

THE GREATER CHELTENHAM AVENUE BUSINESS IMPROVEMENT DISTRICT: FOSTERING BUSINESS AND CREATING COMMUNITY ACROSS CITY AND SUBURB

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INTRODUCTION

First adopted in Toronto, Canada in 1970, the Business Improvement District (BID) is a tool now used to promote economic revitalization in municipalities around the world.¹ BIDs are quasi-public, privately directed organizations, whose goals are to supplement public services within a geographic area, generating revenue through mandatory assessments on local property owners and businesses.² BIDs “are neither wholly public nor fully private, but, rather, combine attributes of both public and private.”³

The Greater Cheltenham Avenue Business Improvement District (GCABID) is a partnership between Cheltenham Township and Philadelphia, created through enabling ordinances in both municipalities.⁴ Both ordinances include a sunset provision requiring the termination of the GCABID in five years unless the township and city reenact their ordinances.⁵ Before renewal, each municipality must review “the District and the programs and services provided by” the GCABID.⁶ Sunset provisions and review requirements are

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1. Frank Friesecke, *Revitalization of Urban Areas Through Business Improvement Districts (BIDs) - Trends and Expectations for Shrinking Cities* (2006), available at http://www.fig.net/pub/accra/ppt/ts10/ts10_02_friesecke_ppt.pdf.

2. Lorlene Hoyt & Devika Gopal-Agge, *The Business Improvement District Model: A Balanced Review of Contemporary Debates*, 1 *GEOGRAPHY COMPASS* 946, 946 (2007).

3. Richard Briffault, *A Government for Our Time? Business Improvement Districts and Urban Governance*, 99 *COLUM. L. REV.* 365, 373 (1999).

4. See City of Phila., Pa., Bill No. 080376 (Dec. 3, 2008); Cheltenham Twp., Pa., Ordinance No. 2147-07 (Dec. 18, 2007).

5. See City of Phila., Pa., Bill No. 080376 (Dec. 3, 2008); Cheltenham Twp., Pa., Ordinance No. 2147-07 (Dec. 18, 2007).

6. See City of Phila., Pa., Bill No. 080376 (Dec. 3, 2008); Cheltenham Twp., Pa., Ordinance No. 2147-07 (Dec. 18, 2007).

two of the best tools that governments can use to insure BIDs are held accountable.⁷

The GCABID has had some trouble getting started. While the Cheltenham Township Board of Commissioners approved the GCABID on December 18, 2007, and Philadelphia approved it about one year later on December 3, 2008, a clerical error delayed the GCABID's start.⁸ In Fall 2009, a few weeks after Graham Copeland started as the GCABID executive director, a staff member in Philadelphia Councilwoman Marion Tasco's office discovered the city's ordinance relied on an incorrect spreadsheet of Philadelphia property owners.⁹ The clerical error meant that about forty property owners were not properly notified during the public comment period.¹⁰ The city solicitor ruled the ordinance invalid.¹¹ Councilwoman Tasco introduced a corrected ordinance on October 8, 2009,¹² and Philadelphia City Council unanimously passed the bill on April 8, 2010. Mayor Nutter signed the ordinance on April 21, 2010.

The creation of the GCABID is an important step in an ongoing effort of both municipalities to revitalize this important commercial area. Both municipalities see the GCABID as a way to address pedestrian safety, the lack of high-quality retail investment, traffic congestion, an unattractive streetscape, outdated building façades, confusing signage, and incompatible land-use controls.¹³ Proponents of the GCABID marketed it as a tool to promote economic revitalization; however, it is important to recognize that the GCABID is also part of an ongoing community-revitalization effort. In the long run, it will harness additional revenues from property owners to increase the amount of resources the private sector is willing to contribute, both to improvements to their properties and physical conditions in the area where they do business.

7. Briffault, *supra* note 3, at 458.

8. Telephone Interview with Bryan T. Havir, Assistant Twp. Manager, Cheltenham Twp. (Nov. 13, 2009).

9. *Id.*

10. *See id.*

11. *See id.*

12. *Meeting of the Council of the City of Phila.*, 28–29 (Oct. 8, 2009) [hereinafter *Oct. 8, 2009 Meeting*], available at <http://legislation.phila.gov/transcripts/stated%20meetings/2009/sm100809.pdf>.

13. CHELTENHAM TWP./NW. PHILA. JOINT PLANNING INITIATIVE, CHELTENHAM AVENUE: A PLAN FOR BRIDGING THE COMMUNITIES iii, I-6, II-4, http://www.cheltenhamtownship.org/cheltenhamave/Chelt%20plan_final.pdf [hereinafter BRIDGING THE COMMUNITIES].

I. THE CONTEXT FOR CREATING THE GCABID

The GCABID is located along Cheltenham Avenue—the border between Cheltenham Township and Philadelphia—and covers the main commercial area shared by these two partners.¹⁴ The GCABID is a partnership between a densely settled, racially diverse, affluent inner-ring suburb with a population of about 37,000¹⁵ and a densely settled, racially diverse central city with a population of about 1.5 million.¹⁶ The GCABID's actual demographic composition fits neither Philadelphia nor Cheltenham.¹⁷ The district's population is about 95% African-American, whereas Cheltenham is 25%¹⁸ and Philadelphia is 43%.¹⁹ The educational attainment of the district's population is lower than that of either municipality: less than 10% of the district's adults have a bachelor's degree or higher,²⁰ compared

14. Res. No. 090719 ex. A-4 § 2.01(b), Phila. City Council (Phila., Pa. Oct 8, 2009); *The Cheltenham Avenue Business Improvement District*, Greater Cheltenham Ave. Bus. Improvement Dist., <http://www.cheltenhamtownship.org/cheltenhamave/BID%20Newsletter%20All.pdf> [hereinafter *BID Newsletter*]. The GCABID includes, at its center, the portion of Cheltenham Avenue from Easton Road (Wadsworth Avenue in Philadelphia) to Old York Road (Broad Street in Philadelphia). Both sides of Cheltenham Avenue are part of the GCABID. Route 309 cuts diagonally through the center of the GCABID, crossing Cheltenham Avenue into Philadelphia and becoming Ogontz Avenue, which is bounded on the northwest by Cheltenham Avenue and on the southeast by 67th Avenue.

15. *American FactFinder*, U.S. CENSUS BUREAU, <http://factfinder.census.gov/> (follow "Data Sets" hyperlink; then click "Census 2000" and select "Quick Tables" hyperlink under "Census 2000 Summary File 1 (SF 1) 100-Percent Data"; then select "County Subdivision" under "Select a geographic type"; then select "Pennsylvania" under "Select a state"; then select "Montgomery County" under "Select a county"; then select "Cheltenham township"; then click "Add"; then click "Next"; then select "DP-1. Profile of General Demographic Characteristics: 2000"; then select "Add"; then select "Show Result").

16. *Id.* (follow "Data Sets" hyperlink; then click "Census 2000" and select "Quick Tables" hyperlink under "Census 2000 Summary File 1 (SF 1)-100 Percent Data"; then select "County" under "Select a geographic type"; then select "Pennsylvania" under "Select a state"; then select "Philadelphia County" under "Select a county"; then click "Add"; then click "Next"; then select "DP-1. Profile of General Demographic Characteristics: 2000"; then select "Add"; then select "Show Result").

17. *See id.* (follow "Data Sets" hyperlink; then click "Census 2000" and select "Quick Tables" hyperlink under "Census 2000 Summary File 3 (SF 3) - Sample Data"; then select "Census Tract" under "Select a geographic type"; then select "Pennsylvania" under "Select a state"; then select "Philadelphia County" under "Select a county"; then select tracts 263.02, and 264-67 and click "Add"; then click "Next"; then select "DP-1. Profile of General Demographic Characteristics: 2000"; then select "Add"; then select "Show Result").

18. *Id.* (follow instructions provided *supra* notes 15 and 17).

19. *Id.* (follow instructions provided *supra* note 16).

20. *See id.* (follow "Data Sets" hyperlink; then click "Census 2000" and select "Quick Tables" hyperlink under "Census 2000 Summary File 3 (SF 3) - Sample Data"; then select "Census Tract" under "Select a geographic type"; then select "Pennsylvania" under "Select a state"; then select "Philadelphia County" under "Select a county"; then select tracts 263.02, and 264-

to 49% of Cheltenham's adults and 18% of Philadelphia's adults.²¹ The household income in the district is around \$38,000, while Philadelphia's is \$30,746 and Cheltenham's is \$61,713.²²

Because the GCABID is still getting organized, its connections to area nonprofits, township and city agencies, and the business community are developing, but potential partners do exist. Indeed, some of these potential partners have publicly advocated for the creation of the GCABID. In Cheltenham, potential partners include the Cheltenham Township Community Development Corporation (CTCDC)—whose mission it is “to improve the quality of life and increase the real estate tax base in Cheltenham Township by working to foster enhancements to commercial, industrial, residential and public space properties,”²³—and business leaders, such as the owners of two large shopping centers located along Cheltenham Avenue—Cheltenham Square Mall and Cedarbook Plaza—which also have representation on the GCABID interim board of directors. On the Philadelphia side, various potential partners include the city's Commerce Department, which offers funding through planning grants and programs, such as ReStore Corridors Through Art, which is intended to promote neighborhood economic development; nonprofit organizations including the Ogontz Avenue Revitalization Corporation (OARC), the Mt. Airy Revitalization Corporation, and

67 and then click “Add”; then click “Next”; then select “DP-2. Profile of Selected Social Characteristics: 2000”; then select “Add”; then select “Show Result”).

21. For information about Cheltenham, see *id.* (follow “Data Sets” hyperlink; then click “Census 2000” and select “Quick Tables” hyperlink under “Census 2000 Summary File 3 (SF 3) – Sample Data”; then select “County Subdivision” under “Select a geographic type”; then select “Pennsylvania” under “Select a state”; then select “Montgomery County” under “Select a county”; then select “Cheltenham township”; then click “Add”; then select “County” under “Select a geographic type”; then select “Pennsylvania” under “Select a state”; then select “Philadelphia County” under “Select a county”; then click “Add”; then click “Next”; then select “DP-2. Profile of Selected Social Characteristics: 2000”; then select “Add”; then select “Show Result”).

22. For economic data on the district, see *id.* (follow “Data Sets” hyperlink; then click “Census 2000” and select “Quick Tables” hyperlink under “Census 2000 Summary File 3 (SF 3) – Sample Data”; then select “Census Tract” under “Select a geographic type”; then select “Pennsylvania” under “Select a state”; then select “Philadelphia County” under “Select a county”; then select tracts 263.02, and 264-67 and then click “Add”; then select “County” under “Select a geographic type”; then select “Pennsylvania” under “Select a state”; then select “Philadelphia County” under “Select a county”; then click “Add”; then select “County Subdivision” under “Select a geographic type”; then select “Pennsylvania” under “Select a state”; then select “Montgomery County” under “Select a county”; then select “Cheltenham township”; then click “Add”; then click “Next”; then select “DP-3. Profile of Selected Economic Characteristics: 2000”; then select “Add”; then select “Show Result”).

23. *Mission Statement*, CHELTENHAM TWP. CMTY. DEV. CORP., http://www.ctcdc.org/index.php?option=com_content&task=view&id=5&Itemid=6 (last visited Nov. 8, 2010).

the Enon Tabernacle Baptist Church—all of which are also represented on the GCABID interim board of directors—and business associations such as the West Oak Lane Business Association, Wadsworth Avenue Business Association, and the Stenton Avenue-Washington Lane Business Association. The partners on both sides of the avenue can provide revenue, either through assessments or donations, and public support for the GCABID. In addition, they can participate in events, such as the West Oak Lane Jazz Festival, and other initiatives the GCABID will pursue through the years. The executive director will need to build support and seek the participation of these potential partners to be successful.

II. ESTABLISHING THE GCABID

The original approval of the BID by the Cheltenham Township Board of Commissioners and by the Philadelphia City Council and the mayor occurred without significant controversy.²⁴ Indeed, the creation of the BID flowed from several years of cooperation and discussion by state and local officials from both municipalities.²⁵ Several joint initiatives were already underway while the officials and citizens discussed the creation of the GCABID. Some of the projects included the Pennsylvania Department of Transportation's reconstruction work on Route 309;²⁶ Cheltenham Township's issuance of a new comprehensive plan in 2005, which included a policy statement indicating that "[t]he township may also consider establishing a special services district along Cheltenham Avenue with the City of Philadelphia like the City Avenue Special Services District between Lower Merion Township and Philadelphia;"²⁷ Cheltenham Township's participation since 1998 in Pennsylvania's Main Street Manager program, which provided the resources for the Main Street Manager to work with a task force and consultant to write the

24. Hearing of the Cheltenham Twp. Bd. of Comm'rs 5 (Dec. 18, 2007) [hereinafter Cheltenham Hearing] (on file with author); *Hearing on Bill No. 080080, Bill No. 080251, Bill No. 080376, Bill No. 080249, Bill No. 080250, Bill No. 080381, Bill No. 080437, Bill No. 080469, Bill No. 080491, and Bill No. 080527 Before the Comm. on Rules 97-119* (Phila., Pa. June 11, 2008) [hereinafter *June 11, 2008 Hearing*], available at <http://legislation.phila.gov/transcripts/Public%20Hearings/rules/2008/ru061108.pdf>; Telephone Interview with Bryan T. Havir, *supra* note 8; Telephone Interview with Paul Greenwald, Twp. Comm'r, Cheltenham Twp. (Nov. 12, 2009).

25. BRIDGING THE COMMUNITIES, *supra* note 13, at i; MONTGOMERY CNTY. PLANNING COMM'N, CHELTENHAM TWP. COMPREHENSIVE PLAN vii (2005) [hereinafter CHELTENHAM COMPREHENSIVE PLAN], available at <http://www.cheltenhamtownship.org/comprehensive-plan/cheltenhamcompplan.pdf>.

26. BRIDGING THE COMMUNITIES, *supra* note 13, at ii.

27. CHELTENHAM COMPREHENSIVE PLAN, *supra* note 25, at 116.

Commercial District Enhancement Plan in 2000, which became part of the 2005 comprehensive plan;²⁸ Philadelphia's ReStore Corridors program;²⁹ and Councilwoman Tasco's study of commercial centers in her district, *Shops, Streets, Centers: A Guide for Transforming Commercial Corridors in the 9th Councilmanic District*.³⁰

A. Three Phases in the Development of the GCABID

In this context of intergovernmental and intersectoral cooperation and joint action, the municipalities embarked on the three-phased Cheltenham Township/Northwest Philadelphia Joint Planning Initiative, the purpose of which was to "promote a certain regionalism between Northwest Philadelphia and Cheltenham Township through planning consistency, traffic and transportation analysis, market development, aesthetic consistency, and sharing the best practices."³¹ A grant in the amount of \$100,000 from the Pennsylvania Department of Community and Economic Development (DCED) paid for the work on phase one.³² A second grant from DCED in the amount of \$101,200 also helped to fund phases two and three.³³

Phase one featured land development and zoning to encourage "pedestrian-friendly design, uniform signage to create a sense of place, and the unification of both sides of the avenue."³⁴ During phase one, consultants documented possible improvements and created implementation plans for five key areas: Cheltenham Avenue at Route 309/Ogontz Avenue, Cheltenham Avenue at Easton Road, Cheltenham Avenue at Penrose Avenue, Ogontz Avenue at Washington Lane, and Vernon Road.³⁵

28. *See id.*

29. *June 11, 2008 Hearing, supra* note 24, at 103 (statement of Andrew Frishkoff, Director, Neighborhood Econ. Dev., Phila. Dep't of Commerce).

30. CHELTENHAM TWP./NW. PHILA. JOINT PLANNING INITIATIVE, CHELTENHAM AVENUE PHASE III: RELATED NEIGHBORHOOD COMMERCIAL CENTERS 3 (2008), <http://www.cheltenhamtownship.org/cheltenhamave/Phase%20III%20FINAL%20REPORT.pdf> [hereinafter PHASE III REPORT].

31. E-mail from Denise Holloway, Legislative Assistant, Phila. Office of State Rep. Dwight Evans, to author (Feb. 2, 2010, 15:58 EST) (on file with author).

32. *See Cheltenham Avenue Business Improvement District*, CHELTENHAM TWP., <http://www.cheltenhamtownship.org/cheltenhamave/index.htm> (last visited Nov. 8, 2010).

33. *Id.*

34. PHASE III REPORT, *supra* note 30, at 1.

35. BRIDGING THE COMMUNITIES, *supra* note 13, at 5.

Phase two focused on a feasibility study for the BID and also included the implementation of the BID.³⁶ A consultant guided a steering committee that included business owners and residents through a discussion of possible BID boundaries, services and projects, and assessments to cover costs.³⁷ Each municipality implemented the steps necessary to establish the GCABID. The adoption of the ordinances establishing the GCABID by Cheltenham and Philadelphia completed phase two.

Phase three applied the planning concepts and vision created in phase one to ten adjacent retail corridors in the proposed district and developed implementation plans for each area.³⁸ Suggested changes included new streetscapes, façade improvements, targeted investment in new commercial buildings, sign improvements, and making the areas pedestrian friendly.³⁹ The phase three planning relied primarily on work already completed in two other studies. One study, *Shops, Streets, Centers: A Guide for Transforming Commercial Corridors in the 9th Councilmanic District*, revisited “the challenges and opportunities of each of the corridors studied and present[ed] strategies for making them more successful, with the underlying thesis that transforming corridors can help stabilize and improve home values in the neighborhoods in which they are located.”⁴⁰ The other study, *Cheltenham Township Commercial District Enhancement Plan*, completed in 2000, presented “a vision for each of the [five] commercial districts within the township, and created recommendations and a time frame for their implementation.”⁴¹

B. Key Leaders Supporting the GCABID

There are numerous officials and community leaders listed on the GCABID’s planning documents, but several leaders stand out as primary sponsors. In Philadelphia, State Representative Dwight Evans and Councilwoman Tasco were champions of creating the GCABID. Representative Evans’s district contains almost all of the

36. See *Cheltenham Avenue Business Improvement District*, *supra* note 32; PHASE III REPORT, *supra* note 30, at 4.

37. See *Cheltenham Avenue Business Improvement District*, *supra* note 32.

38. PHASE III REPORT, *supra* note 30, at 1.

39. See generally *id.* (detailing the various improvements needed in each of the adjacent corridors).

40. *Id.* at 3.

41. See *id.*

Philadelphia portions of the BID.⁴² Ogontz Avenue is the main commercial corridor in the district, and Evans helped establish the OARC in 1983.⁴³ The OARC is one of the main community partners ready to work with the GCABID, and it has representation on the GCABID's interim board of directors.⁴⁴ Representative Evans had a member of his staff, Denise Holloway, speak in support of the GCABID at the 2008 city council hearings on the ordinance.⁴⁵ She commented on the low cost to businesses, suggesting that the BID would cost Philadelphia property owners approximately \$224 per year in annual assessments.⁴⁶ The OARC also supported the GCABID by having Tyrone Holland, Director of Economic Development for the OARC, speak to the city council in favor of the GCABID.⁴⁷ Holland explained how the OARC's existing projects would benefit from the additional resources that businesses could provide through the GCABID.⁴⁸

Councilwoman Tasco represents Philadelphia's 9th District, which contains the portion of the GCABID. Her office initiated and managed the study of the commercial corridors in her district that formed the basis for the phase three report described above. She also sponsored and introduced the ordinance establishing the GCABID in Philadelphia.⁴⁹

The Mayor's Office also offered support for the GCABID by having Andrew Frishkoff, Director of Neighborhood Economic Development in the Department of Commerce, speak in favor of the GCABID before the committee on rules in 2008.⁵⁰ He explained that the GCABID was consistent with the City's strategic plan, as well as the Commerce Department's strategies "to help re-establish neighborhood commercial corridors as central places to work, shop, and meet neighbors."⁵¹ He stated that the only concern of the Commerce Department was that the planned revenues and expenditures on the Philadelphia side of the GCABID were so much lower com-

42. E-mail from Denise Holloway, *supra* note 31. A few blocks are in State Representative Cherelle Parker's district.

43. See *About Us: History*, OGONTZ AVE. REVITALIZATION CORP., <http://www.ogontzave.org/aboutus/history.asp> (last visited Nov. 8, 2010).

44. *BID Newsletter*, *supra* note 14, at 1.

45. See *June 11, 2008 Hearing*, *supra* note 24, at 104-06, 115-45.

46. See *id.* at 106.

47. See *id.* at 107-13.

48. See *id.* at 107-13.

49. See *Oct. 8, 2009 Meeting*, *supra* note 12, at 28-30.

50. See *June 11, 2008 Hearing*, *supra* note 24, at 98.

51. *Id.* at 99.

pared to the city's most successful BIDs (the GCABID will raise \$38,000 in revenue in Philadelphia compared to \$360,000 in revenue in Cheltenham).⁵² He thought additional fundraising by the business community was necessary to provide the planned services, which in the first year featured cleaning, providing security ambassadors, and marketing. The city did not expect to provide other revenue sources aside from possible funding through ReStore Corridors Through Art bond proceeds.⁵³ The bond proceeds would help fund capital projects along Ogontz Avenue, enabling the GCABID to be more effective in delivering its services.⁵⁴

No one opposed the creation of the GCABID at the Philadelphia City Council meetings in 2008 (or in 2010); although at the 2008 meeting, a representative spoke on behalf of a group of property owners along Wadsworth Avenue that wanted the nonprofit organizations included among those who would pay for improvements in the GCABID.⁵⁵ At a follow-up meeting, Holloway responded to Lee Tabas, a representative of a group owning property on Wadsworth Avenue, that the GCABID will "also solicit financial support from local nonprofit organizations that will also benefit from this partnership."⁵⁶ City council unanimously approved the ordinance in 2008, but as explained above, the ordinance needed to be readopted because of the clerical error.⁵⁷

In Cheltenham Township, several township officials and business leaders stand out as champions supporting the GCABID. Three of the township's seven wards include parts of the GCABID, although Ward 2, represented by Paul Greenwald, has the most area covered by the GCABID.⁵⁸ Cheltenham's township manager, Dave Krainik, and assistant township manager, Bryan Havir, provided administrative support during the creation of the GCABID, and continue to assist with its implementation.⁵⁹ In addition to the commissioners, business leaders such as Sandra Rhaman (Lynnewood Gardens), Lino Solis (Cheltenham Square Mall), and Lori Stopyra (Cedarbrook

52. *Id.* at 100-03.

53. *Id.* at 103.

54. *Id.*

55. *Id.* at 117-18 (statement of Lee Tabas, representing a group of property owners from Wadsworth Avenue).

56. *Hearing on Bill No. 080376 Before the Comm. on Rules 6* (Phila., Pa. Sept. 23, 2008), available at <http://legislation.phila.gov/transcripts/Public%20Hearings/rules/2008/ru092308.pdf>.

57. Telephone Interview with Bryan T. Havir, *supra* note 8.

58. Telephone Interview with Paul Greenwald, *supra* note 24.

59. *Id.*; Telephone Interview with Bryan T. Havir, *supra* note 8.

Plaza) — all of whom served on the GCABID's Steering Committee — also advocated for its creation.⁶⁰ All three business leaders represented some of the largest businesses in the GCABID.⁶¹ Lynnewood Gardens is the largest residential apartment complex in the GCABID.⁶² Cheltenham Square Mall is a large retail center anchoring the central part of the GCABID.⁶³ Cedarbrook Plaza is a retail center anchoring the Northwest side of the GCABID.⁶⁴

As was the case in Philadelphia, no sustained opposition arose to the creation of the GCABID. Property and business owners attended three community meetings to hear speakers from other BIDs in the region, including the City Avenue District BID that includes Lower Merion Township and Philadelphia.⁶⁵ Lawrence Houstoun, a noted expert on BIDs, provided examples from Philadelphia and suburban municipalities to help educate officials, business leaders, and property owners on the nature and advantages of BIDs.⁶⁶ The few property and business owners who had questions or expressed initial opposition to the creation of the GCABID met with Havar to review information about their property; but, in the end, none filed written objections.⁶⁷ The Cheltenham Township Board of Commissioners unanimously approved the ordinance.⁶⁸

C. *Interim Board of Directors of the GCABID*

The ordinance creating the GCABID established an interim board of directors consisting of nine influential individuals representing businesses, community development corporations, government, and other stakeholders.⁶⁹ When Cheltenham Township adopted the ordinance in 2007, Councilwoman Tasco was listed as a board member. However, John Ungar, who at the time was the Executive Director of the Mount Airy Revitalization Corporation, replaced her

60. *BID Newsletter*, *supra* note 14, at 3.

61. *See id.*

62. *See id.*

63. *See id.* at 1.

64. *See id.*

65. Telephone Interview with Bryan T. Havar, *supra* note 8.

66. Lawrence O. Houstoun, Jr., *Business Improvement Districts: Defining and Organizing BIDs* (June 6, 2006).

67. Telephone Interview with Bryan T. Havar, *supra* note 8.

68. Cheltenham Hearing, *supra* note 24, at 5–24.

69. City of Phila., Pa., Bill No. 080376 (Dec. 3, 2008); Cheltenham Twp., Pa., Ordinance No. 2147-07 (Dec. 18, 2007).

when Philadelphia actually passed the ordinance a year later.⁷⁰ Also, one of the positions on the interim board is held by the President of the Cheltenham Board of Commissioners.⁷¹ Thus far, three commissioners have served one-year terms as President of the Cheltenham Board of Commissioners, while also serving as members of the GCABID interim board: Michael Swavola in 2007, Jeffrey A. Muldrew in 2008, and Paul Greenwald in 2009. Not all members of the interim board are active because of their business commitments; however, all remain strong supporters of the GCABID.⁷² Because Philadelphia had to adopt a new ordinance in April 2010, the interim board will serve one more year (until approximately April 2011) before property owners will select a permanent board.⁷³

III. THE GCABID'S CURRENT STATE OF AFFAIRS

As the history of this initiative indicates, the creation of the GCABID represents the key developmental moment. The necessary small steps to be accomplished in the first year of operation included selecting an executive director, creating a website, collecting revenue, and allocating money to its first projects.⁷⁴ Unaware of the problem with Philadelphia's ordinance, the GCABID began 2009 with high hopes. In February 2009, the GCABID's interim board of directors met and resolved to implement a beautification effort in cooperation with Philadelphia to coincide with the jazz festival scheduled for June.⁷⁵ These initiatives relied on in-kind and voluntary support because the GCABID had not yet begun to collect revenue or employ an executive director.⁷⁶ Once the BID is fully operable, future efforts in the district will include public safety improvements, sidewalk and gutter cleaning, and special event marketing and promotions.⁷⁷

70. City of Phila., Pa., Bill No. 080376 (Dec. 3, 2008); Cheltenham Twp., Pa., Ordinance No. 2147-07 (Dec. 18, 2007).

71. Telephone Interview with Paul Greenwald, *supra* note 24.

72. E-mail from John Ungar, Exec. Dir., Mount Airy Revitalization Corp., to author (Feb. 1, 2010, 11:59 EST) (on file with author).

73. Telephone Interview with Bryan T. Havir, *supra* note 8.

74. Telephone Interview with Paul Greenwald, *supra* note 24.

75. COMM'RS OF CHELTENHAM TWP., CHELTENHAM TWP., 2009-2010 ANNUAL REPORT AND CALENDAR 1 (Nancy K. Gibson ed., 2009), available at <http://www.cheltenhamtownship.org/calendar/09-10.pdf>; see also *Main Street Matters*, CHELTENHAM UPDATE (Comm'rs of Cheltenham Twp., Elkins Park, Pa.) Spring 2009, at 6 [hereinafter CHELTENHAM UPDATE], available at <http://www.cheltenhamtownship.org/Publications/springupdate2009.pdf>.

76. Telephone Interview with Bryan T. Havir, *supra* note 8.

77. CHELTENHAM UPDATE, *supra* note 75, at 6.

In addition to identifying projects, in 2009, the GCABID interim board contracted independently with Cheltenham Township tax collector, Steve Burns, to prepare assessments for parcels and to collect revenue.⁷⁸ The GCABID interim board also completed the search for an executive director, appointing Graham Copeland at the end of the summer 2009. Unfortunately, within about two weeks of starting his job, while working with Steve Burns to update assessments of all the parcels, Copeland learned about the problems with Philadelphia's list of property owners.⁷⁹ As a result, the GCABID had to lay off Copeland, with plans to reappoint him to the position once Philadelphia adopted the new ordinance.⁸⁰ In June 2010, the GCABID interim board met for the first time since Philadelphia approved the GCABID in April and initiated the search for a new executive director.⁸¹

IV. EVALUATING THE GCABID CASE

The formation of the GCABID rests on the well-known reasons for BID creation in other municipalities, including the economic decline of important business districts.⁸² However, because the GCABID links a small suburban municipality to a neighborhood in a large central city, the GCABID has the potential to foster civic health or capacity in addition to economic improvement.⁸³ Civic health or capacity is the ability of government, nonprofit organizations, businesses, and citizens to work together to solve their community's problems.⁸⁴ The GCABID, and others like it that cross jurisdictional boundaries, has the potential to improve the suburban-urban conversation about regional solutions to metropolitan problems. According to Davies, this expanded purpose beyond the economic rationale is one reason why BIDs are compatible with the New Urban-

78. Telephone Interview with Bryan T. Havir, *supra* note 8.

79. *See supra* text accompanying notes 8-12.

80. Interview with Bryan T. Havir, *supra* note 8.

81. E-mail from John Ungar, Senior Dir. of Sustainability & Educ., Ogontz Ave. Revitalization Corp., to author (July 12, 2010, 16:54 EST) (on file with author).

82. Hoyt & Gopal-Agge, *supra* note 2, at 947.

83. *See* Margaret E. Banyan, *Making Civic Capacity Work Through Business Improvement Districts*, 68 PUB. ADMIN. REV. 933, 935 (2008) (book review).

84. NAT'L CIVIC LEAGUE, *THE CIVIC INDEX: MEASURING YOUR COMMUNITY'S CIVIC HEALTH* 13, (2d ed. 1999).

ism Movement among urban planners and architects.⁸⁵ BIDs can help foster a sense of place, sustainable development, pedestrian-friendly business districts, as well as business success—all of which are benefits promoted by New Urbanism.⁸⁶

A. Origin Without Controversy

Even though Philadelphia needed to adopt a new ordinance, both municipalities approved the GCABID without controversy. Two common problems that often lead to controversy during the creation of BIDs were not present in this case: neighborhood-district fairness⁸⁷ and high transaction costs.⁸⁸

First, opposition from other neighborhoods based on fairness concerns did not arise in either municipality.⁸⁹ In some municipalities, critics suggest, BIDs are formed primarily in affluent areas using tax revenue to improve services while leaving lower-quality public services for poor areas unable to form a BID.⁹⁰ Elected officials representing those neglected neighborhoods have an incentive to oppose the BID. Such a scenario did not play out in Cheltenham or Philadelphia. Ward-based township and city elected officials did not express any concern that their neighborhoods were unfairly treated by the creation of the GCABID.⁹¹ The low-income profile⁹² of the

85. See Mark S. Davies, *Business Improvement Districts*, 52 WASH. U. J. URB. & CONTEMP. L. 187, 205–223 (1997). Davies summarizes New Urbanism as a development approach that promotes creating communities that have a center where mixed-use activities occur, where public spaces are designed for citizens to gather, where public buildings (e.g., libraries and schools) are featured in the community's center, and where transportation is pedestrian-friendly, all while satisfying the principle of sustainable design.

86. See *id.* at 213–15; Briffault, *supra* note 3, at 473–74.

87. Briffault, *supra* note 3, at 376, 463; Davies, *supra* note 85, at 221.

88. Susan E. Baer & Richard C. Feiock, *Private Governments in Urban Areas: Political Contracting and Collective Action*, 35 AM. REV. PUB. ADMIN. 42, 46 (2005).

89. Various sources previously cited (e.g., city council minutes and interviews) indicate that no opposition arose in either Cheltenham Township or Philadelphia—no business submitted objections in either community, and both ordinances passed unanimously. See *June 11, 2008 Hearing*, *supra* note 24, at 99–110 (statements of Andrew Frishkoff, Director, Neighborhood Econ. Dev., Phila. Commerce Dep't; Denise Holloway, Legislative Assistant, Phila. Office of State Rep. Dwight Evans; and Tyrone Holland, Director, Econ. Dev., OARC); Telephone Interview with Paul Greenwald, *supra* note 24; Telephone Interview with Bryan T. Havar, *supra* note 8.

90. Briffault, *supra* note 3, at 376, 463; Davies, *supra* note 85, at 221.

91. Interview with Paul Greenwald, *supra* note 24; Interview with Bryan T. Havar, *supra* note 8; see *June 11, 2008 Hearing*, *supra* note 24, at 99–110 (statements of Andrew Frishkoff, Director, Neighborhood Econ. Dev., Phila. Commerce Dep't; Denise Holloway, Legislative Assistant, Phila. Office of State Rep. Dwight Evans; and Tyrone Holland, Director, Econ. Dev., OARC).

GCABID, as well as the existence of other neighborhood BIDs in Philadelphia, likely helped to prevent a fairness issue from arising.

Second, the transaction costs involved in negotiating the GCABID agreement were not a barrier to getting a deal. In some municipalities, negotiating a BID's details—including the boundaries, tax rates, and services—generates opposition among businesses in the area and among other stakeholders.⁹³ The pattern of cooperation existing in the years preceding the formation of the GCABID provided the necessary foundation for business leaders and public officials to share information to coordinate their efforts and secure an agreement with relative ease. The leaders in both municipalities could see “the opportunity for all parties to gain.”⁹⁴

B. Collecting and Allocating Resources

The tax revenue provided by Cheltenham businesses is about ten times greater than the revenue provided by Philadelphia businesses.⁹⁵ The call for tax-exempt nonprofits to donate resources can help address this disparity and is consistent with practices in about 50% of BIDs in the United States, which have nonprofits contributing resources in lieu of paying taxes.⁹⁶ In addition, neighborhood-based BIDs often receive government grants to supplement revenues generated from taxes and donations, and the GCABID and its partners plan to pursue grants during the implementation of initiatives as they did during the development and approval of the GCABID.⁹⁷

Finally, the allocation of revenue to projects could become an issue. Will the permanent board of directors spend to support projects primarily along Cheltenham Avenue and avoid any claim that township properties are not getting spending proportional to their contributions, or will resources flow to projects no matter on which side of the border they are located? The first project supported by the GCABID's interim board involved a beautification project timed

92. See *supra* text accompanying note 22.

93. Baer & Feiock, *supra* note 88, at 46.

94. See *id.* at 49.

95. The Cheltenham Township side of the GCABID contributes \$360,000, while the Philadelphia side only contributes approximately \$38,000. See *June 11, 2008 Hearing, supra* note 24, at 100-03 (statement of Andrew Frishkoff, Director, Neighborhood Econ. Dev., Phila. Commerce Dep't); *July 11, 2008 Hearing, supra* note 24, at 100-03.

96. Hoyt & Gopal-Agge, *supra* note 2, at 949.

97. Robert J. Stokes, *Business Improvement Districts and Inner City Revitalization: The Case of Philadelphia's Frankford Special Services District*, 29 INT'L J. OF PUB. ADMIN. 173, 179 (2006).

to coincide with the jazz festival supported by the OARC in Philadelphia. This bodes well for the community if the board uses a decision-making process focused on worthwhile projects rather than on proportional thinking. As Cheltenham Commissioner Greenwald commented, “[w]hatever is done on the one side of the avenue will be beneficial to the other side of the avenue.”⁹⁸ But, as a permanent board chosen by the assessment-paying property owners replaces the interim board in 2011, the potential exists for property owners and businesses on the Cheltenham Township side of the avenue to want more spending proportional to their contributions. The GCA-BID’s executive director will need to work with property owners to build a sense of shared interests in the geographical area served by the GCABID.

C. Role of Executive Director

From a property-management standpoint, the executive director should be thought of as an asset manager. “The ‘right stuff’ for this kind of asset management involves some imagination and creativity, as well as skills in resources management, organization, grantsmanship, property revitalization, and in-fill development.”⁹⁹ Although this conventional job description fits the expectations for the leader of the GCABID, the job requires more than an asset manager. The ability to foster partnerships, and generally collaborate with other organizations promoting community revitalization in the GCABID area, will be important because of the limited amount of resources generated from tax revenue. Key partners identified in Part II of this Case Study will help determine the success of the GCABID. Properly allocating resources to projects sponsored by these various organizations will increase the chances of success. The GCABID’s executive director will need to think like an intergovernmental and intersectoral public administrator who nurtures and leads a network of government, for-profit, and nonprofit organizations in a “shared-power world.”¹⁰⁰

98. Telephone Interview with Paul Greenwald, *supra* note 24.

99. Richard G. Williams, *Business Improvement Districts*, J. PROP. MGMT., May/June 1996, at 21, 22.

100. Barbara C. Crosby, *Leading in a Shared-Power World*, in HANDBOOK OF PUBLIC ADMINISTRATION 614 (James L. Perry ed., 1996).

V. CONCLUSION

The goodwill existing among officials and community leaders offers a promising start for the GCABID. Fostering a common vision among property owners and linking the GCABID's business focus to the broader agenda found among the community revitalization initiatives sponsored by other organizations, like the OARC and the CTCDC, presents great potential for success, despite the GCABID's modest annual revenues. The executive director will need to build relationships with stakeholders in both municipalities to be successful. In addition to restoring and enhancing the profitability of businesses in the area, bridging the jurisdictional boundary to foster a sense of community among citizens living apart from one another would be a noteworthy accomplishment.