



Governing in a Time of Change

Wayne Ducheneaux, Native Governance Center Sarah Duniway, Lathrop GPM MCF Annual Conference February, 2020

Agenda

- Introductions
- Basics of Good Governance
 - Legal Perspective
 - Tribal Governance Perspective
- Three Current Challenges
- Wrap-Up

Introductions



Basics of Good Governance Legal Background

- What is the role of the Board?
- What are the duties of individual Directors?
- How does a Board work?

Board of Directors

- Role of the Board
 - The business and affairs must be managed by or under direction of a board of directors

Two Categories of Board Work

Fiduciary Oversight

- Oversee management (but do not manage)
- Clarify and probe assumptions
- Review materials and keep up to date on business operations
- Understand risks and how they are managed
- Financial oversight, audit
- Approve major transactions
- Approve key policies

Long-Range Planning

- Define the mission, vision and values
- Define the desired future state
 and develop plans to get there
- Adopt long-range financial plans
- Review and approve annual operating and capital budgets
- Monitor progress against plans and refine as necessary
- Monitor external forces and modify plans as needed

Duties of Individual Directors

- Fiduciary Duties:
 - Duty of care
 - Duty of loyalty
 - Duty of obedience
- Related Concepts:
 - Reliance
 - Delegation
 - Exoneration



Duty of Care

"Directors must discharge the duties of the position ... with the care an ordinarily prudent person in a like position would exercise under similar circumstances"

- Allows directors to exercise their judgment
- Balance risk and rewards of particular action
- Act with common sense and informed judgment



Loyalty and Obedience

- "A Director shall discharge the duties of the position ... in good faith, in a manner the director reasonably believes to be in the best interests of the corporation..."
- Directors have duty to follow the organization's governing documents, to carry out its mission and ensure its funds are used for lawful purposes

Related Concepts

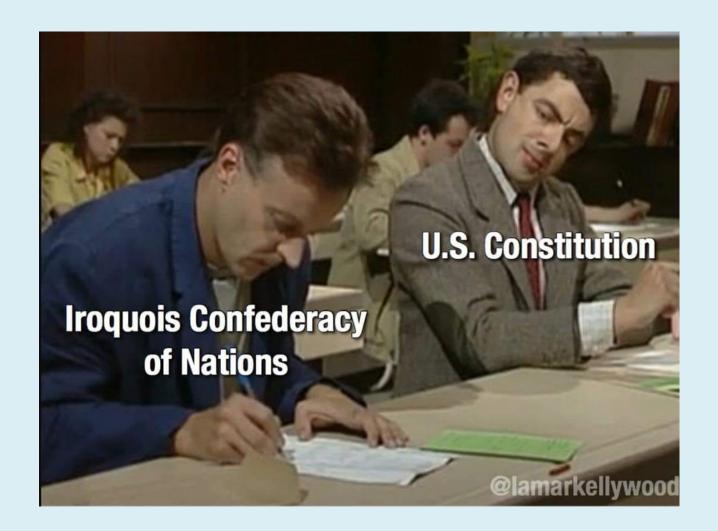
Reliance

- In discharging duties, a director may rely on information, opinions, & reports prepared by the following unless director has knowledge that reliance is unwarranted:
 - Committees, employees, legal counsel, accountants, other professionals
- Delegation is permitted (and expected)
- Exoneration not personally liable

How Does a Board Work?

- Board can only act as a body
 - At a duly held meeting, with votes
 - Action in writing between meetings, with majority approval
- Board speaks with one voice
 - Debate + Vote = One Voice

Tribal Governance Perspective



Native Nation Building

Five principles of good governance:

- 1. Spirited Leadership
- 2. Capable Governing Institutions
- 3. Cultural Match
- 4. Strategic Orientation
- 5. Practical Sovereignty

What does Tribal Governance have to do with board governance?

Remember back to Sarah's sixth slide:

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Good governance principles are universal.

Three Challenges Facing Boards Today

- How to disagree and then move forward
- How to transition new Board members in
- Engaging ownership over program direction between Board and staff leadership

Disagreement vs. Decision-making

- Differentiating robust discussion and deliberation from downright arguing
- Calling the question and moving on
- How do we know when an issue has been decided?

New Board Member Transitions

- Need for balance
 - Fresh perspective
 - Respect for history and traditions

Board vs. Staff

 Balance need for engagement and ownership against micro-managing?

One Model

Board

- Defines enterprise-wide strategic direction and planning, working closely with the Leadership Team
- Approves major business decisions only

Committees

- Oversee operations within functional areas
- Approve important business decisions within functional areas
- Inform strategic direction by bringing expertise in functional areas
- Provide advice and guidance to Leadership Team in functional areas

Leadership Team

- Supports and informs the Board's efforts to define strategic direction and planning
- Executes the vision and strategy
- Runs the business
- Engages with the Board and Committees, seeking perspective, guidance and assistance as needed

Wrap-Up

Speakers

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