

Butte Choice Energy Authority

Board of Directors Special Meeting Wednesday, February 16, 2022, 6:00 pm Virtual Meeting

Butte Choice Energy (BCE) Board meetings are accessible to people with disabilities. Individuals who need special assistance or a disability-related modification or accommodation to participate in this meeting, or who have a disability and wish to request an alternative format for the meeting materials, should contact ButteChoiceEnergyCOB@buttecounty.net.

If you have anything that you wish to be distributed to the Board please hand it to a BCE interim staff member who will distribute the information to the Board members and other staff.

Coronavirus (COVID-19) Advisory Notice: The health and safety of community members, public officials and employees is a top priority for BCEA. Members of the BCEA Board and BCEA staff will be participating in person, electronically, or via teleconference in this meeting in compliance with waivers to certain provisions of the Ralph M. Brown Act provided for under Government Code section 54953(e)(1)(A) in relation to the COVID-19 state of emergency and recommended social distancing measures. Chambers are open to the public. Pursuant to CDPH guidelines, face masks are required of individuals regardless of vaccination status against COVID-19. Entering the chambers without a mask will be considered a self-attestation that an individual is fully vaccinated. Anyone may choose to continue wearing a mask, regardless of vaccination status.

Remote Public Participation:

A) How to watch/participate in the meeting via WebEx:

Meeting Link:

<https://countyofbutte.webex.com/countyofbutte/onstage/g.php?MTID=e668897df5b09577f105904f8eabd9a51>

Event Number: 2484 036 2702

Meeting Password: BcE02-16-22

Attendees will be admitted into the meeting beginning at 5:45 pm the day of the meeting.

B) How to provide public comment:

- a) Before the meeting: email your comments to ButteChoiceEnergyCOB@buttecounty.net no later than noon on Wednesday, February 16, 2022 and they will be forwarded to the Board and included in the public record. Be sure to include the agenda item number you are addressing, as well as your full name and address.
- b) During the meeting: email your comment to ButteChoiceEnergyCOB@buttecounty.net and your comment will be read verbatim into the record. Members of the public may also provide public input during the meeting by participating via the meeting link above.

Individuals who need special assistance or a disability-related modification or accommodation to participate in this meeting, or who have a disability and wish to request an alternative format for the meeting materials, should contact ButteChoiceEnergyCOB@buttecounty.net as soon as possible to ensure arrangements for accommodation.

1. **Call to Order**

a. **Pledge of Allegiance**

2. **Corrections and/or Changes to the Agenda**

3. **Public Comment for Items Not on the Agenda**

This item is reserved for persons wishing to provide comment to the Board on any BCEA-related matters that are not otherwise on this meeting agenda but in the jurisdiction of the Board of Directors. Public comments on matters listed on the agenda shall be at the time the matter is called. Public comments from members of the public that are read at this meeting will be limited to 300 words.

4. **Consent Agenda**

a. **Resolution Authorizing Continued Teleconference Meetings**

Requested Action: Approve resolution authorizing remote teleconferencing meetings for the period of February 16, 2022 through March 17, 2022 pursuant to the Ralph M. Brown Act, and authorize Chair to sign.

b. **Approval of Minutes from October 11, 2021 Board Meeting**

Requested Action: Approve the Minutes from the October 11, 2021 Board Meeting.

5. **Regular Agenda**

a. **Resolution Regarding BCEA's 2022 Regular Meeting Schedule**

Requested Action: Approve resolution adopting the Board of Directors regular meeting schedule for calendar year 2022.

b. **Technical Consultant Request for Proposal Update**

Requested Action: Form ad hoc committee regarding technical consultant request for proposals (RFP), and appoint two Directors to participate in the review and ranking of the proposals and on the panel that will hear presentations.

6. **Board Member and Staff Announcements**

Board Members may briefly provide information to other members of the Board and the public, ask questions of staff, request an item to be placed on a future agenda, or report on conferences, events or activities related to BCEA business. There is to be no action taken on comments made by Directors unless authorized by law.

7. **Adjournment**

Public records that relate to any item on the open session agenda for Board meeting are available on the BCEA website at www.buttechoiceenergy.org. Public records that are distributed less than 72 hours prior to the meeting will be posted for public review at the same time they are distributed to all members, or a majority of the members of the Board.

BUTTE CHOICE ENERGY AUTHORITY

Staff Report – Item 4a

To: Butte Choice Energy Authority (BCEA) Board of Directors

From: Brian Ring, BCEA Interim Co-Executive Officer and Assistant Chief Administrative Officer, County of Butte
Erik Gustafson, BCEA Interim Co-Executive Officer and Public Works Director, City of Chico

Subject: Resolution Authorizing Continued Teleconference Meetings

Date: Feburar 16, 2022

Recommendation

Approve resolution authorizing remote teleconferencing meetings for the period of February 16, 2022 through March 17, 2022 pursuant to the Ralph M. Brown Act, and authorize Chair to sign.

Background

On March 17, 2020, Governor Newsom issued Executive Order N-29-20, which suspended and modified the teleconferencing requirements under the Ralph M. Brown Act (the "Brown Act") to allow local legislative bodies to hold public meetings via teleconference without meeting the traditional teleconference standards of the Brown Act as a result of the COVID-19 pandemic. On September 16, 2021, Governor Newsom signed AB 361 to amend the Brown Act to allow legislative bodies to utilize alternative standards for teleconference meetings during a proclaimed state of emergency when (1) state or local officials impose or recommend social/physical distancing or (2) the body meets for the purpose of deciding or has met to decide by majority vote that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees. The legislative body is required to reconsider and extend the findings every thirty (30) days to continue to meet via teleconferencing under the alternative standards.

If the Board desires to continue to have the ability to meet remotely via teleconference, the Board is required to adopt a resolution making the findings required by AB 361. This resolution would be effective through March 17, 2022 or such time the Board adopts a subsequent resolution to continue this ability.

RESOLUTION OF THE BUTTE CHOICE ENERGY AUTHORITY BOARD OF DIRECTORS AUTHORIZING REMOTE TELECONFERENCE MEETINGS FOR THE PERIOD OF FEBRUARY 16, 2022 THROUGH MARCH 17, 2022 PURSUANT TO THE RALPH M. BROWN ACT

WHEREAS, all meetings of the Board of Directors (the “Board”) and its legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov’t Code § 54950 *et seq.*), so that any member of the public may attend, participate and view the legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions and requirements; and

WHEREAS, Government Code section 54953(e) requirements include but are not limited to (1) the existence of a state of emergency declared by the Governor pursuant to Government Code section 8625 and (2) State or local officials have imposed or recommended measures to promote social distancing; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom issued a Proclamation of State of Emergency in response to the COVID-19 pandemic and as of the date of this Resolution, the proclaimed state of emergency remains in effect; and

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20, which suspended and modified the teleconferencing requirements under the Brown Act to allow local legislative bodies to hold public meetings via teleconference; and

WHEREAS, on June 11, 2021, the Governor issued Executive Order N-08-21, which extended the provisions of N-29-20 concerning the conduct of public meetings through September 30, 2021, and the Governor subsequently signed legislation revising Brown Act requirements for teleconferenced public meetings (Assembly Bill 361, referred to hereinafter as “AB 361”); and

WHEREAS, to preserve public health and safety, the State Public Health Officer has issued various orders and guidance regarding COVID-19 prevention measures, which include references and a statement of support for social distancing recommendations (*see, e.g., Guidance for Use of Face Coverings*, revised January 5, 2022 and *COVID-19 Public Health Recommendations for Fully Vaccinated People*, dated October 28, 2021); and

WHEREAS, the California Department of Industrial Relations has issued COVID-19 prevention regulations in Title 8 of the California Code of Regulations (section 3205 *et seq.*), which requires employers to (1) have a written COVID-19 prevention program including employee training that promotes physical distancing as an infection prevention measure, and (2) consider implementing physical distancing where feasible as a response to COVID-19 outbreaks; and

WHEREAS, based on the foregoing, the Board finds that (1) the Governor’s Proclaimed State of Emergency as a result of the COVID-19 pandemic is currently in effect and has not been terminated, and (2) State officials have imposed or recommended measures to promote social distancing; and

WHEREAS, on October 11, 2021, the Board of Directors previously adopted a resolution finding that the requisite conditions existed for the Board of Directors and its legislative bodies to conduct remote teleconference meetings without compliance with Government Code section 54953(b)(3), as authorized by Section 54953(e); and

WHEREAS, as a condition of extending the use of the teleconferencing provisions for another 30 days beyond the resolution adopted on October 11, 2021, pursuant to Government Code section 54953(e), the Board of Directors must reconsider the circumstances of the state of emergency that exists and find that either the state of emergency continues

to directly impact the ability of the members to meet safely in person or state or local officials continue to impose or recommend measures to promote social distancing; and

WHEREAS, the Board of Directors has reconsidered the circumstances of the continuing state of emergency and finds that state or local officials continue to impose or recommend measures to promote social distancing, based on (1) the State Public Health Officer's issuance of various orders and guidance regarding COVID-19 prevention measures, which include references and a statement of support for social distancing recommendations and, (2) California Department of Industrial Relations regulations related to COVID-19 prevention, continuing to remain in effect; and

WHEREAS, in light of the foregoing, the Board desires to continue to have the flexibility to meet via tele/video conference and the Board finds that it and its legislative bodies shall be permitted to conduct their meetings by teleconferencing without compliance with Government Code section 54953(b)(3) pursuant to section 54953(e), and such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed by section 54953(e)(2).

NOW, THEREFORE, BE IT RESOLVED, FOUND AND ORDERED by the Butte Choice Energy Board of Directors as follows:

1. The facts set forth in the above recitals are true and correct and incorporated into this resolution.
2. The Butte Choice Energy Authority Board of Directors has reconsidered the circumstances of the state of emergency that continues to exist and was proclaimed by Governor Newsom through a State of Emergency Proclamation on March 4, 2020.
3. The Board finds that State officials continue to impose or recommend measures to promote social distancing based on (1) the State Public Health Officer's guidance and recommendations supporting social distancing and the Department of Industrial Relations' issuance of COVID-19 prevention regulations.
4. Under the present circumstances, the Board and any of its legislative bodies are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.
5. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) March 17, 2022 or (ii) such time the Board adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which its legislative bodies may continue to teleconference without compliance with Section 54953(b)(3).

PASSED AND ADOPTED by the Butte Choice Energy Board of Directors this 16th day of February, 2022, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Chair
Butte Choice Energy Authority Board of Directors

ATTEST:
Kalya Reaster, Clerk

By: _____

BUTTE CHOICE ENERGY AUTHORITY

Staff Report – Item 4b

To: Butte Choice Energy Authority (BCEA) Board of Directors

From: Brian Ring, BCEA Interim Co-Executive Officer and Assistant Chief Administrative Officer, County of Butte
Erik Gustafson, BCEA Interim Co-Executive Officer and Public Works Director, City of Chico

Subject: October 11, 2021 BCEA Board Meeting Minutes Approval

Date: February 16, 2022

Recommendation

Approve the October 11, 2021 BCEA Board meeting minutes.

Butte Choice Energy Authority

MINUTES

October 11, 2021

1. CALL TO ORDER

The meeting was held virtually, and in-person.

Present: Debra Lucero, Butte County Board of Supervisor, District 2 (Virtual)
Doug Teeter, Butte County Board of Supervisor, District 5
Alex Brown, Chico City Council (Virtual)
Scott Thomson, Vice-Mayor of Oroville (Virtual)
Brian Ring, Interim Executive Director
Erik Gustafson, Interim Executive Director
Ryan Baron, General Counsel (Virtual)
Kayla Reaster, Interim Clerk of the Board

Absent: Chuck Reynolds, Oroville Mayor

2. PUBLIC COMMENT

PUBLIC COMMENT WAS OPENED AND CLOSED WITHOUT ANY SPEAKERS.

3. CONSENT AGENDA

MOTION: APPROVE THE CONSENT AGENDA.
(MOTION: BROWN; SECOND: THOMPSON)

VOTE: MOTION PASSED 4-0-1
AYES: BROWN, TEETER, THOMPSON, AND CHAIR LUCERO,
NAYS: NONE
ABSENT: Reynolds

a. Minutes from August 9, 2021 Board Meeting

Board action: Minutes approved.

4. REGULAR AGENDA

A) Chair and Vice Chair Selection

Motion: Nominate Debra Lucero as Chair, and Alex Brown as the Vice Chair.

Vote 4-0-1

Ayes: Brown, Teeter, Thomson, Chair Lucero

Nays: None

Absent: Reynolds

B) Community Choice Aggregation – General Market Update

Erik Gustafson, Interim Executive Director, presented this item.

Update received - Mr. Gustafson and staff still believes launching a Community Choice Aggregation is feasible, and there is still an appetite to do so. No action required.

C) Professional Service Contracts Review

Brian Ring, Interim Executive Director, presented this item.

Board directed a Selection Committee to be formed at a later date after talking with consultants.

5. BOARD MEMBER AND STAFF ANNOUNCEMENTS None.

5. Closed Session

- a. Public Employee personnel Evaluation Brian Ring and Erik Gustafson, Interim Executive Directors

6. ADJOURNMENT

There being no further business before the Butte Choice Energy Authority, the meeting adjourned. The Butte Choice Energy Authority will reconvene at the next regular meeting.

ATTEST:

Kayla Reaster

Secretary and Clerk of the Board

Debra Lucero, Chair

Butte Choice Energy Authority

BUTTE CHOICE ENERGY AUTHORITY
Staff Report – Item 5a

To: Butte Choice Energy Authority (BCEA) Board of Directors

From: Brian Ring, BCEA Interim Co-Executive Officer and Assistant Chief Administrative Officer, County of Butte
Erik Gustafson, BCEA Interim Co-Executive Officer and Public Works Director, City of Chico

Subject: Adoption of 2022 Board Meeting Schedule and Location

Date: February 16, 2022

Recommendation

Adopt a resolution to establish a regular day, time and location for Butte Choice Energy Authority (BCEA) Board Meetings for the year 2022

Background

Section 4.7 of the BCEA Joint Powers Agreement states that the date, hour, and place of each regular meeting shall be set annually by resolution of the Board. In 2021, many meetings were held virtually due to the COVID-19 pandemic. Staff is prepared to continue this practice as long as required, but would like to return to in-person meetings as soon as is safe and permissible.

The current goal for Butte Choice Energy Authority is to launch operations in calendar year (CY) 2024. Final determination with regard to a 2024 launch date must be decided in mid CY 2022, followed by the filing of an Implementation Plan with the California Public Utilities Commission by the end of CY 2022. A Request for Proposal was published in January 2022 and the goal is to identify a technical consultant to assist BCEA with this work, in early spring 2022.

Analysis and Discussion

BCEA Board meetings have been held on the second Monday of the month at 5:30 pm. This schedule seems to work well and staff proposes maintaining that day and time. Given the work that needs to be conducted in 2022, staff recommends that we calendar monthly meetings. Meetings will be held at the Butte County Association of Governments office located at 326 Huss Lane in Chico, and also be available remotely given the current restrictions in place regarding COVID-19.

The following is the list of 2022 Regular Board meeting dates:

March 14, 2022
April 11, 2022
May 9, 2022
June 13, 2022

July 11, 2022
August 8, 2022
September 12, 2022
October 10, 2022
November 14, 2022
December 12, 2022

Attachment A: Resolution establishing BCEA's 2022 Board of Directors Regular Meeting Schedule.

RESOLUTION NO. 2022-01

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BUTTE CHOICE ENERGY AUTHORITY ESTABLISHING ITS REGULAR MEETING SCHEDULE FOR CALENDAR YEAR 2022

A. Butte Choice Energy Authority (“BCEA”) is a joint powers agency formed pursuant to the Joint Exercise of Powers Act (Cal. Gov. Code § 6500 *et seq.*, California Public Utilities Code § 366.2, and the *Butte Choice Energy Joint Powers Agreement*, effective November 5, 2019 (“JPA Agreement”).

B. The Ralph M. Brown Act (Cal. Gov. Code § 54950 *et seq.*) provides that the legislative body of each local agency shall provide, by ordinance, resolution, bylaws, or other rule, the time and place for holding its regular meetings.

C. Section 4.7 of the JPA Agreement provides that the “date, hour, and place of each regular meeting shall be fixed annually by resolution of the Board.”

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of Butte Choice Energy as follows:

Section 1. For calendar year 2022, regular meetings of the Board of Directors shall take place on the first Monday of each month on the dates set forth below, and shall begin at 5:30 pm. All regular meetings shall take place at the Butte County Association of Governments office located at 326 Huss Lane, Suite 100, Chico, CA 95928; provided that pursuant to AB 361 related to COVID-19 (or any additional Executive Orders issued or statutory changes made after the effective date of this Resolution), BCEA’s meetings may be held fully or partially by videoconference or teleconference as authorized by applicable law.

REGULAR MEETING DATES

March 7, 2022

April 4, 2022

May 2, 2022

June 6, 2022

July 4, 2022

August 1, 2022

September 5, 2022

October 3, 2022

November 7, 2022

December 5, 2022

Section 2. The Board of Directors shall have the power to change the time or location of any regular meetings by amending or replacing this resolution, or cancel such meetings, or call special meetings with proper notice. Special and adjourned meetings of the Board of Directors

may be called and held in the manner authorized in the Ralph M. Brown Act (Cal. Gov. Code § 54950 *et seq.*), as may be amended from time to time.

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED at a meeting of the Board of Directors of Butte Choice Energy held on February 16, 2022.

Debra Lucero, Chair
Butte Choice Energy Authority

Secretary
Butte Choice Energy Authority

AYES: __

NAYS: __

ABSENT: __

ABSTAIN: __

BUTTE CHOICE ENERGY AUTHORITY

Staff Report – Item 5b

To: Butte Choice Energy Authority (BCEA) Board of Directors

From: Brian Ring, BCEA Interim Co-Executive Officer and Assistant Chief Administrative Officer, County of Butte
Erik Gustafson, BCEA Interim Co-Executive Officer and Public Works Director, City of Chico

Subject: Technical Support and Professional Service Contracts Review

Date: February 16, 2022

Recommendation

Form an ad hoc committee regarding technical consultant request for proposals (RFP), and appoint two Directors to participate in the review and ranking of the proposals and on the panel that will hear presentations.

Background

At the October 11, 2021 Butte Choice Energy Authority Board of Directors meeting, staff were directed to publish a request for proposals (RFP) to identify technical consultant candidates who could be retained to assist BCEA with its launch activities. The RFP was published on January 3, 2022 with proposals due on February 11, 2022.