must adopt a Property Assessed Clean Energy (PACE) ordinance. The ordinance will indicate whether it wants to administer the program or to have Efficiency Maine do the honors."

(Glenn Aho, City Manager –WR 9/10/10)

Financial: n/a

Staff Requested Action: 1st - Accept this as the public hearing, first reading, second reading and final adoption of PACE Ordinance.

2nd - Authorize City Manager to execute all necessary documents to authorize Efficiency Maine Trust to administer the City of Auburn's PACE program.

Do you require action at this meeting: Yes X No

If yes why: Doing so will allow Auburn commercial and residential property owners apply for their \$15,000 loan for energy-related improvements.

Author: Roberta Fogg, City Clerk

History: Weekly Review September 10, 2010 and the October 4, 2010 Council Workshop

Attachments: Efficiency Main Information Sheet on Maine PACE revolving loan program.

Property Assessed Clean Energy (PACE) Ordinance for the City of Auburn.

PACE Administration Contract.

Resolve for adoption of PACE Ordinance, first reading, second reading and final adoption.

Resolve to Authorize City Manager to execute all necessary documents to authorize Efficiency Maine Trust to administer the City of Auburn's PACE program.



Maine PACE is preparing for launch

Maine PACE is a revolving loan program seeded by a \$30 million ARRA grant to Efficiency Maine from the US Department of Energy. The grant was submitted by Efficiency Maine to DOE on behalf of all Maine municipalities.

In order for homeowners to be eligible to get a PACE loan of up to \$15,000 to make energy efficiency improvements to their property, the town in which the home is located must pass a PACE ordinance per the LD1717 state law that was passed last April.

Traditional PACE legislation involves direct administration by municipalities, and even though the Maine version of PACE provides for Efficiency Maine to administer the program for municipalities, the state law continues to require the passage of a PACE ordinance on a town by town basis.

If you live in a town where ordinances must be passed by referendum, PACE may be placed on the ballot for November 2nd or at a special election or upcoming annual meeting. Passing PACE makes the program available in your community.

Detailed information about Maine PACE is available online at www.efficiencymaine.com/PACE.

PACE loans are for weatherization improvements made through Efficiency Maine Home Energy Savings Program (HESP). HESP currently provides up to \$3,000 in cash incentives for weatherization.

PACE loans are secured to the property through a junior mortgage similar to a Home Equity Loan.

Efficiency Maine will administer the program with no financial liability or cost to the town.

The PACE loan program is expected to launch no earlier than late November 2010.

Several towns across the state have already passed PACE ordinances including: Augusta, Alfred, Arrowsic, Biddeford, Belfast, Bradley, Cumberland, Fayette, Freeport, Gray, Hampden, Lewiston, Lincoln, Old Town, Portland, Rockland, Scarborough, South Portland, Waterboro, Waterville, Winslow, and Yarmouth. Dozens more towns are in process to have a PACE ordinance on the books before the end of the year.

PACE loans will have a term of as long as 15 years at a fixed interest rate low enough to make the annual loan payments lower than the cost of doing nothing. (Projected energy savings will exceed loan payments.)

In the case of a property sale, PACE loans are transferable to the new owner, or can be paid off at no penalty.

Is it true that the PACE program in Maine is invalid or opposed by financial regulators? No. Fannie Mae, Freddie Mac, and FHFA object to "priority lien" versions of PACE legislation passed in other states.

Eligibility requirements:

- The homeowners have a debt-to-income ratio of not more than 43%
- Property taxes and sewer charges are current on the property
- The property is not subject to any outstanding or unsatisfied tax or sewer liens
- The property is not subject to a reverse mortgage
- The property is not subject to a mortgage or other lien on which there is a recorded notice of default, foreclosure, or delinquency that has not been cured
- Loan to Value <100%: Property owner has at least as much equity in the home as amount of PACE loan.



HOME ENERGY SAVINGS PROGRAM WITH MAINE PACE FINANCING

1. GET PREQUALIFIED BY CALLING EFFICIENCY MAINE
2. SCHEDULE AN ENERGY AUDIT WITH A PARTICIPATING ENERGY ADVISOR
3. GET QUOTES OF WORK TO BE DONE AND SUBMIT ALONG WITH LOAN APPLICATION TO EFFICIENCY MAINE
4. VISIT LOCAL BANK BRANCH TO SIGN LOAN DOCUMENTS
5. RECEIVE 30% OF PROJECT COST TO USE AS DOWN PAYMENT ON WORK TO BE DONE
6. SCHEDULE CONTRACTORS TO INSTALL IMPROVEMENT MEASURES
7. PARTICIPATING ENERGY ADVISOR RETURNS TO VERIFY WORK DONE AS SPECIFIED
8. REMAINING PROJECT FUNDS RELEASED TO HOMEOWNER TO PAY INSTALLERS
9. EFFICIENCY MAINE INCENTIVES ARE USED TO OFFSET LOAN AMOUNT
10. HOMEOWNER RECEIVES MONTHLY STATEMENTS FROM EFFICIENCY MAINE

CURRENT AVERAGE PROJECT COST \$10,000, AVERAGE PROJECTED SAVINGS 33%.

CURRENT EFFICIENCY MAINE INCENTIVE:

\$1500 FOR 25% PROJECTED ENERGY SAVINGS

\$3000 FOR 50% PROJECTED ENERGY SAVINGS

City of Auburn, Maine
PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE
Version 2 – Administration by the Efficiency Maine Trust

PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE.

PREAMBLE

WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, “An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act”; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy (“PACE”) Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the City/Town, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the Municipality wishes to establish a PACE program; and

NOW THEREFORE, the Municipality hereby enacts the following Ordinance:

ARTICLE I - PURPOSE AND ENABLING LEGISLATION

§ XX-1 Purpose

By and through this Chapter, the City of Auburn declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy (“PACE”) program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the City/Town. The City/Town declares its purpose and the provisions of this Chapter/Ordinance to be in conformity with federal and State laws.

§ XX-2 Enabling Legislation

The City enacts this Ordinance pursuant to Public Law 2009, Chapter 591 of the 124th Maine State Legislature -- “An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act” (codified at 35-A M.R.S.A. § 10151, *et seq.*).

ARTICLE II - TITLE AND DEFINITIONS

§ XX-3 Title

This Chapter/Ordinance shall be known and may be cited as “the City of Auburn Property Assessed Clean Energy (PACE) Ordinance” (the “Ordinance”).”

City of Auburn, Maine
PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE
Version 2 – Administration by the Efficiency Maine Trust

§ XX-4 Definitions

Except as specifically defined below, words and phrases used in this Chapter/Ordinance shall have their customary meanings; as used in this Ordinance, the following words and phrases shall have the meanings indicated:

- 1. Energy saving improvement.** “Energy saving improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:
 - A. Will result in increased energy efficiency and substantially reduced energy use and:
 - (1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy, Energy Star program or similar energy efficiency standards established or approved by the Trust; or
 - (2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or
 - B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.
- 2. Municipality.** “Municipality” shall mean the City of Auburn.
- 3. PACE agreement.** “Pace agreement” means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.
- 4. PACE assessment.** “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.
- 5. PACE district.** “Pace district” means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality’s boundaries.
- 6. PACE loan.** “PACE loan” means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

City of Auburn, Maine
PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE
Version 2 – Administration by the Efficiency Maine Trust

7. **PACE mortgage.** “PACE mortgage” means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.
8. **PACE program.** “PACE program” means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.
9. **Qualifying property.** “Qualifying property” means real property located in the PACE district of the Municipality.
10. **Renewable energy installation.** “Renewable energy installation” means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.
11. **Trust.** “Trust” means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

ARTICLE III - PACE PROGRAM

1. **Establishment; funding.** The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust’s administration of the municipality’s PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality’s PACE program.
2. **Amendment to PACE program.** In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

City of Auburn, Maine
PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE
Version 2 – Administration by the Efficiency Maine Trust

ARTICLE IV – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

1. Standards adopted; Rules promulgated; model documents. If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Municipality shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

ARTICLE V – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

1. Program Administration

A. PACE Administration Contract. Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

- i. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality's PACE district;
- ii. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
- iii. the Trust, or its agent, will disburse the PACE loan to the property owner;
- iv. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
- v. the Trust, or its agent, will be responsible for collection of the PACE assessments;
- vi. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
- vii. the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

B. Adoption of Education and Outreach Program. In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education

City of Auburn, Maine
PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE
Version 2 – Administration by the Efficiency Maine Trust

and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

C. Assistance and Cooperation. The Municipality will assist and cooperate with the Trust in its administration of the Municipality's PACE program.

D. Assessments Not a Tax. PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

2. Liability of Municipal Officials; Liability of Municipality

A. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

B. Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article VI, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

Property Assessed Clean Energy (PACE) Administration Contract

THIS Property Assessed Clean Energy (PACE) Administration Contract (the "Contract") is entered into this _____ day of November, 2010, by and between City of Auburn, a municipal corporation duly organized and existing under the laws of the State of Maine whose mailing address is 60 Court Street, Auburn, Maine 04210 (the "**Municipality**") and the **Efficiency Maine Trust**, a legal entity and instrumentality of and a body corporate and politic under the laws of the State of Maine (the "**Trust**"). The foregoing also are referred to herein collectively as the "**Parties**" or singly as "**Party**."

WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, "An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses," also known as "the Property Assessed Clean Energy Act" or "the PACE Act"; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy ("PACE") Ordinance to establish a PACE Program, so that owners of qualifying property can access financing for energy saving improvements to their properties located in the municipality; financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE Program; and

WHEREAS, the Municipality has adopted a PACE Ordinance; and

WHEREAS, the Parties wish to establish their respective responsibilities in the administration of the PACE Program.

WITNESSETH:

NOW, THEREFORE, for and in consideration of the covenants and conditions set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **DEFINITIONS.** Capitalized terms used in this Contract shall have the meanings given them in 35-A M.R.S.A. §10153 unless otherwise specified herein. In addition, these terms are defined as follows:

1.1. **PACE agreement.** "Pace Agreement" means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE Mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

1.2. **PACE District.** "PACE District" means the area within which the Municipality establishes a PACE Program under this Contract, which is all of that area within the Municipality's boundaries.

1.3. **PACE Loan.** "PACE Loan" means a loan made to the owner(s) of a Qualifying Property for an Energy Saving Improvement.

Property Assessed Clean Energy (PACE) Administration Contract

2. **TRUST'S RESPONSIBILITIES.** The Trust shall, itself or through its authorized agents:

2.1. Administration. Administer the functions of a PACE Program which administration shall include, without limitation:

- A. the Trust will enter into PACE Agreements with owners of Qualifying Property in the Municipality's PACE District;
- B. the Trust, or its agent, will create and record a Notice of the PACE Agreement in the appropriate County Registry of Deeds to create a PACE Mortgage;
- C. the Trust, or its agent, will disburse the PACE Loan to the property owner;
- D. the Trust, or its agent, will send PACE Assessment statements with payment deadlines to the property owners;
- E. the Trust, or its agent, will be responsible for collection of the PACE Assessments;
- F. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the PACE Assessment;
- G. the Trust or its agent, promptly shall record the discharge of a PACE mortgage upon full payment of the PACE loan;
- H. the Trust, or its agent, will be responsible for management of federal grant funds; and
- I. the Trust, or its agent, will ensure the collection of data required to quantify carbon savings and to facilitate access to and eligibility for voluntary carbon markets, for federal grants for energy efficiency and for other incentive programs that support Energy Saving Improvements.

2.2. Terms and Conditions. Pursuant to 35-A M.R.S.A. §10154, the Trust may establish terms and conditions under which municipalities and property owners may participate in a PACE Program established there under, and the Parties agree that they, the PACE Program hereunder and this Contract are subject to those terms and conditions as amended from time-to-time.

3. **MUNICIPALITY'S RESPONSIBILITIES.**

3.1. Education and Outreach Programs. The Municipality agrees to adopt and implement an education and outreach program so that owners of property in the Municipality are made aware of home energy saving opportunities, including the opportunity to finance Energy Saving Improvements with a PACE Loan.

Property Assessed Clean Energy (PACE) Administration Contract

3.2. Conformity with Home Energy Savings Program. The Municipality agrees to conform its PACE Program to the requirements contained in the Home Energy Savings Program.

3.3. Acceptance and Disbursement of Funds. The Municipality agrees to accept PACE funds from the Trust and to disburse PACE funds back to the Trust as needed to satisfy the conditions of the federal grants and to allow the Trust to fund and administer a uniform system of municipal PACE Programs throughout the State.

3.4. Assistance and Cooperation. The Municipality agrees to cooperate with the Trust in the administration of the Municipality's PACE Program, including but not limited to, providing information about applicant properties including property tax payment and lien status, taxable value of residential properties in town, and providing reasonable and necessary aid to the Trust for required data collection, recordkeeping and reporting functions relative to the PACE Program in the PACE District, and providing reasonable and necessary support to the Trust's PACE loan, PACE Assessment, and billing and collection functions.

3.5. Conformity. If standards or rules and regulations are adopted by any State or federal agency subsequent to the Municipality's adoption of a PACE Ordinance or participation in a PACE Program and those standards or rules and regulations substantially conflict with the Municipality's manner of participation in the PACE Program, the Municipality, should it desire to continue its participation in the PACE Program, will be required to take necessary steps to conform its participation to those standards or rules and regulations.

4. TERM.

4.1. This Contract is for a period of three (3) years and shall automatically be renewed for additional periods of three (3) years unless either Party provides the other with ninety (90) days' advance written notice of intent not to renew this Contract.

5. TERMINATION.

5.1. Either Party may terminate this Contract for convenience by providing the other with ninety (90) days' advance written notice of termination. On and after the date of termination, the Municipality no longer will have a PACE Program administered by the Trust except for those PACE Loans already secured by PACE Mortgages as of the date of termination.

6. LIABILITY.

6.1. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE Program established under this Contract, including, without limitation, claims for or related to uncollected PACE Assessments.

6.2. Other than the fulfillment of its obligations specified in a PACE Agreement, the Municipality has no liability to a property owner for or related to Energy Saving Improvements financed under a PACE Program.

Property Assessed Clean Energy (PACE) Administration Contract

7. MISCELLANEOUS PROVISIONS

7.1 Notices. All notices, demands or other communications made pursuant to this Contract shall be in writing and shall be sent by (i) registered or certified United States mail, postage prepaid, (ii) by overnight courier, or (iii) by facsimile. Such notice shall be deemed effective upon delivery addressed as follows:

To the Municipality:

City of Auburn
60 Court Street
Auburn, Maine 04210
Attention: _____

To the Trust:

Efficiency Maine Trust
101 Second Street
Hallowell, ME 04347
Attention: _____

7.2 Entire Agreement, Modifications. This Contract constitutes the entire agreement of the Parties, and neither Party shall be bound by any statement or representation not contained herein. Except as provided herein, this Contract cannot be changed, amended or modified, except by another agreement in writing signed by all Parties hereto or by their respective successors in interest.

7.3 Headings. The section headings contained herein are for convenience of reference only and are not intended to define, limit, or describe the scope or interest of any provisions of this Contract.

7.4 Severability. If any section, term, covenant, or condition of this Contract or the application thereto to any person or circumstances shall, to any extent be illegal, invalid or unenforceable because of judicial construction, the remaining sections, terms, covenants, and conditions of this Contract, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each section, term, covenant, or condition of this Contract shall be valid and be enforced to the fullest extent permitted by Law.

7.5 Governing Law, Remedies. This Contract shall be governed by and construed in accordance with the laws of the State of Maine. Except as otherwise agreed by the Parties in writing, all disputes, claims, counterclaims and other matters in question between the Municipality and the Trust arising out of or relating to this Contract shall be decided by a Maine court of competent jurisdiction.

7.6 Assignment; Successors and Assigns. This Contract may not be assigned by either Party without the prior written consent of the other Party, which consent shall not be

Property Assessed Clean Energy (PACE) Administration Contract

unreasonably conditioned, delayed or withheld. This Contract shall benefit and be binding upon the Parties hereto and their respective permitted successors and assigns.

7.7 Non-Waiver. Except as expressly provided in this Contract, the failure or waiver, or successive failures or waivers on the part of either Party hereto, in the enforcement of any paragraph or provision of this Agreement shall not render the same invalid nor impair the right of either Party hereto, its successors or Contract permitted assigns, to enforce the same in the event of any subsequent breach thereof.

IN WITNESS WHEREOF, the Parties hereto have caused this Property Assessed Clean Energy (PACE) Administration Contract, to be executed by their duly authorized representatives as of the date first set forth above.

MUNICIPALITY

By: _____

Signature

Glenn Aho

Print Name

Its: City Manager (Title)

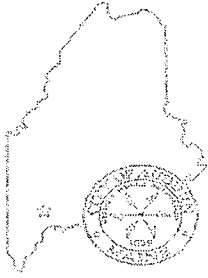
EFFICIENCY MAINE TRUST

By: _____

Signature

Print Name

Its: _____ (Title)



CITY OF AUBURN

CITY COUNCIL, AUBURN, MAINE

DATE:

Order #: 19-11102010-02

TITLE: Resolve adopting the Property Assessed Clean Energy (PACE) Ordinance.

Be it resolved that the Auburn City Council, following a duly called public hearing, hereby waives first reading of the Property Assessed Clean Energy (PACE) Ordinance and adopts the ordinance as attached.

This is the final reading and shall become effective immediately upon adoption.

Motion for acceptance of first reading:

Seconded by:

Vote: _____ Yea's _____ Nay's

Action by the City Council: **November 10, 2010**

ATTEST: _____
Roberta L. Fogg, CITY CLERK



CITY OF AUBURN

CITY COUNCIL, AUBURN, MAINE

DATE:

Order #: 20-11102010-02

TITLE: Authorize City Manager to execute all necessary documents to authorize Efficiency Maine Trust to administer the City of Auburn's PACE program.

Be It Resolved by the Auburn City Council That:

Glenn Aho, City Manager, is hereby authorized to execute any and all documents necessary to enter into an agreement with Efficiency Maine Trust to administer the City of Auburn's PACE Program.

Motion for acceptance:

Seconded by:

Vote: _____ Yea's _____ Nay's

Action by the City Council: **November 10, 2010**

ATTEST: _____
Roberta L. Fogg, CITY CLERK



City Council Information Sheet

Item # 11102010-03

Council Meeting Date: November 10, 2010

Subject: Confirmation of City Manager's appointment of Philip Crowell as Acting Assistant City Manager.

Previous Meetings / Agendas: n/a

Information: City Manager Aho will make a brief explanation at the meeting in accordance with the Weekly Review dated October 29, 2010.

Financial: n/a

Staff Requested Action: Confirm the City Manager's appointment of Philip Crowell as Acting Assistant City Manager.

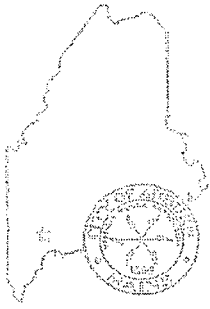
Do you require action at this meeting: Yes X No

If yes why:

Author: Roberta Fogg, City Clerk

History: Weekly Review 10/29/2010

Attachments: Excerpt from the 10/29/2010 Weekly Review



City of Auburn, Maine

"Maine's City of Opportunity"

Office of the City Clerk

Excerpt from the October 29, 2010 Weekly Review

ITEM 8. To finish developing the 5P Management System, and then to start implementing it, I am going to ask the City Council to confirm my appointment of Phil Crowell as the Acting Assistant City Manager. While he works with me, Deputy Chief Moen will manage the Police Department, though obviously Chief Crowell won't be too far. With Chief Crowell's past and current experience he is an incredible asset. His experience with the Commission on Accreditation for Law Enforcement Agencies (CALEA), will also be of great help. He has already taken what's been developed thus far with the 5P Management System and started to implement its methodology inside the Auburn Police Department. Having Chief Crowell work with some of our new department managers will help expedite our managerial success.

The plan is to divide the departments among Chief Crowell and I to get the 5P Management System up and going. I will continue to work with Finance Director Tracy Roy to compile and organize the city budget. As we get the programs "off the ground", we will then finish the Assistant City Manager hiring process, so that when this person comes aboard, the systems to follow will be established, or at least spelled out. Once the Assistant City Manager is hired, Chief Crowell will return to his own 5P Management, which will include him leading the Public Safety portion of city services. We need to continue our efforts toward public safety consolidation of *administration* only, not operations. We believe at this time to pursue public safety *operational* consolidation would be too costly.

As we undertake our necessary change in organizational structure, we're bound to experience some bumps in the road in terms of our customer service. The good news is that whenever such endeavors are undertaken, the bumps are short-term only. In the long run, things will improve.