

## THERE IS NO LINE: THE CITY AVENUE SPECIAL SERVICES DISTRICT

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### I. INTRODUCTION

The City Avenue Special Services District (City Avenue SSD) began operations in 1999 after nearly a decade of planning, brokering, and partnering between officials in the City of Philadelphia (spearheaded by then-Councilman Michael Nutter), Lower Merion Township Commissioners Joseph Manko and James Ettleson, and State Representative Lita I. Cohen. The primary objectives propelling the creation of the district and guiding initial operations included fostering a spirit of cooperation between the city and its neighboring suburb, reducing crime, and promoting business, commerce, and physical improvements along the corridor.<sup>1</sup> These objectives align with national trends related to the creation of business improvement districts (BIDs). BIDs “can provide a neighborhood with an institutional means for crafting and implementing strategies for area development, marketing, and attracting new investment.”<sup>2</sup>

A related theme throughout the district’s operations and activities has been redefining perceptions of the City Avenue corridor. Over the years, many Philadelphians have incorrectly referred to Route 1 as “City Line Avenue.” However, as State Representative Lita I. Cohen remarked, “There is no line . . . It’s just another street. We’re all in this together. It’s one neighborhood.”<sup>3</sup>

The City Avenue SSD is quite unique, as it was the first in the nation to span multiple jurisdictions: its territory includes parts of both

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1. Natalie Kostelní, *City Ave. Special District's Mission Extended*, PHILA. BUS. J., Dec. 19, 2003, at 8.

2. Richard Briffault, *A Government for Our Time? Business Improvement Districts and Urban Governance*, 99 COLUM. L. REV. 365, 370 (1999).

3. Stephanie A. Stanley, *City Avenue Moves Closer to New District / Property Owners Accepted a Tax Increase. L. Merion, Phila. Council OKs Are Expected*, PHILA. INQUIRER, Nov. 10, 1998, at B1.

the City of Philadelphia and Lower Merion Township. Specifically, the City Avenue SSD encompasses a 2.8 mile-long stretch of City Avenue (Route 1) and the immediate bordering neighborhoods from Wynnewood Road/North 63rd Street on the west to Interstate 76 on the east. It also includes the Bala Avenue corridor. A board of directors comprised of eighteen members (nine from Philadelphia and nine from Lower Merion) governs the district. Board members own commercial or industrial property in the district, or are merchants.<sup>4</sup>

Since the City Avenue SSD's inception, a variety of events and accomplishments could be considered key moments in the history of the district and warrant further investigation. Certainly, the creation of the district was noteworthy in and of itself, requiring collaboration between diverse cadres of stakeholders. The district's successes over the years illustrate a model for a mutually beneficial partnership between a city and its suburban neighbor. The twenty-year re-authorization in 2002 also marked a critical moment, representing an important affirmation of the district's achievements in crime reduction and physical improvements to the area. It has, however, been the path forged since the reauthorization—and in particular, since 2006—that stands out most of all. With excellent progress on the initial goals of the district, the leadership of the organization pursued an ambitious new agenda. This plan, which focused on "solidify[ing] City Avenue's identity and creat[ing] an ambiance for visitors,"<sup>5</sup> has culminated in the proposal of new zoning districts to redefine the avenue's patterns of development and pedestrian traffic.

## II. CITY AVENUE'S CONTEXT: WHO, WHAT, WHEN, AND WHY?

### A. Demographic Information

Portions of five different census tracts in the City of Philadelphia—116, 117, 120, 121, and 122—and two in Montgomery County—2043 and 2045—comprise the City Avenue SSD. Taken together, these seven tracts are approximately 60% white, 33% black, and 4% Asian.<sup>6</sup> In 1999, the median household income across these districts

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4. CITY AVENUE BUSINESS ALLIANCE, <http://www.cityave.org/management.php> (last visited Nov. 8, 2010).

5. Natalie Kostelni, *Changes Afoot for City Avenue*, PHILA. BUS. J., June 16, 2006, at 1.

6. *American FactFinder*, U.S. CENSUS BUREAU, <http://factfinder.census.gov/> (follow "Data Sets" hyperlink; then click "Census 2000"; follow "Quick Tables" hyperlink under "Census 2000 Summary File (SF 1) 100-Percent Data"; then select "Census Tract" under "Select a geographic type"; then select "Pennsylvania" under "Select a state"; then select "Philadelphia

was \$49,372, and approximately 16% of people lived below the poverty level.<sup>7</sup> The 2000 median housing value was around \$160,000.<sup>8</sup>

There is variation between each of the census tracts comprising the district—and particularly notable differences between the sections in Philadelphia and those in Lower Merion Township. The five city tracts are significantly more diverse, and less affluent than the two in Lower Merion Township. For example, the Lower Merion portion of the district is approximately 91-93% white,<sup>9</sup> whereas the Philadelphia sections range from 24%<sup>10</sup> to 65% white.<sup>11</sup> The housing

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County" under "Select a county"; then select tracts 116-17, and 120-22; then click "Add"; then select "Montgomery County" under "Select a county"; then select tracts 2043 and 2045; then click "Add"; then click "next"; then click "DP-1 Profile of General Demographic Characteristics: 2000" under "Show all tables"; then click "Add"; then click "Show Result").

7. *Id.* (follow "Data Sets" hyperlink; then click "Decennial Census"; then click "Census 2000 Summary File 3 (SF 3) - Sample Data"; then click "Quick Tables" hyperlink; 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 116-17, and 120-22; then click "Add"; then select "Montgomery County" under "Select a county"; then select tracts 2043 and 2045; then click "Add"; then click "Next"; then select "DP-3 Profile of Selected Economic Characteristics: 2000" and "Qt-P34, Poverty Status in 1999 of Individuals: 2000" under "Show all tables"; then click "Add"; then click "Show Result").

8. See *id.* (follow "Data Sets" hyperlink; then click "Decennial Census"; then click "Census 2000 Summary File 3 (SF 3) - Sample Data"; then click "Quick Tables" hyperlink; 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 116-17, and 120-22; then click "Add"; then select "Montgomery County"; then select tracts 2043 and 2045; then click "Add"; then click "Next"; then select "DP-4 Profile of Selected Housing Characteristics: 2000" under "Show all tables"; then click "Add"; then click "Show Result").

9. *Id.* (follow instructions provided *supra* note 6).

10. *Id.* (follow "Data Sets" hyperlink; then click "Census 2000" and follow "Quick Tables" hyperlink under "Census 2000 Summary File 1 (SF 1) 100-Percent Data"; then under "Select a geographic type," select "Census Tract"; then select "Pennsylvania" under "Select a state"; then select "Philadelphia County" under "Select a county"; then select tract 120; then click "Add"; then click "Next"; then select "DP-1 Profile of General Demographic Characteristics: 2000" under "Show all tables"; then click "Add"; then click "Show Result"). The boundaries of tract 120 include City Avenue, the R6 Railroad line, Wynnefield Avenue, and North 54th Street. *Id.* (follow "Data Sets" hyperlink; then click "Census 2000" and follow "Quick Tables" hyperlink under "Census 2000 Summary File 1 (SF 1) 100-Percent Data"; then under "Select geographic type," select "Census Tract"; then select "Pennsylvania" under "Select a state"; then select "Philadelphia County" under "Select a county"; then select tract 120; then click "Map It").

11. *Id.* (follow "Data Sets" hyperlink; then click "Census 2000" and follow "Quick Tables" hyperlink under "Census 2000 Summary File 1 (SF 1) 100-Percent 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 tract 117; then click "Add"; then click "Next"; then select "DP-1 Profile of General Demographic Characteristics: 2000" under "Show all tables"; then click "Show Result"). Tract 117 encompasses St. Joseph's University, a private Jesuit institution. *About St. Joseph's University*, ST. JOSEPH'S UNIVERSITY, <http://www.sju.edu/about/index.html> (last visited Nov. 8, 2010).

values illustrate a similar pattern. Lower Merion's median value for its two tracts is just under \$300,000,<sup>12</sup> whereas the Philadelphia sections' housing values range from about \$80,000<sup>13</sup> to \$164,900.<sup>14</sup> The poverty statistics trend similarly. On average, approximately one-fifth of residents earn incomes below the poverty line in the Philadelphia sections, in comparison to slightly more than 3% of residents in the Lower Merion sections.<sup>15</sup>

The director of the district described the neighborhood as "very diverse," noting, "[t]he district has the second largest office market in the region, is home to a college and a university, is the hub of the [local] television and radio broadcast community, has a large retail offering, including two hotels, and is surrounded by six unique residential neighborhoods."<sup>16</sup>

### B. Problems, Challenges, Opportunities, and Budget

One of the initial motivations for the City Avenue SSD was to reduce crime.<sup>17</sup> Shortly after the district began operations, it hired community service representatives to patrol the area. The representatives share a common radio band with the Lower Merion and Philadelphia police.<sup>18</sup> Lower Merion Township and the City of Philadelphia Police Department also partnered together to share information on crime and to deal with other public safety concerns.<sup>19</sup>

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12. See *American FactFinder*, *supra* note 6 (follow "Data Sets" hyperlink; then click "Census 2000" and follow "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 "Montgomery County" under "Select a county"; then select tracts 2043 and 2045; then click "Add"; then click "Next"; then select "DP-4 Profile of Selected Housing Characteristics: 2000" under "Show all tables"; then click "Add"; then click "Show Result").

13. *Id.* (follow "Data Sets" hyperlink; then click "Census 2000" and follow "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 tract 121; then click "Add"; then click "Next"; then select "DP-4 Profile of Selected Housing Characteristics: 2000" under "Show all tables"; then click "Add"; then click "Show Result").

14. *Id.* (follow instructions provided *supra* note 13).

15. *Id.* (follow instructions provided *supra* note 7).

16. Terrence Foley, President & CEO, City Ave. SSD, Response to *Philadelphia BID Director Survey*, Ctr. for Pub. Policy, Drexel Univ., (Sep. 28, 2009) [hereinafter Foley, *Survey Response*].

17. Jack Roberts, *Cooperative Bridge Between City, Suburb*, PHILA. BUS. J., Nov. 22, 1996, at 17.

18. Patrick Kerkstra, *Partnership Helps Revive Golden Mile*, PHILA. INQUIRER, Dec. 21, 1999, at B1.

19. *Id.*

As Lower Merion Commissioner James Ettleson noted, Lower Merion and Philadelphia meet “captain to captain.”<sup>20</sup>

Crime rates declined, and businesses reported satisfaction with the efforts. By 2001, instances of the most severe categories of crime had dropped one-third to one-half, and robberies and burglaries were down by 20%.<sup>21</sup> By the summer of 2008, the area had seen a decline of 60% in crime “[s]ince the district set up shop.”<sup>22</sup> In a recent interview with the district director and CEO, Terrence Foley, he noted this as the greatest accomplishment of the district—in his words: “The numbers don’t lie.”<sup>23</sup> Foley also noted the continued priority for safety and crime prevention as part of the district’s operations. For example, in 2008 the district purchased Segways for the community service representatives in order to further promote safety efforts.<sup>24</sup>

The initial budget for the district was \$825,000.<sup>25</sup> It has slightly increased over the last three years. The 2009 budget was approximately \$1 million.<sup>26</sup> The projected budget for 2013 is approximately \$1.4 million.<sup>27</sup> When asked about current problems facing the district, Foley identified street lighting as one “big problem,” saying, “[l]ighting is provided by overhead cobra lights that light the street but not the sidewalk.”<sup>28</sup> Foley indicated that “poorly maintained property” and “conditions of sidewalks” were “small problems” facing the district.<sup>29</sup>

Foley noted the importance of physical changes to the landscape of the district to finally break perceptions about City Avenue being

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20. *Id.*

21. Derek Harper, *Crime Statistics Show City Avenue Renewal*, MAIN LINE SUBURBAN LIFE (Feb. 22, 2001), [http://mainlinemedianews.com/articles/2001/02/22/main\\_line\\_suburban\\_life/top%20stories/1447850.txt](http://mainlinemedianews.com/articles/2001/02/22/main_line_suburban_life/top%20stories/1447850.txt).

22. *Super Safe City Ave Latest Numbers In – Both Thumbs Are Still Up*, CITYAVE NEWS (Bala Cynwyd, Pa.), Summer 2008, at 1, available at [http://cityave.org/publications\\_maps.php](http://cityave.org/publications_maps.php) (follow “Summer 2008 CityAve News”).

23. Interview with Terrence Foley, President & CEO, City Ave. SSD, in Bala Cynwyd, Pa. (Dec. 10, 2009).

24. *Some CSRs Trade Their Two Wheels for Well, Two Wheels*, CITYAVE NEWS (Bala Cynwyd, Pa.), Fall 2008, at 1, available at [http://cityave.org/publications\\_maps.php](http://cityave.org/publications_maps.php) (follow “Fall 2008 CityAve News”).

25. Stanley, *supra* note 3.

26. Interview with Terrence Foley, *supra* note 23.

27. CITY AVE. SPECIAL SERVS. DIST., BUDGET AND PLAN 2009–2013, at 5 [hereinafter BUDGET 2009–2013].

28. Foley, *Survey Response*, *supra* note 16. The survey contained 15 possible issues to choose from in this respect.

29. *Id.*

unsafe (even in light of the sharp decreases in crime). He reported notable recent progress in this regard—citing the 54th Street Development, a project in which the district partnered with Saint Joseph's University to improve the aesthetics and street lighting of the area.<sup>30</sup> He emphasized that advancements in this area have been, and will continue to be, a high priority for the district.<sup>31</sup> Many of these plans are also linked to new zoning regulations in three areas of the district—the easternmost section near Interstate 76, the Bala Cynwyd Village, and the Overbrook Farms area. The primary goals of the changes are to increase pedestrian traffic, to improve the aesthetic appeal of the area, and to promote mixed-use development.<sup>32</sup>

In the most recent budget document, City Avenue SSD noted how the proposed zoning changes will have many other positive effects for the community—for example, “more high-end residential areas, a fresh sense of character, and an improved sense of public safety with the refreshed-looking buildings.”<sup>33</sup> The budget document also reflected an expectation of increased tax revenues for both Lower Merion and Philadelphia, as well as economic development more broadly. The potential economic benefits for the participating municipalities, however, were not the only motivating force behind the new zoning within the district. As the document stated, “It will also create a sense of place, and along with that, a better perception of safety. Bordering neighborhoods will also benefit from the positive changes in the district.”<sup>34</sup> This Case Study discusses in subsequent sections the details of the processes linked with these changes. As the effects of the zoning changes play out in the coming years, it will be important to evaluate achievement of these stated benefits.

### C. District Connections

The district has no formal operating relationships with any of the following: community development corporations, Main Street programs, workforce development programs, civic associations, or local chambers of commerce.<sup>35</sup> Additionally, Foley reported that he rarely interacts with other BIDs in Philadelphia, but does maintain close

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30. Interview with Terrence Foley, *supra* note 23.

31. *Id.*

32. Diane Mastrull, *Time for a Change of Scenery*, PHILA. INQUIRER, Nov. 30, 2008, at C1.

33. BUDGET 2009–2013, *supra* note 27, at 2.

34. *Id.*

35. Foley, *Survey Response*, *supra* note 16.

working relationships with Lower Merion Township.<sup>36</sup> While he reported frequent contacts with the Philadelphia City Council and the Philadelphia Police Department, noting that both have been very responsive to the needs of the district, involvement with the Mayor's office, the Streets Department, the Department of Licenses and Inspections, and the Commerce Department is less common.

Denis Murphy, of the Office of Neighborhood Economic Development in the Philadelphia Department of Commerce, discussed the low level of interaction between the districts in the city, including City Avenue SSD, and the Commerce Department over the years, noting that in the past, districts would often turn to the Center City District or outside consultants for advice, rather than his office.<sup>37</sup> He did, however, say that there have been recent efforts to coordinate and partner more effectively, beginning with simple interactions such as visits to and conversations with the districts.<sup>38</sup> He attributed this as "part of the city's greater orientation towards neighborhood commercial areas."<sup>39</sup>

Finally, Foley noted that property owners and the district's board of directors were "absolutely critical," residents and business owners were "very significant," and the district staff was "significant" to shaping policies, decisions, or actions of the district.<sup>40</sup>

### III. HISTORY AND EVOLUTION

Lower Merion Township and the City of Philadelphia each passed ordinances creating the City Avenue SSD in late 1996.<sup>41</sup> The Commonwealth of Pennsylvania officially incorporated the district on August 13, 1997.<sup>42</sup> Shortly thereafter, in late 1998, both the City of

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36. *Id.*

37. Telephone Interview with Denis Murphy, Am. St. Bus. Organizer, Phila. Dep't of Commerce (Dec. 1, 2009).

38. *Id.*

39. *Id.*

40. Foley, *Survey Response*, *supra* note 16.

41. See Phila., Pa., Ordinance No. 960561 (Dec. 18, 1996); Lower Merion, Pa., Ordinance No. 3432 (Nov. 20, 1996).

42. PA. DEP'T OF STATE, <https://www.corporations.state.pa.us/corp/soskb/csearch.asp> (enter "City Avenue Special Services District" under "Search for a Business Entity"; then select "Search"; then click "City Avenue Special Services District of Philadelphia and Lower Merion") (last visited Nov. 8, 2010).

Philadelphia and Lower Merion approved resolutions with the first five-year plan for the district.<sup>43</sup>

Local elected officials at the city, township, and state level originated the idea for the City Avenue Special Services District in the early 1990s.<sup>44</sup> State Representative Lita I. Cohen<sup>45</sup> (District 148) and Lower Merion Commissioner Joseph Manko were among its earliest champions, and were later joined by Michael Nutter, then-Philadelphia City Council Member from District Four (which includes the City Avenue SSD) and the then-Lower Merion Commissioner James Ettleson.<sup>46</sup> All of these individuals worked with "property owners, institutional leaders, and business leaders to shape the district concept and gather their support."<sup>47</sup> Councilman Nutter became the chief sponsor of the original authorizing legislation in the Philadelphia City Council. Reflecting back on her initiative to create the district, Representative Cohen observed, "I saw City Avenue get a little tired. Real estate values started to decline when the crime began to rise. I realized something had to be done—but it had to be a cooperative effort, not just on the Lower Merion side."<sup>48</sup>

The creation of the district was quite notable in that it was the first in the nation to encompass multiple jurisdictions.<sup>49</sup> Its creation did not appear to be contentious based on the available City Council records detailing the approval of its first five-year plan.<sup>50</sup> On November 17, 1998, the rules committee took up Bill Number 980749. David L. Cohen,<sup>51</sup> the first director of the district, testified on the bill's be-

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43. Hearing on Bill No. 980750, Bill No. 980749, Bill No. 970549, and Bill No. 960822 Before the Comm. on Rules, 21-30 (Phila., Pa. Nov. 17, 1998), available at <http://legislation.phila.gov/transcripts/public%20hearings/rules/1998/ru111798.pdf> [hereinafter Hearing on Bill No. 980749].

44. Roberts, *supra* note 17, at 17.

45. Foley referred to Representative Lita Cohen informally as the "mother of the district." Interview with Terrence Foley, *supra* note 23. Prior to her election as a state representative, she served as a Lower Merion Commissioner.

46. Stanley, *supra* note 3.

47. District, CITYAVE, <http://cityave.org/district.php> (last visited Nov. 8, 2010). Partners include, among others, Saint Joseph's University and the Philadelphia College of Osteopathic Medicine.

48. Matthew Jaffe, *A New Start at City Avenue*, MAIN LINE TIMES, Feb. 22, 2001, at 1.

49. See Stanley, *supra* note 3.

50. PHILA., PA. CITY COUNCIL, LEGISLATIVE FILE ID 030716 (2003), available at <http://legislation.phila.gov/detailreport/?key=3351>.

51. To avoid confusion, David L. Cohen is not related to Lita Cohen, nor is he the same David L. Cohen who was former Mayor Rendell's Chief of Staff.

half, offering a brief history of the district.<sup>52</sup> Councilman Nutter also spoke and read a letter from Representative Lita Cohen, who was unable to attend the proceedings in person. This letter asked the Council for their support of the ordinance. She wrote:

The plan before you is responsible and responsive, serving the needs of the community while operating under a thoughtfully prepared budget. Its approval is essential to the continued development of the District. Public approval of the plan has been overwhelming. In fact, only 5 percent of the District stakeholders did not approve of the plan as submitted.<sup>53</sup>

The stakeholders to whom Representative Cohen referred included the commercial and industrial property owners. As part of the creation of the district, agreement of these owners to a 6% property tax increase was necessary.<sup>54</sup> They had forty-five days to object in writing; to prevent the district's creation, one-third needed to object, but less than 5% ultimately did.<sup>55</sup>

At the rules committee meeting, Councilman Nutter offered an amendment with a clarified map of the district. Councilman David Cohen (no relation to either David L. Cohen or Representative Cohen) then asked a point of clarification to David L. Cohen regarding the budget of the district. Discussion of the bill then ended. At the conclusion of the committee meeting, the members voted unanimously in support of the amended bill and for a first reading of the bill at the next council meeting. This occurred November 19, 1998; the final reading and vote occurred on December 3, 1998. The bill passed, 14–0.

The next legislative highlight in the district's history was Bill Number 020486, extending the incorporation of the district through 2022, which was signed by the mayor on November 13, 2002.<sup>56</sup>

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52. At that point, Cohen had not yet been named director. According to the Rules Committee transcript he was a consultant to the district. *Hearing on Bill No. 980749, supra* note 43, at 22–24.

53. *Id.* at 21–30 (statement of Michael A. Nutter, Councilman, Phila. City Council (quoting Lita Cohen, State Representative)).

54. Stanley, *supra* note 3.

55. *Id.*

56. Phila., Pa., Ordinance No. 020486 (Oct. 24, 2002); PHILA., PA. CITY COUNCIL, LEGISLATIVE FILE ID 020725 (2002), available at <http://legislation.phila.gov/detailreport/?key=2495>.

Shortly thereafter, city council approved and the mayor signed into law a new twenty-year plan for the special services district.<sup>57</sup>

The rules committee discussion of this bill involved testimony by Duane Bumb, the Deputy Director of Commerce, and David L. Cohen, the Executive Director of the district.<sup>58</sup> Both highlighted the achievements of the district in its first five years of operation. City Council unanimously passed the bill on December 4, 2003.<sup>59</sup>

There have been many major operational milestones throughout the history of the district. Certainly, the creation and the twenty-year reauthorization were noteworthy moments. Early on, the district was specially recognized for its work, receiving awards in 1999 and 2001, respectively, from the Pennsylvania Planning Association (Recognition Award for Special Community Initiative) and the Governor of Pennsylvania (Award for Excellence in Local Government).<sup>60</sup> Over the years, the leadership of the district has been key to its successes. The initial executive director, David L. Cohen, as well as the current director, Terrence Foley, have been strong managers as well as passionate advocates in promoting the mission and trajectory of the district. Other critical and noteworthy junctures have involved efforts focused on the branding, marketing, and general economic development. These have been met with varied levels of success.

An example of an early disappointment for the district was the City Avenue Regional Transit (CART) bus. This route was initiated by the district in 2001, yet was discontinued in 2003 due, in part, to a lack of funding.<sup>61</sup> One of the recent highlights was in 2004, when "a jazzy 28-foot sign [reading 'City Ave'] in purple script above the busy avenue" was unveiled as a sort of gateway to the district.<sup>62</sup> This was a clear manifestation of the district's efforts to remove the word "line" from people's description of City Avenue. As one

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57. PHILA., PA. CITY COUNCIL, LEGISLATIVE FILE ID 030716 (2003), available at <http://legislation.phila.gov/detailreport/?key=3351>.

58. Hearing on Bill No. 030686, Bill No. 030716, and Bill No. 030719 Before the Comm. on Rules, 69–73 (Phila., Pa. Nov. 18, 2003) (statements of Duane Bumb, Deputy Director of Commerce, and David L. Cohen, Executive Director, City Ave. SSD), available at <http://legislation.phila.gov/transcripts/Public%20Hearings/rules/2003/ru111803.pdf>.

59. Session on Bill No. 030716 Before the Council of the City of Phila., 99 (Phila., Pa. Dec. 4, 2003), available at <http://legislation.phila.gov/transcripts/Stated%20Meetings/2003/sm120403.pdf>.

60. Jaffe, *supra* note 48.

61. Kostelní, *supra* note 1.

62. Matthew P. Blanchard, *Holding Line on Accuracy – By Holding 'Line' on Sign*, PHILA. INQUIRER, Mar. 10, 2004, at B4.

newspaper article noted, "By avoiding the notion of *line*, district founders such as Nutter and Manko hope to downplay the racial, economic, and political divisions between West Philadelphia and the Main Line, which meet across the four lanes of traffic."<sup>63</sup> Mayor Nutter's campaign in this regard was so passionate that he even drove on City Avenue searching for any street signs incorrectly reading "City Line."<sup>64</sup>

The City Avenue SSD has continued to make this rebranding a central focus of its work. In 2007, the district added lights to the "City Ave" sign and began a major marketing campaign, unveiling a new logo and slogan for the district: "The Smart Spot."<sup>65</sup> The goal of these efforts was to emphasize and highlight the recent improvements—reduced crime, improved sidewalks and street lighting, and new retail development—that have made City Avenue a more pleasant place to live, work, and conduct business.<sup>66</sup> These efforts, which have culminated in the proposal of new zoning within the district to redefine the patterns of development and pedestrian traffic on the avenue, constituted a series of critical developmental moments for the district.

#### IV. A NEW ERA FOR THE CITY AVENUE SPECIAL SERVICES DISTRICT

With excellent documented progress on the initial goals of the district, which focused on crime reduction and rebranding, and a new executive director at the reigns, the City Avenue SSD forged ahead to meet an ambitious new agenda. This began a developmental era for the district, focused on "solidify[ing] City Avenue's identity and creat[ing] an ambience for visitors."<sup>67</sup> The culmination is in the proposal of new zoning to redefine the patterns of development and pedestrian traffic. Foley himself identified creation of a zoning overlay as the single most ambitious initiative of the district.<sup>68</sup>

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63. *Id.*

64. *See id.*

65. *Oh What a Night! CABA Gathering, Bridge Lighting, Awards Ceremony, CITYAVE NEWS* (Bala Cynwyd, Pa.), Fall 2007, at 1, available at [http://cityave.org/publications\\_maps.php](http://cityave.org/publications_maps.php) (follow "Fall 2007 CityAve News"); *Presenting City Ave District's Fresh New Look – Check Out Our Shiny New Logo!, CITYAVE NEWS* (Bala Cynwyd, Pa.), Spring 2007, at 1, available at [http://cityave.org/publications\\_maps.php](http://cityave.org/publications_maps.php) (follow "Spring 2007 CityAve News").

66. See *Oh What a Night! CABA Gathering, Bridge Lighting, Awards Ceremony, supra* note 65; *Presenting City Ave District's Fresh New Look – Check Out Our Shiny New Logo!, supra* note 65.

67. Kostelní, *supra* note 5.

68. Foley, *Survey Response, supra* note 16.

In 2006, the City Avenue SSD began work on a strategic plan focused on formalizing and setting these goals in motion. Foley was an important leader of this project, and its subsequent implementation.<sup>69</sup> The board of directors as well as elected officials and staff from both Lower Merion and Philadelphia were important to the process. There was essentially no dissent within the board with respect to the proposed zoning changes.<sup>70</sup> Foley explained that the motivation for the plan was “the perception . . . that [City Avenue is not] a super-safe place to be . . . We needed to do more in terms of changing the image.”<sup>71</sup> The actual planning, debate, and legislation dealing with the changes in zoning followed. In response to the patterns of uneven commercial development due to the heavier taxes imposed by the City of Philadelphia, very early discussions had also considered a tax equalization zone in order to “create an even playing field for developers on both” sides of the avenue.<sup>72</sup> The zoning ordinances, however, were the ones to ultimately move forward.

The process began in June 2007 with a Request for Proposals (RFP). As stated in the RFP, “[t]ransforming a corridor from a primarily auto oriented drive-through to a pedestrian friendly, successful, vibrant and highly desirable diverse community [was] the ultimate goal . . .”<sup>73</sup> By August 2007, the district received and evaluated eleven proposals, creating a short list of four firms. It ultimately interviewed three—removing one due to cost—and selected one.<sup>74</sup> The process informing the creation of the plan involved stakeholder interviews; a steering committee of thirteen members with diverse professional experiences to provide guidance to the zoning overlay team; and an advisory committee comprised of the steering committee, three representatives from civic associations, and City Avenue SSD board members. Ultimately, they enumerated five goals for the corridor: first, “[m]aximize development opportunities”; second, “[a]ttract high-quality regional tenants to contribute to the tax base”; third, “[p]rovide competitive amenities”; fourth, create a “[s]tate-of-

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69. Interview with Eric Persson, Econ. Dev. Specialist, Lower Merion Twp., in Lower Merion, Pa. (Dec. 22, 2009).

70. Interview with Terrence Foley, President & CEO, City Ave. SSD, in Bala Cynwyd, Pa. (June 10, 2010).

71. Sean Scully, *City Ave. Putting on a New Face*, PHILA. BUS. J., Nov. 23, 2007, at P1.

72. Kostelní, *supra* note 5.

73. TWP. OF LOWER MERION, REQUEST FOR PROPOSAL FOR PROFESSIONAL PLANNING & CODE ANALYSIS SERVICES FOR THE CITY AVENUE CORRIDOR ZONING OVERLAY DISTRICT 5 (June 27, 2007), available at [http://dvRPC.org/Data/rfps/2007-06\\_CityAve.pdf](http://dvRPC.org/Data/rfps/2007-06_CityAve.pdf).

74. CITY AVENUE CORRIDOR ZONING RECOMMENDATIONS 2 (Nov. 5, 2008), available at <http://www.lowermerion.org/Modules>ShowDocument.aspx?documentid=1661>.

the-art integrated transportation system"; and fifth, develop a "[w]alkable work, live, play, shop, and learn environment."<sup>75</sup>

The legislative process for the zoning changes began on February 5, 2009. Councilmember Jones (District 4) introduced the bills, which created new sections in the Philadelphia Zoning Code for the "Overbrook Farms Transit-Oriented Center Special District"<sup>76</sup> and the "City Avenue Regional Center and Village Center Special District."<sup>77</sup>

Bill Number 090071 "create[d] a new zoning overlay in this area [Overbrook Farms], which prohibits a number of mostly auto-related uses, and permits commercial office use in residentially zoned properties."<sup>78</sup> The overlay also included design standards for buildings—for example, repairing and replacing original materials with matching details—and created requirements for signage, such as guidelines for size, placement, and illumination. The motivation for the overlay was "to protect the unique character of the district, foster the preservation of buildings in accordance with its special character, and encourage new compatible development."<sup>79</sup>

Bill Number 090072 was a more substantial piece of legislation, creating the Regional Center District in the easternmost portion of City Avenue (including the section near I-76, the gateway sign, and the new Target shopping area) and an overlay for the Village Center District (in the Bala Cynwyd section). Specifically, the Regional Center zoning was formulated in response to the current landscape of many buildings surrounded by parking lots and the lack of any real center or public space.<sup>80</sup> The planning principles guiding the new zoning regulations were mixed-use development, wider sidewalks, and an emphasis on greening.<sup>81</sup> The Village Center zoning was developed in response to, among other things, "[a]uto oriented retail[,] [n]arrow sidewalks[,] [m]ultiple curb cuts[,] [and] [c]luttered sign-

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75. *Id.* at 5.

76. Phila., Pa., Ordinance No. 090071 (codified as amended at PHILA., PA., CODE ch. 14-1600, § 1641 (2009)).

77. Phila., Pa., Ordinance No. 090072 (codified as amended at PHILA., PA., CODE ch. 14-1600, § 1637 (2009)).

78. PHILA. PLANNING COMM'N, MEETING MINUTES 9-10 (Mar. 17, 2009), <http://phila planning.org/pubinfo/minutes/3-17-09%20mins.pdf> (statement of William Kramer, Director, Phila. City Planning Comm'n, Dev. Planning Div.).

79. Phila., Pa., Ordinance No. 090071, at 1 (codified as amended at PHILA., PA., CODE ch. 14-1600, § 1641(1)(a) (2009)).

80. CITY AVENUE CORRIDOR ZONING RECOMMENDATIONS, *supra* note 74, at 45–47.

81. *Id.* at 48.

age.”<sup>82</sup> The final bill included common design controls for both districts as well as more individualized requirements. For example (and similar to the Overbrook bill), in both areas the bill prohibited certain commercial uses, including auto sales and repairs and car washes.<sup>83</sup> Building setbacks were slightly different for each area, though. In the Regional Center on City Avenue, the bill required a minimum of twenty-five feet and a maximum of forty feet, whereas the specified distance in the Village Center was a minimum of twenty feet, and maximum of thirty feet.<sup>84</sup> Other design controls included in the bill addressed impervious cover; building height; automobile and bicycle parking; floor area ratio (FAR); public walkways; the number, size, and positioning of signs; and trees.<sup>85</sup>

After going through the Philadelphia City Council’s Rules Committee in February, 2009, the Philadelphia City Planning Commission (PCPC) approved Bill Number 090071 on March 17, 2009, with two amendments. The first amendment suggested removing a section from the ordinance that required staff from the PCPC to perform a historic review of properties in the district.<sup>86</sup> Noting that the area was not yet a historic district but would likely become one in the future, the PCPC contended that the historic review was outside their expertise, and thus, responsibilities should remain with the Philadelphia Historic Commission.<sup>87</sup> The second amendment relieved the PCPC of a responsibility to coordinate Art Commission reviews. They contended that it was more appropriate and expedient for the Art Commission and the PCPC to perform their duties independently.

On June 9, 2009, the PCPC conditionally approved the bill creating the Regional and Village Centers.<sup>88</sup> The approval process for this bill took slightly longer than it had for Bill 090071 and resulted only in “conditional approval” from the PCPC. This is because it was more complicated than Bill 090071, and the legal department was working on the specific language of the bill at the time. Exactly what

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82. *Id.* at 45 (bullet points omitted).

83. Phila., Pa., Ordinance No. 090072, at 6 (codified as amended at PHILA., PA., CODE ch. 14-1600, § 1637(4)(a)-(b), (d) (2009)).

84. *Id.* at 7 (codified as amended at PHILA., PA., CODE ch. 14-1600, § 1637(6) (2009)).

85. *Id.* at 8-9, 12-16, 18-22 (codified as amended at PHILA., PA., CODE ch. 14-1600, §§ 1637(10)-(11), (16)-(18), (20), (22)(b), (25)-(26) (2009)).

86. PHILA. PLANNING COMM’N, MEETING MINUTES, *supra* note 78, at 10.

87. *See id.*

88. PHILA. PLANNING COMM’N, MEETING MINUTES 6 (June 9, 2009), <http://philaplanning.org/pubinfo/minutes/6-9-09%20mins.pdf> (last visited Nov. 8, 2010).

specific language the legal department was working on was not reported. The PCPC minutes merely provided that “[t]his is a bill with a lot of moving parts.”<sup>89</sup>

Both bills were finally taken up by the rules committee on June 10, 2009.<sup>90</sup> William Kramer, Division Director of Development for the Planning Division of the PCPC, testified on behalf of both bills. He began by discussing Bill 090071, giving the committee an overview of the proposed zoning it encompassed.<sup>91</sup> He also reported that the Philadelphia Law Department’s review, including some revised technical language not specified, was incomplete.<sup>92</sup> As a result, Council President Anna C. Verna said that the bill would be held until further notice.<sup>93</sup>

Bill Number 090072 was then addressed, with somewhat heated discussion. After Kramer gave an overview of the new zoning controls, Council President Verna began by posing a question to Kramer about whether this bill “would be telling people what type of glass they would have to use and the height.”<sup>94</sup> Councilman Curtis Jones, Jr., interjected and offered some clarification on the broader motivation behind the entire City Avenue SSD and the specific zoning proposals on the table, noting, “[i]t is where—in my opinion, in my background with commercial corridors—where we should be going.”<sup>95</sup> Kramer then voiced the concerns of the PCPC—namely, that “[t]his is the first time we’re actually having significant design controls put into an ordinance that affects a rather limited area of the city, rather than a citywide approach to this.”<sup>96</sup> Although he said that many would prefer the latter, given the fact that the city was currently rewriting the zoning code, they felt it would be best if this revision was taken care of now.<sup>97</sup>

Kramer clarified the origin of the concept for zoning changes, saying, “[t]his actually came about as a coordinated effort between representatives of . . . Lower Merion and the City Avenue people. It’s

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89. *Id.*

90. *Hearing on Bill No. 090072, Bill No. 090071, Bill No. 090191, Bill No. 090412, and Bill No. 090413 Before the Comm. on Rules*, 2-6 (Phila., Pa. June 10, 2009) (statement of William Kramer, Director, Phila. City Planning Comm’n, Dev. Planning Div.), available at <http://legislation.phila.gov/transcripts/Public%20Hearings/rules/2009/ru061009.pdf>.

91. *Id.*

92. *Id.*

93. *Id.* at 5.

94. *Id.* at 10.

95. *Id.* at 12.

96. *Id.*

97. *Id.* at 12-13.

actually both a joint city and county venture . . . .<sup>98</sup> Councilman W. Wilson Goode, Jr., then asked what the “end-goal” would be. Kramer elaborated that the end goal was to make City Avenue more pedestrian-friendly.<sup>99</sup> Councilman Jones offered an example of how the improvements—particularly the wider sidewalks and greening—would be more amenable to those living in assisted living homes in the district.<sup>100</sup>

Councilman Goode then began a lengthy line of questioning about businesses and vacancy rates in the area.<sup>101</sup> In the course of the discussion, he disclosed that he lived in the district. Terrence Foley, CEO of the City Avenue SSD, was called upon to respond and ultimately clarify for Councilman Goode that the goals of the City Avenue SSD linked with the changes in zoning. Foley brought up a used motorcycle shop that had recently opened as an example, noting that it had “caused great alarm for [the City Avenue SSD] and the Wynnefield Residents Association.”<sup>102</sup> He noted that while current zoning permitted such shops, the new zoning would not.<sup>103</sup> Councilman Goode continued his line of questioning, concerned that the zoning would displace current property owners.<sup>104</sup> Again, Foley clarified, “we’re not trying to take over anything. We’re trying to encourage redevelopment of the area.” Goode continued to express confusion, and Foley again responded, “it’s more encompassing than just the redevelopment of the properties. It’s also to make it more pedestrian-friendly, to encourage transit use . . . . There’s a lot of moving pieces, . . . [in that] we’re trying to encourage continual revitalization of the area, both on the Philadelphia side and on the Lower Merion side.”<sup>105</sup>

Councilman Darrell Clarke and Councilwoman Blondell Reynolds Brown posed questions to Kramer about whether the dormitory constructed by Saint Joseph’s University on 54th Street and City Avenue reflected the new zoning regulations.<sup>106</sup> Both Kramer and

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98. *See id.* at 14–15.

99. *Id.* at 15.

100. Councilman Jones noted that the district had the highest concentration of assisted living facilities in the city while explaining that the narrow sidewalks caused difficulty for those in wheelchairs. *See id.* at 17–18.

101. *Id.* at 19–23.

102. *See id.* at 22–23 (statement of Terrence Foley, President & CEO, City Avenue SSD).

103. *Id.* at 22.

104. *See id.* at 23–27.

105. *Id.* at 26–27.

106. *See id.* at 28–36.

Foley responded, clarifying that the new zoning regulations would have mandated a wider setback of the building from the avenue and that any exceptions to that would require community notification and the approval of the Zoning Board of Adjustment.

Addressing the PCPC's concerns regarding the zoning, Kramer again noted its reluctance to see design controls implemented in a piecemeal (rather than citywide) fashion. He explained, “[W]e understand that a lot of the concerns and design standards that are in this bill are not bad and they're not necessarily ideal, but they're not going to cause harm, either.”<sup>107</sup> He also said he believed they would fit in with the zoning code being revised.<sup>108</sup> Councilman Goode again expressed concern about vacancy rates, absentee landlords, and potential disincentives to investors. Councilman Jones then contributed the following:

I just think that if we're talking about expanding our way out of this recession and creating development and incentivizing development, this is the kind of zoning we need to have. . . . [T]he membership of the special services district, the dues-paying members have all weighed in on this, and they said that this is something they want to do.<sup>109</sup>

Councilman Goode asked two more questions of clarification regarding who pays the dues and who sits on the board. In response to Councilman Goode's continued concerns, Foley explained that the property-owners pay the assessments and the district has an eighteen-member board, with nine property-owners from each municipality.<sup>110</sup> He concluded by noting that the ordinances framed for Lower Merion and Philadelphia are identical “to eliminate any advantages that may exist today for one side.”<sup>111</sup> At the conclusion of the meeting, the bill was successfully voted out of committee. It was later unanimously approved. The first reading of the bill before the full council occurred on June 11, 2009 and was passed on June 18, 2009.<sup>112</sup>

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107. *Id.* at 41.

108. *Id.*

109. *Id.* at 45.

110. *Id.* at 46–47.

111. *Id.* at 47.

112. A technical language issue led to a later amendment, Bill Number 090578, that was passed by the council on November 19, 2009, and signed by the mayor on December 1, 2009.

After some revisions to Bill Number 090071, on October 29, 2009, the rules committee revisited the bill and Kramer and Foley again testified on its behalf, noting that

[w]hile our consultant drafted the ordinance in conjunction with the City of Philadelphia Planning Commission, it is based upon the work performed for the Overbrook Farms Club by the Community Design Collaborative. The intention of this ordinance is to protect and preserve the character of the area and to better define the permitted uses. The bill has the full support of the Overbrook Farms Club and will be a key ingredient to the revitalization of this important corridor.<sup>113</sup>

Terrence Henry, president of the Overbrook Farms Club and the Overbrook Farms Civic Foundation, also testified.<sup>114</sup> There was no discussion, and the committee voted that the bill be read at the next council meeting. On November 19, 2009, the council voted in unanimous support.<sup>115</sup>

## V. CURRENT STATE OF AFFAIRS

The developmental era for the City Avenue SSD is nearing its conclusion. On the Philadelphia side, the legislative process is complete. Once Lower Merion approves its necessary ordinances, the zoning overlay will be in place.

The most recent budget for the City Avenue SSD projects that the implementation and execution of the overlay "can bring substantial changes to the economic situation of the [d]istrict."<sup>116</sup> The budget notes possible increases of 3900 jobs (retail and professional services) as well as significant jumps in property and wage taxes.<sup>117</sup> Thus, Foley and the board of directors are anxiously awaiting the final approval. The next stage for the district will be observing whether the fruits of the hard work actually become reality with changed pedestrian traffic and new development on the avenue.

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113. *Hearing on Bill No. 080130, Bill No. 090071, Bill No. 090578, Bill No. 090582, Bill No. 090584, Bill No. 090585, and Bill No. 090667 Before the Comm. on Rules*, 21 (Phila, Pa. Oct. 29, 2009) (statement of Terrence Foley, President & CEO, City Ave. SSD), available at <http://legislation.phila.gov/transcripts/Public%20Hearings/rules/2009/ru102909.pdf>.

114. *Id.* at 22.

115. PHILA., PA. CITY COUNCIL, LEGISLATIVE FILE ID 090071 (2009), available at <http://legislation.phila.gov/detailreport/?key=9138>.

116. BUDGET 2009–2013, *supra* note 27, at 3.

117. *Id.*

Additionally, the impact of the economic crisis on the implementation will certainly be fascinating to watch as well.

## VI. EVALUATION

The general success of the City Avenue SSD, since its inception as well as during the previously described “developmental era,” would not have been possible without the following three elements: broad vision, strong leadership, and effective collaboration. The district and its experiences can serve as an exemplar for other municipalities in similar situations, as it has demonstrated notable achievements in its ability to effectively manage the tensions between public and private interests so commonly attributed to BIDs, as well as manage the operational and cultural challenges associated with straddling two sharply different jurisdictions. BIDs commonly present multiple challenges to democratic accountability—namely, with respect to residents, businesses, and local governments.<sup>118</sup> Thus, “BID accountability is . . . a real cause for concern. The problems, however, are not insurmountable, and may be addressed by relatively modest legal and administrative reforms.”<sup>119</sup> The City Avenue SSD has proven quite adept at addressing the issue of accountability through its concerted efforts at collaboration. This has resulted in a diverse network of willing and enthusiastic participants in the district’s everyday goals and objectives, as well as its specific activities during the “developmental era.”

Another central reason for the successes of the City Avenue SSD is that, throughout the course of its history, it has kept its founding objectives and mission central to its activities, while at the same time continuing to broaden, expand, and improve the scope of its work. Like many districts in the United States, the City Avenue SSD has not been abundant in budgetary resources or staff over the years. Thus, “[t]he BID Manager is pivotal because this individual is typically one of a few full-time employees.”<sup>120</sup> With respect to the City Avenue SSD, innovative leaders have worked to identify external funding sources, as well as willing-and-able collaborating partners to help make the district’s vision a reality.

Given that, as of this writing, the “developmental era” is still unfolding for the City Avenue SSD, and considering that the major

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118. See Briffault, *supra* note 2, at 458.

119. *Id.*

120. JERRY MITCHELL, BUSINESS IMPROVEMENT DISTRICTS AND INNOVATIVE SERVICE DELIVERY 7 (1999).

players have been generally pleased with the outcome of their work, it is difficult to note any specific individuals or groups who could have changed the course of events. Instead, however, broad leadership, dedication, and vision emerged throughout my research as being of the utmost importance—to ensure not only initial success, but also for continued progress and growth.

Clearly, with respect to the recent progress of the district, Foley's leadership is paramount. The former and current city council members from District Four, in addition to the support of the entire City Council of Philadelphia for the necessary legislation, were also very important. The board of directors has also been key—in particular, the representatives from the major players on City Avenue. Moving forward, there is potential for a more active role by the City of Philadelphia Department of Commerce. While historically the involvement in these districts has been more pro forma, the fact that the office has recently been more proactive in reaching out and building relationships due to a rejuvenated interest in and orientation to neighborhood commercial areas is promising.

Although the "intermingling of public and private elements raises difficult legal and policy questions,"<sup>121</sup> the experiences and achievements of the City Avenue SSD demonstrate that these questions can be resolved in a manner that improves the basic provision of services, as well as the overall urban landscape for both residents and businesses. "[T]he rapid spread of BIDs across the United States since the 1980s strongly suggests that they have been meeting an important urban need. They have provided a new sub-local governing mechanism, enabling small groups of neighborhood business owners to act collectively to obtain better public services and enhance the quality of their surrounding environments . . ."<sup>122</sup>

## VII. CONCLUSION

The reauthorization of the district for twenty years was a moment of crossroads. The leadership had a choice—at the time, they certainly could have opted to continue on the trajectory launched with its initial activities. And, had they done so, they most likely would have experienced continued positive results. Crime would most likely have remained stable, and the district could have continued

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121. Briffault, *supra* note 2, at 477.

122. ROBERT H. NELSON, KYLE R. MCKENZIE & EILEEN NORCROSS, LESSONS FROM BUSINESS IMPROVEMENT DISTRICTS: BUILDING ON PAST SUCCESSES 4 (2008), [http://mercatus.org/sites/default/files/publication/Lessons\\_from\\_Business\\_Imrpovement\\_Districts.pdf](http://mercatus.org/sites/default/files/publication/Lessons_from_Business_Imrpovement_Districts.pdf).

its marketing activities. Instead, the organization chose to evolve. Recognizing its successes, the organization pursued a more assertive and aggressive marketing plan, as well as a more ambitious agenda focused on new zoning regulations.

This era in the operations for the special services district has certainly broadened the scope of its original organization, purpose, and functions. It has built on its initial successes, and encouraged even further innovative partnerships and collaborations with stakeholders and other community groups. As Denis Murphy explained, the greatest success of the district's recent activities has been "[o]rganizing the developers and the large businesses there to look collectively at that area as a place that they all share."<sup>123</sup>

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123. Telephone Interview with Denis Murphy, *supra* note 37.