

Town of Scarborough Sustainability Committee

October 25, 2023 | 8:00 – 9:30 a.m. | Hybrid Meeting – Town Hall and via Zoom

To participate in the Sustainability Committee's meeting, please use the following link:
https://scarboroughmaine.zoom.us/webinar/register/WN_2bieoHpYTIS6kGu472vylg

To view in the Sustainability Committee's meeting, please use the following link:
<https://www.youtube.com/channel/UCD5Y8CFy5HpXMftV3xX73aw>

Agenda

8:00 am Call to order and attendance

- (1) Welcome and introductions
- (2) Vote on minutes from 9/27/23
- (3) Changes to the 10/25/23 meeting agenda

8:05 am Old Business

- (1) Commercial Property Assessed Clean Energy (C-PACE)
 - Share initial feedback from Ordinance Committee
 - Review model ordinance & discuss revisions
 - Discuss next steps
- (2) Sustainability Reserve Account
 - Review draft memo (attached) & discuss revisions
 - Discuss outreach to Finance Committee
- (3) Sustainable Scarborough Day
 - Report out from the event

9:15 am Updates

- (1) Town Council
- (2) Planning Board
- (3) Conservation Commission
- (4) Transportation Committee

9:25 am Next meeting agenda

Next meeting date: TBD due to Thanksgiving

9:30 am Adjourn

Engineering & Technical Services

Town of Scarborough Sustainability Committee

September 27, 2023 | 8:00 – 9:30 a.m. | Scarborough Town Hall and via Zoom

Meeting Minutes - DRAFT

Attendance – in person

Committee: Lydia Jopp, Patrice Kastenholz, David Kirstein, Deb McDonough, Rick Meinking

Staff: Jami Fitch, Sustainability Manager; Autumn Speer, Planning Director

Town Council: April Sither

Attendance – Zoom

Guest: James Neal, Efficiency Maine

To re-play the Sustainability Committee's 9/27/23 meeting, please use the following link:

<https://www.youtube.com/watch?v=EmLVgnnwqvM&t=1189s>

Call to Order

1. The meeting was called to order at 8:00 am.
2. The Committee voted to approve the minutes from the 8/23/23 meeting. Deb motioned to approve the minutes, Patrice seconded. Vote was unanimous.
3. Rick motioned to adjust the agenda to move the C-PACE presentation to the beginning of the meeting. Deb seconded. Vote was unanimous.

New Business

1. [Commercial Property Assessed Clean Energy](#) (C-PACE)
 - James Neal, Senior Program Manager for Finance Initiatives at Efficiency Maine attended the meeting to provide a presentation about C-PACE (see attached slides and the [meeting recording](#) to view the presentation).
 - Questions:
 - A meeting viewer on Zoom asked if properties that are HUD-subsidized senior affordable housing that are privately owned and managed are eligible for C-PACE.
 - As long as the commercial building is subject to municipal property taxes, it would be eligible for C-PACE.
 - Which Maine municipalities have adopted a C-PACE ordinance?
 - Augusta, Westbrook, and Cumberland.
 - Can C-PACE be used to help fund municipal requirements? For example, Scarborough has an ordinance that requires installation of EV charging infrastructure.
 - Yes, but it's likely a landowner would need to pair EV charging with additional energy savings improvements to be eligible.

Engineering & Technical Services

- Autumn and April suggested that James attend the 10/11/23 Ordinance Committee meeting to introduce the C-PACE concept prior to the Sustainability Committee recommending an ordinance for adoption.
- The Committee would like to review the model ordinance prior to the October meeting.
- **ACTIONS:**
 - **JAMI will send the Committee the model C-PACE ordinance.**
 - **JAMI will follow up with James about attending the Ordinance Committee meeting.**

Old Business

1. Sustainable Scarborough Day

- Sustainable Scarborough Day is Sunday, October 1, 2023, 10:00 am – 2:00 pm at Wentworth School.
- Jami reviewed event logistical information with the Committee.
- The Sustainability Committee will have a table at the event, which will include a drawing for the heat pump water heater, a rain barrel, and a composting kit. People who sign up for the Town's e-newsletter will receive a raffle ticket.
- The Committee will also have an activity asking visitors to "give their two cents" by voting on various initiatives the Committee could pursue. The information gathered in this activity will help inform the memo to the Finance Committee requesting the creation of a sustainability reserve account.
- Deb suggested that Committee members share event information with their friends and neighbors verbally and on social media.
- The Committee would like volunteer shirts for the for 2024 event. Deb suggested they include a message like "ask me about sustainability."
- **ACTIONS:**
 - **THE COMMITTEE will add to the spreadsheet by 9/15/23 so items can be included in the poster for Sustainable Scarborough Day.**
 - **JAMI will reach out to the Conservation Commission about adding topics to the Sustainability Committee's poster.**

Updates

1. Town Council

- The Council unanimously voted to adopt the resolution to declare October 1st Sustainable Scarborough Day.
- The Council continues to focus on the school building process. The Building Committee is planning additional outreach.

2. Planning Board

- Planning Board agenda have been light recently.

3. Transportation Committee

- The Transportation Committee hosted an open house to get community feedback on priorities for the Town's transportation network on Tuesday, 9/26/23. The Committee was invited to complete the activities at the end of the meeting.

Next meeting: October 25, 2023

Meeting adjourned at 9:04 am.

Future Projects List:

- Community solar
- Municipal building energy audits
- Residential energy efficiency grants
- Electric school buses
- Recycling information for homeowners when houses change hands
- Composting



Commercial Property-Assessed Clean Energy (C-PACE)

A Finance Initiative of the Efficiency Maine Green Bank

<https://www.efficiencymaine.com/c-pace/>

About Efficiency Maine

- Independent, Quasi-State Agency
- Administer statewide energy efficiency and carbon saving programs
- Provides rebates, financing, technical information, customer engagement, and registry of vendors
- Funded by electric and natural gas rates, Regional Greenhouse Gas Initiative, ISO New England Grid, federal grants, and other sources
- Board appointed by the governor and confirmed by the legislature

More info at: [EfficiencyMaine.com](https://www.efficiencymaine.com)



Efficiency Maine Green Bank

In 2021, the Legislature enacted LD 1659, An Act To Create the Maine Clean Energy and Sustainability Accelerator, establishing a dedicated, specialized finance program at the Trust designed to drive private capital into market gaps for goods and services producing low or zero GHG emissions.



Across all its programs, the Trust works to balance the following implementation priorities in its allocation of budget and design of programs:

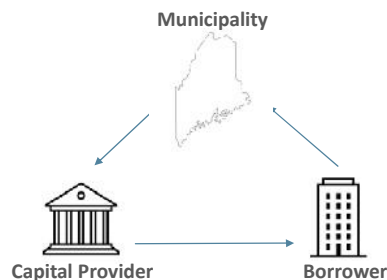
- achieving energy savings
- transforming the market
- reducing the environmental impacts of energy
- maintaining fairness and promoting equity
- leveraging the private sector.

The Efficiency Maine Green Bank reflects these same overarching goals.



C-PACE Overview

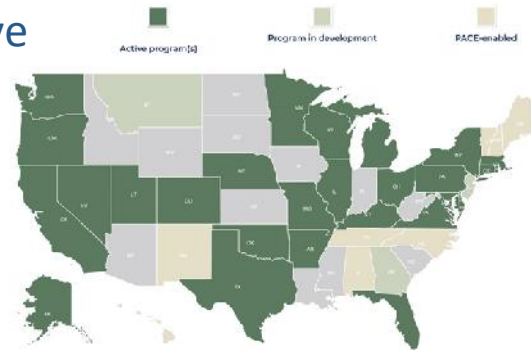
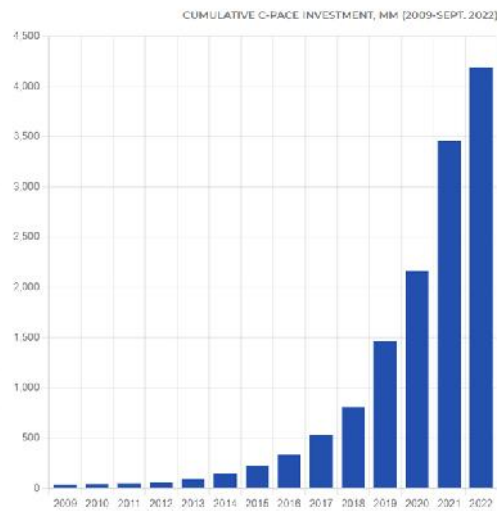
Purpose: to accelerate the installation of energy efficiency and renewable energy improvements on commercial property by facilitating, and improving the terms of, financing for such energy improvements.



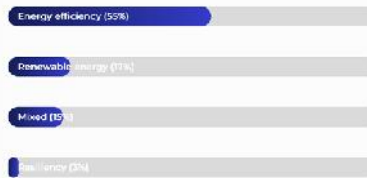
- Borrowed capital is securitized by a property tax assessment with an associated lien on the subject property.
- The security provided by the lien results in several compelling financial features, including longer terms, lower interest rates, and transferability of the repayment obligations to subsequent owners of the property.
- In turn, C-PACE strengthens the business case for investment in longer payback and deeper building improvements beyond what may be possible with traditional financing.



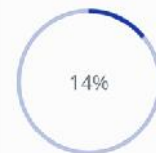
National C-PACE Perspective



C-PACE INVESTMENT BY PROJECT TYPE



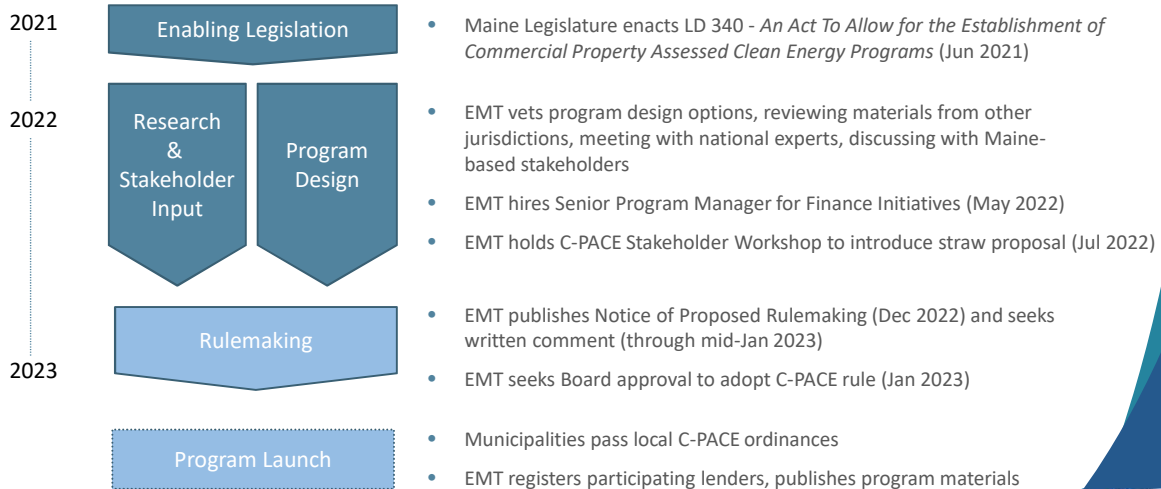
% INVESTMENT IN NEW CONSTRUCTION



Sources: <https://www.pacenation.org/pace-market-data/>; <https://cpacelending.com/>

efficiency
MAINE

Process & Timeline



efficiency
MAINE

Program Design: Research

Sampling of sources

- *CPACE Financing for New Construction Toolkit* — **U.S. Department of Energy (US DOE) Better Buildings**
- *Commercial Property Assessed Clean Energy (CPACE): A Fact Sheet for State and Local Governments* — **US DOE**
- *Lessons in Commercial PACE Leadership: The Path from Legislation to Launch* — **US DOE**
- **PACENation**
- *PACE Toolkit for Policy Makers* — **American Council for an Energy-Efficient Economy (ACEEE)**
- **State and Local Energy Efficiency Action Network (SEE Action)**
- *Setting The PACE: Commercial Retrofit Financing* - **PACENow and Johnson Controls**
- *Innovations and Opportunities in Energy Efficiency Finance* — **Wilson Sonsini Goodrich & Rosati**
- *United States Building Energy Efficiency Retrofits: Market Sizing and Financing Models* — **Deutsche Bank Climate Change Advisors and The Rockefeller Foundation**
- *Commercial PACE Financing and Special Assessment Process* — **US DOE**
- *Achieving Energy Savings in Commercial PACE Programs: Trends, Tools and Case Studies Webinar* — **US DOE Office of State and Community Energy Programs**
- *Commercial PACE and Local Governments: Best Practices for Expanding Access Webinar* — **US DOE Office of Energy Efficiency and Renewable Energy**



EMT Program Design – Administrative Objectives

- **Admin** - Preserve a low administrative burden for the program
 - Enable 3rd-party Capital Providers to manage the application process (reducing burden on municipalities)
- **Process** - Maintain a simple process to amplify program attractiveness
 - Encourage as many municipalities as possible to adopt a C-PACE ordinance
 - Help Maines businesses scale up adoption of energy efficiency and beneficial electrification with easier access to financing
- **QA** - Support integrity of the program through quality assurance for all participants



Program Administration

A municipality that has adopted a C-PACE ordinance may pursue one of two options:

1. **Municipality Participation Agreement:** Enter into an agreement with the Trust to serve as its program administrator, or
2. **Municipality Program Guidelines:** Serve as the program administrator itself



Collection of C-PACE Assessments, Recording of Liens

- **First Position:** C-PACE assessment takes priority over all other liens except a lien for real property taxes of the municipality and liens of municipal sewer, sanitary, and water districts
- **Transferability:** In the event of property sale or foreclosure, C-PACE lien carries over
- **Non-Acceleration:** A C-PACE assessment is not eliminated by foreclosure and **cannot be accelerated**
- **Delinquency and default process:**
 1. If property owner is delinquent on the C-PACE assessment alone (but not municipal taxes), C-PACE lienholder is assigned the C-PACE lien and has all the same powers and rights as the municipality and any private party holding a lien on real property
 2. Only the portion of a C-PACE assessment that is in arrears at the time of foreclosure takes precedence over other mortgages or liens; the remainder transfers with the property at resale








EMT Program Details – Highlights

- **Eligibility:** Energy Savings Improvement for a Commercial Property located in Participating Municipality
 - New Construction Eligible (above code)
 - Mortgage holder must provide consent
- **Finance Terms:**
 - Amount Financed: limited to the cost of the ESI (except for Heat Pumps in New Construction)
 - Term Length: limited to the weighted useful life
- **Underwriting:**
 - SIR of at least 1
 - Debt service coverage and loan to value of 1 or less
 - CPACE Assessment to value ratio cap of 35%
- **Requirements of Technical Reviewer:** Signs an SIR Certification Document
 - Must be a Maine State Engineer
 - Does NOT need to be third-party
 - Does NOT need to have performed the calculations



Participating in the C-PACE Program

| | Benefits of the Program | Primary Role in the Program | Requirements to Participate |
|---|--|--|--|
|  | More energy related projects | <ul style="list-style-type: none"> • Administers the Program | |
|  | Increases access and viability of energy efficiency projects | <ul style="list-style-type: none"> • Pursue C-PACE financing for a qualifying project • Help identify Capital Provider, Technical Reviewer, installation contractor(s) | |
|  | Secure, senior position, financing product | <ul style="list-style-type: none"> • Provide the capital and manage the Program activities • Coordinate efficiently with other participants to fulfill all required Program responsibilities | <ul style="list-style-type: none"> • Meet minimum credential requirements (see Program Guidelines) • Submit a Capital Provider Application <i>If the Capital Provider is approved by the Trust, it is added to the Registered Capital Provider list.</i> |
|  | More projects | <ul style="list-style-type: none"> • Install a Qualifying Project to mechanical and operational completion | |
|  | Economic development | <ul style="list-style-type: none"> • Ensure all required legal documents are filed at the county level • Manage delinquency tasks when applicable | <ul style="list-style-type: none"> • Adopt a C-PACE ordinance • Execute a Municipality C-PACE Participation Agreement with EMT |



Municipality Participation Guide

Why a municipality should consider participating in C-PACE

- Energy-efficient buildings create a more competitive environment for retaining and attracting new businesses
- C-PACE stimulates the implementation of energy savings improvements with 100% private market capital and requires no investment from the Municipality
- The SIR requirement ensures that more cash flow will be available as result of the improvements
- C-PACE works well with triple net leases and can be passed to tenants.
- C-PACE financing strengthens the business case for investment in longer payback and deeper building retrofits beyond what may be possible with traditional financing



Municipality Participation Guide

Participating Municipality Responsibilities

- **Project Agreements:** Execute a C-PACE Assessment Agreement for each C-PACE project within their municipality
- **Annual C-PACE Assessments and Collections:** The Municipality will assess the Property in the amount specified in the Payment Due Notice and designate the Capital Provider as agent for the billing of the C-PACE assessment amount and the collection of payments from the Property Owner
- **Default and Foreclosure:** Municipality only needs to act if there is delinquency on any Municipal liens. If the Municipality acquires the Property through tax lien foreclosure, then the Municipality shall cause to be paid to the Capital Provider all delinquent amounts payable under the C-PACE Financing at the time of foreclosure. (This is true only to the extent that the Municipality has received such amounts through the foreclosure process and there are funds remaining after satisfaction of delinquent taxes, interest, fees, and costs owed to the Municipality.)



Program Guidelines

- Authorizes program administrator to prepare, adopt, and amend “Program Guidelines”
- For EMT’s C-PACE Program, the Program Guidelines shall be approved, and may be amended from time to time, by the Executive Director or the Executive Director’s designee.

Current version of Program Guidelines and Program Documents can be found on our website:

<https://www.efficiencymaine.com/c-pace/>

Suggested review documents:

- **C-PACE Program Guidelines**
- **Appendix B: Model C-PACE Ordinance**
- **Appendix C: C-PACE Municipality Participation Agreement**
- **Appendix D: C-PACE Assessment Agreement**



Questions & Discussion



COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY (C-PACE) ORDINANCE

1. Purpose and authority

- A. Purpose. By and through this Ordinance, Town of Scarborough declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Commercial Property Assessed Clean Energy (“C-PACE”) program so that owners of qualifying property can access financing for energy savings improvements to their commercial properties located in the Town. The Town declares its purpose and the provisions of this Ordinance to be in conformity with federal and state laws.
- B. Enabling legislation. The Town enacts this Ordinance pursuant to Public Law 2021, Chapter 142 of the 130th Maine State Legislature, “An Act to Allow for the Establishment of Commercial Property Assessed Clean Energy Program,” also known as “the Commercial Property Assessed Clean Energy Act” or “the Commercial PACE Act” (codified at 35-A M.R.S. §10201 *et seq.*).

2. Title

This Ordinance shall be known and may be cited as “The Town of Scarborough’s Commercial Property Assessed Clean Energy (“C-PACE”) Ordinance” (this “Ordinance”).

3. Definitions

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

Town. The Town of Scarborough.

Commercial PACE or (“C-PACE”). Means Commercial Property Assessed Clean Energy.

Commercial PACE Agreement. An agreement that authorizes the creation of a Commercial PACE Assessment on Qualifying Property and that is approved in writing by all owners of the Qualifying Property at the time of the agreement and by the municipal officers of the Town.

Commercial PACE Assessment. An assessment made against Qualifying Property to finance an Energy Savings Improvement.

Commercial PACE District. The area within which the Town establishes a Commercial PACE Program hereunder, which is all that area within the Town boundaries.

Commercial PACE Lien. A lien, secured against a Qualifying Property that is created by a Commercial PACE Assessment.

Commercial PACE Loan. A loan, payable through a Commercial PACE Assessment and secured by a C-PACE Lien, made to the owner(s) of a qualifying property pursuant to a Commercial PACE Program to fund Energy Savings Improvements.

Commercial PACE Program. A program established under this Ordinance pursuant to the Commercial PACE Act under which commercial property owners can finance Energy Savings Improvements on Qualifying Property.

Energy Savings Improvement. An improvement or series of improvements to Qualifying Property that are new and permanently affixed to Qualifying Property and that:

- A. Will result in increased energy efficiency or substantially reduced energy use and:
 - (1) Meet or exceed 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) Involve weatherization of commercial or industrial property in a manner approved by the Trust; or
- B. Involve a renewable energy installation, an energy storage system as defined in 35-A M.R.S. § 3481(6), an electric thermal storage system, electric vehicle supply equipment or heating equipment that meets or exceeds standards established or approved by the Trust. Heating equipment that is not a Renewable Energy Installation must be heating equipment that produces the lowest carbon emissions of any heating equipment reasonably available to the property owner, as determined by the Trust, and must meet the requirements of 35-A M.R.S. §10204 (1)(B).

Qualifying Property. Real commercial property in the Town that:

- A. Does not have a residential mortgage;
- B. Is not owned by a residential customer or small commercial customer as defined in 35-A M.R.S. §3016(1)(C) and (D), respectively;
- C. Consists of 5 or more rental units if the property is a commercial building designed for residential use;
- D. Is not owned by a federal, state or municipal government or public school; and
- E. Is located in a municipality that participates in a Commercial PACE Program.

Registered Capital Provider or Capital Provider. An approved lender proving financing for the Energy Savings Improvements through a C-PACE Program and registered with Efficiency Maine Trust.

Renewable Energy Installation. 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, highly efficient wood heating systems, geothermal systems and wind systems that do not on average generate more energy or heat than the peak demand of the property.

Trust. The Efficiency Maine Trust established in 35-A M.R.S. §10103 and/or its agents, if any.

4. Program established; Amendments.

- A. Establishment. The Town hereby establishes a Commercial PACE Program allowing owners of Qualifying Property located in the Town who so choose to access financing for Energy Savings Improvements to their Qualifying Property, with such financing to be repaid through a Commercial PACE Assessment and secured by a Commercial PACE Lien.
- B. The Town may:
 - (1) Administer the functions of the Commercial PACE Program, including, but not limited to, entering into Commercial PACE Agreements with commercial property owners and collecting Commercial PACE Assessments, or designate an agent to act on behalf of the Town for such billing and collection purposes; or
 - (2) Enter into a contract with the Trust to administer some or all functions of the Commercial PACE Program for the Town, including billing and collection of Commercial PACE Assessments, subject to the limitations set forth in Section 10205, subsection 5 of the Commercial PACE Act.
- C. Amendment to or Repeal Commercial PACE Program. The Town may from time to time amend this Ordinance to use any funding sources made available to it or appropriated by it for the express purpose of its Commercial PACE Program, and the Town shall be responsible for administration of loans made from those funding sources. The Town may also repeal this Ordinance in the same manner as it was adopted, provided, however, that such repeal shall not affect the validity of any Commercial PACE Agreements entered into by the Town prior to the effective date of such repeal, or a Commercial PACE Loan or Commercial PACE Lien arising out of such Agreements.

5. Financing; Private Lenders; Terms. C-PACE Loans may be provided by any qualified Capital Provider private lender participating in the C-PACE Program and a C-PACE Agreement may contain any terms agreed to by the lender and the property owner, as permitted by law, for the financing of Energy Savings Improvements. Unless the Town specifically designates funding sources made available to it or appropriated by it for the express purpose of its Commercial PACE Program and agrees to provide financing for Energy Savings Improvements, the Town will not finance or fund any loan under the Commercial PACE Program, and shall serve only as a program sponsor to facilitate loan repayment by including the Commercial PACE Assessment on the property tax bill for the property, and shall incur no liability for the loan.

6. Program Requirements and Administration

- A. Agreement Required. All commercial property owners seeking financing for Energy Savings Improvements on Qualifying Property pursuant to the Commercial PACE Program must enter into a Commercial PACE Agreement, approved as to form and substance by the Town, authorizing the creation of a Commercial PACE Assessment and acknowledging the creation of a Commercial PACE Lien. A notice of the Commercial PACE Agreement will be filed in the registry of deeds, which filing will create a lien until the amounts due under the agreement are paid in full.
- B. Underwriting Standards. A Commercial PACE Agreement entered into pursuant to the Commercial PACE Program must satisfy the minimum underwriting requirements of the Commercial PACE Act and such additional requirements established by the Trust.
- C. Collection of assessments. A commercial property owner participating in the Commercial PACE Program will repay the financing of Energy Savings Improvements through an

assessment on their property similar to a tax bill. A Commercial PACE Assessment constitutes a lien on the Qualifying Property until it is paid in full and must be assessed and collected by the Town or its designated agent, the Trust, or a 3rd-party administrator contracted by the Trust, consistent with applicable laws. The Town may, by written agreement, designate the applicable third-party Capital Provider as its agents for the billing and collection of Commercial PACE assessment payments in satisfaction of the Commercial PACE Loan. Where Commercial PACE assessment payments are received directly by the Town along with other municipal tax payments, such payments received from property owners shall first be applied to Town taxes, assessments, and charges. The Town shall have no ownership of the Commercial PACE assessments collected except for any administrative costs provided under the Commercial PACE Program. The Town shall pay all Commercial PACE assessment payments in any calendar month to the applicable Capital Provider or the Commercial PACE program administrator within 30 days after the end of the month in which such amounts are collected. The Town shall have no obligation to make payments to any Capital Provider with respect to any Commercial PACE repayment amounts or loan obligations other than that portion of the Commercial PACE Assessment actually collected from a property owner for the repayment of a Commercial PACE Loan.

If the Trust or a 3rd-party administrator contracted by the Trust or an agent of the Town collects Commercial PACE Assessments on behalf of the Town, the Trust or agent shall periodically report to the Town on the status of the Commercial PACE Assessments in the Town and shall notify the Town of any delinquent Commercial PACE Assessments. Upon receiving notification from the Trust or agent of a delinquent Commercial PACE Assessment, the Town shall notify the holder of any mortgage on the property of the delinquent assessment.

- D. Notice; filing. A notice of a Commercial PACE Agreement must be filed in the appropriate registry of deeds. The filing of this notice creates a Commercial PACE Lien against the property subject to the Commercial PACE Assessment until the amounts due under the terms of the Commercial PACE Agreement are paid in full. The notice must include the information required by the Commercial PACE Act.
- E. Priority. A Commercial PACE Lien secures payment for any unpaid Commercial PACE Assessment and, together with all associated interest and penalties for default and associated attorney's fees and collection costs, takes precedence over all other liens or encumbrances except a lien for real property taxes of the municipality and liens of municipal sewer, sanitary and water districts. From the date of recording, a Commercial PACE Lien is a priority lien against a property, except that the priority of such a Commercial PACE Lien over any lien, except a lien for real property taxes of the Town or a lien of a municipal sewer, sanitary or water district, that existed prior to the Commercial PACE Lien is subject to the written consent of such existing lienholder.
- F. Mortgage lender notice and consent. Any financial institution holding a lien, mortgage or security interest in or other collateral encumbrance on the property for which a Commercial PACE Assessment is sought must be provided written notice of the commercial property owner's intention to participate in the Commercial PACE Program and must provide written consent to the commercial property owner and Town that the borrower may participate and enroll the collateral property in the Commercial PACE Program. This written consent must be filed in the registry of deeds and must include a written acknowledgement and understanding by the financial institution holding the lien, mortgage or security interest in or other collateral encumbrance on the property as required by the Commercial PACE Act.

7. Collection, default; foreclosure.

- A. A Commercial PACE Assessment and any interest, fees, penalties and attorney's fees incurred in its collection must be collected in the same manner as the real property taxes of the Town. A Commercial PACE Assessment for which notice is properly recorded under this section creates a lien on the property. The portion of the assessment that has not yet become due is not eliminated by foreclosure, and the lien may not be accelerated or extinguished until fully repaid.

(1) If a Commercial PACE Assessment is delinquent or in default and the borrower or property owner is delinquent in any tax debt due to the Town, collection may occur only by the recording of liens and by foreclosure under 36 M.R.S. §§ 942 and 943. Liens must be recorded and released in the same manner as liens for real property taxes.

(2) If only a Commercial PACE Assessment is delinquent but the borrower or property owner is current on payment of all municipal taxes due to the Town, then a Commercial PACE lienholder shall accept an assignment of the Commercial PACE Lien, as provided in the written agreement between Town and the Capital Provider. The assignee shall have and possess all the same powers and rights at law as the Town and its tax collector with regards to the priority of the Commercial PACE Lien, the accrual of interest and fees and the costs of collection. The assignee shall have the same rights to enforce the Commercial PACE Lien as any private party or lender holding a lien on real property, including, but not limited to, the right of foreclosure consistent with 14 M.R.S. §§ 6203-A and 6321 and any other action in contract or lawsuit for the enforcement of the Commercial PACE Lien.

- B. Judicial or nonjudicial sale or foreclosure. In the event of a judicial or nonjudicial sale or foreclosure of a property subject to a Commercial PACE Lien by a lienholder that is not a Commercial PACE lienholder, the Commercial PACE Lien must survive the foreclosure or sale to the extent of any unpaid installment, interest, penalties or fees secured by the lien that were not paid from the proceeds of the sale. All parties with mortgages or liens on that property, including without limitation Commercial PACE lienholders, must receive on account of such mortgages or liens sale proceeds in accordance with the priority established in this chapter and by applicable law. A Commercial PACE Assessment is not eliminated by foreclosure and cannot be accelerated. Only the portion of a Commercial PACE Assessment that is in arrears at the time of foreclosure takes precedence over other mortgages or liens; the remainder transfers with the property at resale.
- C. Unless otherwise agreed upon by the Capital Provider, all payments on a Commercial PACE Assessment that become due after the date of transfer by judicial or nonjudicial sale or foreclosure must continue to be secured by a lien on the property and are the responsibility of the transferee.
- D. Release of lien. The Town will discharge a Commercial PACE Lien created under the Commercial PACE Act and this Ordinance upon full payment of the amount specified in the Commercial PACE Agreement. A discharge under this subsection must be filed in the appropriate registry of deeds and must include reference to the notice of Commercial PACE Agreement previously recorded pursuant to the Commercial PACE Act and this Ordinance.

8. Liability of municipal officials; liability of Town

- (1) Notwithstanding any other provision of law to the contrary, Town officers and Town 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 Commercial PACE Program, including without limitation, claims for or related to uncollected Commercial PACE Assessments under this Ordinance.
- (2) Other than the fulfillment of its obligations specified in a Commercial PACE Agreement, the Town has no liability to a commercial property owner for or related to Energy Savings Improvements financed under a Commercial PACE Program.

9. Conformity to Changed Standards.

This Ordinance is intended to comply with the Commercial PACE Act and the administrative rules of the Trust issued in connection with the Commercial PACE Act, as the same may be amended. If the Trust or any State or federal agency adopts standards, promulgates rules, or establishes model documents subsequent to the Town's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Town shall take necessary steps to conform this Ordinance and its Commercial PACE Program to those standards, rules or model documents.

DRAFT FOR DISCUSSION – 10/25/23

MEMO

To: Finance Committee
From: Sustainability Committee
Date: December xx, 2023
Re: Establishing a Sustainability Reserve Account

The Scarborough Sustainability Committee requests that the Town Council establish a reserve account to support sustainability initiatives. Over the past decade, the Sustainability Committee (formerly the Energy Committee) has identified opportunities aimed at improving energy efficiency in Scarborough. These efforts often require an up-front investment from the Town, and timelines do not always align with the municipal budget cycle. Establishing a dedicated account for such projects would help streamline the Committee's work and allow Scarborough to be more responsive to grants and other funding opportunities that arise throughout the year. The Committee understands that the Town Council will have to authorize expenditures out of the reserve account.

This memo highlights some of the Sustainability Committee's past projects, describes possible future activities, and outlines the Committee's proposed funding formula for establishing the sustainability reserve account.

Background

The Town Council [adopted](#) Scarborough's [Comprehensive Energy and Sustainability Plan](#) on 10/18/17. The Sustainability Committee developed the Plan, which outlines several actions aimed at guiding Scarborough "toward an energy management system that is financially and environmentally sustainable." Section A, Outcome III, Action III of the Plan calls for energy savings, at a rate determined by the Town Council, to be diverted into a reserve account for sustainability initiatives.

Over the past several years, the Sustainability Committee has recommended various initiatives that both reduce energy use and save the Town money. Two notable projects include the Town's transition to high-efficiency LED street lights and the installation of rooftop solar arrays on the Engine 5 fire station and the Community Services maintenance garage:

LED Streetlight Conversion

The streetlight conversion project, which was completed in 2020, included purchasing all of the Town's streetlights from Central Maine Power and upgrading them to more efficient fixtures. After

Town of Scarborough

259 US Route One | PO Box 360 | Scarborough, ME 04070 | P: 207.730.4000 | scarboroughmaine.org

an initial \$700,000 investment, the Town projected an annual savings of \$94,500, making the payback period for the project roughly 7.5 years.

Rooftop Solar Arrays

In 2014, the Town entered into a 30-year Power Purchase Agreement (PPA) with ReVision Energy to install solar arrays on two Town buildings. Through the PPA, the Town bore no upfront cost to install the arrays on the buildings because Revision Energy retained ownership of the systems. The Town paid ReVision for the electricity generated by the solar arrays at a rate \$0.02 lower than CMP's standard offer. The Committee estimated that the Town saved nearly \$20,000 on electricity costs between 2014 and 2021.

The Town Council allocated \$72,000 in the FY22 budget to execute the buyout option within the PPA, based on the analysis and recommendation of the Sustainability Committee. By purchasing the solar arrays outright from ReVision, the Sustainability Committee estimated that the Town would expect \$168,000 in net savings over the remaining useful life of the arrays.

Future Initiatives

The Sustainability Committee wishes to develop other opportunities make Scarborough – municipal operations, private citizens, nonprofit organizations, and commercial businesses – more environmentally and financially sustainable by using energy more efficiently. The Committee has identified many projects and programs it could undertake with dedicated funding, including the following:

- Efficiency Grants
This grant program could mirror and be combined with Efficiency Maine incentives to help further offset the cost of home efficiency upgrades, such as converting homes to heat pumps, improving insulation, and upgrading appliances.
- Municipal Solar Projects
Given the rising cost of electricity and the real savings the Town is seeing from the two solar arrays on municipal buildings, the Committee would like to explore additional solar projects in town. These projects may include installing arrays on additional buildings or developing a large-scale municipal solar array to power multiple buildings.
- Improved Waste Management
Removing food waste and reusable items, such as clothing and shoes, from Scarborough's waste stream has multiple benefits, including reduced disposal costs and lower emissions. The Committee has identified the lack of adequate funding for education and local infrastructure as a barrier to reducing waste in Scarborough.

The Scarborough community was asked to give their "2 cents" on some of the options at Sustainable Scarborough Day. Based on this feedback, the residents would like to see the Town install more solar arrays on municipal buildings and offer grants to residents for home efficiency upgrades. Other notable community feedback included establishing a swap-shop, setting up an electric tool lending program, and improving Scarborough's electric vehicle charging infrastructure.

Proposed Funding Formula

The Sustainability Committee recently met with Councilor Cloutier and Norman Kildow, Finance Director, to discuss the process for creating such an account. The Committee also discussed funding options with Town staff. The following sources of potential revenue were identified:

- **Electrical Permit Fees**
There has been a revenue surplus from electrical permit fees for the past several years (see table below). These fees are collected when electrical work is done at residential and commercial properties, including installation of heat pumps, electric vehicle chargers, and solar panels. The Committee proposes that, moving forward, 20% of this surplus be directed to the sustainability reserve account annually.

Electrical Permit Fees Collected (2017 – 2023)

| | 2023 | 2022 | 2021 | 2020 | 2019 | 2018 | 2017 |
|----------------|------------|------------|------------|------------|------------|------------|-----------|
| Budget | \$95,000 | \$70,000 | \$70,000 | \$60,000 | \$60,000 | \$57,000 | \$57,000 |
| Actual | \$135,923 | \$92,561 | \$100,383 | \$84,584 | \$70,736 | \$70,639 | \$52,800 |
| Surplus | \$40,923 | \$22,561 | \$30,383 | \$24,584 | \$10,736 | \$13,639 | \$(4,120) |
| 20% of Surplus | \$8,184.60 | \$4,512.20 | \$6,067.60 | \$4,916.80 | \$2,147.20 | \$2,727.80 | \$0 |

- **Electric Vehicle Charging (EV) In-Lieu Fees**
The Town's EV charging ordinance allow developers to pay an in-lieu fee in stead of meeting EV charging requirements. Currently, collected fees can only be used on EV charging-related activities. The Committee wished to propose updated ordinance language to allow the fees to go into the sustainability reserve account to allow more flexibility. (To date, developers have chosen to meet the EV-charging requirements and have not paid in-lieu fees, but this may not always be the case.)

The Committee appreciates the investments the Town has made in sustainability, most notably creating a staff position to focus on these efforts. Dedicated funding would allow Scarborough to do even more to improve our financial and environmental sustainability.

Thank you for your consideration of this proposal. Members of the Sustainability Committee would be happy to attend a future Finance Committee meeting to discuss this request and answer questions.

Sustainable Scarborough Day - 2 Cents for Sustainability

| Waste Management | |
|--|----|
| Collect used clothing & shoes | 18 |
| Offer curbside composting | 16 |
| More food waste drop off sites | 12 |
| Swap shop (write-in) | 11 |
| More info about food waste drop off sites (write-in) | 1 |
| Greywater (write-in) | 1 |

| Energy | |
|--|----|
| Offer grants for home upgrades | 22 |
| Offer e-bike and electric tool rebates | 13 |
| Set up electric tool lending program | 11 |
| Offer e-bike rentals (write-in) | 5 |
| More windmills (write-in) | 1 |

| Transportation | |
|---------------------------|----|
| Improve bike/ped network | 31 |
| Offer more EV chargers | 11 |
| Improve local bus service | 6 |
| Trains (write-in) | 1 |

| Municipal Operations | |
|-------------------------------|----|
| Put solar on town buildings | 24 |
| Build a municipal solar array | 14 |
| Add EVs to the town fleet | 5 |