



Streamlined Sales Tax Governing Board Meeting Minutes  
Thursday, October 15, 2020, 10:00 am Central  
Teleconference

**Welcome and roll call of member states**

President Tim Jennrich welcomed everyone and called the meeting to order at 10:05 am central. The roll of the states was called, with 21 full member states and 1 associate member state participating, the quorum was established. Kansas and Vermont were absent.

**Review and Approval of minutes from May 2020 Governing Board meeting (MM20002)**

President Jennrich asked the attendees to review the minutes of the May 2020 meeting and offer up any corrections or additions. No comments were received. Rep. Brian Kennedy moved to approve MM20002. A voice vote was taken, and was unanimous, the motion carried.

**Review and Approval of minutes from August 2020 Governing Board meeting (MM20003)**

President Jennrich asked the attendees to review the minutes of the August 2020 meeting and offer up any corrections or additions. No comments were received. Rep. Brian Kennedy moved to approve MM20003. A voice vote was taken, and was unanimous, the motion carried.

**Status of Federal Legislation and Federal Activities- Randi Reid**

Randi Reid provided the federal legislative update. The PowerPoint is located [here](#).

**Reports of Committees**

Executive Committee – Tim Jennrich (WA), President

- Recertification of Certified Service Providers
- CSP Contract – Status of Contracts for 1/1/2021 – 12/31/2023
- Report on Resolution Process Workgroup
- New workgroup formed – Exceptions to SSUTA Requirements for Pandemic Scenarios
- New workgroup formed – Nonmember State Participation and Engagement

President Jennrich stated the Audit Core Team has been working on the contract compliance audits of the CSPs to assist the Certification Committee in developing its recommendation to the Executive Committee related to recertification of each of the CSPs.

The Certification Committee met on October 2, 2020 to review and discuss the details of the contract compliance audits that had been completed by that time. The contract compliance audits of two of the CSPs were still ongoing and were not ready to be discussed or voted on by the Executive Committee. COVID-19 issues did not help in this regard either. Core Team expects to have these audits completed by end of month. A separate special meeting of the Certification and Executive Committees will need to be called to discuss those at that time.



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With respect to the CSPs whose audits have been completed, the Executive Committee met in closed session yesterday and reviewed and voted on their recertification. Each of the CSPs was given an opportunity to participate in the closed session to answer questions, provide clarifications and was provided a copy of their written report prior to the Executive Committee meeting. One CSP, Avalara, was recertified with some suggestions noted but no specific conditions placed on it. The remaining CSPs, Accurate Tax, Exactor, Sovos' Taxify Solution and Taxometry were recertified with some suggestions and certain specific issues that they need to address. Respecting the confidentiality and proprietary information, the specific issues were discussed in the closed session but will not be discussed further in this meeting. However, the Certification Committee felt these issues would not affect these entities' ability to satisfactorily perform their services. With no further comments, President Jennrich moved on the CSP Contract Status.

The current CSP contract runs through 12/31/2020. As required by the CSP contract, Craig sent a notification to each of the CSPs to notify them that the current contract is not being renewed or extended, instead would be replaced with the new CSP contract. CSP contract negotiation process for the 1/1/21 through 12/31/23 process has been completed. The Governing Board approved the new CSP contract during its meeting on August 31. The new contract was not going to be signed until the Executive Committee formally approved the recertification of the CSP – which was done yesterday for those whose contract compliance audits had been completed. The Executive Committee approved President Jennrich signing the contracts for those CSPs that had been approved for recertification by the Executive Committee. Craig sent the CSP contract that had been approved by the Governing Board to each of the CSPs for their signature, so that all that was left to do was the countersigning by the approved Executive Committee representative. Craig will work with Tim and the CSPs to get all the paperwork, signatures, conditions noted, etc. completed.

The CSP-Seller Resolution Process Workgroup that was formed to discuss how Streamlined might assist sellers in resolving issues they may be having with their CSP had its initial meeting last week. This workgroup was not put together due to widespread complaints or concerns, but instead issues that just a few businesses have raised directly with SST staff. Recognizing that the SST program is growing and a larger number of businesses using varying accounting systems are now using CSPs, we wanted to be proactive in this discussion. SST recognizes that a seller's satisfaction with a CSP is also a reflection on a seller's satisfaction with the Streamlined program as a whole and we have a strong interest in making sure that is and remains a positive experience. At the same time, SST does not want to get into general customer service type issues that are covered by the contract between the CSP and the seller's themselves. More specifically, the workgroup was put together to discuss whether Streamlined personnel should get involved in helping resolve issues a seller may be having with its CSP and if so, when should they get involved and what should Streamlined's role be? Based on the initial meeting and the comments that were provided from the business representatives, CSPs and states, it seemed there was general agreement that there was value in exploring the development of this type of process, but we will need to be careful to



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identify the type/scope of issues that SST staff should get involved in and at least some steps sellers and the CSPs should have completed to work these issues out on their own. The workgroup is in the process of scheduling its next meeting for some time next week. President Jennrich asked for comments, none were received.

Tim Jennrich moved on to discuss the pandemic and questions raised by some member states. Tim explained that the pandemic has resulted in several changes and adjustments that all of us have had to make. Different states are handling the pandemic in different ways, but they are all trying to find a way to defeat the virus, help their citizens and get their economies going again.

Some states have reached out to inquire about possible sales tax exemptions for pandemic related purchases. A common question asked is how their actions may affect their compliance with the requirements of the Streamlined Sales and Use Tax Agreement. The general response is that if they are looking to enact a temporary exemption on certain items, they need to follow the sales tax holiday rules that have been put in place in Section 322 of the SSUTA. However these rules are pretty limiting on what states can do and remain in compliance with the SSUTA. These rules were put in place at least in part to help make them administrable from the business perspective – which is extremely important. At the same time, state sovereignty is also important and finding the right balance between simplification and uniformity and state sovereignty has always been a goal of Streamlined. The limitations in the rules put states in a precarious position – do they not enact an exemption that they believe would help their citizens because it would put them out of compliance with the SSUTA or do they go ahead and enact the exemption and face potential sanctions?

Craig suggested putting together a workgroup to consider various options to address these types of scenarios and if necessary, develop any necessary amendments to the SSUTA. Tim established the workgroup during the Executive Committee call yesterday. The charge of the workgroup is to consider how these types of scenarios might be best handled within the SSUTA and if any amendments to the SSUTA are needed. The workgroup may also want to consider what constraints if any should be placed on the states in this area and how this would be implemented from the business perspective. Work should begin on this ASAP as legislative sessions will be starting up again in most states in January. Fred Nicely was concerned where the workgroup is going but is looking forward to working with the group and providing input. No further comments were received.

The Nonmember State Participation and Engagement issue has been discussed previously but Craig suggested putting together a more formalized approach on how to encourage nonmember state participation, the benefits of participation, the expectations, etc. The Streamlined Sales Tax Governing Board (Governing Board) and the Streamlined Sales Tax Business Advisory Council (BAC) have encouraged states that are not members to simplify and modernize their sales and use tax



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systems to remove “undue burdens” particularly on remote sellers. While the *Wayfair* decision reversed the “physical presence” requirement contained in the *Quill* decision, it did not address whether or not South Dakota’s laws imposed an “undue burden on interstate commerce”. While most nonmember states have taken specific action to address the first two features the Supreme Court identified (small seller threshold and no retroactive application), few have done anything to standardize taxes to reduce administrative and compliance costs to help remove the undue burdens.

Amendments to the SSUTA were adopted last year to allow nonmember state participation with the Governing Board. Then the pandemic hit and quite frankly, travel stopped – states had to focus on adjusting how they do business (remote work, etc.) and dealing with the pandemic was really their top priority. The pandemic though also forced a lot of people to start purchasing products online – and from all over the country and world. Several member states have indicated that if it weren’t for Streamlined and the *Wayfair* decision, their state could be in much worse shape financially due to the rise in ecommerce and the number of those sellers that are now collecting their applicable taxes.

Although our member states have made it easy for remote sellers to collect and remit the applicable taxes, sellers that are making remote sales into various states that are not members of Streamlined may either not be collecting the tax or may be struggling to comply. If these nonmember states were participating with Streamlined, we would likely be able to help them improve their collections, including the accuracy of the collections, and at the same time help remote sellers more easily comply through the use of our CSPs. Craig suggested that we form a small workgroup of Executive Committee members, business community members and CSPs to focus strictly on developing a comprehensive plan to reach out to nonmember states and encourage their participation with Streamlined. The primary charge of the workgroup is to consider whether we need some type of representation within particular states that are familiar with the process to get something like this enacted in specific states and if so, who would that be, what types of costs would be involved, and what information would be useful to these states – SST statistics, etc. The workgroup also should look at and consider who some potential partners might be in this area – CSPs, Business associations, Local governmental associations, etc. Tim stated those interested in participating in this workgroup should reach out to Craig.

Finance Committee- Diane Hardt

Financial report- 4<sup>th</sup> Quarter FYE 6/30/2020 - FC20004

Diane Hardt stated the Governing Board is in stable financial condition. There are some affects from the pandemic. 4th quarter had reduced employee travel and minimal state travel

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reimbursements. There is an increase in the accrual of vacation time that employees have earned but have not been able to use. Diane motioned to accept and approve FC20004. There were no comments received. A voice vote was taken and was unanimous. Motion carried.

Annual Financial Report for FYE 6/30/2020 - FC20005A01

Diane stated there were significantly lower travel, meeting income and meeting expenses. There was a reduction in the governmental affairs contract beginning November 2019. FC2005A01 is unaudited, and the annual independent audit is currently being conducted. Diane motioned to accept and approve the unaudited report. There were no comments received. A voice vote was taken and was unanimous. Motion carried.

Status of Annual Independent Audit

Craig Johnson provided the independent audit update. He stated our accountant had a medical emergency so he has taken on most of the audit related issues and responsibilities. He has provided needed documentation to them and had zoom calls with them as needed. The audit is progressing along and he anticipates the audit will be wrapped up by the end of October. He hopes to have it finalized and the final report issued prior to the December Governing Board meeting.

FYE 6/30/2021 Proposed Budget Amendment - FC19008A01

Diane Hardt highlighted some of the proposed changes on FC19008A01. Member payments were reduced by 50% based on the dues reduction offered to the membership. Meeting revenue was also reduced recognizing that the October Governing Board meeting was not going to take place in person so this revenue would not be recognized. A similar adjustment was made to the meeting expenses line items since there would not be any meeting expenses incurred either. Craig also pointed out that there were various reductions in the anticipated travel expenses due to the limited travel as a result of the pandemic. It was also pointed out that the federal affairs amount was reduced due to the change in the contract with our federal affairs term and the reduced activities in that area. Various other anticipated expenses were also reduced as a result of the pandemic. Diane motioned to approve FC19008A01. There were no comments received. A voice vote was taken and was unanimous. Motion carried.

FYE 6/30/2022 Proposed Budget

Diane Hardt explained that a proposed budget for FYE 6/30/2022 had also been prepared. Many of the adjustments to the FYE 6/30/2021 were reversed for FYE 6/30/2022 because we are anticipating that things will be returning to normal, although that remains to be seen. The dues



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were restored back to the same level as was initially anticipated for FYE 6/30/2021 for purposes of the proposal, but depending on what happens with the pandemic, this could be adjusted prior to the official setting of the dues for FYE 6/30/2022. Diane motioned to approve FC20006. There were no comments received. A voice vote was taken and was unanimous. Motion carried.

Compliance Review and Interpretations Committee – David Steines (WI), Chair

- Annual State Compliance Reviews Report - CI20004

Dave Steines stated CRIC met on September 15<sup>th</sup> to review the compliance of the member states with the requirements of the SSUTA. All states were reviewed and voted on during that meeting.

Twenty-one full member states were found to be not out of compliance. Dave Steines motioned to find the 21 States (AR, IN, IA, KS, MI, MN, NE, NV, NJ, NC, ND, OH, OK, RI, SD, UT, VT, WA WV, WI, WY) not out of compliance. There were no comments received. A voice vote was taken and was unanimous. Due to the sanctions currently imposed, GA was not allowed to vote on each states compliance and each state that voted also abstained from the vote on their own state. Motion carried.

Georgia was found to be out of compliance for the same issues as the previous years. Mike Walsh indicated that would like to have the issues that Georgia is facing voted on separately as had been done in the past – or at least the issue related to the acceptance of the SER. Dave Steines explained the various issues that CRIC found GA to not be in compliance with the SSUTA. Georgia indicated that they recognized these were the same issues as in previous years and will take legislative changes to fix most of them. Dave made a motion to find GA not in compliance with the Good Faith issue, the Cap and Threshold issue and the Local Food Exemption issue as described in the CRIC report. There were no comments received. A voice vote was taken and was unanimous. Motion carried.

A second motion was made by Dave to find Georgia not in compliance with the SSUTA requirements related to the acceptance of the SERs. Mike Walsh stated we have discussed this in the past and it is due to the SST schema requirements or limitations that this issue with the SER acceptance exists, so he believes Georgia shouldn't be found out of compliance on this issue. Fred of the BAC stated all states should accept the SER for all sellers. He had hoped to work with Georgia to resolve at least some of their issues this year, but unfortunately, due to COVID, he was unable to work with the state, but they hope to in the future. There were no additional comments received. A roll call vote was taken, all were yes, except for Nebraska. Motion carried.

Dave then reviewed the issue with respect to Kentucky requiring two separate returns for marketplace facilitators. One return is used to report their marketplace sales and the other return is used to report its own sales. Richard Dobson stated the summary was a good description of the

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issue. Kentucky enacted marketplace provider legislation to try and track sales tax receipts from that type of sales. They weren't anticipating this to cause issues with compliance. They are trying to pursue legislative changes to make the separate return optional to correct this oversight. Mike Walsh asked Craig, if there was something we could do in the SER to break down the payments to isolate remote/marketplace seller sales, vs the facilitators own direct sales? Craig stated that could be done in the future, however right now there is only one line to report the sales. If states want them broken out, the SER and schema would need to be changed – which would result in every state and CSP having to undertake additional programming. Fred Nicely stated some of the Marketplaces have been filing and just want one return, while others want to file separate returns. He is pleased that KY is willing to seek a law change to remedy the compliance issue and the business community will work with them. Dave motioned that KY be found not in compliance with the requirement that only one return be required from each seller. There were no additional comments received. A voice vote was taken and was unanimous. Kentucky abstained from the vote. Motion carried.

Dave then reviewed the issues noted with respect to Tennessee's compliance as an Associate Member State and reminded people that TN was grandfathered in under the SSUTA provisions since they have been an Associate Member since 2007. A couple issues were identified relating to sales tax holidays for 2020 including the use of a term that was defined in the SSUTA (electronic device) and a sales tax holiday that was provided for sales of food and drinks by restaurants. For both sales tax holidays, the state did not provide the notice required under the SSUTA. Although these items would generally be compliance issues, CRIC did not find them out of compliance since these issues did not affect their status as an associate member state. Sherry Hathaway stated she had nothing to add and is available if people have any questions. Dave motioned to find Tennessee not out of compliance as an associate member state. A voice vote was taken and was unanimous. Motion carried.

- Interpretation Request RI20001 – Medtronic – ECG Monitor Interpretation Request)

Dave Steines stated a request had been received relating to an implanted ECG monitor and whether it was a prosthetic device as defined in the SSUTA. The item is specifically listed in Disclosed Practice 7 and identified as a "not defined" item. The requestor was not asking to find the ECG Monitor to be (or not be) a prosthetic device, they just want consistency across the member states as one state did define it as a prosthetic device while another member state did not define it as a prosthetic device – yet the states both adopted the uniform definition. Their expectation was that every state should either include it in or exclude it from the definition of prosthetic device.

After a robust discussion, CRIC decided to not issue an opinion due to the prior Governing Board action that approved Disclosed Practice 7 and included the item as a "not defined" item. Under





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Appendix E of the SSUTA relating to Disclosed Practice 7, an explanation is included which indicates that for any of the “not defined” items listed in Disclosed Practice 7, a state may choose to include it in or excludes it from one of the SSUTA definitions. To change this position, Appendix E of the SSUTA and Disclosed Practice 7 would need to be amended and approved by the Governing Board. However CRIC recommended that SLAC review Disclosed Practice 7 to see if we could add the taxability of undefined items or provide further clarification related to these items. Fred stated maybe they should not be undefined and should be classified as one of the specific defined medical product terms. The requestor’s concern came about because some competitors were using the fact that one member state treated the item as a prosthetic device and applying that uniformly throughout the member states. This resulted in potentially not collecting and remitting the proper tax and the requestor just wants to make sure they are getting it correct and that everyone is following the same rules. Richard also believes we should clarify this for the taxpayers and the public so they have a clear understanding of what the appendix means, and what clarity the states can bring when they fill out the matrix. The plan is for the SLAC workgroup to review and develop this issue and bring it back to a future Governing Board meeting for discussion and resolution.

State and Local Advisory Council – Laura Stanley (OH) and Alison Jares (SD)

- Report of August Teleconference Meeting
- Workgroups
  - Section 401.D workgroup
  - SLAC Quorum proposal – Rule Amendment
  - Disclosed practices workgroup – Remote Sellers, Marketplace Facilitators and Marketplace Sellers
  - Candy Definition Toggle – Definition Amendment

Laura Stanley started off by thanking Alison and Christie. They have done a great job with the workgroups and moving things forward. During the August teleconference, they worked through workgroups, and formed a new workgroup on candy.

The group previously worked on amending Rule 401.D. Once that was accomplished, they worked on how to best get that information to taxpayers. A paragraph was added to the registration confirmation letter sent to each registrant and a page was added to the Streamlined website explaining this. They asked states to review the information developed and provide any updates or additional information they would like posted about their state. The Rule 401.D workgroup will not need to meet again at this point.

Laura and Chris McNeil (AR) explained the SLAC Quorum proposal (RP20005). SLAC did not have a quorum at its last meeting but had a unanimous consensus vote to move this forward to the





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Governing Board for consideration. Laura Stanley motioned to approve RP20005. No additional comments were made. A voice vote was taken and was unanimous. Motion carried.

Christie reviewed the disclosed practices related to remote sellers, marketplace sellers and marketplace facilitators and how these items are anticipated to be included in the disclosed practice section of the taxability matrix. She also explained how it will appear on the website - three sections split between remote sellers, marketplace sellers and marketplace facilitators. Once we get through all three sections, the goal would be to review them, then see if any could be combined.

The Candy Definition Toggle Workgroup was set up during the August work meeting. The group has already had several meetings to develop amendment language for the Governing Board to consider that would allow a state to exclude certain products from its definition of candy.

Dave Steines stated SLAC had a great discussion on this. They decided to bring this to a workgroup and do outreach to see if any states had issues with the proposed language. The goal is to give states an option to not tax items like dried cranberries that might otherwise fall under the definition of candy. Currently, dried fruit with a sweetener is taxed as candy. This would give a toggle to allow states not to tax these types of dried fruits.

Jordan Lamb introduced herself as the representative for the Wisconsin Cranberry Growers association. She indicated that Wisconsin grows the most cranberries in the world. Dried cranberries with sugar added to remove the natural tartness are taxed as candy, but they believe this should not be treated the same as candy and it is a healthy product. Cranberries are very tart and not palatable without being soaked in a sweetened juice. She thanked everyone for their time in helping them develop this issue and looks forward to getting this completed.

Diane Hardt stated WI Secretary of Revenue Peter Barca wanted to let the Governing Board know that he and the administration are supportive of the change and want to work with the Legislature early this next year to get this exclusion enacted for the state of Wisconsin.

Fred stated the BAC is concerned with adding toggles as it increases complexity. They want to make sure that auditors and the business community fully understand these toggles and they are written in such a way that they are easily administrable. The workgroup will continue to meet between now and the December Governing Board meeting to consider the comments and information received during the SLAC meeting. The plan is to have an amendment for the Governing Board to consider at the December Governing Board meeting.

Certification Committee – Tim Bennett (KY), Chair

- Report of August Meeting

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- Amendments to Rules and Appendices
- Issues being addressed by Certification Committee

Tim Bennett stated the certification committee met on August 18th and again on October 2nd. During these meetings they discussed changes to two rules and two appendices and would like the Governing Board to consider these changes during the meeting today. In Rule 501.4 related to the recertification process there is language that referenced Appendix I. Appendix I no longer exists so this needs to be updated. There was also language stating SST only took applications from persons wanting to become CSPs every two years. Although that is how this used to be, a person interested in becoming a CSP can now apply at any time. The SSUTA was previously changed to allow this, but the rule language was never changed. Tim motioned to approve RP20001. A voice vote was taken and was unanimous. Motion carried.

Tim explained the changes in Rule 501.5 relating to the Certification of Model 2 Automated Systems that was contained in RP20002. Tim motioned to approve RP20002. A voice vote was taken and was unanimous. Motion carried.

Tim then explained the two changes in RP20003 Appendix C Minimum Standards. Tim motioned to accept RP20003. A voice vote was taken and was unanimous. Motion carried.

Tim explained the changes to Appendix G related to the cross referencing and line numbering. Tim motioned to approve RP20004. A voice vote was taken and was unanimous. Motion carried.

Tim let people know that the contract compliance audits and recertification of 5 of the CSPs had been completed and that there are still two CSP contract compliance audits that are still in process and need to be completed. Once those audits are completed a closed Certification Committee meeting will be scheduled to review and discuss the audit reports and develop a recommendation on those CSP's recertification for the Executive Committee. He encouraged all the states to be on those calls to vote once they are completed.

Audit Committee – Megan Martin (ND) and Rachel Williams (SD) Co-Chairs

- Report of August Meeting
- Contract Compliance Audits
- State Tax Compliance Audits
- Issues Being Addressed by Audit Committee and Improvements to CSP Audit Process

Megan Martin provided the Audit Committee Update. She indicated that the Appendix F data files are getting very large and that having the data provided monthly rather than quarterly or annually would help with file size issues. She thanked the Core Team for the work they have done in



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completing the contract compliance audits. The Core Team had to be flexible and due to the pandemic, the methods used to complete the contract compliance audits had to be revised to allow for virtual audits and meetings, instead of their typical in office visits.

**Business Advisory Council (BAC) Report**

Fred Nicely provided the BAC update stating Ben Wylie and Diane Yetter are new board members. Fred also indicated the officers are Carolynn Kranz, Russ Brubaker and Brandi Drake. Fred is hopeful that based on their meeting yesterday more BAC members will get involved and provide comments on the various issues being developed through the workgroups and ultimately considered by the Governing Board.

**CSP Report and Issues to Discuss with Governing Board**

Tim Jennrich asked the CSPs if they had any issues to bring forward to the board. No CSPs replied, however Russ Brubaker announced that Bruce Johnson had joined the TaxCloud team this year.

**Executive Director Updates and Reminders – Craig Johnson**

- Status of Streamlined Registrants and Collections
- Contacting Nonmember States
- Other Updates and Reminders

Craig Johnson stated the Streamlined registrations have tripled since the Wayfair decision. Jody recently did clean up to reach out to sellers and unregistered people with no active states. The 12,000 remaining are making sales and collecting for your states. We are pushing 38% of registered sellers using CSP services – but would like to see that percentage grow even higher. We sent surveys for all registered sellers though Streamlined. We continue to receive responses and a summary will be put together. Craig stated state revenue numbers are seeing very healthy increases from SST registered sellers compared to pre-Wayfair. 100% plus increases are not uncommon to see.

Craig thanked the Audit Core Team for the fantastic job they have done, especially given the fact they did everything remotely this year. Craig asked the states to complete their audits as soon as possible. Craig also asked the states to reach out to both Streamlined and the BAC if there is any proposed legislation, they are concerned about to help ensure it does not create a potential compliance issue. In some cases, they can provide ideas on how to draft legislation that accomplishes the intended goal, without causing a compliance issue.

**Election of Officers and Directors for 2021 NC20001**

President Jennrich explained the Nominating Committee met as required by the bylaws and developed a single slate of candidates for Officers for 2021 and open Director positions. Tim walked through the slate of candidates for Officers and Directors stating all the candidates have

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indicated they would be willing to serve. Mike Walsh motioned to approve the slate of candidates. A voice vote was taken and was unanimous. Motion carried.

**Election of Nominating Committee for 2021 NC20002**

President Jennrich explained the Nominating Committee met to develop slate of candidates to serve on next year's Nominating Committee. Tim walked through the slate of candidates and stated all the candidates have indicated they would be willing to serve. Diane Hardt motioned to accept the slate. A voice vote was taken and was unanimous. Motion carried.

**Old Business**

None

**New Business**

None

**Adjournment**

Dan Noble motioned to adjourn the meeting at 1:11 pm central.