



Draft Minutes

Board of Directors Meeting

Wednesday, October 18, 2023

6:00 pm

In Person

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

Or from the following locations:

- Wells Fargo Building - 2140 Shattuck Avenue, Floor 6, Berkeley, CA 94704
- Conference Room, Irvington Community Center, 41885 Blacow Rd., Fremont, CA 94538
- 1755 Harvest Landing Lane, Tracy, CA 95376
- Centennial Plaza Resort – Lobby, 200 E Beach Blvd. Gulfport, MS 39507

Via Zoom:

<https://ebce-org.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.

1. Welcome & Roll Call

Present: Directors: Tiedemann (Albany), Bauters (Emeryville), Cox (Fremont), Roche (Hayward), Barrientos (Livermore), Jorgens (Newark), Kalb (Oakland), Andersen (Piedmont), Gonzalez (San Leandro), Wright (Stockton), Bedolla (Tracy), Patino (Union City), Hernandez (Community Advisory Committee), Vice-Chair Balch (Pleasanton) and Chair Marquez (Alameda County)

Excused: Directors: Bartlett (Berkeley) and Hu (Dublin)

Member Kalb (Oakland) joined the meeting at 6:52pm

CAC Vice-Chair Hernandez served as the alternate for CAC Chair Eldred (Community Advisory Committee).

2. Pledge of Allegiance

Chair Marquez led the body in the pledge of allegiance.

3. Public Comment

This item is reserved for persons wishing to address the Board on any -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.

Public Comment: (4:39) Jessica Tovar, representing the Local Clean Energy Alliance, addressed the board regarding the Local Development Business Plan (LDBP). She emphasized the LDBP's goal to deliver community benefits, such as building energy assets, promoting electrification, community resilience, energy efficiency, and reducing energy waste. Jessica Tovar highlighted the significance of creating clean energy jobs and reducing local pollution. She noted that at the five-year milestone of the LDBP, it's essential to assess the project's outcomes, like job creation and community asset development, to evaluate and update the plan effectively.

Public Comment: (6:30) Dan Huynh, representing the Local Clean Energy Alliance, advocated for a focus on long-term sustainability through renewable and clean energy sources to minimize environmental impact and ensure energy systems that can serve the community over the long term. Dan Huynh emphasized the need for greater community engagement in energy planning, incorporating input from residents and businesses. Additionally, he argued for the funding of microgrids and resilience hubs, citing their critical role in maintaining reliable local energy during grid failures and disasters. Dan Huynh recommended that resilience hubs be situated in community-friendly locations like schools, libraries, and recreational centers, rather than police or fire stations, to foster a sense of safety and comfort. He stressed the importance of these hubs for remote and underserved areas to improve access to reliable electricity and enhance living standards.

CONSENT AGENDA

4. Approval of Minutes from September 20, 2023

5. Contracts Entered into (Informational Item)

6. Treasurer's Report

Report on EBCE's cash position as of Sept 30, 2023

7. Department of Energy Conflict of Interest Policy

Adoption of DOE conflict of interest policy

8. CSA with Project6

Direct CEO to negotiate agreement with Project6 for Web Development services

9. CQuant Contract Renewal

Renewal of cQuant CSA

Member Bauters (Emeryville) motioned to approve the Consent Agenda. Member Wright (Stockton) seconded the item, which passed 13/0.

Excused: Directors: Bartlett (Berkeley), Hu (Dublin) and Kalb (Oakland).

REGULAR AGENDA

10. CEO Report

(10:04) CEO Chaset announced the transition from East Bay Community Energy to Ava Community Energy. He highlighted that this meeting would be the last instance of using the old name and logo. The change will be reflected on the website, materials, and correspondences, although existing e-mails and the website URL will remain functional for continuity.

CEO Chaset also shared the timeline for the rebranding, with the website getting updated on Tuesday, October 24, 2023 and social media handles changing to "Powered with Ava." Email addresses, call center scripts, and IVR will also be updated to reflect the new Ava Community Energy branding. However, more proactive customer outreach and marketing efforts are planned for the beginning of 2024, when the brand will be introduced more broadly to the public.

Public Comment: (15:40) Jim Lutz spoke in opposition to the brand change, specifically his observation of the omission of the term "Community Energy" in the new branding. He noted that the new website domain, social media handle, and email addresses all reflect "Ava Energy" or "Powered with Ava" without the "community" aspect, which he found concerning given the importance he feels that should be placed on community representation in the name.

Public Comment: (17:22) Jessica Tovar emphasized the importance of including "Community Energy" in the name of the agency, stating that it holds significant meaning for the community.

11. CAC Chair Report

(20:25) CAC Vice-Chair Hernandez, representing the Community Advisory Committee in CAC Chair Eldred's absence, reported on their recent discussions and recommendations. Vice-Chair Hernandez stated that the CAC urges the Board to

expedite the consideration of the Net Billing Tariff rather than waiting until the proposed December 2024 date. Additionally, during the review of the Community Innovation Grants program, there was feedback suggesting smaller multi-year grants to make applications more accessible for small businesses and community organizations, as well as the introduction of one-time grants for pilot projects.

The CAC expressed strong support for offering technical assistance to smaller organizations applying for grants and for the implementation of the resilient hub concept. While the importance of creating clean jobs was highlighted, there was less enthusiasm for energy education and awareness campaigns. The Committee advised that Innovation Grants should focus on community projects rather than Ava Community Energy's marketing and advertising.

12. (24:30) Emissions Overview (Informational Item)

Informational Overview on Emissions

- EBCE staff member Izzy Carson gave an overview presentation on EBCE's emissions, focusing specifically on the Bright Choice electricity product.
- Izzy Carson discussed the power content label, which shows the sources of energy that EBCE buys to serve Bright Choice customers. A significant portion comes from unspecified sources via the CAISO market.
- EBCE has two main products - Renewable 100 which is 100% renewable energy, and Bright Choice which has renewable energy, large hydro, and unspecified power.
- EBCE originally used The Climate Registry methodology for emissions accounting but switched to a California-specific methodology in 2020 due to a state law. This resulted in an increase in reported emissions.
- In 2020, EBCE decided to accept PG&E's allocation of large hydro but reject the nuclear allocation. This was a contentious issue with much community discussion.
- EBCE is currently ahead of the emissions reduction goals set in 2022 for the Bright Choice product. Goals were increased 5-10% in 2022 and 2023.
- Compared to other CCAs, EBCE has moderate renewable content and emissions. Rates are lower than other CCAs that have lower emissions. There are many factors that contribute to differences between CCAs.
- EBCE serves significantly more load than some other CCAs which makes emissions reductions more challenging.

(48:17) Member Bauters questioned the feasibility of revising the emissions schedule to reflect the advanced progress made on targets, suggesting that updating the plan could positively impact marketing and communicate responsiveness to the work accomplished. CEO Chaset was receptive to this idea, indicating staff's readiness to conduct such an assessment if directed by the board. Member Bauters advocated for showcasing more ambitious goals, especially as the agency expands, to demonstrate its proactive stance rather than adhering to outdated timelines.

(50:07) Member Roche inquired about the impact of expansion on meeting clean energy goals and the Bright Choice program, voicing concerns from Hayward residents regarding the procurement of clean energy and emissions targets. CEO Chaset assured her that recent expansions do not significantly impact their ability to meet targets, as they don't add a substantial load, and highlighted efforts to create city-specific power content labels for better transparency. CEO Chaset also mentioned an upcoming shift in PG&E's emissions accounting that would likely result in EBCE's Bright Choice program having lower emissions in comparison, reinforcing the organization's commitment to staying cleaner than PG&E.

(55:22) Member Tiedemann suggested that future CCA comparison charts include the size by load and number of accounts to provide context for why some CCAs might achieve their targets more easily due to having fewer customers and lower megawatt-hour commitments.

(56:11) Member Gonzalez sought clarification on the Renewable 100 program, questioning whether it truly delivers 100% renewably sourced energy and if the organization is meeting this goal. CEO Chaset confirmed that Renewable 100 is indeed sourced entirely from renewables and explained that while the total emissions chart includes all customer load, including the smaller contribution from Renewable 100, the product itself is 100% renewable. CEO Chaset further addressed Gonzalez's questions about Renewable Energy Credits (RECs), particularly PCC1 RECs, which are associated with energy that physically reaches California, as opposed to PCC2, which represents energy produced and consumed out-of-state but for which the carbon reduction rights are purchased. CEO Chaset clarified the discrepancy between state renewable energy standards, which recognize both PCC1 and PCC2, and AB 1110's carbon accounting, which only credits carbon-free power that is imported into California coincident with its generation.

(1:04:12) Member Tiedemann observed a significant increase in customers choosing the 100% renewable energy option and asked CEO Chaset about PG&E's surplus power and its impact on unspecified energy sources. CEO Chaset confirmed that PG&E's excess energy, which is less clean, goes into an unspecified pool and is counted as such in the overall energy mix.

(1:05:13) Chair Marquez asked whether the board should re-evaluate its goals in light of new information before considering further expansion. CEO Chaset suggested that while a comprehensive analysis could align with the integrated resource planning process taking about a year, initial information on different scenarios could be provided sooner..

(1:11:03) CAC Vice-Chair Hernandez praised the progress in maintaining competitive electricity rates and moving towards renewable energy goals, but noted CO2 emissions per megawatt-hour could be improved compared to similar CCAs. He advocated for more local renewables and a more accurate accounting of emissions that impact local air quality.

Public Comment: (1:12:43) Jessica Tovar criticized the approach of merely shifting numbers to show greenhouse gas reductions, arguing that this does not tangibly reduce local pollution or create local jobs. She urged for genuine investment in the production of local clean energy, reflecting concerns that the marketing promises of Renewable 100 were not being met with actual local energy investments. Jessica Tovar also spoke in opposition to the use of what she perceived as corporate tactics in the debate over nuclear energy allocation, specifically referencing EBCE's controversial handling of the Diablo Canyon issue. She recounted community opposition to nuclear energy, criticized EBCE's decision to sell nuclear allocation despite this opposition, and called for an end to narratives that blame the community choice energy model for the organization's challenges in reducing emissions.

Public Comment: (1:14:56) Jim Lutz raised a concern about the potential long-term financial risks associated with EBCE's long-term renewable energy contracts, wondering if they might end up being above-market rate in the future. CEO Chaset acknowledged the risk and explained that purchasing PCC 2s, which can be contracted for shorter terms, is one strategy staff uses to mitigate this risk, contrasting with PCC 1s that typically require longer-term commitments.

13. Joint Powers Authority Amendment (Action Item)

Adopt an amendment to change name to Ava Community Energy

Member Gonzalez motioned to approve the JPA Amendment. Member Wright seconded the motion which was approved 13/1/2

Yes: Members: Tiedemann, Cox, Roche, Barrientos, Jorgens, Kalb, Andersen, Gonzalez, Wright, Bedolla, Patino, Vice Chair Balch and Chair Marquez.

No: Member Bauters

Excused: Members: Bartlett and Hu

For the remainder of these minutes, East Bay Community Energy (EBCE) will be referred to by its new name, Ava Community Energy (Ava).

14. (1:19:44) Legislative Update (Informational Item)

Informational update on the 2023 state and federal legislative process

- **Legislative Year Overview:** Alec Ward reported on a busy legislative year, with the Governor signing 85% of over 1,000 bills, reflecting a typical veto rate, often due to budgetary constraints or redundancy.
- **Key Bills:**
 - **AB 1373:** Ava Community Energy moved to a neutral position after negotiations; the bill was signed and establishes a new central procurement entity for renewable energies.
 - **Interconnection Bills:** Success with bills AB 50 and SB 410, both signed into law, mandating a "shot clock" on interconnection processes and improving transparency.

- **Brown Act Flexibility:**
 - **AB 557:** Passed, allowing teleconferencing flexibilities during states of emergency.
- **Unpassed Bills:** Several bills, including those focused on EV sharing grants and building decarbonization, moved to a two-year bill status for potential future consideration.
- **Watch Bills:**
 - **Streamlining Environmental Review:** SB 49 was signed, aimed at streamlining the California Environmental Quality Act processes.
 - **Clean Energy Bond:** Discussions ongoing, proposing \$2 billion for a clean energy bond to fund various clean energy initiatives.
 - **EBCE's Engagement:** The report highlighted Ava's proactive defense of energy funding, successful negotiation on key bills, and the intention to revisit important issues next year.

(1:30:33) **Member Cox** inquired about how Ava plans to comply with the Levine Act, which was passed in January 2023 and calls for transparency in contract approvals. Specifically, she asked for an update on the implementation of the act concerning the disclosure of contracts over \$250.

Subsequently, Member Bauters provided clarification, referencing SB 1439, known as the Glazer bill, which amends the Levine Act. This amendment requires that board members who have received campaign contributions of \$250 or more from a contracting party in the past year must recuse themselves from voting on related contracts. This rule is retroactive for a year, and violations could nullify the vote. They agreed on the necessity of obtaining legal guidance on this matter. Member Cox suggested that, similar to other government entities, board meeting agendas should identify which items are subject to the Levine Act disclosure, enhancing transparency for both the board and the public. Member Wright also noted that there is a provision for rectification where the contribution can be returned to avoid a conflict of interest.

Chair Marquez proposed to bring this topic back for future discussion to ensure all directors are informed about the policy. Ava General Council Khalsa clarified that while she can provide information about contract participants, each Board Member is individually responsible for monitoring their own campaign contributions to avoid conflicts of interest.

(1:35:36) **Member Bauters** commented on AB 557, the approved Brown Act bill, expressing concern that the 40-mile threshold for remote participation overlooks those relying on active transportation, like biking, and suggested that time-based criteria should be considered alongside distance for determining the necessity of remote participation.

(1:36:20) **Member Kalb** asked about the significance of the interconnection bills for various projects beyond solar or wind, such as housing and hospitals. CEO Chaset acknowledged their importance, noting the potential consequences of this legislation. Despite the bills facing opposition, particularly from investor-owned utilities, CEO Chaset stated that there is still an opportunity to pass two of the bills next year.

15. (1:38:42) Sunzia Project Agreement (Action Item)

Requesting approval of long term Agreement for 150 MW of Wind online by 9/30/26

- Jim Dorrance presented the Sunzia Project Agreement to the Board, detailing a proposal to execute an agreement for a 150-megawatt segment of a larger 3,515-megawatt wind project located in New Mexico. This project, though out-of-state, is directly interconnected to California, allowing the energy produced to serve California residents and Ava Community Energy customers. The project aims to provide renewable energy, energy hedging, and resource adequacy, with an expected online date in September 2026. The Board was asked to authorize the CEO to execute the agreement, following the evaluation from the 2023 long-term request for offer (RFO), which considered projects based on counterparty execution, economic value, and development status. Pattern Energy, the developer, has a strong track record with California utilities and CCAs, and there's a possibility that Ava might consider increasing its off-take from the project. The agreement includes a prevailing wage requirement and potential union labor.

(1:54:03) Member Gonzalez questioned the positioning of Ava's 150-megawatt commitment within the larger 3,000-megawatt Sunzia wind project and its implications for resource adequacy, referencing past concerns about the agency's stake in such projects. CEO Chaset responded by ensuring that Ava has included safeguards in the agreement to protect its off-take and confirmed that the project will provide actual resource adequacy to California.

(1:56:45) Member Cox inquired about the potential division of the wind project contract into two separate agreements and how it would affect Ava's interests, particularly concerning prioritization and supply risks. CEO Chaset explained that splitting the contract could occur if the developer decides to sell part of the project, which is common in large-scale renewable projects. This split could be beneficial for diversification and mitigating concentration risk. He assured that the amount of renewable energy supplied to Ava would remain unaffected by such a split, as it's mainly a matter of financing and ownership structure. Regarding supply chain concerns, CEO Chaset acknowledged the challenges posed by global disruptions in recent years but indicated no specific risks to the project at present. He highlighted the importance of partnering with experienced developers who can navigate such uncertainties and have robust supply chain strategies.

(2:02:10) Chair Marquez asked for elaboration on the economic viability of local project applicants within California, to which Jim Dorrance responded that while there were economically viable projects in the state, the ones in their territory were not cost-effective for customers. Issues with land use conflicts also prevented further negotiations with one such local project. Howard Chang, Ava Community Energy COO, added that this Sunzia Project Agreement is only the first of multiple long-term Power Purchase Agreements (PPAs) that will be brought to the Board.

(2:05:39) CAC Vice-Chair Hernandez emphasized the CAC's discussion about the importance of funding local projects and the alignment of Ava Community Energy's

organizational values, which prioritizes local job creation and community support. Vice-Chair Hernandez expressed concerns about the evaluation criteria used for projects, questioning whether they adequately measure the value brought to the community beyond just cost. Vice-Chair Hernandez noted that while cost is an important factor, the value in terms of local benefits and support, including environmental justice, should also be considered. The final decision from the CAC was not unanimous, with five members in favor and four abstaining, yet the project was carried forward with their approval.

(2:07:11) Chair Marquez inquired about when the board would get to review the value of Power Purchase Agreements (PPAs), specifically regarding local projects. CEO Chaset explained that while there's a thorough, confidential analysis conducted, only one or two local generation projects were viable, with land constraints and costs being major issues.

Member Kalb motioned to approve the staff recommendation which was seconded by Member Bauters. The motion was approved 14/0/2

Yes: Members Tiedemann, Bauters, Cox, Roche, Barrientos, Jorgens, Kalb, Andersen, Gonzalez, Wright, Bedolla, Patino, Vice Chair Balch and Chair Marquez.
Excused: Members Bartlett and Hu.

16. (2:12:46) Board Member and Staff Announcements including requests to place items on future Board agendas

- **Member Wright** raised a concern about the surge of warehouse developments in Central Valley cities, particularly a large Walmart fulfillment center, which were approved with conditions after discussions with the Attorney General. He mentioned that the local Sierra Club in San Joaquin County is advocating for these warehouses to implement rooftop solar as part of their environmental mitigation strategies and as a potential community resource. Wright requested that Ava Community Energy stay alert to these developments and participate in discussions when appropriate.
- **Member Cox** requested that the Levine Act be put on the agenda for a briefing.
- **Member Cox** inquired about the metrics for the Local Development Business Plan., and asked that the findings be presented to the Board. CEO Chaset agreed, proposing an initial discussion at an Executive Committee meeting.
- **Member Roche** called for a preliminary examination of the acceleration of project procurement, which Chair Marquez noted would align with the budget process at the start of the year.
- **CAC Vice-Chair Hernandez** reminded the board about four items previously discussed: decisions on the use of \$14.75 million from the budget meeting, updates on bringing a cost center in-house, and the intentions for acquired property in Oakland, such as whether it could become a resilience hub or be used for apprenticeship or training programs. Chair Marquez acknowledged these items, noting that they are being tracked by the staff for appropriate timing to be brought back to the board.

17. Closed Session

- Public Employee Performance Evaluation pursuant to Government Code § 54957: Chief Executive Officer.

18. General Report Out of Closed Session

There were no items to report out of Closed Session.

19. Adjourn

The next Board of Directors meeting will be held on Wednesday, November 15, 2023 at 6:00 pm.