A NEW WAY FORWARD: REIMAGINING THE NONPROFIT WORKPLACE

Virtual Engagement Series
A NEW WAY FORWARD: REIMAGINING THE NONPROFIT WORKPLACE

Considerations in Contemplating Your Nonprofit’s Future
Thank You
Today’s Program

• Welcome & Housekeeping Notes
• Presentations
  • Jeff Williams, The Johnson Center for Philanthropy at Grand Valley State University
  • Celeste Arduino, Bodman PLC
  • Moderator: Kathy Dickens, Four County Community Foundation
• Panel Discussion on Considerations in Contemplating Your Nonprofit’s Future
• General Q&A
• Closing Remarks
Housekeeping Notes

• This webinar is being recorded.
• Q&A time is built into each portion of the program.
• Use the “Chat” function to share your questions anytime.
• Conversations are based on our best understanding at this time.
• The attorney presentation features legal guidance, not legal advice.
Next in Our Series

Thursday, Sept. 17 (10am-11:30am)
Advocacy, Civic Engagement and Supporting Social Movements as 501(c)3 Organizations
Register Here

Thursday, Sept. 24 (10am – 11:30am)
Final Session in the Series:
The Opportunities and Imperatives in Defining Michigan’s New Normal”
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Collaboration Scale

Isolation  Collaboration  Merger  Acquisition
Dissolution  Bankruptcy
Today’s Panelists: Considerations in Contemplating Your Nonprofit’s Future

Kathy Dickens
Four County Community Foundation
(Moderator)

Celeste Arduino
Bodman PLC

Jeff Williams
The Johnson Center for Philanthropy at Grand Valley State University
Considerations in Contemplating Your Nonprofit’s Future

Agility in Certainty and Uncertainty
What we see in the numbers
Michigan: People and Nonprofits

Cumulative Change, Registered Nonprofits vs. Population

- Cumulative change, nonprofits
- Cumulative change, population
Did you see the Great Recession?
Michigan: People and Nonprofits

Cumulative Change, Registered Nonprofits vs. Population

- Cumulative change, nonprofits
- Cumulative change, population
Our reality:

What did we see in 2009?

<table>
<thead>
<tr>
<th>Years</th>
<th># of nonprofits, starting 2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Start</td>
<td>49,153</td>
</tr>
<tr>
<td>2 years later</td>
<td>48,642</td>
</tr>
<tr>
<td></td>
<td>-1%</td>
</tr>
<tr>
<td>4 years later</td>
<td>42,393</td>
</tr>
<tr>
<td></td>
<td>-14%</td>
</tr>
<tr>
<td>7 years later</td>
<td>47,340</td>
</tr>
<tr>
<td></td>
<td>-4%</td>
</tr>
<tr>
<td>10 years later</td>
<td>50,654</td>
</tr>
<tr>
<td></td>
<td>+3%</td>
</tr>
</tbody>
</table>
Our reality:

History does not repeat, but it often rhymes.

<table>
<thead>
<tr>
<th>Years</th>
<th># of nonprofits, starting 2009</th>
<th># of nonprofits, starting 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Start</td>
<td>49,153</td>
<td>52,171</td>
</tr>
<tr>
<td>2 years later</td>
<td>48,642 (-1%)</td>
<td>51,629*</td>
</tr>
<tr>
<td>4 years later</td>
<td>42,393 (-14%)</td>
<td>44,996*</td>
</tr>
<tr>
<td>7 years later</td>
<td>47,340 (-4%)</td>
<td>50,247*</td>
</tr>
<tr>
<td>10 years later</td>
<td>50,654 (+3%)</td>
<td>53,764*</td>
</tr>
</tbody>
</table>
1 in 6 nonprofits may not survive the next five years if 2020 repeats The Great Recession.
How prepared are Michigan’s nonprofits?
Cash on hand analysis

From the complete 2017 tax year filings:

Michigan medians

- 2.1 months cash on hand
- 4.1 months cash + liquid savings on hand

Cash vs. Cash + Savings

- Less than 1 month: 37%
- 1 to 1.9 months: 10%
- 2 to 2.9 months: 15%
- 3 months or more: 31%
- N/A or misc. other: 7%

Cash on Hand

Cash + Savings on Hand

Created with Datawrapper
Nonprofits receiving PPP loans

Best estimates in Michigan:
- 41% of eligible nonprofits
- 55% of eligible nonprofit jobs

<table>
<thead>
<tr>
<th>Loan Range</th>
<th># of Nonprofits</th>
<th>Total $</th>
</tr>
</thead>
<tbody>
<tr>
<td>$5-10 million</td>
<td>16</td>
<td>$120 million</td>
</tr>
<tr>
<td>$2-5 million</td>
<td>83</td>
<td>$290.5 million</td>
</tr>
<tr>
<td>$1-2 million</td>
<td>127</td>
<td>$190.5 million</td>
</tr>
<tr>
<td>$350,000-1 million</td>
<td>343</td>
<td>$231.5 million</td>
</tr>
<tr>
<td>$150,000-350,000</td>
<td>557</td>
<td>$139.3 million</td>
</tr>
<tr>
<td>Under $150,000</td>
<td>4,181</td>
<td>$172.6 million</td>
</tr>
<tr>
<td>MI total</td>
<td>5,307</td>
<td>$1.1 billion</td>
</tr>
</tbody>
</table>
What can you do?
Time to ...

Breathe

- Coordination
- Partnerships
- Joint ventures
- Merger/acquisition
- Program re-alignment and adjustments

Grieve

Think about meaningful ways to celebrate, send off, and say goodbye to

- Initiatives
- Programs
- Lines of service
- Subsidiaries/satellites/remote sites
- Divisions
- Organizations
I’ve been there before ...
One dissolution, two spin-offs, and three mergers.

Lessons learned

- You know when it's time to leave.
- If you don't know, your balance sheet will tell you for sure.
- Mergers take time—before, during, and after.
- Forced marriages are unpleasant for everyone involved, but can be mitigated with a lot of effort.
- Sometimes, organizations are stronger apart than together—especially if the major programs do not overlap.

Was starting to think I was bad luck ...
Preserve the mission?

Or preserve the organization?
Questions & Insights?

Jeff Williams
Director, Community Data & Research Lab

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A NEW WAY FORWARD: REIMAGINING THE NONPROFIT WORKSPACE

A LEGAL LENS ON MERGERS, COLLABORATIONS, DISSOLUTIONS, AND MOVING BEYOND THESE CHALLENGING TIMES

CELESTE E. ARDUINO | SEPTEMBER 10, 2020
INTRODUCTION – RETHINKING OPERATIONS AND FUNDRAISING DURING THE COVID-19 PANDEMIC

- Social Enterprises
- Joint Ventures
- Mergers
- Dissolutions
- And other collaborations
SOCIAL ENTERPRISES

- No legal definition, but typically refers to a for-profit business that yields both financial and social returns.

- Options for Legal Structures
  - No separate entity; conducted within nonprofit
  - For-profit (or low-profit L3C) subsidiary
  - Partnership or joint venture

- Watch out for UBIT (unrelated business income tax)!
JOINT VENTURES

- Joint venture = business arrangement where two or more persons agree to pool their resources to achieve a common goal.
- For-profit/nonprofit JVs are highly scrutinized by IRS – important to protect charitable assets.
  - Charity should have control over charitable aspects.
- Can be contractual, but often a new legal entity is formed to conduct the joint venture.
MERGERS AND CONSOLIDATIONS

- Merger = statutory combination of two entities into a single entity.
- Consolidation = two or more entities combine into a single new entity
- Surviving entity succeeds to all assets and liabilities of merged entity.
- Advantages
  - Economies of scale – can achieve more at a lower cost
  - Assets and (most) contracts transfer to survivor automatically by operation of law
  - Collaborative
- Disadvantages
  - Surviving entity assumes all debts and liabilities (known and unknown) of merged entity
  - Culture clashes; what happens to leadership/staff of merged entity?
STEPS OF MERGER

- Conduct due diligence
  - Assets, liabilities, contracts
  - Restricted assets; gift agreements
- Board/membership approval of merger
- Enter into merger agreement
- Obtain approval of Michigan Attorney General
- File Certificate of Merger with Michigan Department of Licensing and Regulatory Affairs (LARA)
- Notify IRS
Dissolutions

- Dissolution = cease corporate existence
- Federal tax law requires charities distribute remaining assets to another charity on dissolution
- Alternative to merger; recipient of assets does not succeed to dissolved corporation’s liabilities
STEPS OF DISSOLUTION

- Board/membership approval of dissolution
- Pay (or make provision for) outstanding debts and liabilities
- Distribute remaining assets to another charity
- Obtain Michigan Attorney General approval to dissolve
- File Certificate of Dissolution with LARA
- Send and publish notice to claimants
- Apply for tax clearance with Michigan Department of Treasury
- Notify IRS
OTHER COLLABORATIONS

- Informal collaboration – sharing best practices and resources, coordinating a charitable project
  - Consider a memorandum of understanding or other agreement between parties
- Strategic alliance – commitment to share or transfer decision making (administrative and/or programmatic)
  - No organizational changes, but documented through formal agreement
- Fundraising Assistance
  - Confirm state AG registrations
QUESTIONS?

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  (248) 743-6038
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Resources

Johnson Center for Philanthropy

- For a list of upcoming events, trainings, webinars, and speeches:
  https://johnsoncenter.org/events/category/nonprofitevent/
Thank you for being a part of today’s conversation!

Please be sure to complete the evaluation at the end of the session.
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