The Times, They are a-Changing
Elaine Fogel

I was standing in line at the discount clothing store waiting to pay for my designer duds, as I overheard the exchange between the cashier and the customer ahead of me. The cashier, rehearsed and pleasant, asked the customer if she would consider donating a dollar to support a specific children's charity. The woman's bill had not yet been totaled. The cashier, armed with her handheld scanner poised above the dollar SKU sticker, was primed to top up the bill for a worthy cause.

Yet the strangest thing happened. I expected the customer to agree without hesitation. Who would deny a dollar for a children's charity - especially after being asked in such a public way? But, instead, she engaged the cashier in questions about the selected charity and whether the store's donations were supporting administrative costs or charitable programs. When the cashier could not respond knowingly, the woman declined.

What happened? It was only a dollar. Yet, the gesture extends far beyond the cash desk of the local designer discount store. It is a metaphor for the current skepticism that permeates our society.

In this post-Enron climate, as the advent of the Sarbanes-Oxley Act ripples through the boardrooms of corporate America, shareholders are demanding accountability. CEOs must certify their financial results. The legislative need for "internal controls" will attempt to right the unethical wrongs of the past. And the wrongs were many. In their 2002 Report to the Nation, the Association of Certified Fraud Examiners stated that 45% of all companies experience fraud "that is the "use of one's occupation for personal enrichment through the deliberate misuse or misapplication of the employing organization's resources or assets."

As fiduciary accountability becomes the buzz word of the first decade of the twenty-first century, how will it affect the charitable sector? According to BoardSource and Independent Sector, "the passage of this bill should serve as a wake-up call to the entire nonprofit community." They claim that nonprofit leaders must ensure effective governance of their organizations, lest the government step in and regulate them.

The provisions for publicly traded corporations that also apply to nonprofits run the gamut from ensuring the independence of the audit process to developing procedures for handling employee complaints. This is a positive step forward. But, there's more the nonprofit sector can do voluntarily.

It's time that nonprofit organizations took a step back and examined how they function. Aside from their financial processes, there are many structural issues that could be reviewed to make the organization more accountable to its donors and stakeholders.

Do the organization's bylaws stipulate who should serve on its board and for how long? Is there a maximum term of office for board members? Can board members be family or friends of the Executive Director (ED)/CEO? Are conflict of interest guidelines identified? What are its terms of reference? These are all valid questions that do not always get evaluated, especially in smaller organizations.

Board members should be fulfilling predetermined roles for the organization. For example, the bylaws should state that the board includes a lawyer and accountant. These skill sets are fundamental in the oversight of any nonprofit. After this requirement, the nonprofit should determine which other skill sets would bring credibility and influence to their boards. Including a marketing or PR professional would be a distinct advantage to organizations that must fundraise for all or part of their revenue generation. Business professionals and respected community leaders can add value with their contacts, affluence and influence.

The Executive Committee, or the board itself in cases where the number is small, is often the key decision-making body for the organization. This is the place for those being groomed for the top job as Chair of the Board. Yet, quite often, it houses the same faces year after year, making governance ineffective. The longer board members stay, the greater the opportunity for them to become too cozy with management.

In order for the board and management staff to be effective, not only should the terms of reference be clear, but the organization must foster a culture of challenge. Board members in the nonprofit sector must be encouraged to challenge management, holding them accountable for their decisions. That means taking responsibility, being prepared for board meetings, and asking pointed questions.

In a recent Harvard study, only 56% of corporate CEOs thought their directors were well-prepared for board meetings - and this, when directors are compensated. I expect that a poll of nonprofit EDs/CEOs would show an even smaller figure. Realistically, if the nonprofit board meets only four times annually, how long does it take new members to truly understand the organization's mandate and culture? Often meeting agendas are so packed that it would take two meetings to discuss the content of one. When rushed like this, the time for adequate dialogue suffers, leaving decision-making cursorily made, or better yet, left to management. The checks and balances become non-existent and the board becomes a rubber stamp for the ED/CEO and management.

Another structural issue in nonprofits is the manner in which nonprofit organizations operate. For several decades, nonprofits have been typically led by social workers, health care personnel and social service agency types. In the world of human resources, these people are called "blue," from the True Colors model of personality identifications. They are caring individuals, often passionate about the cause, but are they always successful as heads of organizations? Can they operate $10 or $50 million entities?

Today's nonprofit is struggling with cutbacks in donor dollars and/or government funding, and associations may see membership dues in decline. The popularity of social entrepreneurship has given rise to nonprofits running businesses or profit-making operations under their nonprofit status. They have diversified to maintain programs and services and survive. Yet, how does the "blue" ED/CEO manage when these businesses now require an understanding of profit and loss, fixed and variable costs, marketing and distribution channels? Yes, many can upgrade their skills by taking nonprofit management or business courses, but it's difficult to paradigm shift from "understanding and caring" to the bottom line, consolidation or SROI (social return on investment).

The next few years will prove to be challenging ones for the nonprofit sector. Innovation and operating in a business model will increasingly become the norm as some nonprofits find themselves squeezed out of operation or reduced in size to fit a niche. As competition for funding intensifies, the nonprofit organizations that become the leaders will be those who have voluntarily retooled to follow the Sarbanes-Oxley crowd. It will take a fine balance of business and "heart" to stay at the top. The times are definitely changing.

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