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East End Food Co-operative
Volunteer Program Discussion
November 6, 2014

In Attendance (72): Erica Peiffer, Kate Safin, Heather Hackett, Justin Pizzella, Dawn Lehman, Erin Siffing, Molly, Sabrina Reed, Bob Glidden, Maria Bowman, Marc Virostek, Lazae LaSzona, Judy Wolfson, Rob Shepherd, Lorrie Zanetti, Janet Seltman, Marty Seltman, Rita Seltman, Mort Seltman, Rieland Lockyer, Sonya-Marie Morley, Nate Morley, Dirk Kalp, Nancy Niemczyk, Michael Sobkowlak, Julia Willis, Rose Lynd, Raymond Zanetti, Jim McCool, Erin Copeland, Audra Cruder, Billy Pepmeyer, Elizabeth Donohoe, Tyleta Howell, Indigo Raffel, Eric Lipsky, Bill Russell, Tina Russell, Laura Wren(sp?), Larry D. Goy, Derek Jones, Neenah Boax, Terri Supowitz, Mary Sauer, Bob Mason, Deborah Gouge, Ron Cruder, Faith Schantz, Fran Bertonaschi, Tom Pandaleon, Gaggan Boparai, Suella Pipal, Sarah Aerni, Mike Collura, Gina Quinton, Water Sadauskas, Aryn Gaslowitz, Rayden Sorock, Zoe Mizuho, Rory Donovan, Anneliese Stueben, Mel Packer, Susan Erickson, Sam Bramson, Gershon, MB Steisslinger, K Bernard, Deanna Hitchcock, Amy Kreger, Barb Kline, Kit Eagan, Helge Hellberg, Sitarani Palomar.

Welcome & Introduction

Water Sadauskas, member, led the group in a brief exercise, asking all those present to visualize their ideal co-op. Marketing & Member Services manager, Heather Hackett informed everyone that the meeting was being recorded by students from the Art Institute, and an audio file would be available via the website within a few days; she asked anyone who did not wish to be recorded to identify themselves to Member Services Coordinator, Erica Peiffer. Heather said the decision to end the volunteer program was not made lightly and everyone is feeling the loss; she suggested, "This discussion is not about sides." It was noted that on each seat was a FAQ's sheet about the decision, which included a list of informational resources available on the co-op's website. Heather introduced the third-party facilitators from the Center for Victims, Dawn Lehman and Erin Siffing. Next, Dawn reviewed the agenda. The first two points were prepared presentations, and attendees were asked to hold thoughts, comments, and questions until the shared discussion. Dawn also reviewed some discussion guidelines, which were:

- One person speaks at a time
- Each person speaks for themselves
- No interrupting or cross talk
- Listen with resilience
- Observe the time limit suggested for your response
- No one speaks a second time until everyone is heard

Recap on how the Volunteer Program Decision was made

The panel representing the board and management included Sarah Aerni, President of the Board; Mike Collura, Vice-President of the Board; Justin Pizzella, General Manager; and Heather Hackett, Marketing & Member Services. Mike addressed the question of whether or not the board allowed adequate time for member input before taking action by saying that the group knowingly did not engage in public discussion due to advice from legal counsel. The group wanted to limit and cap liability by acting in good faith, in the event that the Department of Labor (DOL) was to cite us. Mike noted numerous competitors in the local market and potentially disgruntled former employees as risks for attention being drawn to the illegality of the program. News media attention to the decision to end the program was evidence of the issue's relevance. In response to the question of whether the board and management acted proportionately to the risk, Mike stated that their understanding is the program is in direct violation of the law, under the ruling of the Fair Labor Standards Act of 1997 (FLSA). He acknowledged that no one asked

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us to cease and desist, but said we could not knowingly continue in violation of the law. The board understood our program to closely resemble the program described in the DOL's opinion letter, which clearly considered volunteers to be "employees" under FLSA standards, even though they were not being compensated or supervised. Mike then described the timeline of the decision. The volunteer program was on several board meeting agendas in early 2014, with the intent to discuss expansion of the program by working with community partners. In June, our attorney advised that the program was illegal, and recommended we cease and desist immediately. The co-op chose not to do that, and instead reached out to other co-ops to explore what legal options existed. In July, the decision was made to end the program.

Justin commented on the timeline in more detail. He said a pilot program was conducted with a partnering community organization, allowing the co-op to perform due diligence for the program's expansion. Labor attorney Alan Blanco was consulted because his core specialty is FLSA. Justin read Alan's interpretation of the DOL opinion letter aloud. Justin said the risk of continuing the program fell exclusively on the co-op, and not to individual members. The general manager and the board have taken on responsibility for the co-op that other members don't bear. They have to make tough decisions all the time, but this may be the first the membership has had to face directly. Justin asked attendees to reflect on their motivations for being a member of the co-op.

Heather responded to a list of co-ops with active programs which was submitted by a member by citing another list of co-ops that have ended their programs, noting that some other co-ops are modifying their programs to be community-service based. The allotted time for this portion of the meeting ran out and Heather's statements were cut short.

Member Perspectives on Volunteer Program

Member and President of the East End Food Co-op Federal Credit Union, Tom Pandaleon read a prepared statement, which he said represented the perspective of a "loyal opposition" within the membership. Tom said our co-op was built up over 30 years by many people, but the decision to end this important aspect of our culture was made by seven out of nine board members in a closed session meeting. Tom criticized communications that followed the decision for providing no specific details. He listed a number of co-ops consulted with and said he spoke with Attorney Laddie Lushin, whose memorandum he called a "free second opinion," and noted the article makes recommendations for how to run a low risk program. Tom stated that no court had ever prosecuted a co-op for running a volunteer program, although he did recognize that did not mean they would not if tried. He posed it as a question of risk versus rewards. He said La Montañita Co-op is the only co-op that has ever had a problem with FLSA, and there was no financial sanction involved, but rather the DOL gave them two extensions to wind down their program and craft a new program. Tom concluded by saying that many co-ops are willing to take the risk, and we should be one of them.

Next, Fran Bertonaschi introduced himself as a long-time member, former volunteer, and 12-year staff member. Fran addressed the process by which this decision was made. He referenced the seven cooperative principles, highlighting number two - democratic member control – and read the definition aloud. Fran said he understands that active participation in a co-op doesn't imply that all members should be involved in every decision, but our bylaws identify two big decisions that must involve the membership – electing the board and amending

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the bylaws. Fran suggested members should be involved in other important decisions. He recognized that there would be no business today if volunteers hadn't worked to build it. Many volunteers went on to become staff, and our board of directors is comprised of volunteers. Fran estimated 1,300 people have volunteered over the years. He pointed to the process by which other co-ops modified their programs, including the initiation of a task force including representation of the board, members and volunteers; detailing task force decisions in the member newsletter; and finally culminating the process at a meeting for members to vote on the new program. Fran said this was a process that would allow our members to actively participated in this decision and other important decisions that may come up in the near future.

Community Discussion/Sharing

Facilitators asked attendees to respond to questions projected on overhead screens. Dawn explained the method for using the yellow and pink cards on each seat to indicate urgency to speak. Responses were limited to one minute each to balance the needs of the group. Feedback forms were made available for comments that were able to be shared at the meeting.

The first question was, "What are your hopes and fears for the co-op community with regards to this issue?" Member responses included the following comments:

- I hope the board feels empowered to act cooperatively with other co-ops and legislators because I think this is a great opportunity to grow and work with other people.
- This process should not be truncated. There are a lot of people with interest and passion. Volunteers will step up to assist if the board sets up a task force. Let's find a way to allow members to volunteer in some way so the creative and energetic spirit at this co-op will not be squelched.
- As businesses grow they become corporatized. This organization is ours and we should have control. Let's ask for other opinions and set up a task force. Let members make decision to end the program.
- I'm not opposed to change but I don't like direction the co-op has taken over the last couple of years; it feels corporate. Ending this program is reactive; it does not represent progress. I don't want our co-op to follow the corporate model that doesn't care about community. People come first at co-op.
- Volunteerism is the spirit of our country.
- When I volunteered as a board member, members served on committees and the volunteer program was thriving. It brought people together, the co-op was a community. Everyone knew who you were; cashiers used to talk to you. Nowadays there is a lot of fear.
- I see the co-op as representing counter culture. Mainstream culture today is administrative law. It takes 11,000 members, or even 10%, 1,000 people to fight.
- People I met volunteering helped me to change my life.

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- Grow up and ask what we need, not what we want. Think about a win-win for everyone.
- I see a dividing line in the co-op. You used to get a warm welcome; people would talk to you. Efficiency has a price - human relations.
- I won't be able to shop at the co-op anymore without the discount. Posters for community have moved to the back of the bus, by the bathroom. A lot of people were fired without due process.
- A statement from 20 members not in attendance was read aloud and can be paraphrased as, "We are concerned about the direction the co-op is taking, exemplified by deciding to end the volunteer program in a back-room meeting."
- I joined the co-op because it represented values, relationships, community, and neighborhood. The co-op is an institution in Pittsburgh. I used to feel a loyalty and acted as a champion of the co-op. Now I am less and less sure she knows what it stands for.
- I know the board is trying to protect the co-op. I like the idea of co-ops joining together to get an exemption from the DOL.
- Not allowing members to serve on committees is a bad move. Volunteers serving on committees went on to become board members, and volunteers serving in the store went on to become staff members. It was a good way to learn.
- I volunteered to get discount to afford the high quality, healthy food I needed to survive cancer. I feel this conversation was going on a lot longer than communicated.

Next, Dawn asked attendees to respond to a second question, "What do you most want people in this room to understand about the impact of this decision-making process on you?" Member responses included the following comments:

- Owners need to be aware of large decisions.
- In response to management's comment that we need to relate to our competitors in the market - people don't join the co-op for the natural food.
- I was outraged when I picked up the paper and read the news about the program ending. I thought, "How could this happen without me knowing?" I believe the board and management did the right thing. I also think we need to fire a lawyer who advises us to end the program. Most people here want to be part of a co-op because they want something different.
- Electing the board is democratic member-owner control. People don't vote in elections. We need a good process for member engagement for the big decisions coming. When the board puts out a call for participation, please participate.

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- I joined the co-op because of the idea of member-ownership, to meet people who are engaged and who care about what they put in their bodies and minds. It was hard to get the letter that decision was already made.
- This program was essential to making food affordable. I felt left out of this decision.
- The decision-making process was undemocratic. The membership has to be consulted for important decisions. This conversation should have happened in June.

Next Steps

Members called out next steps and the facilitators recorded them on an easel; responses were:

- Set up a task force with members to look at solutions going forward
- Brainstorm legal options for member participation
- Consult another lawyer
- Share info from this meeting in the newsletter, via email and physically in the store
- Add a members' section in the newsletter
- Utilize deliberative democracy process
- Develop opportunities for real participation (not just shopping) and carry over to expansion process
- Board and management explain every specific consequence they saw to maintaining the program
- Members serve on committees to support the board
- Consult other co-ops that are maintaining programs
- Develop process for decision-making in the future and decide what decisions rise to the level of consulting the membership
- Board and "opposition" work together to come up with a mutually-agreed upon decision
- Active inclusion of people regardless of number
- Lobby with NCG to change legislation

Closing Remarks

Heather thanked the attendees and facilitators for their participation, and gave kudos to the MMS staff, the board and GM, and members Fran, Zoe, Marybeth, and Karen for their help in coordinating the meeting. Heather previewed a new initiative to promote member engagement - a monthly meeting called Members' Open Forum - and requested that input on potential topics and format be emailed to her, saying, "The co-op can only benefit from your involvement." She reminded everyone to add their email addresses to the sign in sheet to receive the notes and audio recording from the meeting.