Board governance should not be happenstance. The foundation documents define responsibilities as well as accountabilities. The structure sets out how it is organised to function while working part time but responsible and accountable full time. The process sets out how it will be done on a consistent and periodic basis. The people – the team – is who will do all the work on governance, drawing on their experience and judgment.

The following presents the 4 corners of board governance.

1. Foundation Documents

- Canada Not for Profit Act
- Corporate Bylaws
- Board Policies
- Code of Conduct

2. Structure

- Board members
- Board Chair
- Committees
- Mandates
- Corporate Secretary
- Recording Secretary

3. People

- Functional expertise
- Executives with P&L experience
- Domain experience
- Competence, Character, Commitment

4. Processes

- Agenda Setting
- Work plans
- Consent Agenda
- Committee Reporting
- In -camera
- Duty of care

............foundation documents

Every corporation in Canada is rooted in law and must act accordingly. All are subject to the Income Tax Act as well as much other legislation (PIPEDA, CASL, etc.). Some NFPs – universities and hospitals, and condominiums, for example - are regulated by other federal and provincial authorities

The Canada Not-for-profit Corporations Act applies to all not for profit corporations. It is the definitive authority on the rights of corporation members as well as the responsibilities and accountabilities of board directors. All corporate activity and documentation is subordinate to that Act.

The corporate bylaws are the paramount set of rules that establish how the corporation is to be managed.

In addition, each board may them define a series of policies that all fiduciaries - directors and the managers - within the corporation must follow. The Code of Conduct is one of those polices that prescribes both the fiduciary duty as well as duty of care, for all fiduciaries – directors as well as officers of the corporation.

............structure

The board organises itself through a formal structure. Board members are elected to provide oversight over all material activity of the corporation on behalf of its members. Job descriptions for the Board

Chair, Committee Chairs as well as all board members are helpful. The number of directors is set in corporate bylaws; typically, about a dozen but could be more or less.

While the board Chair is the leader of the Board, he/she is not the CEO of the Board; he/she cannot direct board members. All board decisions are communicated by the Chair to the CEO.

The board typically does its work through its committees by creating committees that span all oversight work that the board deems material. Some are standing committees that report at every Board meeting; others may be ad hoc committees. This is where the detail work is done, in a smaller group dedicated to the task. The Committee then reports to the board, presenting what work was done in review, issues raised and discussed, any impact, along with any proposed recommendations for board consideration. A Committee can only make recommendations for a board decision.

The number of committees and type depends on what work needs in depth oversight, what is material. At minimum, a board should have

- A governance and nomination committee to oversee its own operations; a nominations committee can be separate if independence is of concern.
- A finance and audit committee to over see all financial operations. This is possibly the most important committee of the board; each member must be financially literate and ideally its chair experienced, if not certified, in financial management.

The need for other committees depends on the nature of the corporation recognising that the board should provide oversight over all material aspects of the corporation. This may include committees for human resources (HR) and compensation, marketing, production, communication, legal, fund raising, quality assurance, information technology (IT), etc.

The Board must have a clear mandate and charter, one that is documented. So should each committee so that there is no ambiguity about responsibility and accountability. Those terms of reference are especially important as it provides the compact between board members and management, and assures members and other stakeholders that there is oversight.

The Corporate Secretary reports to the Board, as an advisor, on all legal matters, including that of overall governance. The recording secretary, as the minute taker, may come from management staff or may be a board member.

............people

Board composition, selecting the right people for board positions – possibly through a nomination and subsequent election process - is of paramount importance. If the board is to be credible and provide oversight, it must have at minimum the same level of seniority as each member of the executive team.

> ***A board director must be competent to exercise duty of care, knowing what questions to ask and better yet, knowing the answers.***

Ideally the Board should be a team that includes functional expertise – legal, finance and accounting, information technology, communications, etc. – as well as operational experience, responsible and accountable for results. It is important to assemble a team that covers all facets of the corporation as no one individual on the board will know the corporation as well as the CEO and his/her team.

The overarching premise is that the board must provide oversight on all senior management activity. To do that effectively, board members need to be as senior as the management team and the CEO.

A board is not a jury of peers within the general population with an interest in corporate affairs.

Ideally, more than 50% of the board should be senior executives who have had profit and loss (P&L) responsibility. Those typically understand risk management and the consequences of decisions made better. Board members should not be like minded – there should be diversity - and one or two contrarians welcomed to provide a full and informed discussion. For the most part they should be peers of executives.

Domain expertise is important so that board meetings are not sidelined with learning what is the business of the corporation.

Competence, character, and commitment are essential characteristics of a good and contributing board member.

Every board member should be equally competent as everyone relies on each other for analysis and insight while doing their duty of care. Board member should not be filtering, discounting information, or left wondering, dependant on “who”.

All board members should be equally committed to the corporation mission and vision, and know its purpose well. Each member must make the commitment to the team effort of board governance.

Each board members must be a team player, to enable working together constructively, and have a personality that allows critical discussion without being offensive. Conscionability implies integrity at all times and never being self conflicted, never acting in self interest.

The board should be balanced across the 3 characteristics to ensure good board dynamics, to always work as a team. Each board member must have critical and system thinking capability, to analyse each topic, as well as see its interrelationship with others, to judge impact including risk.

............processes

The Board - with a calendar of about 6 meetings throughout the year, sometime more, sometimes less - has a myriad of processes to meet its oversight responsibility.

The agenda setting process – at the start of every annual cycle and for every board and committee meeting is important to set overall objectives, to allow the board to focus on what is important. The board should establish its governance objectives for over the next 12 months based on a situational analysis. There should be general agreement if it is to "stay the course" or alter it, and if so, to what.

Equally, every meeting should open with an agreed to agenda – of topics to cover. Members may suggest changes – additions or deletions.

Led by the Board Chair, the Board should agree to a work plan that flushes out details of that board agenda. Equally each committee should develop its own work plan for the next 12 months. All workplans should be presented for board approval. The set of all workplans should set overall objectives as well as broad outline for work to be done. The alternative of cruise control is not a recommended governance practice.

A Consent Agenda is a useful tool that enables the board to focus on the important issues at hand. Developed typically by the Chair, it includes items that are more routine, more informational, that may not need further board discussion. This may include meeting minutes, CEO report, earned media, etc. Any board member may request further discussion on any item and pull that item from the Consent Agenda without further approval. Otherwise all items in that Consent Agenda get approval, in bulk, with one board vote.

Committee reporting should be done by the committee chair. That Chair should tell the board what work was done in the review process, what issues were discussed, and what the recommendation is for board approval. The board should not redo the committee work, nor should the board automatically agree to the committee recommendation (as the committee is a subset of the board and cannot speak for the board).

The board in sits deliberation process should differentiate between a presentation on information (FYI) and one for decision making. There is always much to absorb and not all board members have the same level of curiosity. FYI material for board members should be presented as part of a board package.

The board typically works in concert with the CEO and his/her team, while it provides oversight and monitors material activity and results. The management team often attends board meetings, working collaboratively. A good practice is to start any meeting – board or committee – with an in-camera session – just board members without any one from management - to establish objectives and lines of inquiry, including concerns. An in-camera meeting can also be held directly after. Such meetings must be board confidential. Minutes may be taken by any board member.

The duty of care process is the most important role that a board director must perform. The board is held jointly and severally accountable for corporate performance. The overall expectation is not for a perfect decision, only a reasonable one. As not all board members have the same experience, the board must rely on the members with specific expertise and be guided by them. Duty of care is similar to "due diligence": trust but verify. That may require healthy skepticism – occasionally and not always; not everything has to be verified either. The nostrum –" nose in, fingers out" – applies.

Every board member must make his/her own decision and is entitled to all relevant information.

............conclusion

The framework for NFP corporate governance relies heavily of the Concept of Operations. The framework can be far more complex s it depends also on the complexity of the corporation as well situation at hand.

Each board can expand this framework to meets its obligations for oversight on behalf of its members and all other stakeholders.