

## MINUTES

IN ATTENDANCE	Gordon Collins, Suzy Cossette, Christine Costamagna (Secretary), Luis dos Reis, Ray Hixson, Cheri King, Michelle Nicholson, Andrea Norman, Craig Pasqua, Jason Scalese (President), Jack Walker (Treasurer), Keith Wheeler (Delegate/Parliamentarian), Scott Winn
ABSENT	Joshua Conlin, Martha Ehrenfeld, Pam Sloan (President-elect)
ADVISORY DIRECTORS	Michael Cooke
NORCAL STAFF	Summer Verhoeven, Executive Director; Darren Wenger, Director of Strategy and Operations
LEGAL COUNSEL	Jonathan Madison, Esq., The Madison Firm
GUESTS	None
CALL TO ORDER	6:33 PM

**I. Call to Order**

President Scalese called the meeting to order once a quorum was established.

**II. Introduction of Guests**

President Scalese noted that there were no guests.

**III. Reading of the NorCal Mission Statement**

Mr. Hixson read the USTA NorCal Mission Statement.

**IV. Public Comments**

It was noted that there were no public comments.

**V. Approval of Agenda**

President Scalese then asked for any changes to the agenda. Ms. Costamagna moved to approve the agenda which was seconded by Ms. Norman. The motion passed by a vote of 11 in favor, 0 opposed, 0 abstentions.

**VI. New and Renewing Organization Member Report**

President Scalese called upon Mr. Wenger to present the report of new and renewing Organization Members that was included in the meeting material so that the Board may fulfill its obligation to review such report pursuant to the Bylaws. Mr. Wenger reviewed the report by commenting on the new and renewals. He responded to a question concerning the validation of court numbers. A brief discussion also ensued around Rollingwood and Santa Clara.

**VII. Committee Updates**

Executive Committee

President Scalese noted that the Executive Committee met on August 23 to address one action item that could not wait until the September Board meeting. The Executive Committee approved the appointment of

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Mike Dickey as a member of the Audit Committee. Mr. Hixson suggested consideration of whether the Board needs to confirm the appointment.

## Nominating Committee Update

President Scalese provided an update from the Nominating Committee regarding the upcoming election. He noted that there were 8 candidates, one of which pulled out and the other who did not make the slate. He also noted that there will likely be a vacancy to fill.

Mr. Winn joined the meeting during this presentation.

## VIII. Committee Action Items

### Adult Tournament Committee

President Scalese called upon Ms. Verhoeven to present the Adult Tournament action item. Ms. Verhoeven reported that the Open Series stipend is geared to increase Open tournaments and increase unique and tournament participation. She noted that this request is to award a stipend to Sutter Lawn Swim & Tennis Club.

Mr. Reis moved to approve the stipend resolution which was seconded by Mr. Wheeler. A brief discussion ensued concerning the rationale and other tournament candidates. Then, by a vote of 11 in favor, 0 opposed, 1 abstention, the Board approved the following resolution:

**RESOLVED:** That, effective immediately, the 3rd round of Adult Tournament Stipends recommended by the Adult Tournament Committee are hereby approved and awarded to the following organization:

- Sutter Lawn Swim & Tennis Club awarded Adult Open Stipend Silver Level (\$2,500) for the October 8-9, 2022 tournament.

### Constitution and Rules Committee

President Scalese called upon Mr. Hixson to review the proposed bylaw amendments.

#### **Amendment 1 - Audit Committee:**

Mr. Hixson began by noting that this proposal requires the Board to appoint an Audit Committee. He reported that the California Government Codes requires California public benefit corporations with annual gross revenues equal to or greater than \$2 million to have an Audit Committee appointed by the Board. He noted that the Code has specific, detailed requirements but because of the possibility that there could be changes in the Code over time, the proposed amendment simply requires the Board to appoint such committee "in a manner consistent with applicable law."

Ms. Norman moved to recommend support of this proposal which was seconded by Mr. Reis. By a vote of 12 in favor, 0 opposed, 0 abstentions, the Board approved supporting this proposal:

(Note: Underlining shows proposed additions. ~~Strikethrough~~ shows proposed deletions.)

Amend Article VII, Section B as follows:

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## ARTICLE VII BOARD OF DIRECTORS

**Section B. Powers of the Board.** The power of the Board of Directors shall include, without limitation, the following:

To perform any act required by these Bylaws.

To prescribe and enforce rules, which it shall deem necessary or convenient to serve the requirements of these Bylaws, and other such rules as it shall deem proper.

To appoint and remove at its pleasure the Executive Director of NorCal who shall be responsible for implementing Board decisions, the management of NorCal's programs and the hiring and termination of its personnel.

To manage the business of NorCal.

To authorize all necessary expenditures, provided; however, the Board, in its discretion, may delegate the authorization of expenditures, not exceeding the sum of \$999.99 for any single expense or group of expenses, to any of NorCal's officers or employees.

In addition, when required by law, the Board shall appoint (in a manner consistent with applicable law) an Audit Committee.

### **Amendment 2 - Board Authority & Expenditure Limitations:**

Mr. Hixson noted that this proposal removes language that describes expenditures as a Board power, which could be interpreted to mean that the Board of Directors must individually approve all expenditures. He noted that limits are being removed, and that language is added confirming the Board's inherent power/responsibility to direct NorCal activities and affairs in general, and with respect to budgets.

Ms. Norman moved to recommend support of this proposal which was seconded by Ms. Nicholson. By a vote of 12 in favor, 0 opposed, 0 abstentions, the Board approved supporting this proposal:

(Note: Underlining shows proposed additions. ~~Strikethrough~~ shows proposed deletions.)

Amend Article VII, Section B as follows:

## ARTICLE VII BOARD OF DIRECTORS

**Section B. Powers of the Board.** Subject to the provisions and limitations of the California Nonprofit Public Benefit Corporation Law and any other applicable laws, and subject to any limitations of the Articles of Incorporation and these Bylaws, the activities and affairs of NorCal shall be conducted, and all corporate powers shall be exercised, by or under the direction of the Board of Directors. The Board of Directors may delegate the management of the activities of NorCal to any person or persons, management company, or committees, however composed, provided that the activities and affairs of NorCal shall be managed and all corporate powers shall be exercised under the ultimate direction of the Board of Directors. The power of the Board of Directors shall include, without limitation, the following:

To perform any act required by these Bylaws.

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To prescribe and enforce rules, which it shall deem necessary or convenient to serve the requirements of these Bylaws, and other such rules as it shall deem proper.

To appoint and remove at its pleasure the Executive Director of NorCal who shall be responsible for implementing Board decisions, the management of NorCal's programs and the hiring and termination of its personnel.

To manage the business of NorCal.

To direct, review, and approve budgets, and review NorCal's performance against goals, objectives, and budgets.

~~To authorize all necessary expenditures, provided; however, the Board, in its discretion, may delegate the authorization of expenditures, not exceeding the sum of \$999.99 for any single expense or group of expenses, to any of NorCal's officers or employees.~~

Ms. King joined the meeting.

### **Amendment 3 - Adoption/Amendment/Repeal of Bylaws/Constitution:**

With respect to this proposal, Mr. Hixson noted that this proposed amendment would permit the Board by a two-thirds super-majority (or unanimous written consent) to adopt/amend/repeal the Bylaws for limited reasons (to extent necessary or appropriate to ensure compliance or consistency with applicable law or with requirements imposed by USTA). He noted that it would be in an organization's best interest to have an option to take such actions without the very large undertaking involved in holding an Organization Members' meeting involving 390 (as of August 2022) Organization Members. He reported that generally, California law would permit a provision that the Board could take such actions by a majority vote but due to the significance of amending the Bylaws, it is being recommended that such action require a super majority vote of 2/3 of the Board (or unanimous written consent).

Mr. Winn moved to recommend support of this proposal which was seconded by Ms. Cossette. A discussion ensued around the number of directors needed to approve a change, who can propose a change and notice requirements. The Board also discussed the minor typographical changes to the proposed amendment and communicating those to the Organizational Members. Ms. Norman also asked about the Executive Committee authority with respect to this amendment and Mr. Hixson noted that he would need to confer with outside counsel. Then, by a vote of 13 in favor, 0 opposed, 0 abstentions, the Board approved supporting this proposal:

(Note: Underlining shows proposed additions. ~~Strikethrough~~ shows proposed deletions.)

Amend Article XII to insert a new Section A, re-titling former Section A as a new Section B, to read as follows:

### **ARTICLE XII. ARTICLE XII ADOPTION, AMENDMENT AND REPEAL OF BYLAWS AND/OR CONSTITUTION**

**Section A. By the Board of Directors.** The Board of Directors may by a vote of two-thirds of the Directors present at a meeting at which a quorum is present, or by unanimous written consent, adopt, amend, or repeal the Bylaws and/or Constitution of NorCal to the extent necessary or appropriate to ensure compliance or consistency with applicable law or with requirements imposed by USTA; provided, however,

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that the Board may not adopt, amend, or repeal the Bylaws in any manner that would require approval of the Organization Members under applicable law.

## **Section AB. By Organization Members.**

**1. Process for Submitting a Proposed Amendment of Bylaws.** A proposed new Bylaw or amendment to the Constitution or Bylaws for consideration by the Organization Members may be submitted only by three or more members of the Board of Directors or by the chair of the Constitution and Rules Committee upon a majority vote of that Committee, or by any Organization Member of NorCal.

All proposals must be submitted to the President and Executive Director of NorCal at least 60 days prior to the meeting at which they are to be considered. However if notice is provided to all Organization Members at least 15 days prior to that meeting, any proposal concerning a matter of extreme urgency which could not have been foreseen 60 days prior to the meeting may be considered provided such proposal be determined to be of extreme urgency by a majority vote of the members present and voting.

Providing there is opportunity to do so, the Board of Directors will, by majority vote, make a recommendation in support or in opposition to each proposal. This recommendation shall be sent to the Organization Members for the meeting at which they are to be considered. Proxies made out in blank, or to NorCal, the Secretary of NorCal or a staff member of NorCal, either by name or title, shall be voted in accordance with that recommendation.

**2. Voting.** The Constitution and Bylaws of NorCal may be adopted, amended or repealed at any Annual or Special Meeting of the Organization Members of NorCal by the affirmative vote of at least two-thirds of all the votes cast at said meeting, provided written notice which specifies the proposed change or changes, is given to all Organization Members at least 15 days prior to such meeting. Any such amendment ultimately adopted at said meeting need not conform to the language of the proposed amendment, but sections and articles other than those referred to in the notice may not be amended.

### **Amendment 4 - Board Vacancy**

Mr. Hixson noted that this change is necessitated by requirements of the California Corporations Code. He indicated that essentially the Board may vote to declare the director's seat vacant (i.e., and then follow other Bylaw provisions to fill the vacancy) instead of 4 absences causing automatic removal. With this proposal, he noted that the Board retains discretion to determine under the circumstances of each situation what actions are most appropriate and in NorCal's best interest.

Ms. Norman moved to recommend support of this proposal which was seconded by Ms. Nicholson. By a vote of 13 in favor, 0 opposed, 0 abstentions, the Board approved supporting this proposal:

(Note: Underlining shows proposed additions. ~~Strikethrough~~ shows proposed deletions.)

Amend second paragraph of Article VII, Section K to read as follows:

### **Section K. Removal of Director.**

**Conduct Detrimental to NorCal.** A director may be removed from office at the Annual Meeting or at a Special Meeting of the Organization Members, following a hearing by the Organization Members of the charge of conduct detrimental to NorCal. Such charge must be in writing and be made by 15 percent of the

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number of Organization Members or by seven directors. At the hearing, the director whose removal is sought shall be entitled to be present and shall be afforded every opportunity to present evidence tending to rebut such charge. The director shall not be removed if the votes cast against removal would be sufficient to elect the director if voted cumulatively at an election that the same total number of votes was cast and the entire numbers of directors authorized at the time of the most recent election were then being elected.

**Specified Number of Absences.** The Board may declare the Board seat of anyA director who is absent from four Board meetings in any 12-month period vacant and the Director may be removed from office. ~~shall be deemed to have resigned, unless within 15 days following the fourth absence the director submits a written explanation for the absences to the Board. A hearing before the Board will be held if requested by the director. If the Board accepts the explanation by a majority vote of those voting, said director shall be reinstated.~~

## **Eliminating Robert's Rules of Order Mandates for Board Meetings & Organization Meetings**

With respect to this proposal, Mr. Hixson noted that it is not best practice for a nonprofit to incorporate Robert's Rules of Order as mandatory in our Bylaws. And, if included, it has the effect of adding several hundred pages of requirements to the Bylaws that can expose the organization to potential challenges if Robert's Rules are not strictly followed. He noted that Robert's Rules of Order can be used as a guideline.

Ms. Norman moved to recommend support of this proposal which was seconded by Mr. Pasqua. By a vote of 13 in favor, 0 opposed, 0 abstentions, the Board approved supporting this proposal:

(Note: Underlining shows proposed additions. ~~Strikethrough~~ shows proposed deletions.)

Part I. Delete the fourth paragraph of Article VII, as follows:

### **Section M. Board Meetings.**

**Regular Meetings.** There shall be Regular Meetings of the Board of Directors at such time, place, and on such day as may be adopted by resolution of the Board or set by the President. Notice of such meetings shall be given by the staff.

**Special Meetings.** Special Meetings of the Board of Directors may be called at any time by the President or by five members of the Board. The members calling the special meeting must provide to the Board a written statement explaining the need for a special meeting. At least five days' written notice of such special meeting shall be given by the Secretary, which notice shall specify the purpose of the meeting.

**Quorum and Voting.** A quorum for the transaction of business shall consist of nine members of the Board of Directors, and a majority of those voting shall have the power to do any act, except as herein otherwise provided or as required by law. Proxy voting on the Board of Directors shall not be allowed for any purpose.

~~**Robert's Rules of Order.** Except as otherwise provided in these Bylaws, Robert's Rules of Order shall be the rules of order for all meetings of the Board of Directors.~~

Part II. Delete Article V, Section G, as follows:

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~~Section G. Robert's Rules. Except as otherwise provided in these Bylaws, Robert's Rules of Order shall be the rules of order for meetings of NorCal.~~

## **Amendment 5 - Direct Board Involvement in Sanctioned Events**

Mr. Hixson noted that with respect to this proposal, this Article is contradictory to best practice and does not need to be in the Bylaws. He noted that these types of decisions would normally be delegated to staff and/or committees with a clearly defined scope of authority. He reported that another benefit of this amendment is that it helps to avoid potential conflicts of interest that Board members may have with respect to functioning as a decision maker on such decisions (e.g., tournament sanctions involving the tennis club of a director). He also noted that a January 1, 2023 effective date is suggested to allow the Board time to establish an alternative appeal process to what is stated in Section B which is better suited for addressing via Board policy, rather than a Bylaw provision.

Mr. Winn moved to recommend support of this proposal which was seconded by Ms. Nicholson. By a vote of 13 in favor, 0 opposed, 0 abstentions, the Board approved supporting this proposal:

(Note: Underlining shows proposed additions. ~~Strikethrough~~ shows proposed deletions.)

Delete Article XI in its entirety, and renumber the remaining Article, and make corresponding section heading changes (article numbering and references throughout):

## ~~ARTICLE XI SANCTIONED EVENTS~~

~~Section A. Sanctioned Tournaments. The Board of Directors shall designate the place for the holding of all tournaments sanctioned by NorCal, and shall set the dates for the same and apportion said tournaments among its Organization Members. The Board shall determine the fees to be charged by NorCal for the sanctioning of tournaments. Tournaments may be sanctioned, or sanctions may be denied or withdrawn, as the Board of Directors shall determine. The Board may empower the Sanction and Schedule Committee to act on its behalf on these matters.~~

~~Section B. Eligibility for a Tournament. The Board of Directors, in its discretion, and after a fairly conducted hearing if a hearing is requested, shall have the power to deny entry, in any sanctioned tournament or league event, of any player who has, in the opinion of the Board, violated any rule or regulation duly promulgated by the Board of Directors or by the USTA. The Sportsmanship and Adult Leagues Committees are empowered to act on behalf of the Board on these matters. Any player participating in a sanctioned event who is suspended for more than six months may appeal that suspension to the Board of Directors within 30 days of the suspension. In the event the player appeals, the Board of Directors shall have the power to affirm, modify or overturn any such decision. Any player who is suspended for six months or less may not appeal to the Board of Directors.~~

~~Section C. Governing Rules. All tournaments and league events held under the sanction of NorCal shall be governed by the rules and regulations of NorCal and the USTA.~~

## **IX. Treasurer's Report**

President Scalese called upon Mr. Walker to provide the Treasurer's report. Mr. Walker referred the directors to the financial reports included in the meeting material. He noted that a \$3 million surplus is anticipated. He commented on net income and timing issues. He reported that NorCal's cash position is strong. He also noted that the annual forecast is significantly ahead of plan and that the employee

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retention credits are not reflected. He concluded that the 2023 budgeting process is underway and will be presented to the Board on October 5. In response to a question, he noted that there were currently no major variances anticipated in next year's budget.

## X. **President's Report**

President Scalese briefly commented on the meetings he has attended particularly those related to Marketing and Constitution & Rules. He commented on discussions around the Hall of Fame. He also commented on the US Open and thanked those who were able to attend.

## XI. **Executive Director's Report**

President Scalese called upon Ms. Verhoeven to present her Executive Director Report. Ms. Verhoeven noted that overall participation numbers were trending positive and that leagues were exceeding expectations. A brief discussion ensued around unique participation. In addition, the Board briefly discussed National eliminating advance for JTT to which Ms. Verhoeven noted that NorCal is looking at re-envisioning this space.

Ms. Verhoeven then reviewed her report included in the meeting material. She briefly commented on the meetings at the US Open that pickle ball was a topic of discussion. She discussed the status of the tennis census survey. She provided updates from the Junior and Adult Competition departments. She noted upcoming community programs. She also commented on the marketing activities, including Hispanic Heritage Month. With respect to Operations, she commented on staffing updates and open positions. Mr. Wenger touched upon the election mailing and President Scalese encouraged Board members to seek out proxies to assist with quorum.

## XII. **Delegate's Report**

President Scalese called upon Mr. Wheeler to provide his Delegate's report. Mr. Wheeler provided an update on the call items (Officials Committee and elite athletes) all of which were approved at the USTA Semiannual Meeting in New York.

## XIII. **Closed Session**

The Board agreed to move into Closed Session at 8:32 pm. Mr. Cooke left the meeting.

The Board agreed to come out of Closed Session at 8:41 pm.

## XIV. **Old/New Business**

President Scalese noted that there was no old business.

Ms. Norman referred the Board to the 2023-2024 USTA Board of Directors slate and Nominating Committee slate. She reviewed both slates and reviewed the process around accepting the slates.

Ms. Norman moved to approve the 2023-2024 USTA Board of Directors slate which was seconded by Mr. Wheeler. By a vote of 13 in favor, 0 opposed, 0 abstentions, the Board approved the slate.

Mr. Wheeler moved to approve the 2023-2024 USTA Nominating Committee slate which was seconded by Ms. Costamagna. Ms. Norman recused herself from the vote. By a vote of 12 in favor, 0 opposed, 0 abstentions, the Board approved the slate.

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## XV. **Adjournment**

President Scalese noted that a special meeting to discuss the budget was scheduled for October 5. Then, on motion made by Mr. Walker and seconded by Ms. Costamagna, the Board unanimously agreed to adjourn the meeting at 8:51 pm.