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Can a Nonprofit Fire Its Own Board? – Transcript

Jess Birken 00:00:02 Welcome to Charity therapy, the podcast where we explore the ups and downs of the nonprofit sector and answer your burning questions. I'm your host, Jess Birkin, owner of Birkin Law Office, and I'm excited you're here. Imagine hanging out with me and my super smart, funny, nonprofit expert pals. You get to ask them anything about your nitty gritty nonprofit life and get their wisdom for free. Whether you're a seasoned pro or just strapping on your nonprofit boots, we're here to share stories and remind you you're not alone on this journey. So get ready to join the conversation and bring me the tough questions I ain't scared. Ready to rock? Let's dive in. Hey, everyone, it's your charity therapy co-host, Megan. Just a quick note before we jump into this episode, Jess and I are actually.

Meghan Heitkamp 00:00:50 Pulling this one out from the vault and bringing it back up into your feed because it is one of our most popular episodes ever. That is no surprise when you know that in this episode we're basically answering the question, can we do this whole thing in our nonprofit without a board, without a boss? And I know that all nonprofit folks have had that question at some point.

Meghan Heitkamp 00:01:11 So if you're new to this episode, welcome. You're gonna love it if you've heard it before. Hang around. It's worth a relisten. Let's get into it. Okay.

Jess Birken 00:01:20 What are we doing? What you got? All right, before we start today, I do have a question for you, Jess, about the board of directors at a nonprofit. So I know boards can look and act very differently at different nonprofits depending on the organization. So overall, I want your take. What is the basic job of the board of directors at a nonprofit organization? The basic.

Jess Birken 00:01:45 Job.

Jess Birken 00:01:46 Like all boards do this. Like what is the role that all boards have to have? Fundamentally, the core job of the board is to look out for the best interests of the nonprofit and make sure the mission is getting accomplished. I think that's like at its base. Yeah, that's what it is.

Jess Birken 00:02:04 And everything you do and every decision you make, you should be ensuring the mission takes place and making sure that it's in the best interests of the nonprofit.

Jess Birken 00:02:14 So whether it's like teeny tiny pet rescue, where all the board members are the ones like picking up the cats on the weekends or the like, million dollar organization, you know? Yeah, it's going.

Jess Birken 00:02:25 To look different at different organizational sizes, but at its core, that's what it is. Sometimes making sure the mission is being accomplished is you rolling up your sleeves and getting it done, because we're so tiny. And sometimes that is participating in a candidate search for like the best CEO for your organization because you're a multi-million dollar organization.

Jess Birken 00:02:50 Like, right?

Jess Birken 00:02:51 But at its core, that's what their job is.

Jess Birken 00:02:53 Yeah. Yep. I think that that can get confusing for people just because it can look so different. It's sort of like, okay, like, what are we really doing here? Like, what is the goal for this group of people overall? Because especially at an organization that is growing or changing, it's sort of like the role of the board might be changing on the like day to day.

Jess Birken 00:03:12 So it's like, okay, but what is the point? Yes. And I ask this because I have a listener question today about like the board kind of going on the wayside and like what that looks like. I'm ready. Let's do it. Let's jump in. Listener says I work for a small business league and our whole board is useless. Oh. Shots fired. Right. They do nothing to help us, but they keep finding all kinds of random things and projects for us to do. All the directors keep saying they just don't have time to do any of their normal board duties. I was talking with my executive director a while back, and we're wondering if there's a way to get all of the board members to just sign away their board roles so that we don't have to have a board at all. The Ed and I would really love to just focus on our work without constantly dealing with the board. OMG how.

Jess Birken 00:04:05 Many staff like Low.

Jess Birken 00:04:07 Key would just.

Jess Birken 00:04:08 Love for their board to go away?

Jess Birken 00:04:11 Yeah.

Jess Birken 00:04:11 Fascinating, right? This is.

Jess Birken 00:04:14 Fascinating.

Jess Birken 00:04:15 Okay, so it's like the quiet part that people don't want to say right where it's like, really my goal was just to not have a board.

Jess Birken 00:04:21 Bless you for writing this down and letting us talk about it. Okay. So we just don't have very much to go on here.

Jess Birken 00:04:30 I know, I know, a small business league.

Jess Birken 00:04:34 All right. So just from that I can interpolate extrapolate. Read between the lines. Interpolate. That's a real word isn't it.

Jess Birken 00:04:44 I don't know, it might be, but I'm not sure.

Jess Birken 00:04:46 That you need to Google that real quick while I while I interpolate. So Small Business League, I'm going to take that literally, that they're like a business league or like a chamber of commerce. So this is not a 501 C3 like dog rescue direct service. This is like a 501 C6 or a C4. That's like a civic organization that's like the the whatever county tourist bureau or the like whatever town chamber. And to say that those boards are useless, I don't know, what are they even doing? These organizations aren't that generally, in my experience.

Jess Birken 00:05:27 Just put a little caveat there. These are not on the front lines, like doing the things every day. These are like associations of businesses that are thinking about like, how do we get more tourists to come to the area or like, how do we support our local business owners and make sure that, like small businesses thrive in our small

community or something like that. So there's not a lot for the board to do in an organization like this. I'm going to assume that it is more governance. And this I'm just going to go ahead and say it. Probably a lot of these people are only on this board because it looks good on their resume.

Jess Birken 00:06:12 Totally. It's a line on the resume. Yep. A little bit of clout.

Jess Birken 00:06:16 Like, hey, I'm a local realtor and I want to be like seen as credible. So I'm going to like be on this board. Like, does anyone get someone to trouble? Does anyone actually have a passion for Chamber of Commerce work? I mean, Chamber.

Jess Birken 00:06:35 Of Commerce people sound off. Right. Please drag. Yes.

Jess Birken 00:06:39 Do I need to know where the deep passion for like, hey, I know some of these people because I went to grad school with them and their public administration master's program people. But like.

Jess Birken 00:06:51 Really.

Jess Birken 00:06:52 The a lot of these organizations are. Like glorified networking. Maybe they make like a brochure. Sometimes they might collect like a municipal. There might be like a municipal tax that goes to like fund these organizations or something. But I'm not really surprised that this board is not doing anything to help the team. I am surprised that they have staff. So that tells me this is a big enough organization, that they have enough money to do things. But the writer of the question who's clearly not the Ed because they're saying my Ed so they have at least two staff are like, you're not helping us, but you're giving us all sorts of things to do. Well, yeah. Because maybe they feel like that's their job is to be like, we need to support the local tourism industry or the businesses, and we have the feet on the ground that we are local business owners.

Jess Birken 00:07:48 We are in the tourist industry. We can tell this is something that we should be doing, and it's their job to delegate to you to make sure that the things happen. I don't know what they want from this board, but let's get to the meat of the question, which is, can we have the board sign away their rights? No. That's so funny that you would think that.

Jess Birken 00:08:12 There's.

Jess Birken 00:08:12 Like I mean.

Jess Birken 00:08:13 It created it. You know.

Jess Birken 00:08:14 I get it. I want to have some compassion because, like, I know how frustrating boards can be, believe me. But like, legally, these people need to be there. It's how it works. They are the ones with the fiduciary duties. And no, you cannot sign away your fiduciary duties. Now, in all seriousness, what this is probably saying is we have a different kind of problem. We might have a mismatch between what maybe the staff has been told to deliver on, like, hey, Your performance is going to be judged on A, B, and C, and now the board is saying, oh, but we'd like you to do F and G and h and y, you know, so that's a real problem.

Jess Birken 00:08:56 But that is like a managing up situation where you all need to sit down and say, so we've got a lot of new initiatives coming, new ideas which are great, but could I get you all? And I'm speaking as the Ed now, I'm going to need you guys to prioritize these for me in order, because, F, G and H aren't part of our strategic plan. So I just want to clarify which things would you like my team and I to be working on in priority order, so that we know when it comes time for annual reviews, that we've done what we were supposed to do, because realistically, we can only accomplish so much in a day, blah blah, blah. Right. Like some of that. Like pushing it back up and managing up.

And if it's that they're piling things on that you can't get done, great, then we need to start telling them that.

Jess Birken 00:09:50 Yeah.

Jess Birken 00:09:51 This could be an indicator of like people on the board are not respecting the chain of command.

Jess Birken 00:09:56 And I see this all the time where you have like, well, the Ed is supervised by the executive committee and the staff is supervised by the Ed. But you got some board members who think that, like, this staff person is their personal executive assistant, and they'll just like give them stuff to do, which is not their role and not their place. And then again, we're looking at the executive director to appropriately manage up and enforce those boundaries around hiring, firing, supervision and who gets to give tasks to the staff. That's tricky, because the executive director is obviously hired and fired by the board. That is where that conversation needs to be happening.

Jess Birken 00:10:39 This situation obviously, again, we don't have that many details, but it is that it just reeks to me of so many situations we've seen before where a nonprofit does grow. And so it is a board that used to be involved in the day to day operations of literally everything. And then they hired staff, which is great, but they're having trouble maybe letting go of the like, minutia, you know, and instead they're like, I want to be involved in all of this.

Jess Birken 00:11:06 Or like, hey, I was doing some like fundraising and talking to Joe Schmo, the like, general contractor in town. And we need to like, help him with, you know, whatever. And just sending people on these goose chases that they maybe had done all the time when they were just a board. But now there's more structure and they don't have the defined roles that they should.

Jess Birken 00:11:28 Yes. Love that you brought that up. I'm just thinking of like, all of the times where it's been like, well, I used to publish our newsletter and I want to tell you how to do it. You know, just you.

Jess Birken 00:11:40 Didn't use the Oxford comma here where you should have, you know, like.

Jess Birken 00:11:44 Who knew? Oxford comma drama was going to come into this episode.

Jess Birken 00:11:47 Oxford comma drama.

Jess Birken 00:11:49 There it is.

Jess Birken 00:11:50 That's all there.

Jess Birken 00:11:51 I need a bumper sticker that says Oxford Comma drama.

Jess Birken 00:11:54 I'm always pro. I'm always pro. The Oxford comma. I'm gonna be real.

Jess Birken 00:11:58 It's so true that, like, if you don't train the board on how do we act now? What are the boundaries? You used to do everything, and now you hired people to do everything.

Jess Birken 00:12:10 But are you still micromanaging? Are you not able to, like, delegate? And that that honestly can be somewhat solved with a board training? Sometimes you need someone like me or somebody to come in and say, let's talk about your legal duties. Let's talk about your relationship with staff and managing and how that is supposed to work, and have some third party sort of neutral outsider come in and tell the board how that's supposed to be. And like, I've definitely worked with a lot of executive directors who are like, I need you to come in and tell them this, and then we can go from there. So that's so real.

Jess Birken 00:12:51 Yeah. Well, absolutely.

Jess Birken 00:12:52 I mean, Godspeed, y'all. Whoever you are out there at this little business league.

Jess Birken 00:12:59 We're thinking about.

Jess Birken 00:13:00 You just. Yeah, you know, just hang in there, like.

Jess Birken 00:13:03 Hang in there or don't.

Jess Birken 00:13:04 Board to sign off their duties. But, like, I get the urge, you.

Jess Birken 00:13:08 Know, I mean, who has never wished that their boss just disappeared? Like I could just do my job better if my boss.

Jess Birken 00:13:14 I know, right? This is how I'm telling you. Just that sometimes I wish that I just didn't have a boss. But it is true though. It's that same concept of like, you know, sometimes you're like, I just wish my manager would stop bothering me and I could do my work so much better. It's the same instinct here. But like, that doesn't actually mean that you can get rid of them. Unfortunately, that's not really how it works.

Jess Birken 00:13:35 All right, Megan, what do we got? Take it away.

Jess Birken 00:13:37 A couple takeaways. Yeah. So first, the core responsibility of the board is to look out for the best interests of the nonprofit. Sometimes that means carrying out some mission based work. Sometimes that means overseeing an executive director or setting some like strategic priorities. It can look like different things, but ultimately they are the ones sort of like steering the ship and keeping the nonprofit safe. And I will say also that different people have different motivations to wanting to be on the board of directors, and that may also impact how the board operates.

Jess Birken 00:14:08 So things like a business league may have different reasons that people may want to be on the board than an animal shelter or things like that, and that sort of like psychology of why people want to be there is an important thing to consider. And then third is that like board staff relations are hard. Like whether you've had board and staff as a, you know, like tension point forever or you're just starting to hire staff for the first time, like, these are defined roles that you need to work through and where people involved Are it gets messy. So working through what that relationship looks like will help everyone do their job better and help carry out the mission better. No matter what you're doing. So that's what I got. Did I miss anything, Jess?

Jess Birken 00:14:50 No. I just think it's normal to be frustrated with the board. Yep. You're not alone. It's okay. All right, folks, if you enjoyed this episode, do me a huge favor. Share it with an annoying board member who won't leave you alone.

Jess Birken 00:15:06 Just slide it right in there underneath some other things, you know.

Jess Birken 00:15:10 Give us a rating. Share this episode with a friend. Tell us the story. Get at us online. We want to hear from you and hear your questions. And thanks for listening. Bye bye.

About the Author



Hi, I'm Jess Birken

I'm the owner of Birken Law Office, I help nonprofits solve problems so they can quit worrying and get back to what matters most – The Mission. I'm not like most attorneys, I actually have an outgoing personality, and – like you – I like to think outside the box. Most of my clients are passionate and have an entrepreneurial spirit. I'm like that too. My goal is to help you crush it. Getting bogged down in the minutia sucks the joy out of the important stuff. My clients want to do the work – not the paperwork.

Let's connect!

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