Effective Board Governance for Pools

Sara A. Peterson, Management Consultant
Overview

- Complement to Pooling Basics track
- Be part of an exceptionally governed pool
  - Key traits for Board members
  - The right tools from “staff”
Agenda

1 – Good Governance
   2:30 – 3:30 pm
   - Pool Boards are “Unique”
   - The Duties of a Board
   - Policy v. Operations
   - Three Levels of Discourse

2 – Exceptional Boards
   3:45 – 4:45 pm
   - 12 Principals
   - Strategic Thinking & Foresight
   - Effective Co-Leadership
   - Parting Thoughts on Meetings
The Uniqueness of Pools
Corporate Boards *(for-profit)*
- Private entities
- Subject to industry regulations
- Shareholders and profits
- Paid board members

Nonprofit Boards
- Sub-set of corp. – different rules
- Private entities with public duties
- Fundraising and volunteers
- Different divisions of labor
- Balance mission and money

Government Councils
- Public elections
- Open meeting laws
- Constitutional and legislative mandates/ constraints

Pool Boards
- *Elements of all three*
The Duties
Fiduci-what?

**adj.** fi·du·ci·ar·y
- Of or relating to a holding of something in trust for another: *a fiduciary heir; a fiduciary contract*
- Of or being a trustee or trusteeship
- Held in trust.

**n. pl.** fi·du·ci·ar·ies
- One, such as an agent of a principal or a company director, that stands in a special relation of trust, confidence, or responsibility in certain obligations to others.
The Duties

■ Duty of Care
  ■ Diligence and attentiveness to board responsibilities
  ■ Act as “an ordinarily prudent person would in a like position and under similar circumstances”

■ Duty of Loyalty
  ■ Faithful pursuit of the interest of the pool rather than personal interests or the interest of another person or entity

■ Duty of Obedience
  ■ Act with fidelity, within the bounds of law generally, to the pool’s mission
Duty of Care

- Attend board meetings regularly
- Show independent judgment
- Be informed about pool resources
- Delegate only to responsible individuals
- Follow up regularly
Hard Questions

- Empower directors to ask the “hard questions”

- Ensure ability to consider relevant info before making decisions
  - A forum in which all directors can simultaneously participate (i.e., not e-mail)
  - Offer an orientation and regularly scheduled briefings on issues including...

- Maintain confidentiality of information that comes to you as a director, except when specifically authorized or mandated
  - Understand the difference between process and outcome

- Reliance on info is not an invitation to shirk responsibility
  - Actively question management and advisors when they see a red flag
  - Retain oversight over committees and senior management recommendations
Duty of Loyalty

- Members give undivided allegiance to the pool when making decisions that affect the pool.
- Personal, family or business interests are not put above the pool’s interests.
- Conflicts of interest are avoided in both fact and in appearance.
Conduct & Ethics

- Adopt and keep up a code of conduct / ethics to ensure that it reflects core values of integrity and compliance with the laws, rules and regulations (with a document retention policy)

- Establish a whistle-blower policy

- Abide by a substantive conflict of interest policy
Duty of Obedience

- This includes:
  - State and federal laws
  - Filing requirements

- Examples are:
  - Governing documents
  - Policies
  - Processes for measuring
A Little Practice

- An association of teachers has the following board members
  - 1st doesn’t go to meetings but always reads the materials and shares comments before/after
  - 2nd always goes to meetings but never prepares
  - 3rd agrees with everything the executive says
  - 4th argues with everything the executive says
  - How is each exercising or not exercising her duty?

- A national association board includes elected chapter representatives
  - The board has to make a decision that all agree will help national but could hurt some chapters. How must the representatives vote?

- A board member of the local YWCA disagrees with a provision of the bylaws and often tries to get around it.
  - The board as a whole ignores (or maybe doesn’t realize) the issue.
  - What are the options for moving forward?
Policy or Operation
Policies

- Broad precepts or principles designed to influence, guide and control future decisions, directions and actions of the board.
Types of Policies

General
- Conflict of Interest
- Investments
- Whistle Blower
- Nepotism
- Sexual Harassment
- Executive Compensation
- Expense Reimbursement

Pool-Specific
- If / when to issue a dividend
- Which financial ratios to adopt
- At what level to fund reserves
- When to consider incentive programs
- Etc.
Where do we find them?

- Policy, Process, Procedure, Practice Docs
- Articles, Bylaws, Charter, Constitution
- Board Motion, Resolution, Recommendation
- Handbook, Manual, etc.
- Other?
Layers of Permanence

- **This town – gov docs**

- **This house – policies**
  - $25,000 3 bd 2 ba
  - 4202 N Louden Rd
  - Bloomington
  - $139,900 3 bd
  - 4120 E Ramp Creek Rd
  - Bloomington
  - $142,000 4 bd
  - $142,000 4 bd
  - $125,000

- **This décor – fluid items**
  - Mid-century modern
  - Rustic cabin

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Division of Labor

Board of Directors

- Staff
- Volunteers

- Is responsible for oversight and strategic direction
- Is responsible for/manages the finances, bills and filings, the office, publications, claims, underwriting...
- Helps out in the office...
Levels of

+ Discourse
3 Levels of Governance Discourse

- **Fiduciary**
  - How *are* we doing?
  - Are we in compliance?
  - Is anything wrong?

- **Strategic**
  - What *should* we be doing?
  - Where are we going?
  - What is the plan?

- **Generative**
  - What are the new possibilities?
  - What is coming next?
  - What are the new questions?
Fiduciary Discourse

- Oversee operations
- Ensure effective and efficient use of resources
- Ensure legal compliance and fiscal accountability
- Evaluate CEO
- Monitor results
Strategic Discourse

- Ensure mission is relevant
- Scan internal and external environments
- Monitor outcomes & impact via critical success factors and benchmarks
- Review and modify strategic plan
- Select the CEO
Generative Discourse

- Discover strategies, priorities, and realities
- Perceive and frame better problems and opportunities
- Suspend the rules of logic to tap intuition and intellectual playfulness
- Encourage robust discourse not quick consensus
An Example... The Audit

- **Fiduciary Discourse**
  - Did we get a clean audit?
  - What can we learn from the audit?

- **Strategic Discourse**
  - Does the audit pinpoint any issues that are strategic in nature?

- **Generative Discourse**
  - Does the audit hint at any emerging shifts or developments that could significantly challenge our business model or financial condition long term?
# Overview – Levels of Discourse

<table>
<thead>
<tr>
<th>Role</th>
<th>Fiduciary</th>
<th>Strategic</th>
<th>Generative</th>
</tr>
</thead>
<tbody>
<tr>
<td>Role</td>
<td>Steward / Watchdog</td>
<td>Strategist</td>
<td>Sense Maker / Future Seeker</td>
</tr>
<tr>
<td>Question</td>
<td>What is wrong?</td>
<td>What is the plan?</td>
<td>What is the key?</td>
</tr>
<tr>
<td>Problems</td>
<td>Spotted</td>
<td>Solved</td>
<td>Framed</td>
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</tbody>
</table>
Resources to Explore

- ASAE Topics:  
  https://www.asaecenter.org/resources/topics/governance

- BoardSource Learning Center & Store:  

- Independent Sector – Principles for Good Governance & Ethical Practice:  
  https://www.independentsector.org/principles

- National Council of Nonprofits – Good Governance Polices for Nonprofits:  
  https://www.councilofnonprofits.org/tools-resources/good-governance-policies-nonprofits
AGRiP’s Model Code of Conduct

- Honor, integrity and due diligence
- Democratic, effective and efficient governance
- Board as ultimately responsible
  - Guidance and direction sought and provided
  - Proposals and recommendations sought and provided
- Continuous improvement
- Shared responsibility for communication
- Merit, fairness and impartiality
- Influence that cannot be bought or sold
- Avoidance and transparency of interest conflicts
Sara Peterson Consulting

strategy, governance & management
for nonprofits, foundations, government & community groups

www.sarapetersonconsulting.com
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Pool Boards
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+ 12 Principals
Powering Exceptional Boards

- Constructive Partnership
- Mission Driven
- Strategic Thinking
- Culture of Inquiry
- Independent-Mindedness
- Ethos of Transparency
- Compliance with Integrity
- Sustaining Resources
- Results Oriented
- Intentional Practices
- Continuous Learning
- Revitalization

Strategic Thinking & Foresight
A couple thoughts...

- Not Just the basic framework
  - Our mission – what we do, for whom, to what end
  - Vision for our future success
  - The goals we will pursue to get there – what needs to change

- But an assessment of now
  - Where are we now
  - What is our role in the industry

- And an assessment of the future
  - What values, principles will guide us along the way
  - What could get in the way
  - What might change in the world that we haven’t anticipated
The Path of Change

Our idealized expectation...

A more realistic expectation...

Start

Finish

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Effective Co-Leadership
4 Keys to Success

- Maintain clarity re policy and oversight functions – agreement on roles and responsibilities
- Maintain solid relationship – trust – between board chair and CEO
- Communication – keep each other informed
- Use assessment to strengthen board and executive performance
First... Complementary Roles

Decision
Advisory

Oversight
Implementation
Ex: Responsibilities of the Chair

- Set agendas with Executive Committee and CEO
- Chair board and executive committee meetings
- Appoint board members to leadership positions
- Assist in conducting board orientations
- Periodically consult with board members on their roles
- Coordinate CEO’s annual evaluation
- Ensure board assesses its own performance
Second... Relationships & Trust

- What actually goes on in the CEO-Board Chair relationship?
- How do their interactions facilitate building trust?
  - Reliability
  - Honesty
  - Openness – transparency
  - Integrity
3 CEO-Board Chair Patterns

- Managing
  - Focus on internal operations including board operations: agendas, logistics of meetings, composition.

- + Planning
  - Focus on engaging with the Board on planning/decision-making

- + Leading
  - Vision/mission work with the board
  - Using expertise of board members
  - Accessing the networks of board members
  - Strategic thinking
  - Building external relationships
CEO-Board Chair Interactions

- Fact-sharing
- Ideas-sharing
- Knowledge-sharing
- Feelings-sharing
- Give and take

What Type of CEO-Board Chair interaction predominates in your team?
Third... It’s All Communication
And Negotiation
There is only Us
Sara’s Rules

- Bring everyone along
  - No surprises
  - Question “need to know”
  - You don’t know what you don’t know
- Assume positive intent first
- Form matters

- “We” / “the pool” v. “the board”
- Coffee is an important tool for success
Language to Practice

From the Board
- What do you need from us?
- Are you looking for advice?
- Do you want a decision?

From the CEO
- This is just by way of update – I wanted you to know in case
- I’ll come back with a recommendation next time
Potholes

- Just a volunteer...
  - Legally
  - Practically

- They need to...
  - Us/Us
  - Fairness

- Squelching culture of
  - Negative stories
  - We did that...
  - Not enough...

- Entropy from
  - Lowered expectations
  - Reduced responsibility

- Become gaping chasms if not addressed quickly
Fourth... Self-Assessment

As...
- The CEO
- A board member
- A committee
- The board as a whole

Of...
- A meeting
- A process
- A program
- The organization as a whole

Can be about...
- Knowledge or Skill
- Behavior or Process
- Performance / Outcomes
- Industry Standards
- Development as a board...

Examples follow
So Where Are We?
# Boards in Stages

<table>
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<tr>
<th>Characteristics</th>
<th>Outcomes</th>
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</table>
| **Growth**      | Move from staff-driven to shared ownership  
                  Understand their governance roles  
                  Reg attendance, informed, timely decisions  
                  Committees, terms, recruitment est’d |
| Moves beyond “friends”  
Increased performance expectations  
Need to understand risk and make informed decisions as opp. arise  
Structure begins to appear |  
| **Mature**      | Operates in a policy mode  
                  Understands governance responsibilities  
                  Has determined how to monitor impact  
                  Committee structure is clearly defined  
                  Competent and diverse, with rotating terms |
| Sets direction, policy-oriented  
Plays a leadership role  
Competence to keep focused, vital  
Organized for max effectiveness  
Structure for continuity |  
| **Decline**     | Reviews performance and satisfaction + $$  
                  Attend board meetings on a regular basis  
                  Future-focused, not complacent, ambassadors  
                  Willing to call attention to “slippage” |
| Unaware there is something wrong  
Lack of “spark,” or too many crises  
Ennui / drop in attendance  
Focused on “want” v. need  
Enter a “whistle-blower” |  
| **Turn-around** | Reconnected, eager to help restore integrity  
                  Small but committed group moves forward  
                  Provides objectivity, support, advice |
| Committed core ready to act  
Turnover has shrunk board down  
Board supports turnaround manager |  

Pooling Hierarchy: Governance

Pool's governing docs have evolved to reflect changing needs, environment. Roles & responsibilities of Board, staff, service providers are clear. Board operates at a strategic level.

Rainbows & Unicorns
- Pool is a respected partner to its sponsor(s).
- Pool has documented governance policies.
- Board has regular strategic conversations.
- Board understands and can act on sound financial management principles.

Esteem
- Pool and sponsor(s) have mutually beneficial relationship. Organizational docs support long-term membership. Pool Board has vision, mission, purpose, goals. Board can articulate how pool meets member needs.

Affinity
- The pool is endorsed by its sponsoring association(s).
- The pool’s Board meets, makes decisions based upon its commonly understood fiduciary obligations.

Security
- Necessary articles of incorporation, organizational bylaws, interlocal and/or member agreements are in place.
Parting thoughts on Meetings
Exceptional Boards have Meetings that ...

- Run Long
- End on Time
- Driven by Personality
- Driven by Ideas
- No Clear Objective
- Delivers the Objective
- Unprepared
- Draining
- Energizing
- Jump Right In
- Argumentative
- Constructive
- Debate
- Wastes Time
- Demotivating
- Motivating
- Creates Change
- Impedes Progress
- Accelerates Progress
- Unsatisfying
- Negative
- Positive
- Exciting
- Weak Leadership
- Strong Leadership
- Defer Decisions
- Refine Decisions
Do we Engage all 3 Levels?

Fiduciary

Strategic

Generative
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