

MINUTES
GOVERNOR'S TASK FORCE ON
ENDOWMENTS AND PHILANTHROPY

Department of Labor Conference Room
 Thursday, August 17, 2006

Members Present:

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| Sue Talbot, Chair | Spence Hegstad |
| Barbara Anthony | Amy Kelley |
| Sid Armstrong | Brian Magee |
| Joan Bennet (MCF Board) | Tim McCauley |
| Steve Browning | Jodi Medlar (MCF) |
| Dale Burgeson | Bill Pratt |
| Linda Coulston | Linda Reed |
| Steve Daniels | Jim Soft |
| Donna Davis | Peter Sullivan |
| Dorcie Dvarishkis | Josh Turner |

GENERAL ITEMS

Sue recommended TF members check out www.grantstation.com for ideas of other ventures the TF might pursue. Brian added that MNA subscribes to the service, as does the Montana Economic Development Association, and that only members can access the on-line searchable database of grants from the federal government and private foundations.

Sue reported that Maine Rural Partners had contacted the TF for information about the tax credit, which they are considering for their state. Sid answered a list of their questions, for which they were grateful.

Sue thanked Linda Reed, John Scibek, Dale Burgeson and others for forwarding to TF members information about the IRA rollover and the federal Pension Protection Act. All agreed that the legislation wasn't as broad as hoped for, but that it's a start. Dale passed around a handout explaining the legislation.

TAX CREDIT RENEWAL

Steve brought to the meeting a list of Montana associations, from which he identified 28 that the TF should contact to support renewal of the tax credit. Associations typically have their annual meetings in the fall, when they determine their legislative agenda – a perfect time to approach them about supporting the tax credit renewal in the 2007 legislature. Sue read off the list and several members volunteered to contact several of the associations. Since not all were assigned, **the list will be revisited at the next meeting.** Bill and Brian noted that many associations were not listed; **Brian will bring a list of additions to the September meeting.**

TASK FORCE “2-PAGER”

Sid passed out a draft of the revised “2-Pager” that Aidan Myhre and other TF members used as a handout for legislators to explain the TF and the tax credit. Sid noted that it could also be used in contacting the associations. **Sid and Amy will work on finalizing the document; Amy will e-mail to all TF members when finalized.**

APPROVAL OF JULY MINUTES

In the “Approval of June Minutes” section the words “as corrected” should be changed to “as distributed. Dale moved to accept the minutes as corrected; Barbara seconded the motion. The group unanimously approved by voice vote.

FINANCIAL REPORT

The monthly Statement of Activities prepared by the Montana Community Foundation for July 1 through July 31, 2006, showed \$500 in new contributions (\$300 from Linda Carlson and \$200 from the United Way of Lewis & Clark County) and \$1,568 in expenses for an ending fund balance of \$6,778.20.

PRESENTATION BY LINDA REED

Linda Reed asked for 45 minutes on the agenda to present to the TF her understanding of the history of the relationship between the TF and the Montana Community Foundation (MCF), and the “problematic” relationship that she feels currently exists.

Her primary conclusion, based on her understanding of that history and the fact that no actual documentation exists (e.g. contracts, letters of agreement, Executive Order by the Governor, etc.) defining the official relationship, is that the Task Force is a “project” of MCF. She arrives at this conclusion because the TF, as an informal association of people with a common interest, has used MCF not only as the fiscal sponsor but also by default as the entity legally and financially liable for all TF undertakings. She points out that it is only through MCF’s 501(c)3 status that the TF is able to fundraise, allow donors to make tax-deductible contributions, seek grants, lobby, have staff, and engage contractors. Linda listed other services that MCF provides the TF:

- regular financial statements
- a historic list of donors
- payment of bills (including staff and contractors, which also entails filing tax reports and covering Workers Comp)
- filing of lobbying reports (as the “principal” they also pay the lobbyist registration fees and late penalties, which were once incurred)
- website and domain maintenance fees

In addition, she noted that MCF has been, over time, the largest single contributor to the TF (including contributions to the Governor’s Conversations and the Lunch & Learn sessions, as well as seeking some of the largest grants received by the TF). She discussed the money spent by MCF (\$28,000) on the “Intergenerational Transfer of Wealth” study within this context as well.

Linda confirmed that MCF signed a contract with Aidan on June 1st, committing to pay the \$10,000 for lobbying services, and that they began discussions with Rep. Kim Gillan about sponsoring the tax credit reauthorization bill. She emphasized that no bill has yet been drafted, and that their strategy includes seeking co-sponsors from both parties as well as soliciting input on the form the bill should take. Her *minimum objective* is to:

- “get a place in line” in the legislative process;
- renew the tax credit at its current levels;
- maintain the commitment not to impact the state budget more than \$5 million; and
- be willing to come back before the legislature for review (i.e. maintain a sunset provision).

Linda strongly felt those minimum objectives were shared by the TF.

Linda is concerned that the relationship between the TF and MCF does not meet the legal requirements of fiscal sponsorship, and that the financials are uncertain and the commitments under defined. She proposed the following:

1. **MCF needs to know what representations have been made to donors.** She suggests that in the future, the TF should seek unrestricted funds. If a donor gives specifically for lobbying or the Governor’s Conversation, MCF needs to know for reporting and accounting purposes. She reiterated that contributions for lobbying are not tax-deductible. [*Dale Burgeson declared that the contribution he just presented to*

MCF for the TF is intended for lobbying. Judy Wing strongly opined that no donor should be contacted retroactively by MCF to determine donor intent. Peter Sullivan stated that all members of the fundraising committee for the Governor's Conversation were specifically told to ask donors to give specifically to the Conversation and to indicate so in the subject line of the check.]

2. **Sue Talbot should appoint a subcommittee to determine the TF expenses and fundraising plan for the remainder of the fiscal year** (until July 1, 2007).
3. **The TF should engage in discussions with Galen McKibben** about his decision not to bill the TF for his services over many months.
4. **The TF should refrain from making any future commitments for which MCF would be liable.**
5. **MCF will create two more accounts for the TF**, in addition to the general account: one for lobbying and another for the Governor's Conversation.

Linda concluded by stating that the TF needs to determine how it wishes to proceed from here so that MCF is not exposed and so that the larger philanthropic community can move forward on the goals we all share. She laid out the choices available to the TF from here:

1. The TF can continue on as "a project of MCF";
2. The TF can apply for its own 501(c)3 status; or
3. The TF can become officially attached to a branch of state government.

There was some discussion after the presentation. Steve Browning thanked Linda for her presentation, which he found helpful in many respects. He corrected some of the history presented, stressing that, counter to Linda's understanding, there was a deliberate separation between MCF and the formation of the TF and the forwarding of the tax credit. In fact, neither was to be seen as associated with MCF. The TF also made the clear decision not to be associated with a branch of state government for the same reason: to maintain the image of an association of individuals NOT tied to any particular organization or agenda. Dale agreed, adding that his membership was based on being part of a national organization. Jim Soft reminded that in the early days of formulating and lobbying the tax credit it was essential that the charitable community be united, and that it not appear as if the tax credit was created to benefit the MCF exclusively.

Sid corrected the chronology presented: the idea of the first Conversation came in the Spring of 1994, but the idea of the TF arose out of the Conversation itself, in the Fall. She also stressed that the relationship between MCF (for which she served as Executive Director at the time) and the TF was always an anomaly, different from other "projects" of MCF.

Judy Wing stated that she would like to maintain the fiscal relationship with MCF without being a "project" of MCF. Tim McCauley was in favor of reviewing the legal issues implied. Jim Soft suggested that the two parties formalize the relationship with a contract. He thinks it makes sense for the TF to be joined with MCF, but not as a "project of" MCF.

Sue appointed a subcommittee of Dale Burgeson, Steve Browning, Dorcie Dvarishkis, Dennis Peterson, and Jim Soft with the charge of:

- answering the question of who should hire and pay for the lobbyist;
- deciding whether—and if so, how—the TF should pay MCF a fee for services rendered;
- projecting the expenses and fundraising objectives between now and the end of the fiscal year (June 30, 2007);
- examining whether the relationship the TF currently has with MCF works for the TF; and

- recommending what that relationship should be, and how to define it in a contract (or letter of agreement).

Steve offered to chair the committee, and will set a time and date for a conference phone call meeting.

GOVERNOR'S CONVERSATION STEERING COMMITTEE MEETINGS

Josh reported that the steering committees have all met several times and that there has been much progress on the fundraising, agenda, recommendations on legislation, and the basis for the briefing paper. She noted that things are coming together much more quickly than previous Conversations.

Sid reported on the fundraising committee: Linda Carlson (chair) to date has secured \$16,050 toward the \$25,000 budget. If more is raised, there will be money available for action steps coming out of the Conversation. [NOTE: Linda Carlson e-mailed an updated fundraising report on August 24; \$35,650 has been raised, with an additional \$1,500 in-kind contribution from Blue Cross for printing.]

Sid distributed a summary of a conversation she'd had with DOR Director Dan Bucks, who'd informed her that the agency has already drafted an endowment tax credit renewal bill, which is now in the Governor's office. The DOR bill contains all of the language of the current law, plus a correction disallowing gifts for buildings from qualifying for the credit because of the enormous fiscal impact it could have. Mr. Bucks deferred to the Governor's Budget Director for any discussion of increasing the percentages or maximum allowed for corporations. Mr. Bucks is strongly against making the tax credit permanent; their bill has a 6-year sunset. The DOR will prepare draft fiscal notes showing the fiscal impact of maintaining current percentages and proposed increases. Mr. Bucks offered to meet with the TF after August 15, and is available for discussion by phone if any TF members desire.

Steve reported on the working group on legislation, which has met twice. He distributed a handout with recommendations from the group to the TF. He noted that while the working group has several TF members participating, it is not the same as the TF itself. Their recommendation:

1. Make the sunset a 10-year period.
2. Provide that the DOR correction disallowing buildings to qualify for the credit be effective upon enactment.
3. Increase the percentage for corporate gifts from 20% to 40%.
4. Increase the percentage for individual planned gifts from 40% to 50%.

Jim recalled from a previous meeting with the DOR that they'd indicated they did not want to carry the endowment tax credit bill. Jim said that he'd spent a great deal of time with nationally recognized experts on language to address the buildings issue. He expressed concern that if the door is closed the wrong way, it may prohibit legitimate gifts that fit the spirit of the law and its historic intent. Sid recommended that Jim contact Mr. Bucks directly about the bill language.

Steve noted that, in terms of moving forward legislatively, it would be confusing to have many versions of the same bill. He added that because it is a "big ticket item," it would not be decided until the end of the session. There was discussion about whether an administration bill or a stand-alone bill would fare better legislatively. The Governor had indicated that he would kill the bill if it did not contain the correction about buildings.

Sue asked the group whether it wished to go forward with the working group legislation proposal. There was a motion to approve the recommendation with the caveat that it should be revisited once the draft fiscal note is available. All approved the motion with the caveat.

Bill reported on the meeting of the agenda committee, and distributed a handout with the proposed Conversation agenda. In terms of audience, he said we are seeking the “movers and shakers” – those individuals with the means and ability to effect change. The target number is 50; 100 will be invited. It was noted that the agenda is ambitious – extremely full for the short amount of time allotted.

Dorcie thought that the proposed title “It’s a New Day for Philanthropy in Montana: Bridging the Philanthropic Divide” narrows the focus too much. The term is associated with the gap in foundation funding between the states; the Conversation is about more than that issue, although it certainly should be one of the panel topics. Jim suggested: **“It’s a New Day for Philanthropy in Montana: Beyond the Philanthropic Divide.”** Members present liked the revised title suggestion.

TEN-YEAR REPORT

Galen revised the report and left a hard copy for the group to review. There were several suggested changes, including adding a list of all current and past Task Force members and participants. It was agreed that **Amy would notify all TF members that they had until August 24 to have final input on the report**, which can be viewed at www.EndowMontana.org/new by clicking on “About the Task Force.” **Amy will compile all comments and will forward them to Galen. Ideally the final report will go to Blue Cross for printing the first week in September.**

TASK FORCE WEB SITE

It was noted that the “John & Mary” examples of planned gifts still aren’t posted. Several members stressed that the web site needs to be completely up-to-date well before the legislative session. **Steve will work to obtain the minutes from 1995-1997 to post on the web.**

NEXT MEETING

It was agreed that the next meeting would be on the regular third Thursday, which is **September 21st**. **Amy will check on availability of the Northwest Power Planning and Conservation Council**, since the Dept. of Labor conference room is not available. She will notify the group about the meeting location.

The meeting adjourned at 1:40 p.m.