

Governance Basics



DAYBREAK CONSULTING

Getting to Know You

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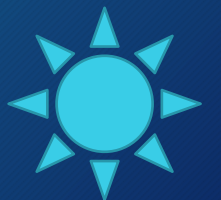
- Who are you?
- What is your role in the Library System?
- What is your board experience (on this and other boards)?
- One word that captures how you feel about “governance”



My Governance Values

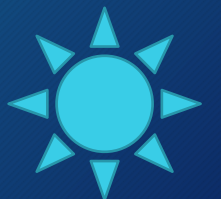
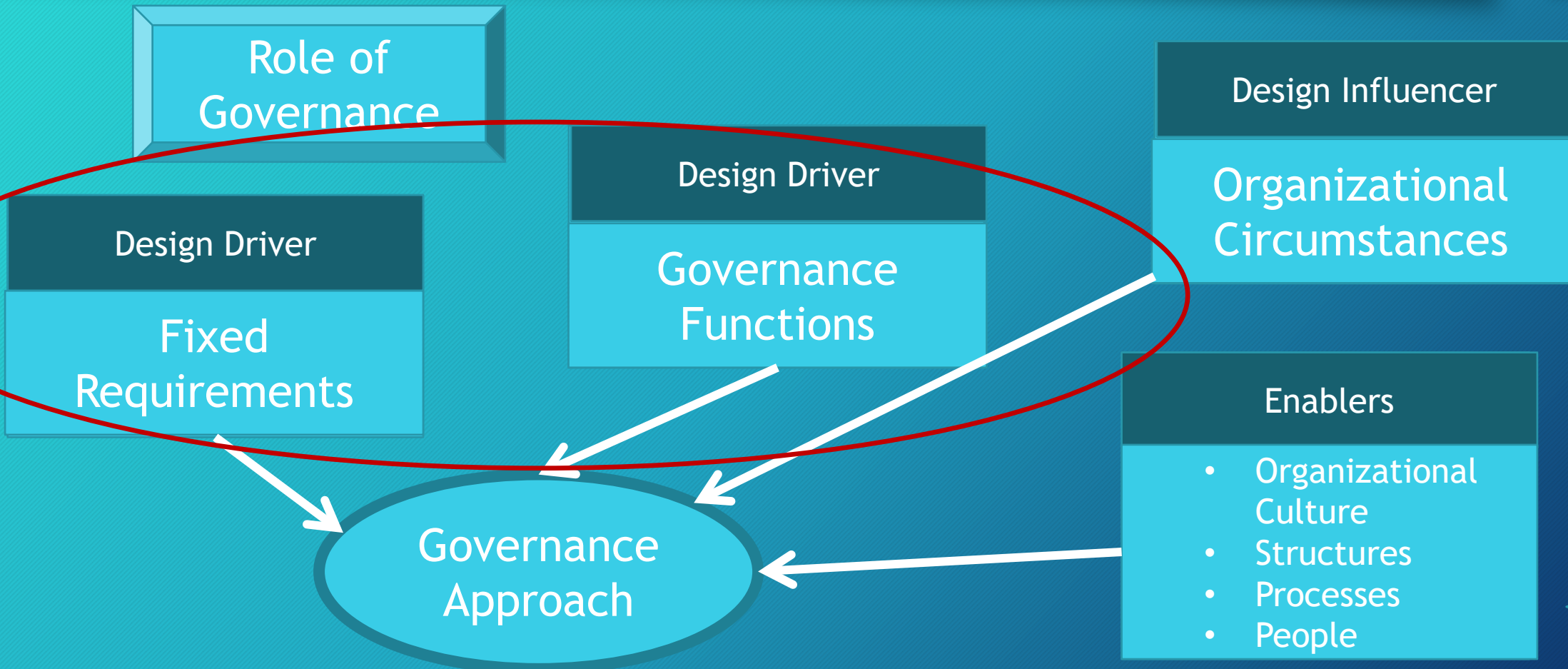
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- There is no “one size fits all” answer to how you govern your organization
- You should be designing your approach to governance based on your specific organization’s needs
- BUT, there are some basics that any governance approach needs to consider



Governance System

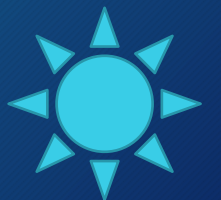
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The Workshop Plan

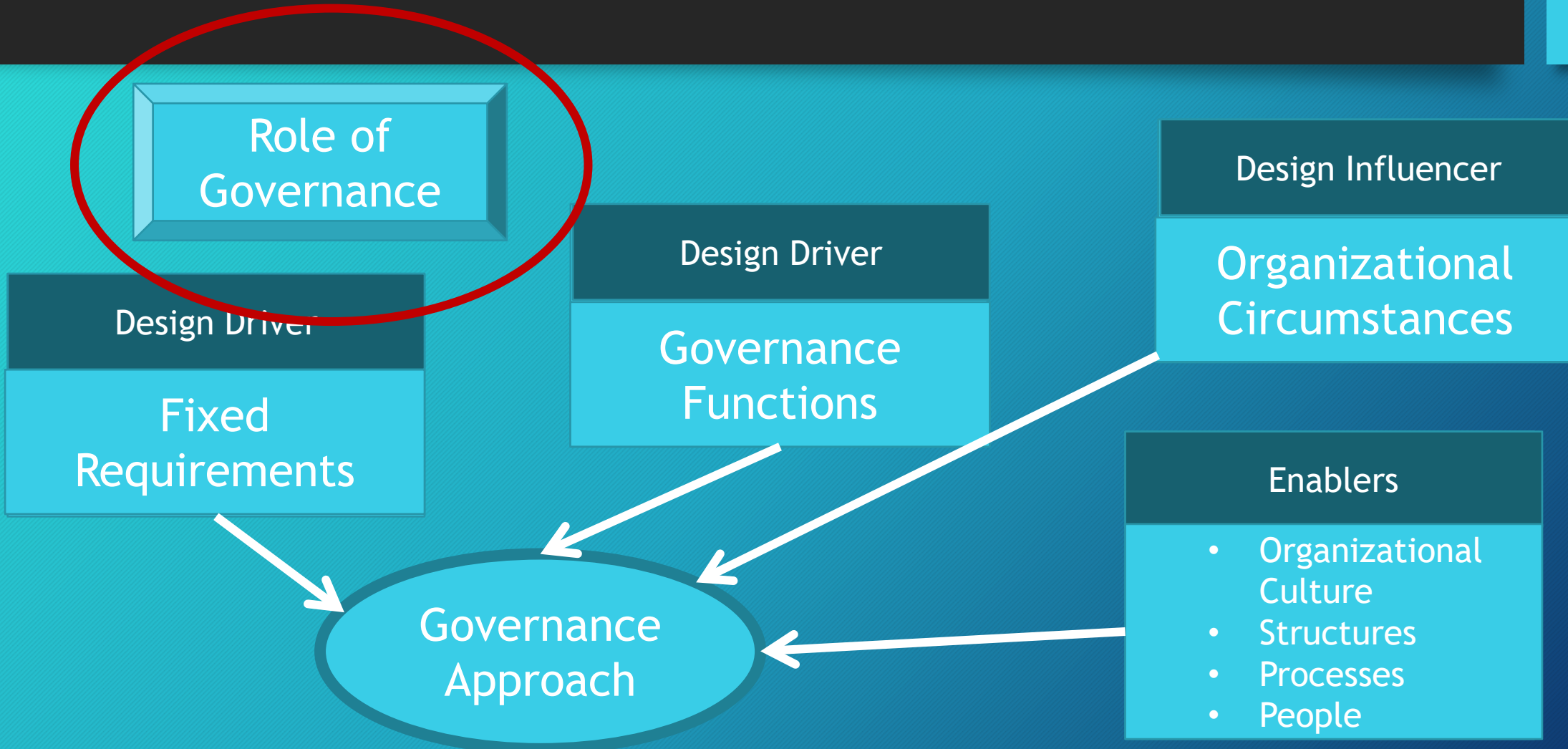
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1. Governance Fixed Requirements
 - a) The role and structure of non-profit organizations
 - b) the role and duties of board members
2. Governance Functions:
 - a) The Why, How, and Approaches to Governance



Governance System

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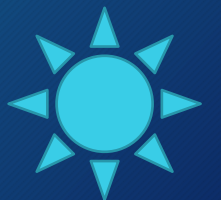


Role of Governance

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- When I say “role of governance” what immediately comes to mind?
- Think about what governance is intended to achieve:

Stewarding of the long-term ability of the organization to achieve its vision and mission – its purpose/mandate

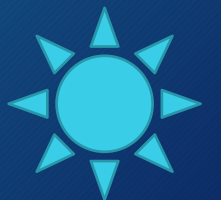


Role of Governance

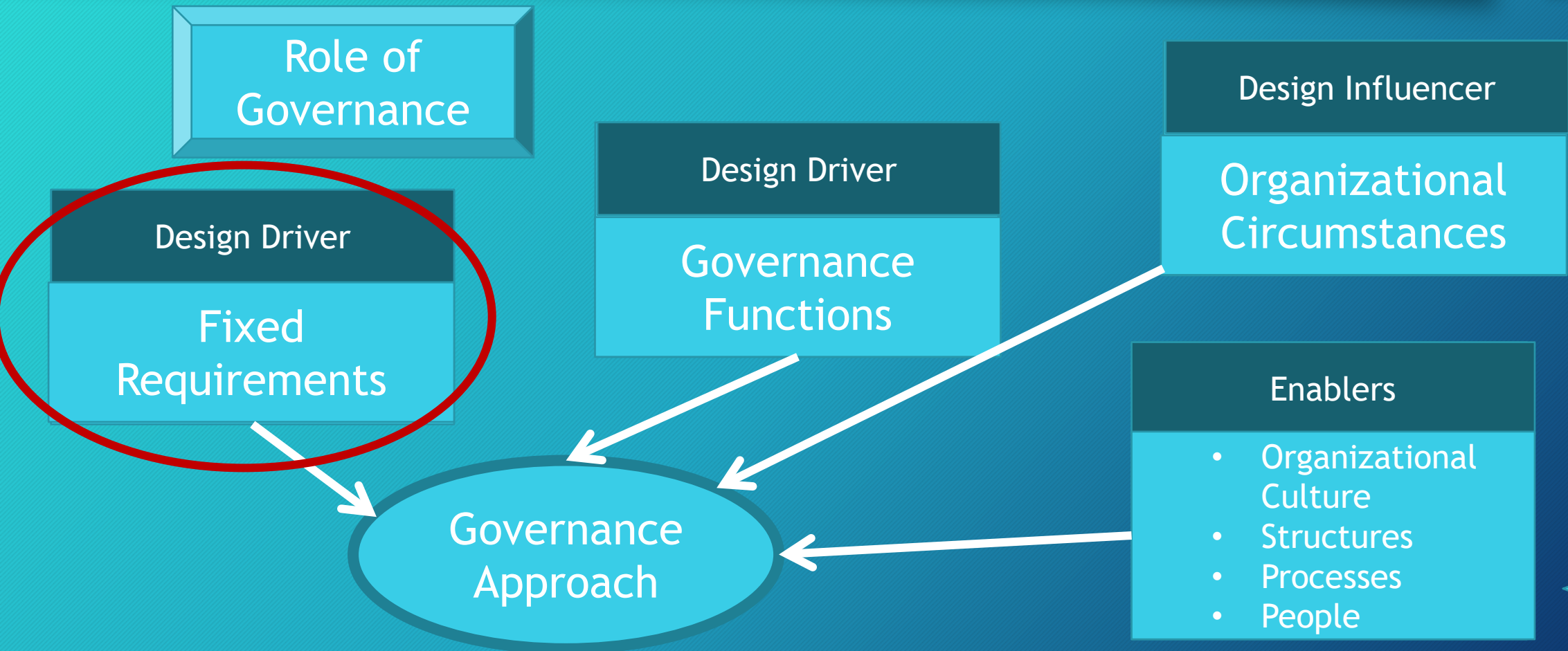
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- More specifically,
 - Determining an organization's purpose and intended results
 - Ensuring that the organization achieves its intended results
 - Ensuring that the organization avoids risks that could potentially undermine its ongoing ability to achieve its results (organizational sustainability)
 - Accountability to stakeholders

Ultimately, any governance system must be able to support these purposes.



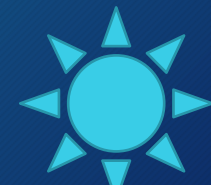
Governance System



Legal Requirements of Non-Profit Organizations

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legally incorporated under federal or provincial law
formed to provide a service for its members or the public
any profits received from its activities must be used to
further its purpose
governed by a volunteer board of directors who act as
community/member representatives



Legal Requirements of Non-Profit Organizations

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What is a corporation?:

Incorporating gives an organization legal status and creates a distinct legal being

A corporation can take part in legal proceedings in its own name

A corporation can own and sell property in its own name

Generally, a board member of a corporation is shielded from the liability of the corporation unless there is demonstrated negligence

A corporation continues to exist as the same legal being even when the board members change



Library Structure in Saskatchewan

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Three basic entities, each of which is a “corporation” in law and governed by a board of directors

Regional Libraries

Municipal Libraries (Regina, Saskatoon, Prince Albert)

Northern Library System



Role of the Board in each Structure

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the general management, regulation and control of the library corporation, for example...

High level policies

Strategic direction

Budget approval (subject to the approval of municipal councils)

Partnerships

Appointing a director of the library



Local Libraries

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Within a region:

Local libraries are not corporations. Some local libraries have been incorporated under *The Nonprofit Corporations Act*, but *The Public Libraries Act* does not establish them as a corporation automatically.

Essentially Local Boards act as advisory boards established to advise on local programs and levels of service and to promote the library locally.

The Regional Library Board must consult with local boards on decisions which affect the local library.



Local Libraries

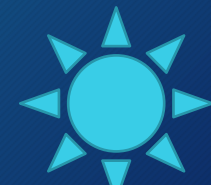
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Within the Northern System:

Northern Community Public Libraries are corporations.

They are part of the Northern Library System, but also nonprofit corporations in their own right

They are responsible for the oversight and operation of the Northern Community Public Library, within the Northern System.



Discussion

Why is it essential to understand how your library and library board is structured?

Discuss at your table and be prepared to report your conclusions to the room.



Legal Requirements of Non-Profit Organizations

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What is a corporation?:

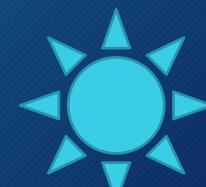
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Board of Directors

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There are three general areas of duties and obligations imposed on directors of non-profit corporations:

Fiduciary Duty

Duty of Care

Statutory Liability



Fiduciary Duty

Fiduciary duty is a requirement that, when exercising the powers of a director, you will “act honestly and in good faith with a view to the best interests of the corporation.”

As a director you would be breaching your fiduciary duty (your duty to act honestly and in good faith) if you agreed to redirect funds donated for one purpose to another. For example, the board voted to use money donated to a building fund to pay general operating expenses



Board of Directors

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Duty of Care

The duty of care is a requirement that the directors “exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.” This means that:

- As a director, you are not obligated to take all possible care but you must use reasonable care.
- As a director you may delegate appropriate responsibilities to committees, officers and managers and have the right to rely on auditors, lawyers and other experts.
- As a director, you must pay attention to the activities and affairs of the corporation.



Statutory Liability

There are some instances where, as a director of a non-profit corporation, you can be held directly and personally responsible for failure of the corporation to perform a particular obligation.

- *The Saskatchewan Employment Act and the Income Tax Act*
- *The Public Libraries Act*
- *The Criminal Code*
- Insurance



Conflict of Interest

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Personal Conflict

There can be a personal conflict between your duty as a director to act in the best interest of the non-profit corporation and your own self-interest.

Conflict in Duties Owed to Another

There can also be a conflict where your duties to the corporation as a director conflict with the duties you owe to another person or corporation. This can happen when you are a director of two corporations, or you are the director of one corporation and you serve another corporation in another capacity, and the two corporations are involved in one or more transactions. This can arise where you cannot honour your obligations to one without acting against the interests of the other.



Exercise

Pick one of the following governance relationships and discuss:

- Regional boards \leftrightarrow Local boards
- Northern Office Board \leftrightarrow Northern community boards

What is the authority of each level of board?

How do you know?

Where does the authority for each level of board come from?

To whom are the boards accountable for their authority?



Discussion

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Surprises?

Concerns?

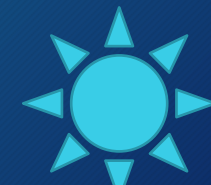
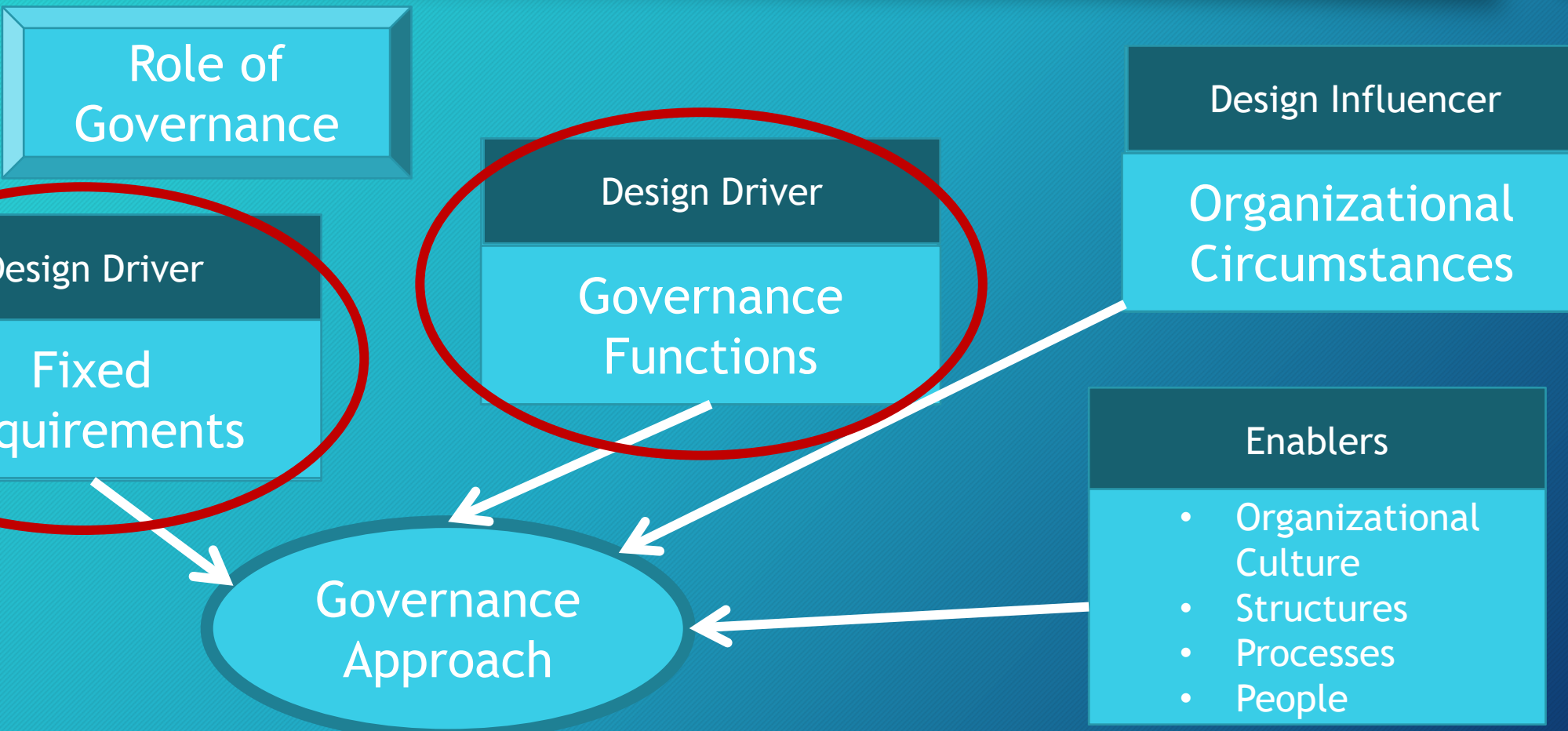
Implications?

What, if anything, do you need to do differently in your library to ensure you are *meeting the Fixed Requirements*?



Governance System

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Governance Functions

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Individually, think about what the *function* of governance

Write down a few and then we'll discuss

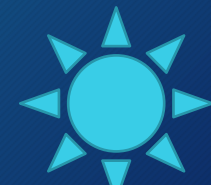


Governance = Decision Making Authority +
Accountability

Key Governance function is:

Ensuring clarity in decision making authority and
accountability when it is *shared* or *delegated*

Formal or informal “rules”



Governance Functions

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ousal relationship...

What are the governance needs?

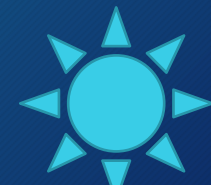


Governance Functions

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dependent sole proprietor private
enterprise....

What are the governance needs?



Governance Functions

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Partnership private enterprise...

What are the governance needs?



Governance Functions

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Accountability

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Formal or informal “rules”



How is Governance Practiced?

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The highest authority in any large, complex enterprise will not likely have the capacity to undertake all aspects of overseeing an organization.

Authority and accountability, therefore, is addressed in a cascading series of delegations

Typically, the further along the continuum the delegations fall, decision making authority narrows and the focus of activity becomes more strategic and more operational

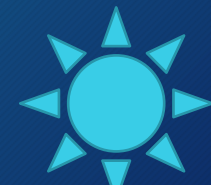


How is Governance Practised?

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Where does the authority for your library board come from? Who delegates to them and how?



How is Governance Practiced?

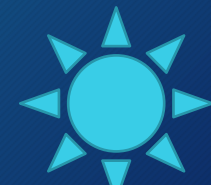
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Municipal, Regional and Northern Libraries receive their authority from *the Public Libraries Act*

The Act is also the means by which authority is delegated to the board. Since municipal councils appoint library boards and authorize budgets, there is also an accountability back to them

Because regional library boards are so large, the *Act* also delegates responsibility for day-to-day oversight to the Board's Executive Committee.

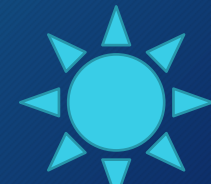
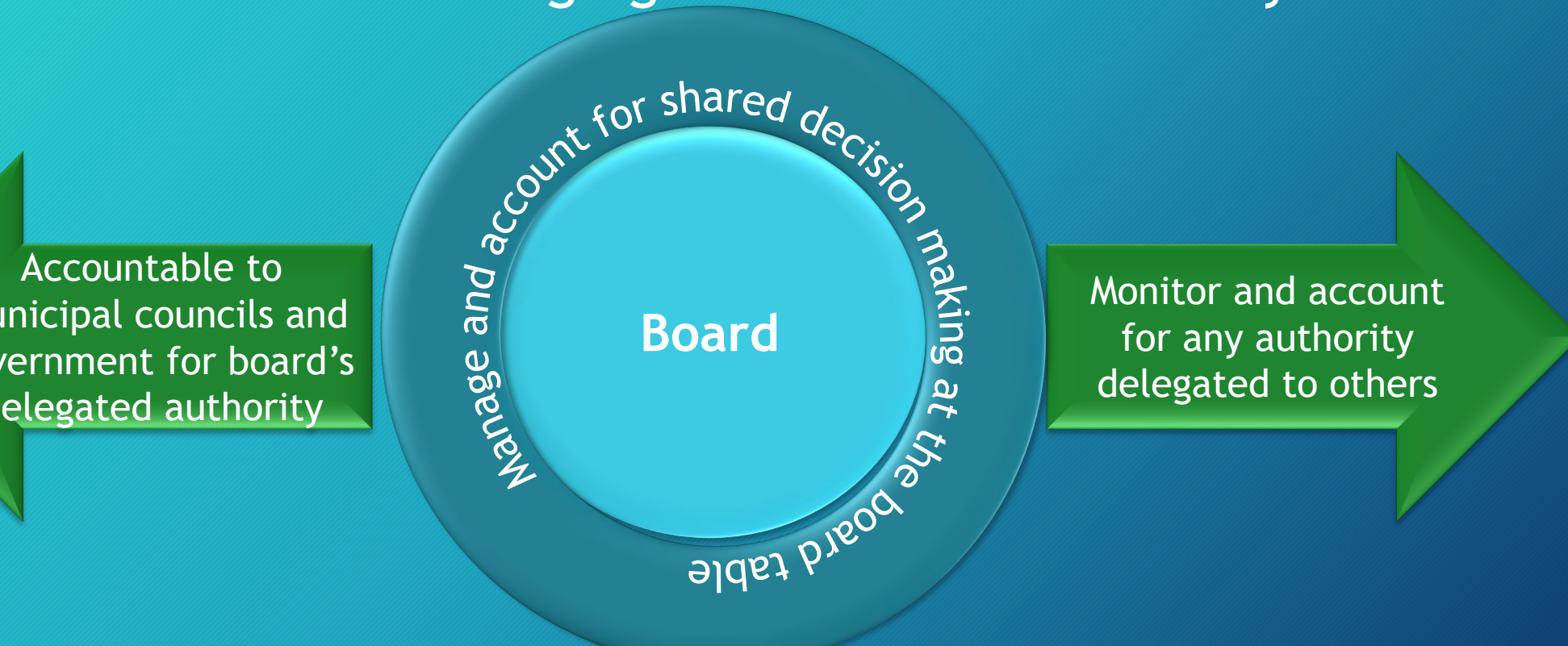
The board (or the Executive Committee) should then formalize the delegation of any authority it cannot manage independently to others (e.g. the Library Director; committees; local boards) with clear lines and processes for accountability.



Role of the Board in Governance

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The Board must manage governance in three ways:



Role of the Board in Governance

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The following are the key roles in overseeing a non-profit (including a library) that only the board can fill:

Determining the results your organization intends to achieve

Ensuring those results are achieved

Ensuring the organization remains sustainable so the results can continue to be achieved (risk management)

Accounting for and reporting on the progress of the organization to the delegating body



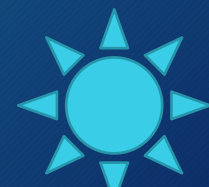
Governing Styles

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There is not one “right” way to structure your library’s governance

- It should be designed to meet the requirements and function of governance
- But it should also be responsive to your organizational circumstances (capacity; lifecycle; etc.)

Generally, the style of governance falls into a continuum based on the four responsibilities that can’t be delegated.



Governing Styles

Finance Approach	Board's Job	Staff's Job
Board	Determine Results Plan Strategies Design Programs Execute Strategies and Programs Manage Risk Report	n/a
Board	Determine Results Plan Strategies Design Programs Manage Risk Report	Execute Strategies and Programs Support Risk Management Support Reporting
g Board	Determine Results Identify Risk Identify Reporting Expectations	Plan Strategies Design Programs Execute Strategies and Programs Manage Risk

Implications

- Be clear about what decision making authority you have (and who gave it to you)
- Be clear about any decision making authority you give to or share with others and how they are going to be accountable to you for it
- Understand the *interests* you are obliged to care for -
 - Regardless of who appointed you to the board, those interests are always defined as those of the whole organization



The boards of regional libraries are very large and generally meet only once or twice a year.

How can a library board ensure that:

Decisions get made in a timely, effective and efficient way?

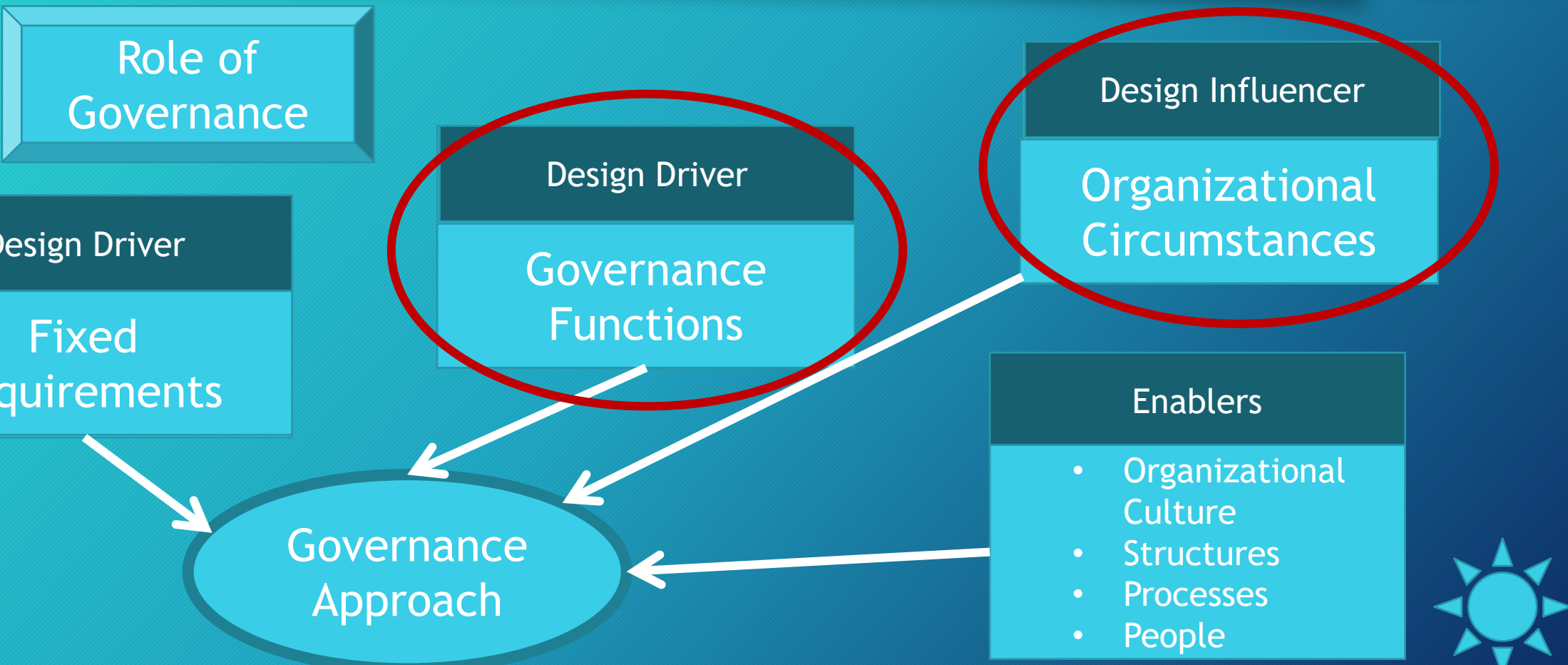
The full board is accountable for those decisions?

If you are not on the Executive Committee, how can you ensure that you are fulfilling your legal duties (Fiduciary Duty and Duty of Care)?



Governance System

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Some Comments about the Other Elements

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Organizational Circumstances

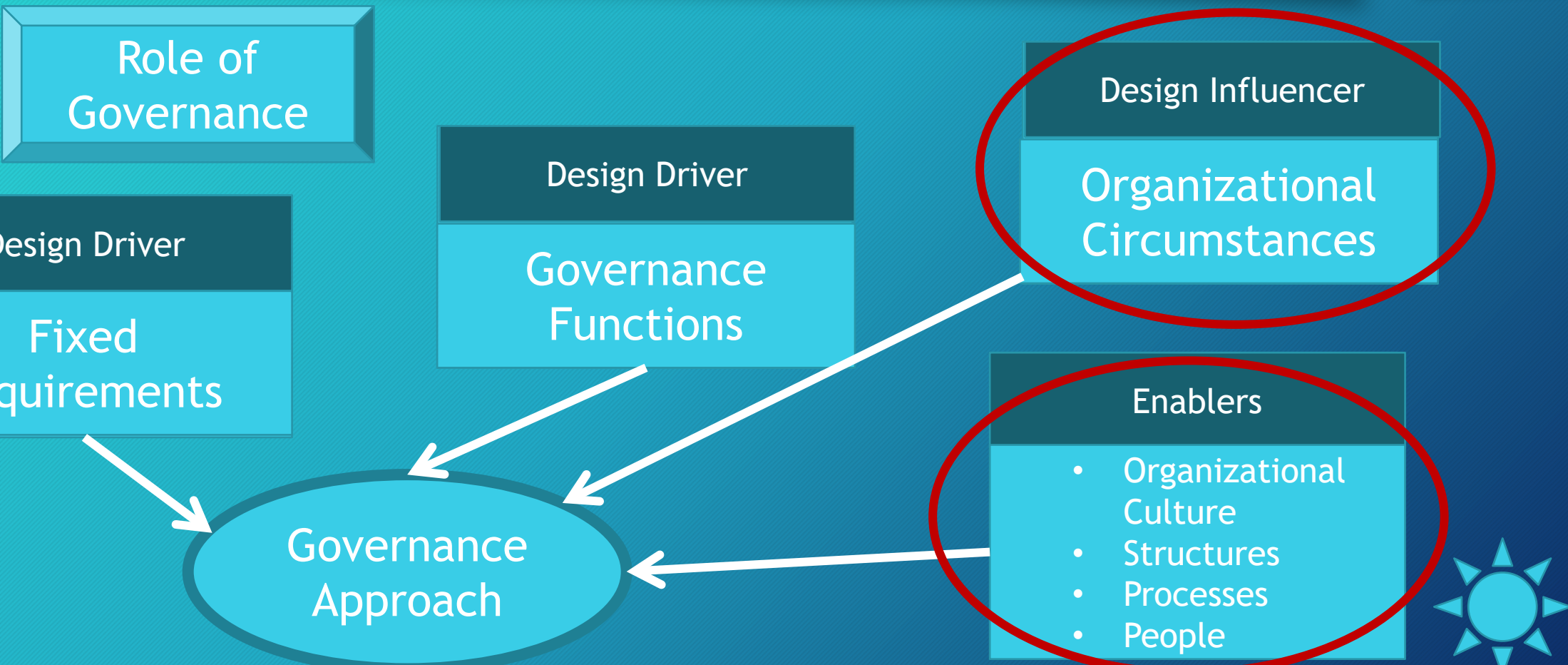
There are many different factors present in each organization that will affect its governance choices

- Structure of your organization
- Size of your organization
- Budget
- Culture
- Lifecycle Stage



Governance System

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Some Comments about the Other Elements

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Enablers

The building blocks of your unique governance system

- The people you involve
- The organizational and board culture you foster
- The processes and structures you establish

These will look different for every library, depending on the unique factors that are in play, but they must address:

- The Role of Governance
- The Fixed Requirements
- The Functions of Governance



Some Comments about the Other Elements

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How will you work together?

What does discussion look like?

How is conflict handled?

What is expected in terms of time and preparation?

How is board performance evaluated and managed?

How do you ensure succession - not only of people, but of values, processes and structures?

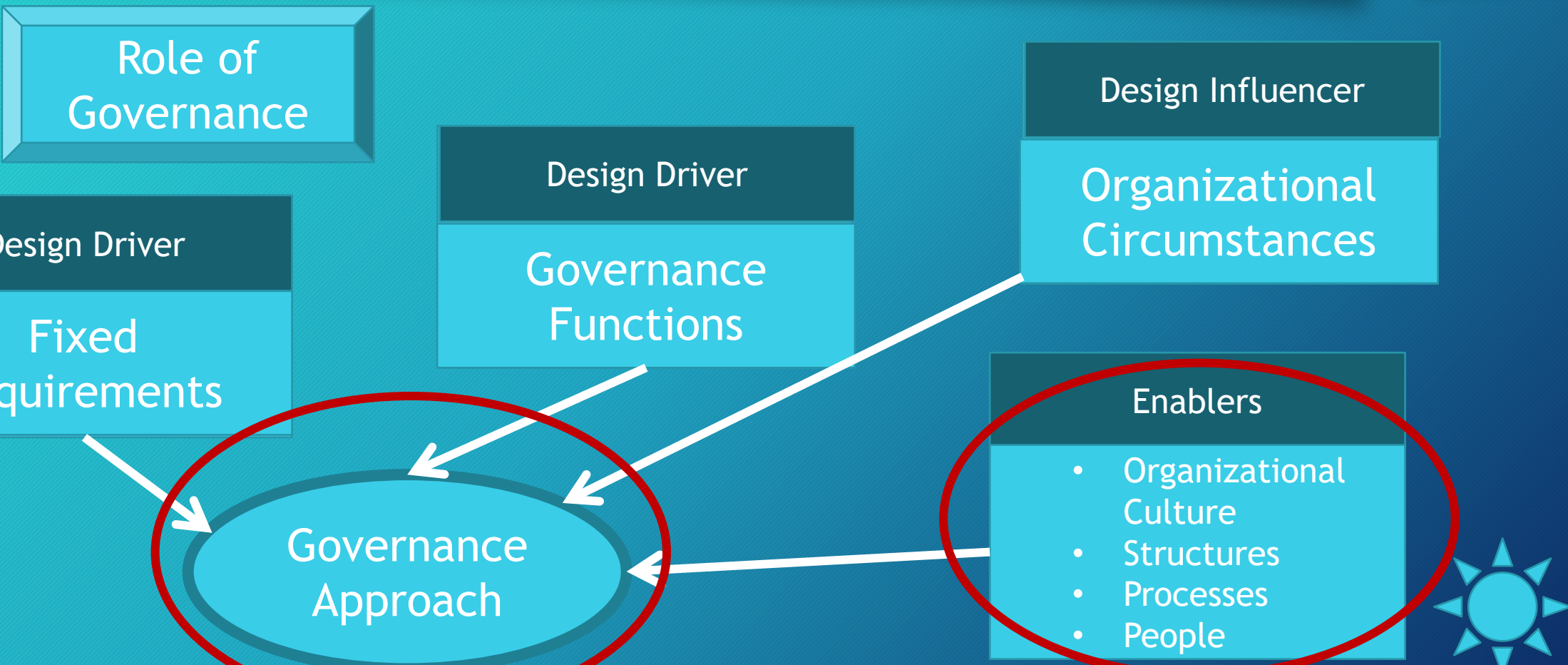
How do you decide what is important? Strategic?

How will you manage risk?

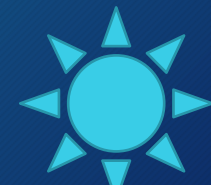


Governance System

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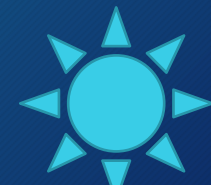


Wrap up and Roundtable

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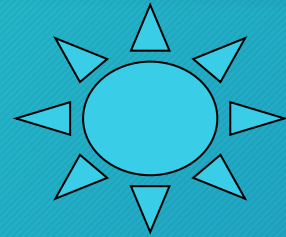
What is one “aha” you had today?

What is one thing you will take away for your own Library?



Contact Information

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DAYBREAK CONSULTING

Dawn Martin

114 - 29th ST W, Saskatoon, SK S7L 0L6

Ph: (306)229-8128

Email: daybreakconsulting@sasktel.net

