



**BOARDS OF DIRECTORS AND BOARDS OF ADVISORS –
FOR COMPANIES AND NOT FOR PROFIT ORGANIZATIONS
HERB RUBENSTEIN, JD, MPA, DSS**





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Learning Objectives

- Learn how to help form excellent boards of directors
- Learn how to participate as a board member
- Learn the duties and responsibilities of boards of directors
- Learn how accountants can expand their business services to help support their clients' boards of directors
- Learn the many benefits of serving on boards
- Learn how to get additional board of directors' training

Boards of Directors And Boards of Advisors – For Companies and Not For Profit Organizations

Herb Rubenstein, JD, MPA, DSS,

About the Presenter

- Herb Rubenstein -
 - Lawyer, Author, Public Speaker, Educator
 - Lecturer, Graduate School of Business of the University of Colorado Denver - Course in Strategic Management
 - Member, Corporate and Nonprofit Boards
 - Author, *21st Century Standards and Practice for Boards of Directors* (Thomson Reuters)
 - Co-Author, (with Professor Tony Grundy), *Breakthrough, Inc.: High Growth Strategies for Entrepreneurial Organizations*

About the Presenter (Con't)

- Associate Member, PGA (Professional Golfers Association of America), Level 2
- Former Adjunct Faculty Member, University of Colorado Denver, Graduate School of Business, Global Energy Management Program, taught capstone course *Strategic Management*
- Author of numerous courses on Ethics
- Leadership, Management, and Board of Directors Consultant

Overview

- Section 1 - The Purposes of Boards of Directors and Boards of Advisors of Companies and Not For Profit Organizations
- Section 2 - Strategies for Making Boards Useful and Boards of Advisors
- Section 3 - Composition of Boards
- Section 4 - Non-Profit Boards
- Section 5 - Your Business Opportunity

Overview (Con't)

- Optimal Role of the Board
- Agendas - Annual - Chair sets
- How to Enroll, Recruit, Train
- Governance Structures
- Voting and Committees

Overview (Con't)

- Communication Structures
- Board Evaluation Approaches
- Your Role as An Accountant and Consultant to Companies and Boards
- Setting goals for board
- Benefits of serving on boards of directors
- Advisory boards - potential benefits to the organization of having a board of advisors distinct from the board of directors

Training for Board Members

- Certification in UK and Canada
- Business School Trainings for a Certificate
- NACD
- Most Concepts Applicable to Advisory Boards
- In the Concluding section I raise two new topics -
- Combine Chairman/CEO positions? And
- The Potential Role of the Board of Directors regarding “Sustainability”

Section 1 - Purpose of Boards of Directors

- Govern, set rules for org, by-laws
- Approve budget, key decisions
- Hire, fire, evaluate the CEO and top management
- Monitor organization's ethics
- Help create, lead supportive ecosystem
- Each committee has a separate purpose that includes RISK

Section 1 - Purpose of Boards of Directors

- Typical Committees, but you create your own
- Nominating and Governance
- Audit
- Science and Technology
- Finance
- Compensation, HR, and Benefits
- Regulatory, Compliance, Government Relations, Environment

Section 1 - Purpose of Boards of Directors

- Boards are Cops/Super Cops
- Boards are cheerleaders
- Boards oversee internal controls
- Boards responsible for quality of financials with CEO's who must sign
- Even in LLC's which require no board, still a good idea to have Board of Advisors

Section 1 - Purpose of Boards of Directors

- Fiduciary standard and business judgment rule –
- Board must be informed, have proper expertise and work for betterment of company using its best judgment
- Valuations in mergers - huge area of dispute due to conflicts of interests, must protect minority shareholders

Section 1 - Discussion of Boards of Advisors

- Boards of Advisors –
- Can bring great benefits, advice, perspective to company without legal liability, and at minimal cost
- Monthly or quarterly meetings
- Can include all types of stakeholders
- Always seek to reward/incent advisory board members, but beware of favorable treatment in RFP or contract situations

Section 2 - Strategies and Best Practices - Boards of Directors

- Selection of board members – key
- Onboarding - key - See next slide
- Board procedures, decision making authority clear – key
- Electronic voting and virtual meetings
- Board meets without Pres/CEO
- Independent board members
- Start up issues for boards - meetings

Section 2 - Strategies and Best Practices - Boards of Directors

- Onboarding - EBoard Book
- Requires training, must know history of company, future directions
- All company documents must be available if sought by board member
- Must get to know other members
- Committee assignments critical
- Expectations clearly explained

Section 2 - Strategies and Best Practices - Boards of Directors

- NIFO, but holds Management accountable
- Be Adequately Informed - Absolute Duty
- Provide Perspective, Judgment
- Organize Committees According to Needs of the Organization
- Risk Assessment - Essential
- Evaluate Each Board Member and CEO in writing annually - No Exceptions

Section 2 - Strategies and Best Practices - Boards of Directors

- Minutes, minimum but accurate
- Meetings between the meetings for Committees and subcommittees
- Clear role for executive committee
- Decision rights spelled out
- Charters for each committee
- Chair appoints all committee chairs
- Independent board members

Section 2 - Strategies and Best Practices - Boards of Directors

- Agendas set at least two weeks in advance except for crisis items
- Must remove deadwood quickly and fairly after adequate warning
- Note: Investors may have negotiated rights to board seats
- Boards must have budgets, staff, support
- New Position - Director of Board Relations

Section 2 - Strategies and Best Practices - Boards of Directors

- Ethics - beware of conflicts of interest, self-disclosure is essential
- Always tempting to do business with board members, and often justified
- Rubber stamp board for CEO is ethically unacceptable - Previous Chesapeake Energy Board, and Enron's board
- Board is a real job and should be paid, except where not allowed in some states for Not For Profit Boards
- Should approve code of ethics for company

Section 2 - Strategies and Best Practices - Boards of Directors

- Important role in product/service ideas and development if innovation important
- Should have metrics defined by which company reports to the board
- Board can talk to employees; can limit employees talking to board
- Board helps develop and approve strategic plan and deviations from plan

Section 2 - Strategies and Best Practices - Boards of Directors

- Board - investigatory power
- Quorum - key rule
- Special meetings and rules for calling
- Must approve all loans to employees
- Connectors, Eyes, Ears for company
- Decision makers
- Key rules about when members cannot speak to the public

Section 2 - Strategies and Best Practices - Boards of Directors

- Key role in developing succession planning systems
- Board evaluation should be formal process where each board member and CEO all evaluate each other
- Great role for accountant to assist
- Level of openness can be varied
- Diversity – Age and backgrounds – New California law on

Section 2 - Strategies and Best Practices - Boards of Directors

- **Diversity - Example - Starbucks**
- Rosalind Brewer, President and Chief Executive Officer of Sam's Club, and executive vice president of Wal-Mart Stores, Inc. African American Woman
- Satya Nadella, CEO of Microsoft Corporation - Indian American
- Jørgen Vig Knudstorp, Danish, Executive Chairman of the LEGO Brand Group

Section 2 - Strategies and Best Practices - Boards of Directors

- Communication – cybersecurity is a key issue – can be hacked
- Board members will want to use their own email addresses, NO WAY
- Must create a virtual board library
- When board identifies a problem, management should be given a specific amount of time to address it - reporting requirements

Section 2 - Strategies and Best Practices - Boards of Directors

- Futurecasting per NACD –
- Job of the board to create scenarios about the future –
Burger King and obesity - board member - salads -
weathered storm better than McDonalds
- Downturn in oil and gas prices
- Government regulations being enforced
- Awareness of new technologies

Section 2 - Strategies and Best Practices - Boards of Directors

- Voting – some items majority rule, some 2/3 – all votes recorded with arguments pro/con identified
- Committees reporting item out for a vote/or entire board can bring it up
- May follow Robert's Rules or informal
- Tabling a matter - very important if board does not have enough info or if there is a dispute that needs to be worked out

Section 3: Composition of Boards

- How To Build a Board or How To Rebuild a Board
- Identify competencies and aim high
- Be willing to pay board members cash or stock or other benefits
- Term Limits
- Standards and Expectations

Section 3: Composition of Boards

- Develop a Candidate Pool far in excess of need so that a “waiting list” is generated
- Have directors’ and officers’ insurance to reduce risk of potential board members
- Clear records, resumes, start dates, votes for and/of board members in minutes
- List of competencies next slide

Section 3: Composition of Boards

- Governance - experience on board
- Knowledge of sector
- Financial acumen
- Merger & Acquisition
- Social Media and Information Technology
- Strong ecosystem for strategic alliances
- Legal, Accounting, PR,

Section 3: Composition of Boards

- Ample number of people willing to serve on boards of directors, especially women and minorities
- Measure the benefits of the board annually
- People can serve on committees who are not elected to serve on a board and could become great candidates for board
- Board training - how to speak for company
- Speakers' bureau source for Not For Profit

Section 4 - Not For Profit Boards

- Boards are Resource Developers / Fundraisers
- Boards are Cheerleaders
- Boards oversee internal controls
- Boards responsible for quality of financials and ops, quality control
- Boards are stewards of the organization's resources and commitment to those they serve
- Boards hire/fire CEO
- Boards suggest strategic alliances and programs

Section 4 - Not For Profit Boards

- Boards are advocates for ethics
- Advocates for those served
- Advocates for strategic alliance partners
- Advocates for transformation of the organization and its capabilities
- Advocates for the vision of the organization
- Boards build and support **BRAND**

Section 4 - Not For Profit Boards

- Boards can be the face of the organization + CEO
- Boards are connectors, relationship catalysts and builders
- Boards are visionaries who know what the organization can and should do – and insist they meet potential
- Boards can and must make demands on management

Section 5 - Business Opportunities for Accountant Regarding Boards of Directors

- Helping set formal board goals
- Establishing and managing the board evaluation process for themselves
- Establishing formal evaluation process of CEO
- Establishing protocols, charters, and schedules for committees
- Setting budget and monitoring expenses and expenditures of board

Section 5 - Business Opportunities for Accountant Regarding Boards of Directors

- Assisting nominating committee recruit and vet new members
- Keeping minutes
- Being a watchdog for board - reporting concerns for future investigation/action by board/CEO
- Monitoring conflicts of interest and ethical issues for the board
- Evaluating the “independence” of an “independent director” through due diligence

Conclusion

- Very under performing asset for companies, nonprofits and often nonexistent as an independent body
- Must eliminate rubber stamp
- Must set up real processes, budget
- Independent of CEO and management
- Great potential for business development
- Need to be joined by legal counsel

Conclusion (Con't)

- CEO/Chair
- Fukushima
- Sustainability - Sustainability Accounting Standards Board provides guidance to Management and Boards
- Committees Are Key
- Legal Standards Are Fairly Well Defined
- Indemnification is Important
- D&O Insurance is Critical - Covers Legal

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