

The Perspective from BlueLake®

“Working With Your Board Advice for CEO’s”



Reader,

This is the tenth edition of the BlueLake Partners’ Newsletter – **The Perspective from BlueLake**. The Newsletter is published periodically and focuses on and analyzes trends in the sectors we follow: Software, Semiconductors, Enterprise Storage Networking and Communications. We hope you find it informative and thought provoking, and we welcome any suggestions or thoughts you might have on the content. Please feel free to pass it along to others that you think might find it interesting.

Sincerely,

BlueLake Partners, LLC

Straight to the Point

- Always Tell the Truth
- Problems and Solutions
- You Run the Meeting
- No Surprises
- Know Your Board

This is an article about working successfully with your Board of Directors. Let’s start (briefly) by discussing *why* you need to work well with your Board.

Introduction

A Board member carries a fiduciary responsibility. Black’s Law Dictionary describes a fiduciary relationship as “one founded on trust or confidence reposed by one person in the integrity and fidelity of another.” A Board member has a responsibility to act for the benefit of the company’s stockholders and must exercise a high standard of care in protecting or promoting their interests.

In practice, a Board is at the top of the organization chart. You, the CEO, report to the Board. Boards work with CEO’s in different ways. My view is that the most successful CEO’s and Boards split up the responsibilities this way:

- The CEO oversees company operations.
- The CEO keeps the Board informed about operations and results.
- The Board gets involved in operations when it has concerns, but ordinarily stays out. Concerns may emerge from a lack of information, process problems, or problems with results.



- The Board, working with the CEO, reviews, comments and advises on strategy, and sets direction.
- The Board doesn't run the company day-to-day – if it has to, its job is to replace the CEO.

Your Board, especially following the passage of the Sarbanes-Oxley Act of 2002, has a set of important legal responsibilities. Don't try to guess at these. Spend some time with your attorney, and make sure you get it right.

With this brief introduction, let's move on to working with your Board.

Tell the Truth

The first rule is: always tell the truth to your Board. Never mislead them; never obfuscate; never hide things. They can only lose their faith in you once, and once gone, that faith will never be restored.

Yet CEO's will sometimes have bad news to tell their Boards, and sometimes right after the CEO has told them something quite different, and sometimes to a Board which hates to hear bad news. What's a CEO to do? Two thoughts here.

First, experienced Board members know that things don't always go smoothly. They've seen disasters before. They would much rather hear the truth and help you solve the problem than feel as though they're being scammed, or have to interrogate you to get at the problem.

The second thought is this: your board wants to hear the truth about problems *and your plans to solve them*. For example, if you tell them that the Acme Megaworks 1000-seat order is cancelled and stop there, they'll worry about your ability to deal with the problem. If you tell them that it's cancelled and that you've put a plan in place to make up the revenue by selling services, and that you've started getting favorable responses from clients, they'll know that you're on top of things.

You have to give them the bad news, but give them your progress on a solution to the problem at the same time. After all, your job as CEO is to solve problems.

That's a little bit of the basics. Let's move on to some other issues: issues of style and Board management which will save you and your Board a lot of grief over time. Below, in no particular order, are a number of ideas which promote communication and effectiveness, and allow you to spend your time managing the company, rather than reacting to a Board which isn't functioning well.



Set Expectations

Set the expectations for your Board. For example, I know one Board (out of control, in my opinion) in which much of every meeting is spent going over the financials, line by line. This happens because the CEO/Chairman made the mistake of allowing one Board member to do this once, and it became standard for every meeting.

How can you avoid this kind of problem? By being a leader, being active. Some specific ways to do this include:

- Set the agenda.
- Create interesting agenda items. Don't create make-work tasks, but have some agenda items which really allow your Board to contribute. For example, discuss three or four companies you're going to pursue. Provide information about the particular location or division or market segment in which you're interested. Ask for help on strategy or connections or possible approaches to these specific companies. Or, brief the Board on particular new markets you're pursuing and get some help from them in exploring these markets. Or, ask for operations advice.
- Send out materials well in advance and ask for comments.
- Put time boxes around items and stick to the agenda. Be prepared to say that you'll do more homework and get back to them at the next Board meeting. And make sure that you do.

Another good Board practice is to avoid surprises. Board members should show up at your meeting knowing what to expect. You should talk with each Board member in advance of the meeting and make sure he or she knows what the issues are and what's going to be discussed at the meeting. Would you rather know about someone's concern ahead of time, when you have time to think about it and respond, or be surprised in front of an audience? Do your Board members want to understand issues which are going to be brought up at the meeting in advance or have to respond to something important that they haven't had a chance to think about? The answers are obvious.

One school of thought says that a Board votes on issues at meetings, and there are lots of votes that are 3-2 or 4-1. My preference is for unanimous votes, all the time. Unanimous votes indicate that the Board members value one another's arguments and opinions. Unanimous votes indicate that there's been good discussion, possibly some compromise, and that the Board is united in its view of what should be done. They're also a sign that you've been a good communicator and facilitator. If an issue has to be tabled or if a study group has to be formed to report back at the next meeting – fine. Most issues a Board votes on are not crucial. Getting the Board in the habit of thoughtful, considerate debate and shared outcomes makes discussion of the hard issues much more constructive. There's a backlog of good will and good process which helps the Board arrive at



good outcomes on the issues where there are strong opinions and interests dividing people.

Know Your Board

Use the Board members' strengths. Get to know your Board members to learn what they know and what they're good at. If you have a Board member with no strengths, you have a problem. Find a way to replace him or her. If you're sure that this individual adds no value, then your duty to the stockholders is to find someone who's better.

To avoid facing this problem, do your own due diligence before the individual joins the Board. Your investors ask you for references before they invest; ask them for references before you let them invest. They won't be offended. Moreover, they'll understand that the relationship works both ways. If you're working with several partners from a VC firm, and one clearly seems to be a better Board candidate, work with him or her. Ask the individual if he or she is going to be the firm's representative; say that you'd prefer it. It's a compliment.

If you wind up with an investor on your Board with nothing to contribute, it's a problem. Take as a project finding something useful the individual can do; work at finding a skill or knowledge area where the person can contribute.

There's a particular Board member about whom you should be careful. That's the Independent Director. Many venture capital deals specify two company representatives (for example, the CEO and the chief technical person), a couple of investor representatives, and a fifth Independent Director appointed by mutual agreement. Time and again a company will accept the first nomination made by the VC's, who are generally assumed to be thoughtful and know a lot of people. Be active in the selection process. Have your own candidates. Pick someone who isn't there to curry favor with the investors. Find, if you can, someone who's been an entrepreneur and will be sympathetic to all the problems you encounter and able to help you with them.

In general, make it clear that you expect Board members to work. They should be on committees which do some work and report; they should expect to read up on issues which will be discussed. In your between-meetings contacts with them, you can ask them to say a few words at the next meeting on a topic. Give them time to research it, and you'll get some good work out of them. Of course, when you think there's a right answer, give them a hint about what it is and ask to be informed if they differ strongly from what you believe to be the case.

Feed your Board. A hungry, thirsty Board can get ugly.



The out-of-towners are harder to get to know, and they may be out of the communications loop. Encourage them to come to town the night before a meeting, and take them to dinner.

Create a Win-Win

Don't have your executives sit in on meetings. Have them come in, brief the Board, answer questions, and leave.

Working with your Board is worth the effort. They represent the stockholders. They should be thinking about issues which you might miss because you're worried about the day-to-day problems which every business encounters. Spend time on the care and focusing of your Board. Remember, they can fire you, and they should if you're not performing.

Don't look clueless; never say "duh". That's why you prepare. If you prepare well and they all know it, an issue that takes you by surprise can be put off to the next meeting.

Is this advice all about controlling and manipulating your Board? Yes, to some extent. Is that bad? Is it wrong to consciously manipulate them? It's really not manipulating; it's managing an important company resource. You're also doing good staff work for your Board, and it's the way to get the best from them for your stockholders and your company.

Working with your Board in this concentrated way will make you a better CEO. And that's helping them be good fiduciaries. When you run your Board well, everyone wins.

Afterword

An afterword: some of the counsel above is hard to follow when you're working with an existing Board which already has its own habits and ways of doing things. The ideal time to implement these practices is when you're starting with a new Board. The most usual time for new Boards to start working together is right after venture funding. I spent an hour recently going over the advice above with the CEO of a newly-funded firm. He's an experienced and able executive, but said, "This all makes enormous sense. I didn't realize that Boards can work this way. The other two Boards I was on were run by the VC's." I believe that the other Boards were run as they were because the CEO's weren't active and creative enough, and left a vacuum which other Board members had to fill.

If you're the CEO of a newly-funded venture, there are some actions you should take:

- Plan to be Board chair. Being Chair allows you to set the agenda.



- As mentioned above, be very careful about the Independent Director. He or she can be the swing vote in whether you stay or go. Look at multiple candidates; don't be overwhelmed by resumes; look for good chemistry; pick carefully.
- Set the tone at the first meeting. Have an agenda; talk with Board members ahead of time. Set their expectations of how your Board meetings will be run.

Doing all this is a big job. If you're not up to it, don't try to fake it. If you can't do it all, do some of it. If you're not Chair, build a strong working relationship with the Chair.

Pay attention. Develop your own ways of leading and making the Board effective. Develop your own style. You're likely to be on other Boards in the future, and this experience will prepare you to do even better next time.

— *Peter Miller*

About BlueLake Partners: BlueLake Partners is a boutique investment bank focused on providing merger & acquisition advisory services, raising growth equity capital and providing other financial advisory services.

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