

## **Do Not Consent, Unless Approval is Meant**

By Dan Clark

I feel great when someone tells me they implemented ideas they got from me and the result makes their lives better and their work easier.

On the other hand, I cringe when I learn that the application of an idea opened doors for new concerns. The “consent agenda” or “consent calendar” as some call it, is an example.

Consent means that items on a meeting agenda are routine or non-controversial: the items do not require debate or discussion before the board’s action on them. The key word here is “action.”

**Only items that require board action need to appear on the consent agenda.**

Since reports do not require board action, they should not appear on the Consent Agenda.

In recent conversations at conferences I listened to an increasingly familiar story. Directors explained how using a consent agenda had shortened their meetings. Shortening meetings is widely viewed as a good thing. They also explained that placing many if not all reports on Consent helps avoid unnecessary discussions about historical information.

When I raised the question, “What is the reason for the board approves those reports?” The directors said the board was not doing that. They believe that reports can be on the Consent to avoid discussion and not be approved along with the other items on the consent agenda, for example minutes of previous board meetings, dividend rates, and charge offs.

The myth, and the danger, is that the board’s single act to approve the Consent somehow treats reports differently. At the meeting you can think to yourself, “I am approving the minutes on consent agenda, but I am only acknowledging the presentation of the listed

reports.” However, a reading of the minutes, maybe in a future court case, will reflect that board took one action on the entire list.

I imagine that those directors and you reading this now, thinking, “Who cares that we are approving reports while we approve the minutes. What’s the big deal?”

Henry M. Roberts brought this danger to my attention in his book, Robert’s Rules of Order Newly Revised. Roberts says that assemblies should not approve reports presented to them for information purposes alone. Boards need to heed that caution. Roberts’s uses the word “owns” when describing the impact of approving of a report.

The Board’s approving of a report creates a specific and unnecessary accountability, and thus personal liability may extend to the individual directors.

Let’s say I send you a consulting report. I signed it, making it my product. If there are errors of fact or judgment, errors of spelling or grammar, it reflects directly on me — my name is on it and you are right to assume that I examined and approved of its contents before signing it. It will not matter to you or the historical record that someone else may have written it or typed it.

Similarly, when the board approves a report it is saying that it agrees with all the content and makes that affirmative statement to all who should read that report subsequently.

What is the mission of the CEO’s report, for example? Its purpose is to inform the board. What value does the board add to the report by approving it? Why should the board take the position that it is a fine report, accurate as to facts, and agree with its assumptions and judgments?

Boards need to let reports stand on their own as the product of those who prepared them. Directors, take the information and absorb it to carry out your duties.

Let's drill just a little deeper. Should we assume that a board will always approve what we put in front of it? We should not. Boards and individual directors expose themselves to regulatory and legal chastisement, and potential personal liability when appearing to approve things without completing due diligence. To avoid having to defend routine approvals without deliberation put them on the consent agenda.

The board that insists on approving the CEO's report, for example (not recommended under any circumstances), should diligently discuss the contents, determine that it is accurate, and determine that it reflects the feelings and opinions of the board before claiming ownership of it by approving it. But why insist on approving the CEO's report? The CEO provides information to edify the directors so they are aware of the major affairs of the credit union. The job of the report was completed when the directors read it and absorb its contents.

There being no requirement to the contrary, the board should not approve any report including the ubiquitous balance sheet, income statement, and delinquency reports, to name a few. Let all reports to the board stand on their own with the authors accountable for their contents. Let the directors absorb and digest report contents to help them do their jobs as volunteer leaders.

If anyone needs to ask questions in order to absorb the reports' contents they should ask the author prior to the meeting. The time saving benefit is thereby preserved. The individual gets to ask as many questions as necessary to learn what he needs to know without seeming to be lacking in skill or to be attacking the report writer in public. Then again, if the report writer's work deserves to be questioned at the meeting the director will be more confident and targeted with his concerns.

Please help me out. I will pay \$100 for the first-received citation of a law, regulation or rule – a requirement -- that the board must “act on” a report prepared for its knowledge. Just include a copy of the page(s) with the citation and a copy of the report, if it does not

contain confidential matter. All good-faith submissions will earn a two-dollar bill until I have paid out fifty of those.

If my arguments here have not convinced you to remove reports from the consent agenda, here's the next best thing: clarify which items on the consent the board approves and which it does not. For example, the chair could say, "Is there any objection to *approving the consent items – minutes and other proposals – and acknowledging the reports listed there?* ... There being none, show the respective items approved and acknowledged."

That way the record of that action reflects that there are two classes of items on the consent agenda. Yet, in a legal case that is going against your board, what will be the difference between "acknowledged" and "approved"?

However, I believe there is a better way to stifle unnecessary discussion of historical data and still show they were presented to the board. List separately the reports which you feel *must* accompany the agenda. Create a "Reports" section just as the consent items are listed under a heading

Your rules of order or governance policies can explain the board's intentions for dealing with the reports listed on the agenda. Let the directors agree that they do not intend to discuss reports just because they are listed on the agenda — not without meeting certain conditions. This treatment is more straight-forward than placing reports on the consent agenda simply to keep them from being discussed.

If your board decides that it should not discuss reports at meetings, make this intention a part of your governance policies or, as I have done in my model Governance Policies Manual, in the custom rules of order:

**Reports.** The Board respects individuals' time, and the value of 'face time' at Board meetings; it will be rare that we discuss the contents of reports at a Board meeting. Directors have time before meetings to clarify information in the materials they receive. Managers, officers, and committees may put ad-

hoc reports on the agenda only if there is something of substance that directors need to read. Reports should not contain action items; submit a separate proposal as an Action Item.

Here is a better solution, a pure agenda, and a separate delivery of reports.

If a Board does not intend to debate, discuss or decide something at a board meeting, why associate it with the meeting agenda? The agenda should carry with it only the materials that relate to scheduled debate, discussion and decisions. Send a separate package of reports to the directors when the reports are ready.

Think about it this way: financial reports can dominate both the reports section of a typical agenda packet, and dominate the time spent at a meeting. Governing boards expect their CEOs to take corrective actions immediately upon discovery and not wait for a board meeting to discuss it. Consider further, governing boards may need to read marketing, audit, and other reports but do not have to take actions at the meeting based on them.

Directors need reports of many types to be informed of the credit union's major affairs, its condition, and its performance as they conduct of their fiduciary duties.

Visualize the benefits of not having routine monthly financial and statistical reports attached to an agenda: it frees directors and top managers from the perception that those reports are somehow to be used or discussed at the meeting. Instead, the absence of such reports releases leaders' minds to deal with future needs — to deal with strategic issues and other items on the agenda the board must attend to.

“Purifying” the agenda package helps the director study and focus on the pending meeting.

Let's assume that in separating everything into two packages there is no change in the volume of information prepared for the board. Managers will not spend additional time preparing the information. Directors will not spend any additional time pouring over reports and agenda packets. In this scenario, the main benefit of this change is clarity. With this separation, there is clarity of purpose and clarity of activity. In a complex world, how can you place a value on clarity?

Separating the current information into two separate packages for delivery to the board is a change that will not be too hard to get use to. It will not cost more money, except in some cases, a few more dollars per month in postage, or a restructuring of the information presented on the Intranet.

Directors have limited time. Board should only debate, discuss, and decide when the activity adds value; routine actions which fail to-add value wastes time and only pretend importance.

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