



Draft Minutes

Board of Directors Meeting

Wednesday, February 15, 2023

6:00pm

In person:

The Lake Merritt Room
Cal State East Bay - the Oakland Center
In the Transpacific Centre
1000 Broadway, Suite 109
Oakland, CA 94607

Via Zoom:

<https://us02web.zoom.us/j/87023071843>

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Webinar ID: 870 2307 1843

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If you have anything that you wish to be distributed to the Board of Directors, please email it to the clerk by 5:00 pm the day prior to the meeting.

Supervisor David Haubert was sworn in as the new EBCE Director for Alameda County.

Mayor Juan Gonzalez was sworn in as the new EBCE Director for the City of San Leandro.

1. Welcome & Roll Call

Present: Directors: Haubert (Alameda County), Tiedemann (Albany), Hu (Dublin), Bauters (Emeryville), Cox (Fremont), Marquez (Hayward), Barrientos (Livermore), Jorgens (Newark), Kalb (Oakland), Balch (Pleasanton), Gonzalez (San Leandro), Bedolla (Tracy), Patino (Union City), Eldred (Community Advisory Committee) and Acting Chair Cavanaugh (Piedmont)

Excused: Director Bartlett (Berkeley)

2. Pledge of Allegiance

3. Public Comment

This item is reserved for persons wishing to address the Board on any EBCE-related matters that are not otherwise on this meeting agenda. Public comments on matters listed on the agenda shall be heard at the time the matter is called. As with all public comment, members of the public who wish to address the Board are customarily limited to two minutes per speaker and must complete an electronic speaker slip. The Board Chair may increase or decrease the time allotted to each speaker.

Tom Kelly expressed concern about the lack of updates from staff regarding the \$15 million set-aside for the replacement of gas appliances in low-income households. Tom Kelly explained that staff had recommended a \$15 million gift to the Children's Hospital for research on childhood asthma, but the proposal was met with public pushback. The proposal was withdrawn, and staff promised to come back in January or February with a new proposal to replace gas appliances with induction ranges. Tom Kelly stated that the community was enthusiastic about this new proposal, and he emphasized the importance of timely action in light of recent news regarding the health effects of natural gas combustion inside households.

Blair Beekman expressed hope that the Board has moved past disagreements from December, 2022 around the definition of community advocacy, and that it has recognized the importance of advocates such as Jessica Tovar. Blair Beekman reminded the Board that acquisition of community energy is a community effort, and that he assumes that the Board will figure out increasingly better ways to include a wide range of voices.

Jessica Tovar welcomed new Board members to East Bay Community Energy (EBCE) and explained why the East Bay Clean Power Alliance's (EBCPA) advocates for EBCE's Local Development Business Plan (LDBP). Jessica Tovar stated that the EBCPA fights for EBCE to create more economic incentives in its service territory, promote clean energy jobs, and reduce pollution regionally. Jessica Tovar urged EBCE to focus on the needs of the community, particularly those that have been left out of the clean energy economy. Finally, Jessica Tovar commemorated the late Supervisor Valle and expressed her gratitude for his support for clean energy within Alameda County and beyond.

4. Closed Session

Conference with Labor Negotiators pursuant to Government Code 54957.6. (Labor negotiators: Jen Cavanaugh) (Unrepresented employee).

5. Report out of Closed Session

There were no items to report out of closed session.

CONSENT AGENDA

6. Approval of Minutes from January 18, 2023

7. **AB 361 - Finding for Continued Remote Meetings**
Find that conducting in person meetings of the Board would present imminent risks to attendees' health and authorize the Board to continue meeting via teleconferencing pursuant to Government Code Section 54953(e).
8. **Contracts entered into (Informational Item)**
9. **Frontier Energy Amendment to CSA**
Authorization to extend the term, expand the scope, add compensation
10. **RE Scarlet 1, LLC Contract Amendment**
Adopt a Resolution authorizing the Chief Executive Officer (CEO) to negotiate and execute an Amendment to an existing Power Purchase Agreement (PPA) with RE Scarlet 1, LLC.
11. **Consulting Services Agreement for Brand and Visual Identity Services with Landscape Studio LLC**
Adopt a Resolution authorizing the CEO to negotiate and execute an Agreement for brand and visual identity services with Landscape Studio LLC for the purpose of accelerating customer engagement for the contract period of one year, with an option to extend one additional year, in the amount not to exceed \$300,000.
12. **Travel Reimbursement Policy**
Adopt Travel Reimbursement Policy for Board and Community Advisory Committee
13. **Treasurer's Report**
Receive report on EBCE's cash position

Consent Calendar Item - 10 RE Scarlet 1, LLC Contract Amendment and Consent Calendar Item 12 - Travel Reimbursement were pulled from the Consent Calendar.

Member Marquez (Hayward) motioned to approve Consent Calendar Items 6, 7, 8, 9, 11 and 13. Member Tiedemann (Albany) seconded the motion, which passed 13/0.

Excused: Members Haubert (Alameda County) and Bartlett (Berkeley)

Consent Calendar Item 10. RE Scarlet 1, LLC Contract Amendment

The Board discussed:

- Member Gonzalez (San Leandro) asked if staff anticipates that the challenge from trade constraints will continue, and if an assessment had been made of the risks.
- Member Gonzalez also asked if the replacement energy that is being acquired is green energy.
- Lastly, Member Gonzalez asked if EBCE will be renumerated for increased costs and prices.

Member Bauters (Emeryville) motioned to approve the staff recommendation for Consent Calendar Item 10. Member Haubert (Alameda County) seconded the motion, which passed 14/0.

Excused: Member Bartlett (Berkeley)

Consent Calendar Item 12 - Travel Reimbursement Policy

The Board discussed:

- CAC Chair Eldred stated that the CAC requested that the policy be amended to include required travel costs such as tolls, mileage, and ease of documenting public transportation costs.
- Member Bauters noted that there is no provision or incentive for active transportation and stated that the Air District adopted a policy that uses a climate-based formula to create an incentive for people who choose to walk or bike to meetings. Member Bauters explained that there are ways of calculating total greenhouse gas savings and turning it into an actuarial value for people who use active transportation. Member Bauters stated that the Travel Reimbursement policy should be put on a future agenda to be amended to create incentives that are in line with the agency's values.
- CAC Chair Eldred stated that she did not want to hold up the item, and that she appreciated staff being willing to look at what other bodies in our jurisdiction are doing. CAC Chair Eldred expressed her willingness to connect EBCE staff with staff from other agencies who have transportation reimbursement policies.
- Member Bauters stated that he can provide staff with items that they can use to create an active transportation reimbursement policy.

Member Gonzalez (San Leandro) motioned to approve the staff recommendation for Consent Calendar Item 12. Member Haubert seconded the motion, which passed 13/1.

Nay: Member Bauters (Emeryville)

Excused: Member Bartlett (Berkeley)

Member Haubert (Alameda County) left the meeting after the vote was taken for Consent Calendar Item 12.

REGULAR AGENDA

14. CEO REPORT

CEO Chaset stated that the executive and subcommittee meeting schedules will be set after new members are appointed:

- The Executive Committee traditionally meets in the week following Board meetings.
- The Finance, Administration and Procurement subcommittee, and the Marketing, Regulatory and Legislative subcommittee typically meet once every two to three months.

CEO Chaset also introduced new EBCE staff members Emma Rivers and Heidy Ramirez. Emma Rivers is a Data Analyst on the Technology and Analytics team, and Heidy Ramirez is a Local Programs Reporting Analyst on the Programs team.

CEO Chaset acknowledged a request that was made at the January 18, 2023 EBCE board meeting regarding a solicitation for community resilience hub grants. The request was for EBCE staff to evaluate the potential of co-bidding with East Bay Clean Power Alliance for these grants. CEO Chaset reviewed the correspondence and followed up with EBCE's Sacramento lobbying group to evaluate if they could support the grant writing, and they confirmed their support. However, due to the workload of power procurement contracting, CEO Chaset admitted to not following up to indicate that this resource would be available to East Bay Clean Power Alliance. Staff secured \$3 million in federal appropriations for community resilience projects, including solar and storage projects that are being built on community centers and critical facilities. CEO Chaset indicated that EBCE was likely not in a position to collaborate with East Bay Clean Power Alliance on these grants.

15. Community Advisory Committee Report

CAC Chair Eldred expressed her condolences for the late Supervisor Valle. Chair Eldred then raised a concern about public correspondence that was requested to be distributed to the Board and the Community Advisory Committee, which had not been distributed prior to the start of the CAC meeting. CAC Chair Eldred emphasized the need for timely distribution of correspondence. Lastly, CAC Chair Eldred expressed excitement about the work being done on community grants, and stated that the CAC looks forward to working with staff.

Blair Beekman expressed his condolences for the late Supervisor Valle.

The Board discussed:

- Member Marquez asked for the number of vacancies on the CAC.

16. Mid-Year Budget FY2022/23 (Informational Item)

Report on the status of the current FY budget through December, 2022

The Board discussed:

- Member Gonzalez asked if the mid-year budget numbers were actual or forecast.
- Member Gonzalez also asked if staff could describe the impact of being short \$45 million in surplus.
- Member Teidemann stated that the reason for the heightened cost of energy is not because EBCE is purchasing a lot of natural gas; it is because the whole market has been affected by its reliance on natural gas. CEO Chaset agreed with this assessment and added that the heightened cost of energy has nothing to do with EBCE's procurement mix, and that these impacts are equally felt for EBCE's Bright Choice and Renewable 100 customers.

- Member Balch asked about the size of the reserve, and how staff decided on the target reserve number, given that 75% of the surplus is going to the reserve.
- CAC Chair Eldred asked if the higher cost of energy can be attributed to the reliance of Bright Choice on system power, which in turn is made of up natural gas. CEO Chaset stated that CAC Chair Eldred's statement is incorrect.
- CAC Chair Eldred also asked if the \$20 million customer rebate could provide some protection against gas price volatility if it were put instead into local development or additional renewable procurement.
- CAC Chair Eldred clarified that EBCE's prices are not tied to PG&E; rather, EBCE is only required to offer prices that are at least 3% lower than PG&E. And so, for example, if PG&E raised it rates, EBCE is under no obligation to do the same.

Tom Kelly expressed surprise at the underestimation of energy costs despite contracts and hedging for fixed pricing. Tom Kelly stated that there is an unexpected \$175 million expense because Bright Choice is composed of 40% natural gas. Tom Kelly stated that Bright Choice produces more greenhouse gases than PG&E, and that he hopes that the new Board will address this issue. Additionally, Tom Kelly suggested that EBCE's rates should not be pegged to PG&E and should instead use a cost-of-service formula.

17. Discussion of In-Person and Teleconference Board Meetings Options After the End of the State of California COVID-19 State of Emergency, and Adopt Post-COVID Emergency Attendance Policy for East Bay Community Energy Board and Brown Act Committees (Action Item)

Provide direction to staff and adopt a Resolution approving a POST-COVID Emergency Attendance Policy (Policy) for the Board and East Bay Community Energy Brown Act committees to provide a policy with respect to conducting public meetings after the end of the State of California's COVID-19 State of Emergency, which is expected to occur on February 28, 2023.

The Board discussed:

- CAC Chair Eldred stated that the CAC supports the staff recommendation to go with the traditional Brown Act rules, and she also wished to recognize that several other agencies have gone with the traditional Brown Act rules while maintaining the ability of the public to participate via webinar.
- Member Gonzalez (San Leandro) stated his concern about the recommendation that Board and CAC members can reserve space to join meetings remotely from a local City Hall conference room. Member Gonzalez noted that most city halls, and even libraries, tend to close at night, and that they might not have the staffing or resources to stay open for CAC and Board meetings.
- Member Kalb stated that he hoped that staff could set up two satellite locations, one in the Tri-Valley area, and the other in a location that is close to the South and East County.
- Member Balch that he is on the board of StopWaste, and has reached out to his counterparts on that board in Dublin, Livermore and Alameda County to rotate

among them in order to share resources for StopWaste's remote meetings. Member Balch offered to coordinate with his counterparts on this Board to set up a Tri-Valley location for EBCE meetings.

- CAC Chair Eldred stated that the agenda noticing requirement will be a challenge for the CAC, and encouraged Board members to reach out to CAC members in their districts in order to set up as many remote locations as are feasible.
- Acting Chair Cavanaugh summarized the discussion by stating that there is general agreement with the staff recommendation and in reducing vehicle miles traveled; that Board members are encouraged to be inclusive of CAC members, and that staff is supportive and wants to be helpful, but are not responsible for organizing locations for Board members or the CAC.

Blair Beekman highlighted the benefits of virtual meetings, such as increased public accessibility, convenience, and the ability to participate for those with autoimmune deficiencies or disabilities. Blair Beekman also urged board member to consider making sacrifices to increase public accessibility.

Jim Lutz asked if, under the Brown Act, there is a way to enforce safety rules at meeting locations such as social distancing requirements, masking mandates and vaccine checks.

No vote was taken on Item 17.

18. Long-Term Contracts for Approval (Action Item)
2022 RFO Long Term Contracts for Approval

Member Marquez (Hayward) motioned to approve the staff recommendation to approve Resolutions R-2023-18A and R-2023-18B. Member Tiedemann (Albany) seconded the motion, which passed 13/0. Excused: Members Haubert (Alameda County) and Member Bartlett (Berkeley).

Blair Beekman expressed support for this item and the Mid-Year Budget Review, stating that they represent good practices that can set local government and the community on a positive path over the next few years. Blair Beekman also emphasized the importance of collaborative practices and projects between the local government and community, and expressed confidence in the ability of public officials to develop them.

19. Election of Chair/Vice Chair and Appointment of Executive Committee Members (Action Item)

The Board discussed:

- Acting Chair Cavanaugh stated that Members Marquez and Balch are infinitely qualified and would do a fabulous job on the Executive Committee.

Acting Chair Cavanaugh (Piedmont) motioned to appoint Member Marquez (Hayward) as Chair and Member Balch (Pleasanton) as Vice-Chair. The motion was seconded by Member Bauters (Emeryville), which passed 13/0.

Excused: Members Haubert (Alameda County) and Bartlett (Berkeley)

Acting Chair Cavanaugh appointed the following Members to the Executive Committee:

- **Member Kalb (Oakland)**
- **Member Hu (Dublin)**
- **Member Tiedemann (Albany)**

20. CEO Contract Amendment

Acting Chair Cavanaugh stated that the Board was not in a position to take action on the CEO Contract Amendment, and so it will be deferred to a future meeting.

21. Board Member and Staff Announcements including requests to place items on future Board agendas

- Acting Chair Cavanaugh announced thather last meeting on the EBCE Board, and that the Alternate for the City of Piedmont, Betsy Andersen, would become the new Member starting in March.
- Member Kalb thank Acting Chair Cavanaugh for her work on the Board of Directors.
- Acting Chair Cavanaugh closed the meeting in the memory of Supervisor Valle.

22. Adjournment to Wednesday, March 15, 2023 at 6:00 pm