

1.

SURPRISE! WE ARE RUNNING OUT OF MONEY

Year coming to an end - surprise! Income is below expenses. Is it a cash flow issue or systemic?

What can we do right now?

1. Temporary solutions
 - a. cut costs
 - b. draw from reserves
 - c. line of credit (so we should have a line of credit set up in advance of the emergency?)

What's the worst possible short-term solution?

- d. pass the hat

What are the longer-term solutions and how could we have prevented this? Turn to budget process slide.

2. Long-term solutions
 - a. Budget proposal doesn't balance
3. Budget Process.
 - a. How should it work? Finance/Audit and Development Committees.
 - b. Has anyone experienced a plug number for income in a budget? Have you been able to fix it?
 - c. Directors should challenge assumptions underlying income and expenses.
 - d. Rank assumptions
 - i. "in the bank" (past experience or pledges in hand),
 - ii. solid indications of support or prior history of giving new prospects (good reasons why they are prospects)

- iii. complete list of potential donors and rate them as described above
- iv. Schedule solicitations of gifts or grants - when, dollar asks and who will make the ask

What are the roles of the development and finance committees, and how do they work together in the budgeting process?

- v. role of the Development Committee
 - A. who does this in your organization
 - B. periodically review the schedule
- vi. role of Finance Committee - probe assumptions based on past organization experience
 - A. do the actual results compare with the budget
 - B. sufficient time to make adjustments

From what you're describing, it sounds like the best way to avoid a year-end budget surprise is to stay on top of the finances throughout the year.

TRANSITION

That brings us to our next scenario, which I believe to be EXTREMELY RELEVANT to our audience based on the polling numbers.

2.

READ AND UNDERSTAND THE FINANCIAL REPORTS

I serve on the Board because of my interest in fulfilling the mission of this great organization. I leave to others the nitty-gritty financial matters. I don't have much of a head for numbers.

1. **Should this person okay with this attitude? Turn to Duty of Care Slide**

- a. A director is entitled to rely on the investigations, recommendations, analysis and expertise of the committees, particularly the Finance and Audit and Investment Committees in considering money matters coming up for a vote at the Board meetings. However, the duty of care requires prudence. Reliance only if reasonably to rely on their expertise and your confidence in their integrity. Still need to understand the basic information by reading the materials (financial reports, budgets, draft audits) and understand what you are reading.

Now, not everyone coming into board service knows how to read financial reports. Couple that with the fact that no one wants to look like they don't understand something fundamental to their role and we have a real problem.

- b. If it doesn't make sense, ask for additional materials or questions before or during the committee or Board meetings, and persist until you get the answers.

How did you learn to read financial reports?

- c. Business judgment rule - to get the benefit can't remain ignorant. Must act reasonably. Can't keep head in the sand.

We've talked about what individual board members must do to fulfill their fiduciary responsibility, but what can the staff and finance committees do to help the rest of the board understand the organization's ongoing state of affairs?

SWITCH TO FINANCIAL REPORTS SLIDE

Terry talks about financial reports

TRANSITION

In this scenario we talked quite a bit about the necessity of individual board members playing a role in the monitoring so they can make good decisions. I want to move to our next scenario to talk discuss another scenario that might prevent each of us from fulfilling our duties. I know from the polling that many of you out there listening have experienced this next one. Are you ready, Terry?

MOVE TO SCENARIO 3 SLIDE

3.

EXECUTIVE COMMITTEE

My executive committee does all the work and I just get to say yes.

1. What's bad about this?
2. Rest of the Board feeling disenfranchised
3. Rest of Board uninvolved and misinformed - not fulfilling their duties of care
4. Disinterested - unengaged
 - a. Lack of transparency
 - b. Too few doing the work
 - c. Crimps fundraising
 - d. Wastes creativity and strategic thinking
 - e. Waste of talent

What are some solutions?

- Resign, volunteer, contribute financially
- Organization undergoes self-reform

TRANSITION

Our next scenario is tied closely to this one. What if it isn't the Executive Committee that runs the show?

MOVE TO SCENARIO 4 SLIDE

4.

BOARD DOMINATION

Is your Board dominated by key donor(s) or founder E.D. Opera Omaha experience. Appleseed experience.

1. **What's going on here? SWITCH TO DOMINANT BOARD MEMBER SLIDE**
 - a. Stifles conversation
 - b. Lose strategic thinking
 - c. Prevents valid questions or critiques
 - d. Duty of care undermined by ceding oversight
 - e. Controls strategy by reducing Board to yes men
 - f. Courts will not review business decisions of directors who perform their duties in good faith with the care that an ordinary person in a like position would exercise under similar circumstances and in a manner that the directors reasonably believe to be in the best interests of the organization.

What are some solutions for the dominant board member?

- Move donor/board member to emeritus status

What are some solutions for the dominant E.D.?

- Demand a rigorous committee structure to diffuse power (including committee charters)
 - o Involve ED in this process

TRANSITION

These are excellent insights, Terry. I'd like to switch gears a bit and move on to another set of common governance issues unless there are questions from the audience. Ready for another zinger, Terry?

SWITCH TO SCENARIO

COMPLAINTS ABOUT THE ORGANIZATION

A couple days after a board meeting someone comes up to you at a party and says "what's going on at your organization? I heard there was some drama at your last meeting. OR I heard there were some big decisions made."

MOVE TO LET ME TELL YOU SLIDE

Refer all questions to the organization's spokesperson - usually the E.D. or the Chairman

What can you say?

<u>Who is the organizations spokesman?</u>	Policy
<u>Need for confidentiality</u>	Code of Ethics
	Duty of loyalty - don't gossip
<u>Directors as Advocates</u>	Speak generally in support of organizations

What if what's discussed at the meetings isn't just dramatic or bad news. What if it's good. Is it okay for a board member to share the good news after the meeting?

How can board members know when it's okay to share information and when it should remain confidential?

If you can't abide, resign

TRANSITION

Now, this scenario deals with the flow of information from inside the organization to the outside world. I'd like to look at another common scenarios where board members are forced to deal with information coming from outside the organization to the inside.

COMPLAINTS OR RUMORS ABOUT THE EXECUTIVE DIRECTOR

Scenario One: You're a board member and you're having lunch with the head of another organization that's familiar with your nonprofit, and you ask an innocent question like: "How do you perceive our organization is doing?" Your friend unleashes a torrent of negative statements about your E.D. Or maybe you get a phone call from a staffer with complaints about the management. Or maybe you even get a serious complaint about unscrupulous financial management or sexual harassment by the E.D. Serious stuff!

This scenario gets at the heart of a number of issues, like, how can the board know what's going inside organization?

What's the appropriate level of staff-board communication? Should the board serve as a sounding board for staff complaints?

What are warning signs that things aren't going well?

How can the board help the E.D. be the best possible leader and manager?

For the more serious stuff, what can Whistleblower protections do and what can't they do?

Go!

SWITCH TO HOW CAN YOU KNOW WHAT'S GOING ON SLIDE

SWITCH TO THIRD PARTY COMPLAINTS – WHISTLEBLOWER

1. What do you do - talk to the staffer?
2. Warning signs
 - a. High turnover (Are exit interviews valuable? Who should conduct them? Why should the board have to wait until good staff are lost before they take an interest in the management?)
 - b. Dissatisfaction with E.D. management revealed in a 360 review
3. Immediate step: talk to E.D. Who does the talking?
4. Long term solutions What are some long-term solutions? How can the board help the E.D. be more effective? SWITCH TO E.D PERFORMANCE SLIDE

- a. Annual E.D. goal (measurable)
 - i. Approved by Personnel Committee or Executive Committee
 - ii. Annual Review as part of preparation of a report to the Board on performance of E.D.
 - iii. Performance is the basis (along with comparables) for recommendation to the Board for E.D.'s compensation and benefits for coming year.
- b. Measurable goals
 - i. Eg ticket sales _____
 - ii. Increase in membership
 - iii. Cut down on turnover
 - iv. Hire a development director.
- c. Outside evaluation of management - report to E.D. and board (who on Board?).
Evaluator meets with Board and E.D. to discuss findings and action

TRANSITION

Terry, that was a true ball-buster and you handled with great gusto. I hope you're not ready to shut this webinar down!

No? Okay!

I want to turn an often discussed but rarely conquered scenario in nonprofit boards.

MOVE TO BOARD DIVERSITY SLIDE

DIVERSITY

When you look around the board room table, are all the people white, mostly male and older?

What's the problem here?

What do we mean by diverse?

1. Why do you think diversity is important on the Board and staff?

MOVE TO WHY IS BOARD DIVERSITY IMPORTANT SLIDE

Reflect constituents, encourage expanded services into underserved communities, smarter dialogue, better fundraising

2. How do you find or recruit a diverse Board?

3. Nominating Committee

- a. Set priorities:

- i. General characteristics of the board

Do the traditional roles of board members create any roadblocks to board diversity and how do you overcome them?

- A. contributions
- B. willingness to help raise \$
- C. prior experience on boards
- D. reputation in the community
- E. works well with others
- F. has a passion for the mission or at least the importance of the organization to the community
- G. committed to participating in Board and committee meetings

- ii. Particular needs of the Board

- A. accounting, legal, marketing, fundraising, etc.
 - B. diversity - female/male; age; race/ethnicity - reflect the audience/constituents
- iii. **Term limits?**
 - iv. Emeritus Board members
 - v. Amend bylaws
 - vi. Board member performance evaluations
 - vii.
 - viii.

TRANSITION

Okay, Terry, now that we have the perfect board composition for our mission. Let's talk about those board meetings.

MOVE TO BORED MEETINGS SLIDE

BOARD MEETINGS

Your board meetings are bored meetings. It's dominated by the board chair or E.D. and consists of a bunch of committee reports.

1. Director Engagement. Does your Board consist of donors who aren't active directors?
2. Is your Board passive, with a few people making decisions? Active participants on the Board are really good for management and the Board. People who want to lead, understand, contribute their expertise and passion.
3. How to engage the Board. Give them strategic issues to chew on and act on. **Are consent agendas a good way to create the time for this? Explain to us the concept of consent agendas.**
4. Size of Board. Are there too many Board members?
5. Should there be term limits on Directors, officers or committee chairs?
6. Executive committee doing all the work? Would you like to reduce role of Executive Committee?
7. Should the E.D. have a vote? Attend and participate in Board and committee meetings, unless Board or Committee goes into executive session.

You said two things to me last week that I think are really important to this scenario.

One is, Meetings should reinforce LOVE FOR THE ORGANIZATION.

The other is, ED must see the value in board member advice.

TRANSITION

Well, it seems like we've covered all the major things that can go wrong in these 8 scenarios. What else do you think is imperative for a board to have in place to ensure safe and smooth operation?

WHAT POLICIES ARE REQUIRED

When you write policies for the Board, doesn't that mean more work for the directors? Experience at Opera Omaha, Lauritzen Gardens, Nebraska Appleseed, Nebraska Cultural Endowment experience is that it clarifies board roles and makes for officiality. Besides it is the law: Sarbanes/Oxley, IRS 990 and Best Practices.

1. Whistleblower Policy
2. Document Retention and Destruction Policy
3. Code of Ethics (including a Conflicts of Interest Policy)
4. Charters for Committees
5. Guidelines for Board Governance
6. Gift Acceptance Policy
7. Investment and Disbursement Policy

How often should these policies be reviewed?

ETHICS

How important are ethics to a nonprofit Board? MFS - Merger - no transparency.

1. **Should organizations have a code of ethics?**
 - a. Crucial for public trust, willingness of donors to give, audience or patron support, partners, hiring and keeping staff and reputation in the community.
2. **What is a code of ethics?**
 - a. Commitment to personal and professional integrity. Transparency, honesty, openness of the organization.
 - b. Description of the organization's mission. Touchstone.
 - c. Explains to the public how we are governed - Board committees - duties of care and loyalty. Confidentiality.
 - d. No conflicts of interest - no self-dealing. Procedure to deal with conflicts.
 - e. No relocated party transactions. A related party transaction is an arrangement between two parties who are joined by a special relationship prior to the transaction. Parties on the two sides of the deal could be the employees, directors or management of the organization or members of immediate families.
 - f. Responsibility for stewardship of assets and financial oversight. Finance and Audit Committee: review financial reports, budgets, audits, 990s
 - i. Understand what the organization does
 - ii. Who does what
 - iii. Leases, contracts, assets
 - iv. Read, understand and approve financial reports, draft audits, 990s
 - v. Participate in Board and committee meetings

- vi. Ask questions - knowledgeable voting
- g. Legal compliance - duty of care

Give us an example of a time when your code of ethics helped you through a difficult governance situation.

3.

GUIDELINES FOR BOARD MEMBERS

1. Attend and participate in meetings
2. Become informed in order to make decisions and oversee management
 - a. Get sufficient and accurate information about finances and affairs of the organization
 - b. Ask for more information in order to be fully informed
 - c. Candid discussions among directors and with management
 - d. Transparency - you should be able to get answers and get informed
 - e. Confidentiality
 - f. Right to access to information far enough in advance of meeting
 - g. You can rely on management or board committees, if you reasonably believe them to be reliable or competent; legal counsel, public accountants, and others acting within their professional or expert competence.
 - h. You must inquire into potential problems if alerted to them and board attention is appropriate. Materiality - get reasonable satisfaction.
3. Duty of loyalty - no self-dealing. Corporation's best interests come first.
4. Inclusiveness and diversity
 - a. no discrimination based on sex, age, race, sexual orientation, geography, community, reflect people we serve
 - b. no harassment - sexual or retaliation for whistleblowing
5. Fundraising integrity - policy
6. Fundraising - give, get, cooperate with Development Department

7. Code of Ethics are recommended by the Panel on the Nonprofit Sector. Best practices.
Adopted by most nonprofits I'm aware of.