

Tom Little's

BIG IDEAS

for Non-Profits

In This Edition

March 15 to 19, 2021

MMM...Meeting Minutes Matter

Tom talks about what should and shouldn't be in your Board meeting minutes and how they are tied to your agenda.

Instead of a Tom Bit, Try a Ken(Dryden) Bit

When he was younger, Tom played hockey at the University of Toronto, once facing goalie Ken Dryden and Cornell University's Big Red. Learn how it turned out along with more about Ken's iconic mask.

Develop a Policy for Electronic Signatures

COVID has accelerated the move to electronic signatures on documents. Legal firm Osler suggests developing a policy.

Consider This: A Separate Strategic Plan for the Board of Directors

Strategic plans can help ensure better governance in non-profit organizations. Tom explains how.

Headline News

MMM...Meeting Minutes Matter

The Story

In 2013, I wrote an article about the content of minutes of Board meetings. In it, I referenced the advice of a U.S. lawyer who worked with non-profits.

According to her, minutes should include four basic types of information:

- Time, date, and location of the meeting.
- The fact that proper prior notice of the meeting was given or that notice was waived by those attending the meeting.
- Who was in attendance and whether a quorum was present.
- Motions made and approved or defeated.

This means you wouldn't:

- Reference any meeting topic that didn't result in a motion.
- Describe the discussion related to a motion.
- Note who moved and seconded.
- Describe the number of votes for and against.

The lawyer provided the following rationale for her suggested approach:

- Meeting minutes serve as legal documents that may be examined when an organization is being investigated or sued. Therefore, it is important to keep accurate meeting records but not to include unnecessary information that could prove harmful in the future.
- Including the names of those who make and second motions can help potential plaintiffs find "friends" and "foes." Providing vote counts in the minutes makes public how divided the group was and are unnecessary. Only that a motion passed or failed is needed. (However, meeting participants may request that their negative votes be recorded in the minutes.)
- Because debates infrequently reflect a balanced view or consensus of the members—either the minority or majority view is argued more strongly—including debates in the minutes might create a skewed historical record. In addition, including debate detail could create a public appearance of divisiveness when a united public front is more desirable.

The Skinny

In my discussions with Boards of Directors since 2013, when the issue of minutes comes up, many Board members see the lawyer's approach as insufficient and overly cautious.

They are in favour of the kind of meeting agenda set out below, then reporting on each heading in the minutes.

- Date
- Time

- Location
- Attending, regrets, absent
- Confirmation of quorum
- Approval of the agenda
- Declaration of conflict of interest
- Approval of the minutes of the previous meeting
- Business arising from the minutes
- Correspondence
- Updates on the Strategic plan, Board year plan and CEO/Executive Director year plan and budget
- Committee reports
- Other reports
- New business
- Board development activities
- Next meeting
- Adjournment.

As for the content of the minutes, most Board members disagree with the lawyer, and want minutes that include things like the mover and seconder of any motions put before the Board. Which is fine. The lawyer's recommendations do look pretty bare bones.

But there is one of her recommendations that merits full consideration, related to discussing motions. It is very difficult to boil a discussion down into a few words, so don't try. Instead, the minutes should read "Discussion followed" after the motion and before the results are documented.

Here's another idea that the lawyer didn't reference but can be very helpful: Avoid voting on motions that haven't been written out in full for everyone to see. Don't let any mover provide a half-complete resolution, then say to the Secretary: "Well, you know what I mean, so you can clean it up later". In today's world, with technology as it is, all you need is a laptop and projector, and you can show the motion on a screen for everyone to see, making wordsmithing easy. It is critical that Board members know exactly what they are voting on.

There are other ways to expedite a meeting and to make the minutes easier to construct as well. For example, you can adopt what's called a Consent Agenda, whereby the Board members agree that some topics do not require discussion at the meeting and therefore will be set aside. (By the way, management operating reports should always be discussed. They should never be included in a Consent Agenda.)

All this points to the importance of meeting minutes and therefore to the office of Secretary. Don't take lightly the decision on who will fill this role. Often it is the CEO/Executive Director, but if that is the case, someone else, usually the CEO/ED's administrative assistant or equivalent, should be tasked with keeping the minutes, in which case the administrative assistant needs to be seen as working for the Board.

The BIG Idea

My BIG Idea for this week is to understand that meeting minutes are important and need to be complete without being too long or attempting to describe everything that was said. Understand too, that minutes reflect the agenda, so ensure your agenda is well-constructed.

TomBits

Instead of a TomBit, Try A Ken(Dryden) Bit



In my youth, I went to the same high school and played hockey against Ken Dryden, who moved on to great hockey, political and writing careers.

Our one encounter on the ice came when he played for Cornell University in NCAA Division 1 and I was at the University of Toronto on a Varsity Blues team that won a national championship.

We travelled to Ithaca for the game and it was one of just two times in my hockey life when our team arrived at the rink and the stands were already full, in this case of about 6000 fans of Big Red.

I will spare the details but it didn't go well for us, although for some reason the Cornell fans seemed to enjoy themselves. In one of his books, commenting on the game, Ken said: "I didn't have much to do." Ouch!

In recent years I have reconnected with Ken. Here is an updated picture of his iconic mask that he is asking to be circulated in the Age of COVID, so feel free to share.

Emails, We Get Emails....

Develop a Policy for Electronic Signatures

Legal firm Osler sent out the following information about electronic signatures, which BIG Ideas readers will find interesting, with its recommendation for having a policy to cover their use:

There has been a marked increase in the use of electronic signatures in corporate, commercial and consumer transactions in recent years. This trend has accelerated with much of the world currently sequestered and working from home, with the prospect of such restrictions remaining in place for at

least the near term. As a result, people are now even more actively looking at ways to continue carrying on business despite the technological and other constraints they now face working remotely. This includes looking to electronic methods to sign and exchange contracts and documents in lieu of signing on paper. Many people are also seeking more information about the validity and reliability of electronic signatures and how to practically and securely execute documents and agreements without a physically-signed “wet ink” page.

Helpfully, the statutory framework in Canada is broadly permissive in facilitating the use of electronic signatures. As a result, electronic signatures can generally be used in a variety of documents and records, including contracts and other commercial documents. Courts across Canada have generally been supportive of the use of electronic signatures. With limited exceptions, electronic signatures (in a variety of forms) have been found to have the same validity as “wet ink” signatures. Given the current crisis, many governments, regulators and courts have urgently adapted their practices and indicated their intention to provide more flexibility in their approach to the use of electronic signatures. While a number of these measures have been implemented only on a temporary basis (for example, the changes in Ontario to the swearing of affidavits and the execution of wills and powers of attorney), the hope is that the crisis will act as a catalyst in creating more permanent advances in the use of technology to execute documents more generally, including documents that have traditionally been viewed as incapable of electronic execution.

Set out below are some key considerations that can help guide a business in determining the best policy for both electronic creation and execution of documents, including the use of electronic signatures. Having a clear policy on the use of electronic signatures is critical to mitigating potential risks of using electronic signatures and ensuring that the electronic signature will serve as an effective replacement for a “wet ink” signature, both at the time of signing and in future, if a dispute arises.

- *key electronic signature considerations*
- *what constitutes an electronic signature*
- *why signatures are important*
- *where electronic signatures can (and cannot) be used, including:*
 - *general considerations*
 - *in respect of contractual arrangements or negotiable instruments (including promissory notes)*
 - *additional considerations in the corporate law context*
 - *developments relating to affidavits and attestations*
 - *other electronic signature considerations*

Blast From the Past

Blast from the Past is a selection of previous BIG Ideas articles that you may not have read, or if you did, may have forgotten how helpful and insightful (i.e., brilliantly written) they were. This article is from 2017.

Consider This: A Separate Strategic Plan for the Board of Directors

The Story

It is not often that strategic plans speak to the work of the Board of Directors. Yet, Boards should think and act strategically while fulfilling their governance obligations, just as management should related to operations.

One way to overcome this problem is to create two strategic plans, one for the Board related to governance, and one for Management related to operations.

We did this a couple of years ago at the request of an organization that wanted to keep the work of the Board separate and distinct.

The Board members committed a Saturday to ensure they gave the discussion the time it warranted. In advance they identified the key issues they wanted to cover. At the conclusion of the day, the Board came up with four areas for action:

Board Role & Model

- Formally define the role of the Board, its values and the model it will use in its work.

Members and Others

- Clarify who is a member of the organization
- Consider establishing another category of participant in the work of the organization that would be titled “supporter” or “friend” of the organization.

Directors and Officers

- Enhance the succession process for Directors and Officers.
- Prepare for the new Not-for-Profit Corporations Act (ONCA).

Committees

- Review and adjust the current committee structure, roles and tasks to optimize the contribution of committees.
- Update the Board’s policies regarding committees of the Board.

A couple of months later, we assisted the Management team in developing its own strategic plan, which addressed a range of operational pressures and opportunities.

The Skinny

The key benefit of a separate strategic plan for Boards of Directors is that it reinforces the distinct responsibilities of the Board versus Management and provides focus to the work of the Board. This helps to avoid the various non-profit governance phenomena I mentioned in last week's BIG Ideas newsletter: the "Rubber Stamp" Board, the "Meddling" Board, the "Confused" Board, the "Mish-Mash" Board and the "Time Vampire" Board.

It is worth noting that Boards are not restricted to the issues noted above. They could choose from many others both internal and external to the organization. Internal concerns could be recruitment, Board models, policy development, Executive Director succession and risk. External could be collaboration with other Boards, increased community engagement, expansion or even amalgamation.

You might be concerned about extra cost or time required to produce two plans rather than one. There could be a bit more related to producing two documents rather than one. But on the other hand, this approach reduces the amount of time the Board spends on the strategic planning process overall, since it no longer has to participate in the process of creating an operational strategic plan.

The BIG Idea

When embarking on a strategic planning exercise, give thought to creating two plans, one for the Board and one for Management. If this approach isn't for you, at least try to ensure that part of your strategic plan addresses the work of the Board. While not always possible, strategic plans that help Boards do a better job are in the interest of the whole organization.

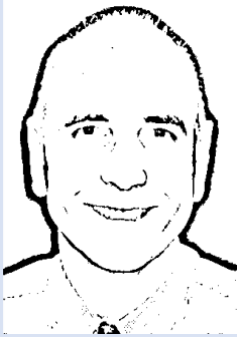
Current CMCS Clients

We are pleased to be working with York Region Centre for Community Safety, Community Living Thunder Bay, Canopy Support Services (formerly Tri-County Community Support Services), Community Living Port Colborne-Wainfleet, Community Visions and Networking (Quinte), Chatham-Kent Family Health Team, Community Living St. Catharines, Durham Youth Services, Community Living Association for South Simcoe, Camphill Community Services, Camphill Foundation Canada, Community Living Ajax-Pickering and Whitby, Tollendale Village and Willowdale Community Legal Services.

Recent clientele includes Literacy Network Northeast, Community Living Trent Highlands and Mill Creek Care Centre.

About Tom Little and Nancy Collins

Tom Little and Nancy Collins are the principals of CMCS.



In addition to consulting for many years, Tom has been Executive Director of a large human service organization, experience he brings to the table when working with his non-profit clients. In his younger days he was lucky enough to be part of three Canadian champion hockey teams while attending the University of Toronto.

Nancy's background includes a degree from Wilfrid Laurier and working at a downtown Toronto law firm. In her spare time, at least when there is no pandemic, she plays goal in women's hockey and catcher in summer slo-pitch. A life-long Leafs fan, she no longer apologizes for her unwavering commitment, given their resurrection in recent years. Now if they could just win a playoff round!



Testimonials

On behalf the Board of Directors, we would like to thank you very much for facilitating the work of creating a new strategic plan for our network. It was a pleasure to work with you and everything flowed smoothly. It is great to have this project complete! I hope we will get the opportunity to work together again in the future. **Rita Delaurier, Executive Director, Literacy Network Northeast**

Thank you so much (for your Board training)! Looking forward to the notes and your presentation was very well received! Lots of growth happening with the board and you helped steer more of that in the right direction. Really enjoy working with you and will keep you in mind for my other boards. **Natasha Cosulich Vemb, Board of Directors, Big Brothers Big Sisters of Clarington**

Thank you again to you and Nancy for all the work, dedication and effort put into this Operations Review. We made the right choice in hiring you to do this project and on behalf of the board of directors, I express our deep gratitude. **Roz Werner-Arce, Board Chair, Durham Youth Services**

Our Strategic Plan is moving along better than I could have imagined. I chair the group of around 20 Board and staff who have been meeting monthly for the past 6 months and plan to continue through the fall. Great enthusiasm from all involved and much is being accomplished already, particularly on renewed focus on our Mission and Vision. Thanks again for getting us off on the right foot! **Frank Moore, Board Chair, Community Living Central Huron**

Free Resources From CMCS

We offer a range of free resources to help non-profits be better. For your copy, contact us at info@cmcsconsulting.ca

Board Duties
Policy Board Model
Board Meeting Minutes
Board Decision-Making Checklist
Board Evaluation Form
Dealing with Risk
List of Possible Board Policies
Board Recruitment (Stop the BIG LIE)
Management Principles
Member and Director Qualifications
The Importance of Planning
Canada's Great Non-Profit Websites
Transitioning to the New Not-for-Profit Corporations Act

Tom's Book For Boards of Directors



One hundred and ninety-pages. Thirty-six *BIG Ideas*. Thirteen of them are *The BIGGEST of the BIG*, ideas Tom's experience says are critical to any non-profit. Then come twenty-three *BIG Ideas*, more ways to enhance the governance of your organization.

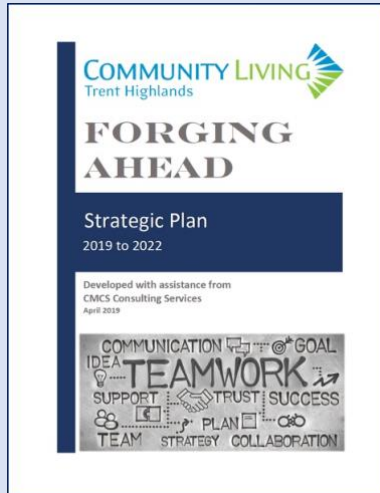
You don't just get ideas either. The book contains all kinds of resources for implementing them. For example, *BIG Ideas* includes samples of strategic and Board yearly action plans, and of evaluation formats Boards can use to rate their own work.

Tom Little's BIG Ideas is formatted as a work book, so it can be used on a continuous basis by the Directors. It is easy to read and has a fun quality your Board members will appreciate.

Just \$40 plus HST and shipping. For your copy, contact us at info@cmcsconsulting.ca.

More About CMCS

At CMCS, our specialty is strategic planning.



Since the start of 2018, the following 15 organizations have completed their strategic plans with help from CMCS:

- Kenora Association for Community Living
- Community Living Dryden-Sioux Lookout
- Community Living Trent Highlands
- Elmira District Community Living
- Literacy Northwest
- E3 Community Services
- Durham Region Child Care Forum
- Tollendale Village
- Centennial College School of Transportation
- York Region Violence Against Women Coordinating Committee
- Autism Home Base Durham
- Canoe FM Community Radio
- Toronto Island Residential Community Trust

York Region Centre for Community Safety
Literacy Network Northeast

We provide Board training that comes with a bonus: A Board action plan developed by participants based on the discussion.

Tom wrote his book for non-profit Boards, which you can buy and use as an ongoing resource. We are great facilitators and can help develop agendas for Board and management retreats.

Much of our past work has been in the human service sector, especially disability. But we have assisted in other sectors such as community colleges, local workforce authorities, family health teams, Big Brothers Big Sisters, United Ways and violence against women. We have even assisted a community radio station.

We have built our reputation on producing quality products that have great content and are appealing to look at.

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