

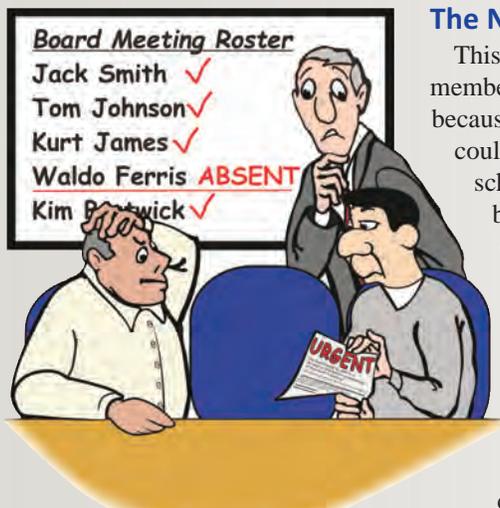


HOW TO MANAGE A PROBLEM RURAL WATER BOARD MEMBER

Rural water system board members are the unsung heroes of the utility world. They receive no salary but they often do receive an endless litany of complaints from their friends, neighbors and the community at large any time there is a problem with the system, or heaven forbid, a rate increase. They volunteer to spend several hours a month running a small business responsible for the single most important aspect of public health – clean drinking water. In very small utilities, the board members may actually perform maintenance work because of not having employees. As such, it takes a special sort of person to step up and serve on a rural water board. However, even the best run systems have problems with board members who are less than ideal team players. And because they are elected to serve on the board of a quasi-governmental body, they can't be removed from the board as easily and as simply as a board member can be removed from a typical commercial company or other non-profit. A really difficult board member can have a disastrous and negative impact on the functionality of a board that is responsible for providing an essential public service. That being said, there are some simple but effective strategies for dealing with problem board members that range

from people management skills to amending bylaws. And the time to implement them is BEFORE you have a problem board member.

Before elaborating about the specific ways to cope with problem board members, let's identify a few of the problem board personalities that may appear:



That means having board members who show up for meetings and show up prepared to make an intelligent decision on important matters.

The No Show

This board member, often a long-serving member, simply never shows up. It could be because of poor health or a family illness. It could be because of a hectic work schedule or child care. It may be because of burnout and a plain lack of enthusiasm for the challenges of governing a rural water system. This might not be a problem on larger boards, but when it takes three people to make a quorum on a five-member board, every member counts! I have worked with boards that routinely had to cancel meetings because they were unable to make a quorum. And when boards have the power to vote on matters that have a direct financial impact on customers, such as rates, shutoff charges, or methods of financing projects, the customers deserve to be fully represented. That means having board members who show up for meetings and show up prepared to make an intelligent decision on important matters.

The Blabbermouth

This board member doesn't know how to keep his/her mouth shut. On the (hopefully) rare occasion that the board discusses matters in closed session, the blabbermouth discusses the matters with the public at large. He/she sits at the local coffee shop and talks about employee reviews and pay raises. He/she even spreads the word about possible real estate acquisitions. Or gossips about new customers. This can be one of the worst types of problem board members to have because he/she can cause huge problems.

I worked for three years with a board that was in the middle of a territorial dispute with a nearby city, and sadly, we had a single board member who disagreed with the board's majority vote to protect district territory. This board member had even had public meetings and enlisted the support of customers before voting to protect its territory, which was above and beyond the steps most boards take. This board member also reached out to the city and made every effort to settle the issues without litigation. When settlement negotiations fell apart, this board member repeatedly left litigation strategy sessions to go directly to the city manager and share this highly confidential information. He even leaked notes and draft legal documents. His actions virtually hog-tied the board and derailed the effort to protect district territory. He also leaked invoices for attorney fees as well as proposed settlement maps to the local press, who were sympathetic to the city and dragged the water district board through the mud. Two board members resigned, including the chairman of the board, which opened the door for a complete reshuffling of the board and ultimately led to a new three-member majority that then promptly voted to drop the lawsuit and allow the city to take any territory it wanted. The ultimate result? Within two years the water district was unable to make its loan payments, and was unable to afford to make state-mandated water treatment improvements because revenue was down. The new board majority was shocked to find that they had to restructure loans and increase rates in order to cover the deficits. This was a disappointing outcome for the customers of the district, and all due to the inappropriate actions of one individual.

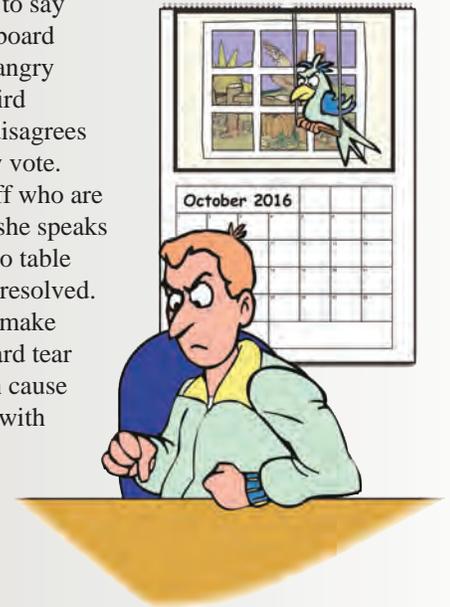
I also defended an employment discrimination case that resulted when a board member took a personal dislike to a water district employee. He openly discussed this with the public at large, stated that he



wasn't going to vote for a salary increase and even went so far as to check on the employee's time sheet and drive out to job sites to check up on the employee. The employee eventually quit and filed an EEOC complaint, which led to the district paying a sizeable settlement. Again, the actions of one board member with access to confidential information can have a negative impact on the entire district.

The Angry Bird

It's hard to say what makes this board member so angry, but angry he/she is. The Angry Bird interrupts, argues and disagrees with everyone on every vote. He/she interrogates staff who are presenting reports. He/she speaks out of turn and moves to table matters that need to be resolved. The poor behavior can make the chairman of the board tear his/her hair out and can cause tension and frustration with other board members and staff. The Angry Bird board member can make meetings last much longer than



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necessary and make it virtually impossible for the board to work together as a cohesive body. No one is saying that board members must agree at all times, but there is a polite and civil way in which to disagree. This board member is often someone who ran for the board because he is upset about something. It's difficult to find anyone willing to serve on a water district board, which is why many boards have the same board members for years. But every now and then, there is that one angry person who decides to run for the board because he/she wants to change one issue. Or doesn't want rates increased. Or thinks the water smells. Or doesn't like

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the way the easement in his/her yard was seeded after a repair. Or because he/she is just angry at the board in general. Whatever the reason, this is disruptive and can even cause other board members to skip meetings.

So what is a course of action if there is a board member who is causing problems? One extreme solution is to remove the board member. Some bylaws have a provision that allows a board member to be removed for cause by a vote of three-fourths of the members present at an annual or special meeting. Written charges have to be delivered ten days before the meeting and the accused board member can both testify and

call witnesses. That sounds a lot like a mini-trial and is sure to create hard feelings, divide the customers and air dirty laundry in public. You want customers turning out to learn about improvement projects, financing plans, etc. – not about board member removal. And if for some reason the removal fails, then the district is stuck with a problem board member who is now vindicated, vengeful AND dysfunctional! So if a district has to try to remove a board member for cause, then it's nearly a sure bet that the district will actually lose even if there is success in getting the problem board member removed.

Before ever needing to manage a difficult board member, consider putting some positive and preventive board guidelines into the bylaws that encourage good board behavior. If the other board members know that new members will be coming on, the best time to do this is before they join the board. These guidelines can serve as a refresher for well-behaved board members and a deterrent for others. It will also provide specific grounds for removing a board member for cause in the future. Some boards have a statement in the bylaws that references an external board ethics and behavior document, which all board members are asked to sign. Whether these guidelines are included in the bylaws or in an outside document, they should include basic items. Here are a few:

Attendance – Board members should agree to attend regular meetings, be allowed to miss only a specific number of meetings, agree that missing too many meetings may be grounds for removal, and agree to notify the chairman in advance if they are going to miss a meeting. They can also agree in advance to give up

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their board seat if they violate the attendance policy or agree that this will constitute good cause for removal.

Confidentiality – Board members should agree that there may be information discussed in closed sessions that they should not share with outside parties, or until the minutes of the regular meetings are opened. They should also acknowledge that they may be privy to employee and customer information that should not be shared with others.

Polite Board Behavior – In much the same way that a board should have standing requirements for public behavior at meetings, the board members themselves should agree that they will follow the procedural rules of governance, as well as basic rules of polite behavior. No yelling, raised voices, interrupting, etc. With these guidelines in place, it becomes much easier to manage a problem board member.

The key to managing many problem board members is peer pressure. And, with a written standard for board behavior, it is easier to exert effective peer pressure. This works especially well on attendance issues. A board member who is a chronic no-show can be reminded of the attendance policy. Sometimes a simple phone call from the chairman,

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asking if the member will be attending will help. If a board member has a family illness or is physically unable to attend a meeting, but is committed to serving, it may be possible to arrange to allow the member to dial in and participate via speaker phone. A polite phone call after someone misses a meeting can be a powerful motivator. Publicly discussing the fact that a board member has missed several meetings might also encourage his/her attendance. But if all of that fails and the district has a

clear cut attendance policy, it's not inappropriate to ask that board member to step down.

An important part of implementing board guidelines is educating new board members and reminding old board members about appropriate behavior. Assuming the district has an on-boarding process (and every district should have a detailed on-boarding process for new members) use that on-boarding process as a time to review the district's board guidelines. If others know that a potentially difficult, angry or challenging individual is joining the board, make sure to review the district's guidelines and let the nominee know how the board meetings are handled. Frankly, it should never be a surprise that a certain individual is joining the board. It is hard to keep secrets in rural communities. There

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is a vacancy; it becomes pretty obvious once someone files for a board position or agrees to serve. And if the district's board guidelines are reviewed with the nominee or applicant and they are hostile or indignant, then at least other present board members are forewarned that there could be problems.

Dealing with a poorly-behaving board member . . .

What does a board do if there are good board guidelines in place, and yet a new board member or an existing board member starts behaving badly and refuses to honor confidentiality or disrupts board meetings? I strongly encourage using gradually increasing levels of confrontation to resolve this.

First, the board chair should certainly attempt to sit down in a calm place, maybe over coffee and talk to the problem board member one on one. It is surprising how often people just forget to talk to one another.

Maybe a gentle reminder that certain items should remain confidential or that there is a proper procedural way to disagree on matters without making personal attacks. If that fails, one possible solution is to have a board retreat, where no business is conducted but a neutral third party, like a

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facilitator is brought in to review the guidelines, hear complaints and offer the equivalent of group therapy or an intervention. This also works well in situations where the entire board may not be getting along well and the meetings are not productive. I worked with one board that asked their local USDA representative to help them work together more effectively. He was perceived as a neutral third party authority figure; it helped! An open and frank discussion with the entire

board can help resolve behavioral issues and encourage the board members to agree to disagree in a civil manner. If that is unsuccessful, it may be necessary to move to a harsher solution. This could include calling out the problem board member at the board meeting, identifying the efforts that have been made and publicly asking him/her to abide by the board guidelines. The burden for doing this will fall on the chairman, who is responsible for following parliamentary procedure and conducting the meetings. It may be necessary to publicly remind the board member that the board members agreed to the guidelines and that his/her behavior appears to be violating those guidelines. This is difficult — and stressful — it there may be no choice if the problem

board member is completely disrupting the meeting anyway. If all of this fails, the nuclear option of removal for cause still remains. That is the last resort, because as I mentioned, even if the district wins with the removal effort, the district may still lose.

If any reader of this article has gotten the impression that dealing with difficult board members involves lots of soft skills and communication, then you are correct. Building a cohesive and smoothly operating board is not easy. It requires good interpersonal skills and a solid framework of managed expectations. So create a good framework for board behavior, inform and educate new board members, and be prepared to tackle the inappropriate behavior head on if necessary.

Elizabeth Dietzmann is an attorney who has worked with rural and municipal utility boards across the country as general and special counsel on various issues. She can be reached at edietzmann@earthlink.net.



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