

Charities Advisory Council
January 9, 2017 Meeting Minutes
The Coast Gateway Hotel

Present: Mike Plymale, Steve Wilmes, Stuart Grover, Mary Kay Gugerty, Moonwater, Jennifer O'Bannan, Tammy Watts, Adam Borgman, Howard Donkin, Dan Speigle, (SOS), Patrick Reed, (SOS), Teresa Glidden, (SOS), and Rebecca Sherrell, (SOS).

By Phone: Carrie Green

Absent: Judy Andrews and Liz Davis

Agenda Item #1: Call to Order

- Mike Plymale, Council Chair, called the meeting to order and welcomed the members of the Charities Advisory Council.
- Introduction of New Members: Steve Wilmes, Mary Kay Gugerty, and Jennifer O'Bannan

Agenda Item #2. Old Business

- Review of the June 3, 2016, Meeting Minutes: A motion was made to accept the meeting minutes as submitted. Motion seconded. Votes were cast and the motion carried.
- Review of the June 2016 Action Items:
 - 1.) Consumer Alerts to Washington Nonprofits and Wayfind Websites – A “copy-cat” of Corporate Record Service was mailing letters to registered profit and nonprofit corporations requesting that they send them a copy of their minutes and \$125. This was following a 1.2 million case the Attorney General won against Corporate Records Service. These letters and suspicious activity have since subsided altogether. Any future activity, Rebecca will alert council members.
 - 2.) Teresa agreed to email the link to the Education Resources Video to the Council Members. The link was emailed to the members however, if members need to review the video, it is located on the Charities training page of the website. Video is available at <https://vimeo.com/169901840>.
 - 3.) Adam is collecting member suggestions and/or questions for the checklist. Adam will compile and email to the group to be edited. Unfortunately, Adam didn't receive any suggestions. It seems, it wasn't clear what the checklist was for.

A suggestion was made that at each meeting, to have members consider if there are new topics for discussion.

Another suggestion was made to create a checklist of things for donors to consider before making a donation.

Teresa offered to send out the links to the “Information for Donors” and “GiveSmart” pages to the council members. The Secretary of State’s Office is looking for the council’s feedback as if they’re looking at it from the donor’s perspective. Is something on the Web page missing, or hard to find?

A suggestion was made to include time on the meeting agenda going forward, to brainstorm and/or address hot topics.

4.) Review of Howards’ Draft “Fundraising Auctions and Events” Information Sheet.

Rebecca expressed concern with the document since the content involves Federal tax issues and the Charities Program is not able to provide assistance in this area.

One suggestion was to provide the information, but direct the public to the appropriate agency if they have additional questions.

Another suggestion was to use a FAQ format, but in the interest of consistency, convert the first information sheet into FAQ format also.

After much discussion, the members decided while Howard’s initial draft was very informative, the information is not the responsibility of the Secretary of State to disseminate. There was a consensus to go lighter on content, but still provide contact information for fundraising activity, such as raffles and bingo which is not governed by the Secretary of State. (Draft of document attached)

5.) One June 3, 2016, action item, which was overlooked, (June 3, 2016, Meeting Minutes, agenda item #7) references including “types of professions” in the posting of the Charities Advisory Council on the Charities Web site.

Mike clarified that once the council decided the types of professions, they would not be tied to a specific person, but listed to show the council has a diversified skill set.

Following a discussion, the council decided on posting the following types of professions: Fundraisers, Attorneys, CPAs, Consultants, Educators, University Faculty, Board Member, Authors, Executive Directors, and Philanthropist.

Agenda Item #3. Crowdfunding Information Update

- Rebecca shared that the National Association of State Charity Officials (NASCO) is addressing crowdfunding as a group and collectively assembled tips for the donor, charity and fundraising platform. As each state charitable solicitation law varies, the information was modified to Washington State’s charities law and has been posted to the Secretary of State’s Charities Program’s Web page.

Agenda Item #4: Update on the Statewide Education Contractor

- Washington Nonprofits is the vendor that has contracted with the Secretary of State's Office to provide education and training to nonprofits and charitable organizations throughout Washington State. The Secretary of State's Office is in the second year of the contract and deliverables are being met and in some cases, exceeding expectations. They are getting to all areas of the state, including hard to reach, remote areas, by providing alternative methods of training, such as webinars and conference calls. A sampling of participant surveys have been provided and reviewed and the training has been very well received. The surveys that have been reviewed have all been very appreciative of the training.

Dan added that the 2-year contract is coming to an end in June 2017 and the Secretary of State's Office will be posting a new Request for Proposal (RFP). The new RFP should be posted in the next couple of months.

Agenda Item #5: Update on the Division's Online Filing System

- The Office of the Secretary of State has been working on developing an online filing system for the Corporations and Charities Division. The current system was installed 13 years ago. We are currently developing "FRDs, or Functional Requirement Documents. We hope to be very close to implementing the system by the next council meeting.

A council member inquired about the impact the new system will have on nonprofits once it launches.

The Secretary of State Office explained that the Corporations Division currently has the functionality to incorporate and file annual reports online. The new system is designed to expand that functionality. Currently, Charities accepts paper registration documents only. Online registrations and renewals will be new for the Charities Program. Only the Optional Registration is currently available online. At some point, online filings will become mandatory for the Charities program and paper documents will no longer be accepted.

Questions from the Council:

Q.1) Will the renewals have prepopulated data?

A1.) The Charities and Charitable Trust Renewals will have pre-populated data with the exception of the financial information. It was believed Corporations would also with prompts along the way to confirm that the information had not changed.

Q2.) Will the Charities filing be linked to the Corporations Annual Report?

A2.) No. The nonprofit act requires the nonprofit annual report to be filed in the same month of incorporation. The Charitable Solicitations Act bases the renewal on the organization's accounting year-end. (Parallel to the IRS 990 Series)

Q3.) Will the common fields carry over?

A3.) Possibly

Q4.) Will Charities be able to pay with an E-check?

Q4.) Not at this time – credit cards only.

Agenda Item #6: ATLAS / Issues to date

- An agency partner – The Department of Revenue, launched a new licensing system in June 2016, named ATLAS (Automated Tax and Licensing Administrative System). The launch did not go without its challenges for OSOS: the inter-agency connections, data transfers and a number of other items between the two agencies. IT resources from OSOS were needed to resolve these issues, which took away from our ability to work on different portions of our own replacement project

Agenda Item #7: Single Portal Initiative Project (NASCO)

- The National Association of State Charity Officials (NASCO) together with the National Association of Attorney's General (NAAG) and the Multi-State Registration Filing Project are involved in an online filing project – “Single Portal Initiative Project.” At this stage, they are seeking funding for the project, but when funding has been achieved, they'll start building a single portal where a charitable organization can file their Form 990 or 990EZ with the IRS and file their state charity registration with one of the 13 pilot states involved in the project. The objective is to provide a single site that allows charitable organizations to file with the IRS and one or more states with one entry.

In addition to providing a benefit to the registration piece, it also provides a benefit to the enforcement piece.

Agenda Item #8: Update from Judy Andrews regarding the Nonprofit Law

- Agenda item tabled in Judy's absence.

Agenda Item #9: For the Good of the Order

- Group Brainstorm for Action Items. If anyone has any thoughts they want to share on any topics. Several issues were discussed by one or more Council members:
- Kidney Fund – give people scholarships for dialysis. Unless specific dialysis centers give large amounts of money to them, they won't give scholarships to patients to a non-donating entity. This is under investigation now by Senator Grassley. Is this the type of thing we want to put an alert on the website? They work in all 50 states.

This was an unfamiliar issue to the representatives from the Attorney General and Secretary of State's offices and therefore an alert is not warranted at this time. Research will have to be conducted.

- In the United States, about 340 billion a year is given to charity, half of that is given to churches, of the other half, about two-thirds goes to projects which benefit or have some direct connection to the donor; a university, a museum they're involved with. Very little goes to the social safety net. So all the problems we have socially in this country that need charitable

donations are not getting them. The only role that anybody can play with that is education because what is happening is not illegal, immoral or unethical. Charities is recognized by the IRS, but the question is, if that continues, will the charitable deduction be declared null and void, because it's not of public benefit, but of private benefit. There is already a discussion in the Trump administration of this occurring. Is there any role that the states play in that?

No, the issue of "charitable deduction" is a federal tax law, which of course the state has no role in.

- Are there any enforcement issues that the Attorney General's Office can talk about that the council should be aware of regarding charities fraud?

The biggest case that Washington has taken part in with a lot of national press is Cancer Fund of America.

Breast Cancer Prevention Fund, is a smaller charitable trust matter that the state has been handling. It is now in Bankruptcy and a couple of other attorneys are handling it.

Agenda Item #10: Next Meeting

- First couple weeks in June, (Mondays) 5 or 12

ACTION ITEMS:

(1) Teresa offered to send out the links to the "Information for Donors" and "GiveSmart" pages on the charities webpage.

(2) Add the types of professions to the Charities Advisory Council information posted to the web page.

With no further business

A motion was made and seconded to adjourn the January 9, 2017 meeting. The motion carried and the meeting was adjourned.

Respectfully submitted,
Rebecca Sherrell

Fundraising Auctions and Events

Questions often arise related to charitable donations of goods, services and noncash items at fundraising auctions and events. Fundraising events can include auction dinners, door-to-door sales of merchandise, concerts, sports events, and casino nights (where the only prizes are donated non-cash items), or similar events.

This information is provided as a convenience and is intended to help clarify some of the basic considerations for both the donors and the organizations receiving the donated items.

For information provided here, “fundraising events” does not include raffles or gambling for cash prizes, as those activities are regulated by the Washington State Gambling Commission. Please visit the Gambling Commission at <http://www.wsgc.wa.gov/> for additional information.

General Information for Donors

Donors may be able to claim a tax deduction for a cash or property donation made to certain tax-exempt organizations, including ones that have federal 501(c)(3) charity status, and churches. If you have a question about whether an organization is tax-exempt, you can look up the name on the IRS website page titled “Exempt Organizations Select Check” at <https://apps.irs.gov/app/eos/>. Donors generally must keep records to prove the amount of their contribution, and special rules that apply to contributions of real estate and contributions for which you receive a benefit. Below is more information about the special rules and the kinds of records you should keep.

Donations of art, wine, theatre tickets, and other tangible property

Donors may be able to claim a tax deduction for gifts of fine art, wine, tickets (i.e. theatre, opera, sporting events, entertainment, etc.) and other tangible property to be auctioned at a fundraising event. The purchase of theatre or other entertainment tickets at an auction is covered below. See “Auction Sales and Quid Pro Quo Rules”.

Donations of Services and Noncash Gifts that are Generally Not Deductible

Donors may not take a tax deduction for many types of noncash items. For example, no deduction is allowed for your personal or professional services donated to a charitable organization, the value of your time spent volunteering, or for the cost of a raffle ticket, donations of bingo or lottery tickets, dues paid to country clubs, the value of vacation rentals (including time shares), venue rental space, office rental and airline mileage awards, even though these gifts can be sold at a charity auction.

Generally, the amount of the tax deduction you can claim is limited to the lesser of the original purchase price or the fair market value of the item at the time of the contribution. It is the donor’s responsibility to determine the fair market value of the donation and the amount of the deduction.

Some donated property must have an appraisal to determine the fair market value, such as book collections, fine art, jewelry (gems and precious metals), boats, and real estate. Generally, you will need an appraisal for donations of property for which you claim a deduction of \$5,000 or more. Please see IRS Publication 561, "Determining the Value of Donated Property" (available at www.irs.gov) for more information.

Donations of Cars and Inventory in your Business

Special rules apply to vehicles, real estate which you do not own free and clear, inventory in your business, and intellectual property. Please see IRS Publication 526 Charitable Contributions for more information.

Auction Sales and *Quid Pro Quo* Rules

The IRS limits the amount you can claim as a deduction when goods or services are received by the donor in exchange for the donation. For example, if a donor gives a charity \$100 and receives a concert ticket valued at \$40, the donor has made a *quid pro quo* contribution. In this example, the charitable contribution part of the payment is \$60.

Deduction Documentation

Donors generally must have written documentation to support their tax deduction. Varying levels of documentation are required depending on the value of the donation. If the donor claims:

- \$250 or less - written records and a receipt (if practical) from the tax-exempt organization(s) are required to support the deduction.
- More than \$250 and up to \$500 - written records and a written acknowledgement from the tax-exempt organization(s), as described on the next page, are required to support the deduction.
- More than \$500 and up to \$5,000 of noncash donations - IRS Form 8283 is required as an attachment to their tax return. In addition, written records and a written acknowledgement from the tax-exempt organization(s) are required to support the deduction.
- More than \$5,000 in non-cash contributions - in addition to Form 8283, written records, a written acknowledgement, and a qualified appraisal are required.

An organization that you donate to is required to provide written documentation to support the deduction and must include the following information:

1. The name, address, and tax ID number of the tax-exempt organization
 2. Date and location of the gift
 3. Description (list of items)
 4. Affirmation that no goods or services were received in exchange for the gift.
When you make a donation, you are responsible to maintain records
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1. Fair market value (donor's estimate)
 2. If the donation is over \$500, the written record must also include how and when the donor acquired the property and the property's cost or basis for determining the value.

General Information for Tax-Exempt Organizations (Recipient)

Tax-exempt organizations generally must provide the donor with an acknowledgement (without stated value of the donated item) to enable donors to claim the tax deduction. The organization is not responsible for determining the fair market value of donated items. A penalty is imposed on a charity that does not provide the required acknowledgement. However, when donors drop off items worth \$250 or less at unattended donation locations, an acknowledgement is not practical nor required.

The tax-exempt organization is required to provide a written acknowledgment, or receipt, which should include the following information:

1. Organization's name and address
2. Organization's tax ID number
3. Date received
4. Description of donation/property received
5. Statement as to whether or not the donor received any goods or services in return (with a good faith estimate of the value of such goods or services) in connection with the donation
6. If the donor received intangible religious benefits, the acknowledgment should say so, although no value is required

Usually, the written acknowledgement is provided at the same time the donation is made, but if not, it must be provided before the date the donor's tax return is filed or the extended filing date, whichever is earlier. The written acknowledgement can be either a paper document or in electronic format, such as an e-mail addressed to the donor.

For gifts of property over \$5,000, a donor may present to the charity IRS Form 8283 to support the donor's tax deductions. The donor is responsible to prepare the form and the charity's only obligation is to complete the "Donee Acknowledgement" section.

Exception for Insubstantial Goods or Services — Charitable organizations that provide insubstantial goods or services (for example – promotional pens or keychains with the organizations logo, or the services of wait staff during a charity dinner) in exchange for contributions do not have to describe those goods or services in the acknowledgment. The IRS has guidelines which are updated annually for determining what qualifies as "insubstantial goods or services". See IRS.gov for annual inflation adjustment information.

Documentation of Non-Deductible Items

Charitable donations must meet specific criteria to be tax deductible. The IRS does not require a charitable organization to provide a written acknowledgement of a donation that is not tax-deductible, such as.... If your organization receives a non-deductible item, then do not provide a donor acknowledgement that might be used to claim a tax deduction, but you can still thank the donor for the gift. For example, some organizations modify their normal thank you letter to state that the item is not tax deductible but that you appreciate the gift.