



## Draft Minutes

### Board of Directors Meeting

Wednesday, November 15, 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 remote locations:

Wells Fargo Building - 2140 Shattuck Avenue, Floor 6, Berkeley, CA 94704  
Dublin City Hall - 100 Civic Plaza, Dublin, CA 94568  
4260 Halleck St., Emeryville, CA 94608  
Conference Room 4A - Hayward City Hall 777 B Street, Hayward CA 94541  
1755 Harvest Landing Lane, Tracy, CA 95376  
Omni Hotel Lobby - 100 CNN Center, Atlanta, GA 30303

#### Via Zoom:

<https://ebce-org.zoom.us/j/87023071843>

Dial(for higher quality, dial a number based on your current location): US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 929 205 6099 or +1 301 715 8592 or 888 475 4499 (Toll Free) or 877 853 5257 (Toll Free)

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), Hu (Dublin), Bauters (Emeryville), Roche (Hayward), Barrientos (Livermore), Jorgens (Newark), Kalb (Oakland), Andersen (Piedmont), Wright (Stockton), Bedolla (Tracy), Patino (Union City), Vice-Chair Balch (Pleasanton) and Chair Marquez (Alameda County)

Excused: Directors: Bartlett (Berkeley), Cox (Fremont), Gonzalez (San Leandro) and Eldred (Community Advisory Committee)

*Member Barrientos (Oakland) joined the meeting at 6:11pm*

**2. (1:14) Pledge of Allegiance**

Chair Marquez led the body in the Pledge of Allegiance.

**3. (1:52) Public Comment**

*This item is reserved for persons wishing to address the Board on any Ava Community Energy-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.*

**There was no public comment.**

**CONSENT AGENDA**

**4. Approval of Minutes from October 18, 2023**

**5. Contracts Entered into (Informational Item)**

**6. Consulting Service Agreement for NV5, Inc.**

Seeking Board approval for CSA contract for professional Engineering consulting services from NV5

**7. Longroad Sun Pond Contract Approval**

Seeking Board Approval to execute contract with Sun Pond LLC; contract was originally approved in Feb 2023

**(2:45) Member Wright motioned to approve the Consent Agenda. Member Tiedemann seconded the motion which was approved 12/0/4.**

**Yes: Members: Tiedemann, Hu, Bauters, Roche, Jorgens, Kalb, Andersen, Wright, Bedolla, Patino, Vice-Chair Balch and Chair Marquez**

**Excused: Members: Bartlett, Cox, Barrientos, Gonzalez**

**REGULAR AGENDA**

**8. (4:40) CEO Report**

The key points of CEO Chaset's CEO Report included:

CEO Chaset discussed the progress on Ava's solar billing plan proposal, also known as Net Energy Metering 3.0. He mentioned ongoing discussions and meetings with the California Solar and Storage Association to align on implementation and design strategies.

CEO Chaset also discussed the development of workforce guidelines and policies, an item first brought up in a previous meeting. He stated that Ava is working closely with environmental and labor groups to reach a strong consensus and present a draft to the Board.

CEO Chaset provided a 2023 procurement update. He stated that due to 2023 being a very wet year, Ava experienced an over-delivery of large hydro and an under-delivery of solar energy. This resulted in Ava exceeding its overall carbon-free energy targets by more than 10%, but with a slight shortfall in renewable energy levels. This scenario could lead to a better financial position for Ava, with potential implications for the allocation of surplus funds.

Lastly, CEO Chaset mentioned that in January 2024, the Board will discuss the budget update and decide on the allocation of excess funds. Historically, excess funds have been split between purchasing long-term renewables and customer bill credits. However, future discussions may explore different allocation options, such as incentives for solar energy.

**(16:02) Vice-Chair Balch** asked if Ava had previously fallen below its renewable energy targets. CEO Chaset confirmed that while Ava had exceeded its targets in three of the first four years of operations, it did fall below the 5% threshold once in a single year. CEO Chaset further explained that for the current year, although Ava is above the carbon-free target due to high hydro deliveries, it is slightly below the renewable target, which could result in a significant reduction in carbon content and a potential net income increase due to lower renewable deliveries.

**(19:43) Member Kalb** asked CEO Chaset about Ava's renewable energy targets compared to PG&E. Chaset confirmed that Ava's renewable energy quantity is above the Renewable Portfolio Standard (RPS) requirement and more than 5% above PG&E's requirement. Member Kalb also asked if meetings with the California Solar and Storage Association (CalSSA) regarding the net billing tariff (NEM 3.0) were productive, to which CEO Chaset said yes.

**(22:21) Chair Marquez** confirmed with CEO Chaset that the decision on allocating additional funding will return to the board for further discussion, with an updated forecast and direction on setting the waterfall expected in January.

**(23:47) Public Comment – Jessica Tovar** criticized the proposed 50/50 split of \$4.75 million for building credits as inequitable and unethical, noting it disproportionately benefits commercial and municipal accounts over residential ones. Jessica Tovar emphasized the community's need for investment in resilience hubs and microgrids for energy resilience, and advocated for environmental justice, local hiring, the creation of fair-wage clean energy jobs and the reinvestment of Ava's earnings back into the community.

## 9. (27:30) CAC Chair Report

**The CAC Chair Report was not given at this time. The CAC Chair Report was given at 1:55:28.**

**10. (28:15) Audited Financial Statements for FY 2022-2023 (Informational Item)**

Present and review the results of the FY 2022-23 audited financial statements

**(36:05) Vice-Chair Balch** asked about significant areas of potential management judgment risk. Auditor Bradford identified the allowance for doubtful accounts as a key area. He also noted, however, that no impaired assets were identified.

**(39:30) Chair Marquez** questioned the need for board action on the audit. Counsel Khalsa and CEO Chaset clarified that the audit is usually accepted as an informational item and did not require formal board approval.

**11. (43:08) FY 2022-2023 Budget Surplus and Reserve Allocation (Action Item)**

Confirm and approval allocation of budget surplus

**(51:37) Member Roche** sought clarification on whether the board was merely receiving information on an action item set by an earlier policy. CEO Chaset confirmed that while the board had previously set the direction, the current discussion was to present the outcomes and confirm the board's understanding of the audit results and their implications based on the policy set in June 2022.

**(52:28) Vice-Chair Balch** inquired about the use of funds allocated for long-term renewable investments. CEO Chaset explained that these funds, potentially amounting to \$10.5 million, would be used to make economically viable projects, which might not be cost-effective under usual circumstances.

**(59:47) Member Kalb** inquired about Ava Community Energy's reserve levels. CEO Chaset clarified that Ava's reserves were below the 27% ratio against their operating budget. CEO Chaset further explained that Ava's policy, aligned with industry standards and recommendations from rating agencies, is to maintain reserves at 50% of the operating budget, a standard adopted by most Community Choice Aggregators.

**(1:01:33) Member Bedolla** inquired about the retention of local development funds. CEO Chaset explained that these funds are unevenly deployed, with some being reserved for future projects like charging stations. CEO Chaset confirmed that a discussion in January would provide indicative numbers for the fiscal year, which would be adjusted based on actual figures and the board's direction on fund allocation.

**There was no public comment for this item.**

**(1:05:36) Member Bauters motioned to approve the staff recommendation. Member Wright seconded the motion, which was approved 13/0/3. Yes: Members Tiedemann, Hu, Bauters, Roche, Barrientos, Jorgens, Kalb, Andersen, Wright, Bedolla, Patino, Vice-Chair Balch and Chair Marquez Excused: Bartlett, Cox and Gonzalez**

**12. (1:08:24) Levine Act (Informational Item)**

Summary of Levine Act

**(1:32:49) Member Bauters** expressed concern that the Levine Act potentially provides a “lack of knowledge about funding sources” excuse to exempt public officials from the law’s stipulations. Counsel Khalsa acknowledged this perspective and advised that, despite the law’s provisions, it would be prudent and less risky for public officials to actively know their contributors to avoid any potential legal issues or misunderstandings.

**(1:34:32) Member Kalb** requested a list of energy companies that Ava Community Energy has dealt with or considered, which are relevant to the law, in the past 12 months or upcoming. CEO Chaset responded by acknowledging the complexity of providing a comprehensive list but agreed to follow up on the contracts with those companies. CEO Chaset suggested that staff will discuss the applicability of the law to the contracts they have entered into and then disclose this information to board members.

**13. (1:37:48) SunZia Project Expansion (Action Item)**

Seeking Board Approval to increase the size of the SunZia project agreement

Marie Fontenot, leading the Power Resources team at Ava, presented the item.

**(1:49:52) Public Comment: Jessica Tovar** from the East Bay Clean Power Alliance emphasized concerns about the procurement of out-of-state energy, stating that it does not provide local jobs within the territory. Jessica Tovar advocated for more local energy production to minimize energy loss and eliminate the need for distant transmission. She also emphasized the importance of local energy projects for workers in California.

**(1:54:11) Member Wright motioned to approve staff’s recommendation. Member Barrientos seconded the motion, which was approved 13/0/3.**

**Yes: Members Tiedemann, Hu, Bauters, Roche, Barrientos, Jorgens, Kalb,**

**Andersen, Wright, Bedolla, Patino, Vice-Chair Balch and Chair Marquez**

**Excused: Bartlett, Cox and Gonzalez**

**(1:55:28) Return to Item 9: CAC Chair Report**

CAC Vice-Chair Hernandez delivered the CAC Chair Report. The CAC met on Monday, November 6, and discussed various issues and received public comments.

Vice Chair Hernandez stated that the CAC received public comments asking for status updates about the \$15 million grant, the building purchase and unspent local development funds. Additional concerns included the need for more information on rates for commercial and industrial customers, special rates for small local businesses, and a correction to a press release.

Vice-Chair Hernandez reported that some CAC members expressed concerns that not all Ava Community Energy shwag included the full "Community Energy" branding.

The Vice-Chair stated that the committee reviewed the workforce guidelines and policy, including a letter signed by about 50 organizations advocating for environmental justice considerations in project development.

Vice-Chair Hernandez reported that the CAC discussed the Budget Surplus and Reserve Allocation. The CAC showed support for the staff recommendation with five members in favor and three abstaining.

**(1:58:27) Public Comment: Jessica Tovar** expressed disappointment that the name "Community Energy" was not consistently used in the branding and materials of Ava Energy. She noted that the previous logo and name clearly indicated a focus on clean energy, which she feels is now less apparent. Additionally, Jessica Tovar shared her confusion upon encountering a website named AvaEnergy.com, which she initially thought was the agency's website but then realized it was not. This experience led her to suggest that using "AvaCommunityEnergy.org" would have been a preferable choice for the agency's website to avoid such confusion, and she anticipates others might face similar issues differentiating between ".org" and ".com" domains.

**14. (2:00:11) Board Member and Staff Announcements including requests to place items on future Board agendas**

**There were no Board Member or Staff Announcements.**

**15. (2:00:13) Executive Committee Closed Session**

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

**16. (3:08:02) General Report Out of Closed Session**

**There were no items to report out of Closed Session.**

**17. Adjourn at 9:08pm**

The next Board of Directors meeting will be held on Wednesday, December 20, 2023 at 6:00 pm.