CENTERVILLE WORK SESSION AGENDA

NOTICE IS HEREBY GIVEN THAT THE CENTERVILLE CITY COUNCIL WILL HOLD ITS WORK SESSION MEETING AT 6:00 PM ON MAY 5, 2020 AT THE CENTERVILLE CITY HALL COUNCIL CHAMBERS, 250 NORTH MAIN STREET, CENTERVILLE, UTAH. THE AGENDA IS SHOWN BELOW.

Meetings of the City Council of Centerville City may be conducted via electronic means pursuant to Utah Code Ann. 52-4-207, as amended. In such circumstances, contact will be established and maintained via electronic means and the meeting will be conducted pursuant to the Electronic Meetings Policy established by the City Council for electronic meetings.

Centerville City, in compliance with the Americans With Disabilities Act, provides accommodations and auxiliary communicative aids and services for all those citizens in need of assistance, including hearing devices. Persons requesting these accommodations for City-sponsored public meetings, services, programs, or events should call Jacob Smith, Administrative Services Director, at 801-295-3477, giving at least 24 hours notice prior to the meeting.

The full packet of backups materials can be found at http://centerville.novusagenda.com/agendapublic.

A. ROLL CALL

B. BUSINESS

1. Island View Park Update

   Parks and Recreation Director, Bruce Cox will update City Council on the progress of the Island View Park renovation project.

2. Component Unit Discussion

   1. Discuss Centerville Community Foundation as an independent unit within the City or a component unit of the City
   2. Discuss the fiscal structure of the Whitaker re: GASB 84

C. CLOSED SESSION (Closed Meeting, if necessary, for reasons allowed by State Law, including, but not limited to, the provisions of section 52-4-205 of the Utah Open and Public Meetings Act, and for the Attorney-Client matters that are privileged pursuant to Utah Code ann. 78B-1-137, as amended)

D. ADJOURNMENT - ADJOURN THE WORK SESSION AND IMMEDIATELY RECONVENE FOR CITY COUNCIL MEETING

Leah Romero
Centerville City Recorder

CENTERVILLE

Staff Backup Report
5/5/2020

Item No. 1.

Short Title: Island View Park Update

Initiated By: Bruce Cox, Parks and Recreation Director

Scheduled Time:

SUBJECT

Parks and Recreation Director, Bruce Cox will update City Council on the progress of the Island View Park renovation project.

RECOMMENDATION

Allow Parks and Recreation Director, Bruce Cox to update City Council on the progress of the Island View Park renovation project.

BACKGROUND

Construction on the Island View park improvements started in the summer of 2019 and are expected to be completed in the spring of 2020. Staff will provide an update on the progress of the project. Pictures will be shared at the meeting.

List of the latest improvements:

- Most of the rock work in phase 1 was completed
- They have completed most of the phase 1 irrigation lateral lines
- Much of the phase 1 plantings are planted
- Most of the concrete sidewalks are now complete
- The volley ball surround has been installed
- Foundations for the new light polls in phase 2 are poured
- Conduits for the power and fiber optic lines are now installed to the new restroom in phase 2

Financial Update:

Expenditures (up to March 31, 2020)
FY 19 - 91,067.88
FY 20 - 2,237,928
Total - 2,328,995

Funding Used:
Grant Funds - 566,267
Zions Lease - 1,762,728

Remaining Funds
Grant Funds - 43,033
Zions Lease - 137,272

Total Funding Remaining (other than RAP/Parks CIP) - 180,305

CENTERVILLE

Staff Backup Report
5/5/2020

Item No. 2.

Short Title: Component Unit Discussion

Initiated By: Jacob Smith, Administrative Services Director and Brant Hanson, City Manager

Scheduled Time:

SUBJECT

1. Discuss Centerville Community Foundation as an independent unit within the City or a component unit of the City
2. Discuss the fiscal structure of the Whitaker re: GASB 84

RECOMMENDATION

BACKGROUND

Centerville Community Foundation

This past year, our independent auditors pointed out the governance of the Centerville Community Foundation makes it a component unit of the City and should therefore include its financials with the City's. You will find attached the Potential Component Units checklist that outlines how this is determined. The main reasons it is considered a component unit are in the way the Foundation appoints its trustees - the Centerville City Mayor with the consent of the Centerville City Council appoint them.

The Foundation was originally setup to act as an independent 501c3 with separate articles of incorporation. The mission of this nonprofit is to carry out charitable and educational purposes to primarily benefit the citizens, friends and neighbors of Centerville City. It derives its powers from the laws of the State of Utah dealing with nonprofit corporations and its financial status from the IRS – acting independently of the City but for the City. It was also established as an alternate mechanism for interested parties to donate to a Centerville related cause without donating to the City specifically – whatever their reasons may be.

To continue the Foundation as a independent entity, the Foundation will need amend articles 8.1-3 (see attached). It reads now:

1. The Corporation shall be governed by a board of directors…of whom are appointed by the Mayor with advice and consent of the City Council of the City Of Centerville, Utah. The Mayor shall be a member of the board of directors and the City Manager shall be the other member of the board of directors to serve concurrently with their term or employment…
2. Tenure. Except for the Mayor and City Manager, a director…
3. The board of directors may be expanded to include additional…to be appointed by the Mayor with the consent of the City Council…

The bylaws also talk about the appointments by the Mayor and consent of the Council in Sections 2 (as amended), 8, and 9.

For the Foundation to continue independent of the City (or its financials at least) it will need to amend the articles using another method of appointing trustees - such as changing the language so the President of the Foundation appoints the trustees.

Whitaker

Last year, our independent auditors pointed out that the Whitaker Home Trust Fund did not qualify as a Fiduciary fund for various reasons (see the attached GASB 84 document). As a simple solution and until the Whitaker Board and Council have had a chance to meet to talk about the governance and future of running programs at the Whitaker, staff have moved the Whitaker into two areas within the General Fund. The personnel and operations are now in the General Government Services section and the building itself is included with the other public buildings such as City Hall, the Public Works facilities, etc.

The proposal by staff is to move the current restricted and unrestricted Whitaker Home Trust Fund balance into the General Fund and designate it as a restricted fund. This will allow the Whitaker to "save up" for future projects.

ATTACHMENTS:

	Description
🗋	Component Unit Worksheet
🗋	Com. Foundation Articles and Bylaws
🗋	GASB 84

Index [WPRef]

ALG-CX-1.1.2: Evaluating Potential Component Units and Reporting under GASBS No. 14, as Amended

Reporting Entity: Financial Statement Date:
Unit Being Evaluated: Centerville Community Foundation
Completed by: [ ] Date: [ ]

Instructions: This checklist may be completed for each potential component unit being considered for inclusion in the financial reporting entity under *GASBS No. 14, The Financial Reporting Entity* (link) , as amended by *GASBS No. 39, Determining Whether Certain Organizations Are Component Units* (link) , *GASBS No. 61, The Financial Reporting Entity: Omnibus* (link) , *GASBS No. 80, Blending Requirements for Certain Component Units* (link) , *GASBS No. 84, Fiduciary Activities* (link) , GASBS No. 85, Omnibus 2017 , and *GASBS No. 90, Majority Equity Interests—an amendment of GASB Statements No. 14 and No. 61* (link) . A component unit is a legally separate organization for which the primary government is financially accountable or closely related. A component unit may be a governmental organization (except for a primary government), a nonprofit corporation, or a for-profit corporation. The term *reporting entity* as used in this checklist means the primary government and its component units. The term *PCU* refers to the potential component unit under consideration. The term *PG* refers to the primary government. The term *CU* refers to a PCU that has been determined to be a component unit.

This checklist has been updated for guidance through *GASBS No. 90, Majority Equity Interests—an amendment of GASB Statements No. 14 and No. 61* (link) , including *GASBS No. 84, Fiduciary Activities* (link) . GASBS No. 84 and GASBS No. 90 are effective for reporting periods beginning after December 15, 2018, with earlier implementation encouraged.

Legally Separate Organization

1. Does the PCU have separate corporate powers that would distinguish it as being legally separate from the PG? (GASBS No. 14, para. 15)

   YES ☑ Go to Step 3.
   NO ☐ Go to Step 2.

   Comments: Centerville Foundation is a legally separate entity

2. Does the PG hold the corporate powers of the PCU? (GASBS No. 14, para. 14)

   YES ☐ Go to Step 26 and check the box.
   NO ☐ Go to Step 25 and check the box.

3. Does the PCU qualify as a PG? (*GASBS No. 14, para. 20, footnote 4* (link))

   YES ☐ Go to Step 25 and check the box.
   NO ☑ Go to Step 6 prior to implementation of GASBS No. 90 . Go to Step 4 after implementation of GASBS No. 90 .

Comments: A primary government is also a special-purpose government (for example, a school district or a park district) that meets all of the following criteria:
a. It has a separately elected governing body.
b. It is legally separate (see paragraph 15).
c. It is fiscally independent of other state and local governments (see paragraphs 16-18).

Financial Accountability

4. Does the PG hold a majority equity interest in the PCU? (GASBS No. 90, para. 7)?

YES ☐ Go to Step 5.
NO ☑ Go to Step 6.

Comments: A government can own or acquire a majority of the equity interest in a legally separate organization (for example, through acquisition of voting stock of a corporation or acquisition of interest in a partnership).

5. Does the majority equity interest in the PCU meet the definition of an investment as defined in GASBS No. 72, para. 64 ? (GASBS No. 90, para. 5)

   YES ☐ Go to Step 25 and check the box.
   NO ☐ Go to Step 13.

   Comments: [ ]

6. Does the PG appoint a voting majority of the PCU's governing body? (GASBS No. 14, paras. 21–24 , as amended by GASBS No. 61, para. 6a)

   YES ☑ Go to Step 7.
   NO ☐ Go to Step 8.

   Comments: Currently Mayor appoints

7. Can the PG impose its will on the PCU by significantly influencing the program, projects, activities, or level of service performed by the PCU? (GASBS No. 14, paras. 25–26)

   YES ☑ Go to Step 13.
   NO ☐ Go to Step 9.

   Comments: If a primary government appoints a voting majority of an organization's officials and has the ability to impose its will on the organization, the primary government is financially accountable for that organization.

8. Is the PCU fiscally dependent on the PG? (GASBS No. 14, para. 21b , as amended by GASBS No. 61, para. 6b–f)

   YES ☐ Go to Step 9.
   NO ☐ Go to Step 10.

   Comments: [ ]

9. Does a financial benefit or burden exist? (GASBS No. 14, paras. 21 , 27 , and 34–38 , as amended by GASBS No. 61, para. 6 ; GASBS No. 84, para. 7)

   YES ☐ Go to Step 13.
   NO ☐ Go to Step 10.

   Comments: [ ]

PCUs Included in the Reporting Entity Although the PG Is Not Financially Accountable

In some instances, the PCU should be included in the reporting entity (even if the previous criteria are not met), if exclusion would render the reporting entity's financial statements misleading. (GASBS No. 14, paras. 12 , 39 , 40 , 41 , and 55 , as amended by GASBS No. 61, paras. 5–6 andpara. 10 ; GASBS No. 39, paras. 4 and 5)

10. Does the PG have a majority equity interest in the PCU, regardless of the type of organization the PCU is, for the purpose of enhancing delivery of government services? (GASBS No. 14, para. 55 , as amended by GASBS No. 61, para. 10)

    YES ☐ Go to Step 13.
    NO ☐ Go to Step 11.

    Comments: [ ]

11. Should the PCU be included in the reporting entity because of the nature and significance of its relationship with the PG? (GASBS No. 14, para. 40a , as amended by GASBS No. 39) (See the GASBS No. 39, para. 5 , criteria in the practical considerations.)

    YES ☐ Go to Step 23 and check the box.
    NO ☐ Go to Step 12.

    Comments: [ ]

12. In management's professional judgment, should this PCU be included in the reporting entity because, due to its close relation to, or financial integration with, the PG, its exclusion would render the financial statements misleading? (GASBS No. 14, para. 12 , as amended by GASBS No. 61, paras. 4 and 5)

    YES ☐ Go to Step 13.
    NO ☐ Go to Step 25 and check the box.

    Comments: [ ]

Including the PCU

In some instances, an organization may meet the criteria for inclusion in more than one reporting entity. However, an organization should be included in only one reporting entity. In these cases, judgment must be exercised by management (of the reporting entities) as to which reporting entity the organization should be included. (GASBS No. 14, para. 38 , as amended by GASBS No. 61, para. 6g)

13. Could the PCU be part of another financial reporting entity?

    YES ☐ Go to Step 14.
    NO ☑ Go to Step 15.

    Comments: Not associated with any other entities

14. Has the accountant concluded that the PCU should be included in the financial statements of this reporting entity?

    YES ☐ Go to Step 15.
    NO ☐ Go to Step 25 and check the box.

    Comments: [ ]

Financial Statement Presentation

15. Prior to implementation of GASBS No. 84 , does the PG have fiduciary responsibility for the PCU? After implementation of GASBS No. 84 , is the CU engaged in a fiduciary activity? (GASBS No. 14, para. 19 , as amended by GASBS No. 84, para. 5)

    YES ☐ Go to 22 and check the box.
    NO ☑ Go to Step 16.

    Comments: Not a fiduciary activity

16. Is the CU's governing body substantively the same as the governing body of the PG? (GASBS No. 14, para. 53a , as amended by GASBS No. 61, para. 8 ; and GASBS No. 85, para. 4)

    YES ☐ Go to Step 17.
    NO ☑ Go to Step 19.

    Comments: There are several board members that are not associated with the city's governing body.

17. Does a financial benefit or burden relationship exist between the PG and the PCU? (GASBS No. 14, para. 53a , as amended by GASBS No. 61, para. 8 ; GASBS No. 85, para. 4)

    YES ☐ Go to Step 24 and check the box.
    NO ☐ Go to Step 18.

Comments: [ ]

18. Does the operational responsibility for the CU rest with the management of the PG? (GASBS No. 14, para. 53a , as amended by GASBS No. 61, para. 8 ; and GASBS No. 85, para. 4)

    YES ☐ Go to Step 24 and check the box.
    NO ☐ Go to Step 19.

19. Does the CU provide services entirely, or almost entirely, to the PG or otherwise exclusively, or almost exclusively, benefit the PG even though it does not provide services directly to it? (GASBS No. 14, para. 53b , as amended by GASBS No. 61, para. 8 ; GASBS No. 85, para. 4)

    YES ☑ Go to Step 24 and check the box.
    NO ☐ Go to Step 20.

Comments: [ ]

20. Is the CU's debt, including leases, expected to be repaid entirely or almost entirely with the PG's resources? (GASBS No. 14, para. 53c , as amended by GASBS No. 61, para. 8 ; GASBS No. 85, para. 4)

    YES ☐ Go to Step 24 and check the box.
    NO ☐ Go to Step 21.

21. Is the CU organized as a nonprofit corporation with the PG as the sole corporate member as identified in the CU's articles of incorporation or bylaws? (GASBS No. 80, para, 5)

    YES ☐ Go to Step 24 and check the box.
    NO ☐ Go to Step 23 and check the box.

Conclusion

___ 22. YES. This is a CU that should be included in the financial reporting entity. It is defined as a fiduciary CU in GASBS No. 84 and should be combined with the fiduciary funds of the PG and presented in aggregate based on the classification of the fund [pension (and other employee benefit) trust funds, investment trust funds, private-purpose trust funds, agency or custodial funds].

___ 23. YES. This is a CU that should be included in the financial reporting entity and presented discretely.

_x_ 24. YES. This is a CU that should be included in the financial reporting entity and presented as a blended entity.

___ 25. NO. The PCU is not a CU.

___ 26. YES. The PCU is part of the PG and by definition therefore part of the reporting entity. However, the PCU is *not* a CU. It is to be reported following the same guidance as used for all other "organizations" (i.e., funds, organizations, institutions, agencies, department, and offices) that make up the PG's legal entity. (GASBS No. 14, para. 14)

Comments on Conclusion: [ ]

ARTICLES OF INCORPORATION

OF

CENTERVILLE COMMUNITY FOUNDATION

(A Utah Nonprofit Corporation)

The undersigned natural person, acting as incorporator of a corporation under the Utah Revised Nonprofit Corporation Act, adopts the following Articles of Incorporation for such corporation:

ARTICLE FIRST

The name of this corporation is Centerville Community Foundation.

ARTICLE SECOND

This corporation shall exist perpetually unless sooner dissolved by law.

ARTICLE THIRD

The purposes for which this corporation is organized are:

a. To carry out exclusively charitable and education purposes primarily in and for the benefit of the City of Centerville, Utah in developing a better city with improved services and facilities for its citizens, friends and neighbors.

b. To perform such acts as may be necessary or appropriate in carrying out the foregoing purposes of the Corporation and in connection therewith to exercise any of the powers granted to nonprofit corporations by the laws of the State of Utah consistent with the Corporation's status as an organization (i) exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1954 (or successor provisions) and (ii) to which contributions are deductible under Section 170(c)(2) of the Internal Revenue Code of 1954 (or successor provisions).

ARTICLE FOURTH

The corporation shall have no members and shall issue no stock.

ARTICLE FIFTH

These Articles and the Bylaws of the Corporation may be altered, amended or repealed by the vote of two-thirds of the Directors.

ARTICLE SIXTH

The address of this corporation's initial registered agent is City Hall, 250 North Main Street, Centerville, UT 84014-1824. The name of the initial registered agent at such address is Marilyn Holje, City Recorder.

I hereby acknowledge and accept appointment as Registered Agent for the Centerville Community Foundation.

Marilyn Holje

Marilyn Holje

ARTICLE SEVENTH

The address of the corporation's initial designated principal office is:

Centerville City Hall
250 North Main Street
Centerville, UT 84014-1824

ARTICLE EIGHTH

1. The Corporation shall be governed by a board of directors consisting of seven (7) persons, five (5) of whom are appointed by the Mayor with the advice and consent of the City Council of the City of Centerville, Utah. The Mayor shall be a member of the board of directors and the City Manager shall be the other member of the board of directors to serve concurrently with their term or employment. A President, who will also serve as Chair of the Board, will be elected by the members of the board.

2. Tenure. Except for the Mayor and City Manager, a director shall serve for a period of two (2) years except that of the five (5) directors initially appointed hereunder, two (2) shall serve a term expiring one (1) year from the date of incorporation, three (3) shall serve a term expiring two (2) years from the date of incorporation.

3. The board of directors may be expanded to include additional directors not to exceed fifteen (15) to be appointed by the Mayor with the consent of the City Council for staggered terms not to exceed two (2) years each.

ARTICLE NINTH

The name and address of the incorporator is:

Michael L. Deamer, Mayor
250 North Main Street
Centerville, UT 84014-1824

ARTICLE TENTH

No part of the net earnings of the Corporation shall inure to the benefit of any director, individual or officer of the corporation. No director or officer of the Corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets upon dissolution or liquidation of the Corporation. No part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, or participating in or intervening in any political campaign on behalf of any candidate for public office. Upon dissolution or winding up of the affairs of the Corporation, subject to applicable law, the assets of the Corporation remaining in the hands of the board of directors shall be transferred or conveyed to the City of Centerville, Utah, a Utah municipality, or its governmental successor in interest duly authorized and able to receive and administer the same for the purposes set forth in these articles provided such a transfer conveyance qualifies for exemption under Section 501(c)(3) of the Internal Revenue Code of 1954 or as amended at the time of dissolution. In the event that such a transfer is not possible, then the assets of the foundation shall be transferred or conveyed to one or more agencies of local government, non-profit domestic corporations or other organizations engaged in charitable, benevolent, educational or similar purposes upon such terms and conditions and amounts and proportions as the board of directors shall determine which qualify for exemption under Section 501(c)(3) of the Internal Revenue Code or similar code provisions at time of dissolution.

The foundation shall not be a private foundation as defined in Section 509(a) of the Internal Revenue Code and its regulations, and shall not engage in any act or failure to act that would make it liable for excise taxes under Sections 4941-4945, inclusively, of the Internal Revenue Code as those sections now exist or may hereafter be amended.

ARTICLE ELEVENTH

The board of directors shall manage the affairs of the foundation for the purposes hereinabove set forth.

ARTICLE TWELFTH

The Corporation may indemnify any director, officer, employee, fiduciary or agent of the Corporation against liability incurred in any proceeding where said director, officer, employee, fiduciary or agent was made party to a proceeding because the person is or was a director, officer, employee, fiduciary or agent of the foundation if: (1) the individual's conduct was in good faith, (2) the individual reasonably believed that the conduct was in and not opposed to the Corporation's best interest, and (3) in the case of any criminal proceeding, the individual had no reasonable cause to believe his conduct was unlawful.

IN WITNESS WHEREOF, I hereby acknowledge, under penalties of perjury, that the above document is the act and the deed of the entity on behalf of which the document is executed and that the facts stated in the document are true.

DATED this 13th day of August, 2002.

INCORPORATOR

Michael L. Deamer, Mayor
Centerville City Hall
250 North Main Street
Centerville, UT 84014-1824

Amended 9/4/07

Word\centervillecommunityfoundationarticles1stamd9-4-07

BYLAWS

OF

CENTERVILLE COMMUNITY FOUNDATION

ARTICLE I.

OFFICE

The Board of Directors shall designate and the Foundation shall maintain a principal office. The location of the principal office may be changed by the Board of Directors. The Foundation may also have offices in such other places as the Board may from time to time designate.

The location of the principal business office of the Foundation shall be:

Centerville City Hall
250 North Main Street
Centerville, UT 84014

ARTICLE II.

BOARD OF DIRECTORS

Section 1. General Powers. The business and affairs of the Foundation shall be managed by its Board of Directors. The Board of Directors may adopt such rules and regulations for the conduct of their meetings and the management of the Foundation as they deem proper.

Section 2. Number, Tenure and Qualifications. The number of Directors of the Foundation shall be seven (7). The Mayor, during his term of office, and the City Manager, during his employment as City Manager, shall be members of the Board of Directors. Each Director shall hold office for the term appointed and until his successor shall have been appointed and qualified. Said number of Directors shall remain at seven (7) until such time as the number shall be changed by affirmative vote of the Directors as described in the Articles of Incorporation and these Bylaws. A President, who will also serve as Chair of the Board, will be elected by the members of the Board.

Section 3. Regular Meetings. A regular meeting of the Board of Directors shall be held without other notice than by this Bylaw on the first Tuesday of March each year. The Board of Directors may provide, by resolution, the time and place for the holding of additional regular meetings without other notice than this resolution.

Section 4. Special Meetings. Special meetings of the Board of Directors may be called by order of the Chairman of the Board, the President, or by two-thirds of the Directors. The Secretary shall give notice of the time, place, and purpose or purposes of each special meeting by mailing the same at least ten (10) days before the meeting or by telephoning, e-mailing or faxing the same at least five (5) days before the meeting to each Director.

Section 5. Quorum. A majority of the members of the Board of Directors shall constitute a quorum for the transaction of business, but less than a quorum may adjourn any meeting from time to time until a quorum shall be present, whereupon the meeting may be held, as adjourned, without further notice. At any meeting at which every Director shall be present, even though without any notice, any business may be transacted.

Section 6. Manner of Acting. At all meetings of the Board of Directors, each Director shall have one vote. The act of a majority present at a meeting shall be the act of the Board of Directors, provided a quorum is present.

Section 7. Action Without a Meeting. Any action that may be taken by the Board of Directors at a meeting may be taken without a meeting if a consent in writing, setting forth the action so to be taken, shall be signed before such action by all of the Directors.

Section 8. Vacancies. Any reappointment, increase or vacancy on the Board of Directors shall be filled by appointment by the Mayor, with the advice and consent of the City Council of the City of Centerville. A Director appointed to fill a vacancy shall be appointed for the unexpired term of his predecessor in office. Any Directorship to be filled by reason of an increase in the number of Directors may be filled for a fixed term of office not to exceed two (2) years.

Section 9. Removals. Directors may be removed at any time by a 2/3 vote of the Directors. Such vacancy shall be filled by appointment by the Mayor with the advice and consent of the City Council.

Section 10. Resignation. A Director may resign at any time by delivering written notification thereof to the President or Secretary of the Foundation. Resignation shall become effective when notice thereof is received by the Foundation unless the notice specifies a later effective date.

Section 11. Presumption of Assent. A Director of the Foundation who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Foundation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action.

Section 12. Emergency Power. When, due to a national disaster, or death, a majority of the Directors are incapacitated or otherwise unable to attend the meetings and function as Directors, the remaining members of the Board of Directors shall have all the powers necessary to function as a complete Board, and for the purpose of doing business and filling vacancies shall constitute a quorum, until such time as all Directors can attend or vacancies can be filled pursuant to these Bylaws. The Board of Directors may elect from its own number a chairman of the Board, who shall perform such other duties as may be prescribed from time to time by the Board of Directors.

ARTICLE III.

OFFICERS

Section 1. Number. The officers of the Foundation shall be a President and a Secretary, each of whom shall be elected by a majority of the Board of Directors. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the Board of Directors.

Section 2. Election and Term of Office. The officers of the Foundation to be elected by the Board of Directors shall be elected at the annual meeting of the Board of Directors. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as convenient. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall have been removed in the manner hereinafter provided.

Section 3. Resignation. Any officer may resign at any time by delivering a written resignation to the Foundation. Unless otherwise specified therein, such resignation shall take effect upon receipt by the Foundation.

Section 4. Removal. The Board of Directors may remove any officer at any time with or without cause. Election or appointment of an officer or agent shall not of itself create contract rights. Any such removal shall require a majority vote of the Board of Directors, exclusive of the officer in question if he is also a Director.

Section 5. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, or if a new office shall be created, such vacancy may be filled by the Board of Directors for the unexpired portion of the term.

Section 6. President. The President shall be the principal executive officer of the Foundation and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Foundation. He shall, when present, preside at all meetings of the Board of Directors. He may sign, with the Secretary or any other proper officer of the Foundation thereunto authorized by the Board of Directors, any deeds, mortgages, bond, contracts or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors of by these Bylaws to some other officer or agent of the Foundation, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 7. Secretary. The Secretary shall: Keep the minutes of the meetings of shareholders and Board of Directors in one or more books provided for that purpose, See that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; Be custodian of the corporate records. In general, the Secretary shall perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the President or by the Board of Directors.

ARTICLE IV.

COMMITTEES

The Board of Directors may appoint from among its own members such committees as the Board of Directors may determine, which shall in each case consist of not less than two Directors and which shall have such powers and duties as shall from time to time be prescribed by the Board. The President shall be a member ex officio of each committee appointed by the Board of Directors. A majority of the members of any committee may fix its rules of procedure.

ARTICLE V.

CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 1. Contracts. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Foundation, and such authority may be general or confined to specific instances.

Section 2. Loans. No loan or advances shall be contracted on behalf of the Foundation, no negotiable paper or other evidence of its obligation under any loan or advance shall be issued in its name, and no property of the Foundation shall be mortgaged, pledged, hypothecated or transferred as security for the payment of any loan, advance, indebtedness or liability of the Foundation.

Section 3. Deposits. All funds of the Foundation not otherwise employed shall be deposited from time to time to the credit of the Foundation in such banks, trust companies or other depositories as the Board of Directors may select, or as may be selected by any officer or agent authorized to do so by the Board of Directors.

Section 4. Checks and Drafts. All notes, drafts, acceptances, checks, endorsements and evidences of indebtedness of the Foundation shall be signed by such officers or such agent or agents of the Foundation and in such manner as the Board of Directors from time to time may determine. Endorsements for deposit to the credit of the Foundation in any of its duly authorized depositories shall be made in such manner as the Board of Directors from time to time may determine.

ARTICLE VI.

INDEMNIFICATION

Section 1. Indemnification. No officer or Director shall be personally liable for any obligations of the Foundation or for any duties or obligations arising out of any acts or conduct of said officer or Director performed for or on behalf of the Foundation. The Foundation shall and does hereby indemnify and hold harmless each person and his heirs and administrators who shall serve at any time hereafter as a Director or officer of the Foundation from and against any and all claims, judgments and liabilities to which such persons shall become subject by reason of his having heretofore or hereafter been a Director or officer of the Foundation, or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him as such Director or officer, and shall reimburse each such person for all legal and other expenses reasonably incurred by him in connection with any such claim or liability, including power to defend such person from all suits or claims as provided for under the provisions of the Utah Revised Non-profit Corporation Act. The rights accruing to any person under the foregoing provisions of this section shall not exclude anything herein contained restricting the rights of the Foundation, its directors, officers, employees and agents, and said person shall be fully protected in taking any action or making any payment, or in refusing so to do in reliance upon the advice of counsel.

ARTICLE VII.

AMENDMENTS

These Bylaws may be altered, amended, repealed, or new Bylaws adopted by a two-thirds (2/3) vote of the entire Board of Directors at any regular or special meeting.

ARTICLE VIII.

FISCAL YEAR

The fiscal year of the Foundation shall be the calendar year and may be varied by resolution of the Board of Directors.

ARTICLE IX.

PURPOSES

The Foundation shall limit and restrict all its activities to those set forth in the Articles for organizations exempt from taxation under IRC 501(c)3 to which contributions are deductible under Section 170. The Foundation shall not engage in any activity which would cause the Foundation to be a private foundation under Section 509(a) or be subject to excise taxes under Sections 4941-4945, inclusively, of the Internal Revenue Code, as amended.

David R. Gubbey
Director

Steve H Thacker
Director

Amended: 9/4/07

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AMENDMENT NO. 1 TO THE BYLAWS OF THE CENTERVILLE COMMUNITY FOUNDATION

WHEREAS, the Centerville Community Foundation previously adopted Bylaws for the organization and operation of the Foundation; and

WHEREAS, Article VII of the Bylaws provides that such Bylaws may be amended by a two-thirds (2/3) vote of the Board of Directors at any regular or special meeting; and

WHEREAS, the Board of Directors desires to amend Article II, Section 3 of the Bylaws regarding Regular Meetings as more particularly provided herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CENTERVILLE CITY, STATE OF UTAH, AS FOLLOWS:

Section 1. **Amendment.** Article II, Section 3 of the Bylaws is hereby amended to read in its entirety as follows:

> Section 3. Regular Meetings. A regular meeting of the Board of Directors should be held at least annually on the first Tuesday of March each year or as soon thereafter as is practical. The Secretary shall give notice to each Director of the time and place of the annual regular meeting by mailing the same at least ten (10) days before the meeting or by telephoning, emailing, or faxing the same at least five (5) days before the meeting. The Board of Directors may provide, by resolution, the time and place for the holding of additional regular meetings without other notice than this resolution.

Section 2. **Full Force and Effect.** The provisions of this amendment to the Bylaws are hereby incorporated as part of the Bylaws. All other provisions of the Bylaws not modified by this amendment shall remain in full force and effect and are hereby ratified and affirmed.

PASSED AND ADOPTED BY THE CENTERVILLE COMMUNITY FOUNDATION THIS 3rd DAY OF MARCH, 2015.

CENTERVILLE COMMUNITY FOUNDATION

[signature]
President

ATTEST:

Steve H Thacker
Secretary

AMENDMENT NO. 2 TO THE BYLAWS OF THE CENTERVILLE COMMUNITY FOUNDATION

WHEREAS, the Centerville Community Foundation previously adopted Articles of Incorporation and Bylaws for the organization and operation of the Foundation; and

WHEREAS, Article VIII of the Articles of Incorporation provides that the Board of Directors may be expanded to include additional directors not to exceed fifteen (15) to be appointed by the Mayor with the consent of the City Council for staggered terms not to exceed two (2) years; and

WHEREAS, Article II of the Bylaws provides that the number of Board of Directors shall be seven (7) until such time as the Board of Directors affirmatively votes to increase the number of Board of Directors in accordance with applicable provisions of the Articles of Incorporation and Bylaws; and

WHEREAS, the Board of Directors desires to increase the number of Board of Directors from seven (7) to eleven (11) members and to amend Article II, Section 2 of the Bylaws to reflect the increased number of members as more particularly provided herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CENTERVILLE CITY, STATE OF UTAH, AS FOLLOWS:

Section 1. **Amendment.** Article II, Section 2 of the Bylaws regarding the Board of Directors is hereby amended to read in its entirety as follows:

> Section 2. Number, Tenure and Qualifications. The number of Directors of the Foundation shall be eleven (11)~~seven (7)~~. The Mayor, during his term of office, and the City Manager, during his employment as City Manager, shall be members of the Board of Directors. Each Director shall hold office for the term appointed and until his successor has ~~shall have~~ been appointed and qualified. Pursuant to Article VIII of the Articles of Incorporation, each Director shall be appointed to staggered terms of two (2) years. ~~Said number of Directors shall remain at seven (7) until such time as the number shall be changed by affirmative vote of the Directors as described in the Articles of Incorporation and these Bylaws.~~ A President, who will also serve as Chair of the Board, will be elected by the members of the Board.

Section 2. **Full Force and Effect.** The provisions of this amendment to the Bylaws are hereby incorporated as part of the Bylaws. All other provisions of the Bylaws not modified by this amendment shall remain in full force and effect and are hereby ratified and affirmed.

PASSED AND ADOPTED BY THE CENTERVILLE COMMUNITY FOUNDATION THIS 1st DAY OF MAY, 2018.

ATTEST:

Steve H. Thacker

Secretary

CENTERVILLE COMMUNITY FOUNDATION

[signature]

President

GASB No. 84, paragraph 5 - 11

Identifying Fiduciary Activities

5. A primary government or its component units may be engaged in fiduciary activities. A component unit is a fiduciary activity (a fiduciary component unit) if it meets the criteria set forth in paragraphs 6–9, as applicable. Other activities are fiduciary activities if they meet the criteria in paragraph 10 or paragraph 11.

Fiduciary Component Units

6. An organization that meets the component unit criteria in Statement 14, as amended, is a fiduciary activity if it is one of the following arrangements:

a. A pension plan that is administered through a trust that meets the criteria in paragraph 3 of Statement 67 **Whitaker Fund does not meet this requirement**

b. An other postemployment benefit (OPEB) plan that is administered through a trust that meets the criteria in paragraph 3 of Statement 74 **Whitaker Fund does not meet this requirement**

c. A circumstance in which assets from entities that are *not* part of the reporting entity are accumulated for pensions as described in paragraph 116 of Statement 73 **Whitaker Fund does not meet this requirement**

d. A circumstance in which assets from entities that are *not* part of the reporting entity are accumulated for OPEB as described in paragraph 59 of Statement 74. **Whitaker Fund does not meet this requirement**

7. Generally, pension plans that are administered through trusts that meet the criteria in paragraph 3 of Statement 67 and OPEB plans that are administered through trusts that meet the criteria in paragraph 3 of Statement 74 are legally separate entities. In determining whether those legally separate entities are component units, a primary government is considered to have a financial burden if it is legally obligated or has otherwise assumed the obligation to make contributions to the pension plan or OPEB plan. **Whitaker Fund does not meet this requirement**

8. A component unit, that is not a pension arrangement or OPEB arrangement as described in paragraphs 6a–6d, is a fiduciary activity if the assets associated with the activity have one or more of the following characteristics:

a. The assets are (1) administered through a trust agreement or equivalent arrangement (hereafter jointly referred to as a trust) in which the government itself is not a beneficiary, (2) dedicated to providing benefits to recipients in accordance with the benefit terms, and (3) legally protected from the creditors of the government. **Whitaker Fund does not meet this requirement**

b. The assets are for the benefit of individuals and the government does *not* have administrative involvement with the assets or direct financial involvement with the assets.**1**

In addition, the assets are *not* derived from the government's provision of goods or services to those individuals. **Whitaker Fund does not meet this requirement**

c. The assets are for the benefit of organizations or other governments that are *not* part of the financial reporting entity. In addition, the assets are *not* derived from the government's provision of goods or services to those organizations or other governments. **Whitaker Fund does not meet this requirement**

9. In determining whether a component unit is a fiduciary component unit, control of the assets of the component unit by the primary government (as discussed in paragraph 12) is *not* a factor to be considered.

Pension and OPEB Arrangements That Are Not Component Units

10. If they are not component units, the following pension and OPEB arrangements are fiduciary activities if the government controls the assets of the arrangement (as described in paragraph 12): **Whitaker Fund does not meet this requirement**

a. A pension plan that is administered through a trust that meets the criteria in paragraph 3 of Statement 67

b. An OPEB plan that is administered through a trust that meets the criteria in paragraph 3 of Statement 74

c. A circumstance in which assets from entities that are *not* part of the reporting entity are accumulated for pensions as described in paragraph 116 of Statement 73

d. A circumstance in which assets from entities that are *not* part of the reporting entity are accumulated for OPEB as described in paragraph 59 of Statement 74.

1For purposes of this provision, a government has administrative involvement with the assets if, for example, it (a) monitors compliance with the requirements of the activity that are established by the government or by a resource provider that does not receive the direct benefits of the activity, (b) determines eligible expenditures that are established by the government or by a resource provider that does not receive the direct benefits of the activity, or (c) has the ability to exercise discretion over how assets are allocated. A government has direct financial involvement with the assets if, for example, it provides matching resources for the activities.

Other Fiduciary Activities

11. For activities not addressed in paragraphs 6−10, the activity is a fiduciary activity **<u>if all of the following criteria are met:</u>**

a. The assets associated with the activity are controlled by the government (as described in paragraph 12). **Assets are controlled by the government**

b. The assets associated with the activity are *not* derived either:

(1) Solely from the government's own-source revenues (as described in paragraph 13) **Yes, assets are from the governments own sourced revenue** or

(2) From government-mandated nonexchange transactions or voluntary nonexchange transactions with the exception of pass-through grants for which the government does *not* have administrative involvement or direct financial involvement.**2**

c. The assets associated with the activity have one or more of the following characteristics:

(1) The assets are (a) administered through a trust in which the government itself is *not* a beneficiary, (b) dedicated to providing benefits to recipients in accordance with the benefit terms, and (c) legally protected from the creditors of the government. **Whitaker Fund does not meet this requirement**

(2) The assets are for the benefit of individuals and the government does *not* have administrative involvement with the assets or direct financial involvement with the assets.3 In addition, the assets are *not* derived from the government's provision of goods or services to those individuals. **Whitaker Fund does not meet this requirement**

2For purposes of this provision, the descriptions of administrative involvement and direct financial involvement of a government that is a recipient of a pass-through grant provided in paragraph 5 of Statement 24 should be applied. That paragraph states, "A recipient government has administrative involvement if, for example, it (a) monitors secondary recipients for compliance with program-specific requirements, (b) determines eligible secondary recipients or projects, even if using grantor-established criteria, or (c) has the ability to exercise discretion in how the funds are allocated. A recipient government has direct financial involvement if, for example, it finances some direct program costs because of a grantor-imposed matching requirement or is liable for disallowed costs." 3See footnote 1.

(3) The assets are for the benefit of organizations or other governments that are *not* part of the financial reporting entity. In addition, the assets are *not* derived from the government's provision of goods or services to those organizations or other governments. **Whitaker Fund does not meet this requirement**

Control of Assets

12. A government controls the assets of an activity if the government (a) holds the assets or (b) has the ability to direct the use,**4** exchange, or employment of the assets**5** in a manner that provides benefits to the specified or intended recipients. Restrictions from legal or other external restraints that stipulate the assets can be used only for a specific purpose do not negate a government's control of the assets.

Own-Source Revenues

13. Own-source revenues are revenues that are generated by a government itself. They include exchange and exchange-like revenues (for example, water and sewer charges) and investment earnings. Derived tax revenues (such as sales and income taxes) and imposed nonexchange revenues (such as property taxes) also are included.

Reporting Fiduciary Activities in Fiduciary Funds

14. Governments should report fiduciary activities in the fiduciary fund financial statements of the basic financial statements. The fiduciary fund used to report the activities should be based on the requirements in paragraphs 15−18, except as provided in paragraph 19.

4For purposes of this Statement, a government uses an asset when it expends or consumes that asset for the benefit of individuals, organizations, or other governments, outside of the government's provision of services to them.

5When a government appoints a designee to act on its behalf, the designee is performing the government's fiduciary duties and not assuming them. Thus, appointing a designee to act on its behalf does not alter the government's ability to direct the use, exchange, or employment of the assets.