



**SOUTHERN BASKETBALL ASSOCIATION
EXTRAORDINARY GENERAL MEETING**

MINUTES

Tuesday, 19 November 2019 - 6:30 PM – 7:00PM

COMMITTEE ROOM: 150 Tulip Street, Cheltenham

Board Attendance: David Hopkins (Secretary), Dean Cartwright (Treasurer) (2)

Voting Members Attendance (Life Member, Playing, Parent, Member Clubs & Championship Teams, Other): Paul Breen (Eagles Delegate), Anne-Maree Nunan (Bullits Delegate), Jacqui O'Neill (Playing), Matthew Astill (Sandy Saints Delegate), Alistair Perry (Tigers Delegate), Bec Hardiman (Pacers Delegate), Parveen Batish (Playing), Rob Bater (Mordy Flyers Delegate), Jennifer Gourley (StLeonards Delegate), Scott Williamson (Playing), Lisa Mouncer (Playing), Geoffrey Clarke (Parent), Amber Dowling (Mustangs Delegate), Courtney (Giants Delegate), Andrew Hunt (Parent), Angie Gilchrist (Sharks Delegate), April Whitaker (Playing), Fiona Love (Parent), Bill Evans (Life Member), Ian Leckie (Life Member), Michael Phillips (Life Member), Mark Mitchell (Life Member), Michael Bourke (Life Member), Andrew Maloney (Life Member), Steven Lunardon (Life Member), Craig Leith (Life Member), Louise Graham (Life Member), Judy Barlow (Life Member), Andrew Stavropoulos (Life Member) (29)

General Attendance: Nicole Tumiaty (Mills Oakley Lawyers), Scott Colvin (Mills Oakley Lawyers), Duncan McFarlane, Gerick Gratz, Tammy Hicks, Malcolm Pulling, Karen O'Shaughnessy, Kim Batish, Jenny Mouat (9)

Total Attendance: 40

Apologies: Scott Harvey (Acting President/Vice President)

Chairperson (Chair) – David Hopkins (Secretary)

Meeting Opened – 6:32pm

1. Open & Welcome – Chair called the meeting to order.

Chair advised that he had been requested by members who called the meeting to chair the meeting. Chair asked if there were any objections.

There were no objections noted.

Chair advised all present that the meeting would be filmed to ensure a true and unambiguous record of the meeting was maintained. The Chair noted the signs in the meeting room advising



those present of filming and the acknowledgement of those present that signing the attendance record was evidence of their consent. Chair asked if there were any objections.

There were no objections noted.

2. Quorum

Chair advised that in accordance with the Constitution there must be a quorum of five members present before the meeting could commence. The Chair asked for Members to be identified by show of hands/ballot papers.

There were 29 Members present at that time. This is reflected in the attendance record.

The Chair declared that a quorum was present and the meeting could proceed, declaring the meeting open.

3. Notice of Meeting

Chair advised that the notice of the meeting was previously circulated to all members on 24 October 2019. The Chair proposed that the notice be taken as read, unless there were any objections.

No objections were noted.

4. Procedure for the Meeting

The Chair advised each resolution would be read to the meeting prior to calling for a vote on that resolution. At that time the Chair would make clear the voting requirements for each resolution to be passed.

No proxy votes are allowed, as per the Association's Constitution.

Members and attendees would be provided with the opportunity to comment and ask questions about each resolution prior to voting on the relevant resolution.

Voting on each resolution was to be by show of hands in the first instance.

However, it was explained that three or more voting members may call a poll on each of the resolutions. This means that voting will not be by a show of hands but will instead be by written ballot. A poll may be called immediately after a show of hands has been given for and against each resolution. The voting members were provided with voting papers on arrival should a poll be called for either or both resolutions.



Chair advised that in attendance were a number of persons who were not members of the Association entitled to vote at the meeting. While those persons are welcome, the Chair asked that they take no part in the voting.

Those persons who were at the meeting as authorised delegates of member clubs had provided evidence suitable to show that they are appropriately authorised to cast votes as authorised delegates and those delegates are known.

If there was a tied vote on either resolution, the Chair, would cast the deciding vote. If that occurred in either instance, the Chair would cast a deciding vote in favour of the resolution.

Chair asked if there were any questions with the procedure of the meeting.

Question: Angie Gilchrist - President Sharks - Can you clarify why both forms of voting are required?

Response: Chair repeated previous advice on this matter.

Supplementary question: Angie Gilchrist – President Sharks - Can we just do a ballot rather than show of hands? I don't understand why we need both.

Response: Chair asked the members if they were happy to vote only by ballot on each resolution rather than show of hands.

Members voted unanimously (by show of hands) in favour of voting only by ballot on both resolutions.

It was therefore agreed that voting at the meeting on both resolutions would be by ballot only, however counting of votes would be on both the numbers and weighted vote.

On that basis Members were asked to mark their Ballot papers either 'For' or 'Against' after each resolution was read and debated. Ballot papers would be collected once both resolutions had been read and debated.

Chair asked if there were any objections.

There were no objections noted.

5. Resolution 1 – Amendment of Constitution

Resolution 1 relates to a proposed amendment to the Association's Constitution.



Chair explained that the Association currently has a number of casual vacancies on its Board. While the Board does have the power to fill a casual vacancy, it is questionable whether they can exercise this power if there are insufficient directors to constitute a quorum at a meeting of directors, as is currently the case.

Accordingly, the proposed amendment to the Constitution set out in Resolution 1 is intended to give effect to what the members convening the meeting noted in their notice of meeting consider to be the intention of rule 23(4) of the Association's Constitution, namely that if any director resigns from the Board the remaining directors will have the power to fill any casual vacancy.

Details of the proposed alteration of the Constitution and the resolution was included in the notice of meeting.

This resolution required a special resolution to be passed. Under the Association's Constitution, a special resolution is passed when 75% of the votes eligible to be cast are cast in favour of the resolution. However, under the relevant act by which incorporated associations are governed, votes on special resolutions are to be counted on a 'show of hands' basis — that is, no votes will be weighed or counted differently from any other vote.

This is contrary to the Constitution of the Association, which give certain member categories additional votes based on the number of teams that they represent.

The directors have taken legal advice that this resolution will require 75% or greater of both the votes on a one-vote-per-member basis (the numbers) and on the votes on a weighted basis.

The Chair formally proposed the resolution to amend the Association's Constitution. The resolution to be voted upon at this meeting:

“That Southern Basketball Association Incorporated’s constitution be altered by adding the following new clause 23(9):

“23(9) Notwithstanding any other provision of these Constitution, in the event that the number of directors in office falls below the minimum number required by these Constitution or otherwise falls below the minimum number required to constitute a quorum at any meeting of the Board:

- a) the remaining directors are empowered to continue to act to the extent required to fill any vacancy or vacancies on the Board in accordance with clause 23(4) of these Constitution and/or to appoint any person to hold an Office Bearer position which may be vacant; and**
- b) notwithstanding clause 28 of these Constitution, quorum at any board meeting convened to exercise the powers referred to in clause 23(9)(a) of these Constitution will be a majority of the directors holding office at that time.”**



Chair opened the meeting to questions asking that anyone with a question indicate by raising their hand to comment or ask a question in relation to the resolution. Before asking your question, please state your full name for the record and whether you are a voting member.

Question: Kim Batish – Not a Member - if the Board only requires one person to make a Quorum why does the Board need to fill all casual vacancies?

Response: Chair explained that whilst it was true that the Board required a Quorum to hold meetings the Constitution also specified the makeup of the Board, being four office bearers (President, Vice President, Secretary and Treasurer) and three general members (or directors). The Board has acted with an abundance of caution in all aspects to this matter and have received legal advice that all positions must be filled to ensure it covers off on all procedural eventualities.

Supplementary Question: Kim Batish - Who is going to fill the casual vacancies?

Response: Chair advised that the remaining Directors had not had a chance to decide who will fill the casual vacancies. There are many good candidates to consider and the directors continue to consult and take further advice from our members. Directors will announce who will fill the casual vacancies once decided and Consumer Affairs Victoria have approved the changes.

Question – Lisa Mouncer – President Bullits. So in summary what you are saying is unless the constitution is changed there is doubt whether the casual vacancies can be filled. Therefore, if you don't have a quorum and the Board cannot meet, then an AGM cannot be held to elect a new board. Is that right?

Response: Chair advised that was correct.

Question: – Anonymous – what happens if this resolution doesn't get passed tonight then?

Response: Chair advised that if the resolution did not get passed tonight the directors would seek further advice on next steps and report back to the members. However, the directors were confident the resolution would be passed for the reasons stated. It is difficult to see why someone would vote against the resolution.

Question: William Evans – Life Member – how long will it take to fill the casual vacancies and who will fill them?

Response: Chair advised that if the resolutions were passed at this meeting the Constitution would be amended the following day and lodged with Consumer Affairs Victoria (CAV) as soon as possible. CAV have 21 days to confirm changes. Directors are hoping it takes less time than



that. Directors have not decided on who will fill casual vacancies, we will consult further and take advice from members and advise accordingly.

No further questions.

Chair called for a vote on the resolution and reminded all present that only eligible voting members may vote.

Members were asked to mark Ballot Paper either 'For' or 'Against'.

Chair explained that the votes will be counted at the end and he would announce the result following that.

6. RESOLUTION 2 – APPOINTMENT OF BOARD OF DIRECTORS

The purpose of Resolution 2 is to direct the directors to convene an annual general meeting at which all of the existing directors will resign and new directors will be elected by the members, thus ensuring that the board is appointed by the members.

This is consistent with the clause 23(4) of the existing Rules, which requires that a person appointed by the board as a director may continue in office up to and including the conclusion of the annual general next following the date of the appointment.

Details of the proposed resolution were included in the notice of meeting.

Cahir formally proposed the following resolution to be voted upon at this meeting:

“That the members request that Southern Basketball Association Incorporated’s (Association) directors convene an annual general meeting at the earliest practicable opportunity at which all of the then directors of SBA will resign at the conclusion of the annual general meeting and a new board will be elected by members in accordance with SBA’s constitution.”

Chair opened the meeting to questions asking that anyone with a question indicate by raising your hand if you have a comment or question in relation to this resolution. Before asking your question, please state your full name for the record and whether you are a voting member.

No questions asked.

Chair called for a vote on the resolution by marking their Ballots either 'For' or 'Against' and reminded all in attendance that only eligible voting members may vote.



The Chair asked the returning officers Vicki Barlow (CRM) and Sophie Smirniotis (Admin Officer) to collect the Ballot papers.

Chair advised those the meeting that the result would be announced once the voting papers had been counted.

7. Vote Count:

After collecting all of the Ballot papers Returning Officers - Vicki Barlow (CRM) and Sophie Smirniotis (Admin Officer) left the committee room to count the votes.

Scott Colvin of Mills Oakley Lawyers attended the count and acted as independent scrutineer.

8. Vote Result Announced:

The scrutineer returned to the committee room and advised the Chair of the vote outcome.

The Chair called the meeting to order and advised the following:

- I declare that resolution one was passed after a count of the votes (based on numbers 89.7% and based on weighted vote 83%)
- I declare that resolution two was passed after a count of the votes (based on numbers 94% and weighted 83%)

Both resolutions have been passed.

9. Next Steps:

The Secretary will amend the constitution accordingly and lodge with Consumer Affairs Victoria for approval as soon as possible.

Further advice about the filling of vacancies and the proposed AGM will posted on the Associations web site in due course.

10. Closure:

Chair advised that if there were no more questions or comments that concludes the business of the meeting.

Chair thanked all for their attendance and declared the meeting closed.

Meeting Closed 7:13pm