



A PERFORMANCE EVALUATION OF THE BETHESDA URBAN PARTNERSHIP, INC.

TABLE OF CONTENTS

	Page
EXECUTIVE SUMMARY.....	i
LIST OF EXHIBITS AND APPENDICES.....	ii
I. INTRODUCTION.....	1
II. BACKGROUND.....	4
A. An Introduction to Business Improvement Districts	
B. An Introduction to the Bethesda Central Business District	
C. Legislative History	
III. GOVERNANCE STRUCTURE OF THE PARTNERSHIP.....	15
A. State Law - Commercial District Management Authorities (CDMAs)	
B. County Law	
C. Articles of incorporation and bylaws for the Bethesda Urban Partnership	
D. The Board of Directors	
E. The Executive Director	
F. The County Executive	
G. The County Council	
IV. OVERVIEW OF BETHESDA URBAN PARTNERSHIP OPERATIONS.....	25
A. The County Budget Process	
B. Sources of Funds for the Urban District	
C. Organizational Structure and Staffing	
D. Operating Procedures	
E. Services	
F. Interactions with County Departments, the Planning staff and Optional Method Property Owners	
V. EVALUATING THE PERFORMANCE OF THE PARTNERSHIP.....	38
VI. FINDINGS AND RECOMMENDATIONS.....	51
VII. AGENCY COMMENTS ON THE DRAFT REPORT.....	60



EXECUTIVE SUMMARY

In 1993, the Council established the Bethesda Urban Partnership, Inc. ("the Partnership") to provide maintenance, landscaping, promotions and special events for downtown Bethesda. This Office of Legislative Oversight (OLO) project evaluates the performance of the Bethesda Urban Partnership over the last five years. Report 98-3 addresses three evaluation issues:

- Has the Partnership fulfilled the purposes of the organization?
- Has the Partnership performed effectively?
- Has the Partnership established a sound set of management practices and complied with the reporting requirements in Chapter 68A?

OLO relied on two surveys and focus groups conducted by The International Downtown Association (IDA) to assess the satisfaction of property owners, businesses and residents with the Partnership. IDA reported the consensus among the focus group participants is that the Partnership has successfully established its core services. The focus groups also observed that the Partnership is at the point where it is seeking additional directions or responsibilities.

Given the high level of satisfaction with the Partnership, OLO recommends that the Council re-authorize the Partnership for another five-year term. OLO also recommends (over a longer period) that the Partnership engage constituent groups in a strategic planning process to clarify the direction of the organization over the next five years.

In addition to these recommendations, OLO suggests the Council address a combination of operational, oversight and policy issues. OLO recommends that the Council ask the County Government, the Partnership and the planning staff to develop written agreements that clarify the maintenance responsibilities of the optional method development properties. OLO proposes that the Council re-examine the reporting requirements in law. OLO also recommends that the Council clarify whether the annual budget review applies to the budget for all Partnership operations or only the budget for the Bethesda Urban District funds.

Finally, as part of its successful maintenance operations, the Partnership has signed contracts with the Department of Public Works and Transportation and with the Silver Spring and Wheaton urban districts. OLO recommends the Council consider two policy issues raised by these services. The first issue is whether the Partnership should operate outside the boundaries of the Bethesda Urban District. The second question is whether the use of the public entity clause in the procurement law is consistent with the requirement in the urban district law that the Partnership not compete with the private sector.

LIST OF EXHIBITS AND APPENDICES

EXHIBITS

Number		Page
1.	Appropriation and Contract Amounts, FY 1995 – FY 1999	12
2.	Revenues for the Bethesda Urban District, FY 1995 – FY 1999	14
3.	The Relationship Between Urban District Tax Revenues and Parking Fee Transfers, FY 1995 – FY 1999	15
4.	Summary of the Partnership's Purposes and Achievements	40
5.	The Partnership's Compliance with Reporting Requirements	50

APPENDICES

Number		Page
1.	Boundaries of the Bethesda Urban District	A-1
2.	Organizational Chart	A-2
3.	Summary of the Policies Adopted by the Board of Directors	A-3

I. INTRODUCTION

A. AUTHORITY

Council Resolution No. 13-1388, Office of Legislative Oversight FY 1999 Work Program, adopted August 4, 1998.

B. SCOPE AND ORGANIZATION

The Montgomery County Code Chapter 68A, Sections 9-13 authorizes the County to create urban district corporations "for the benefit of each urban district." The County has urban districts in each of its central business districts, i.e., Wheaton, Silver Spring, and Bethesda.

In 1993, the County Council set up the Bethesda Urban Partnership, Inc. ("The Partnership"), an urban district corporation, to manage landscaping, maintenance, promotions, and specialized transportation services for downtown Bethesda. Under county law, an urban district corporation is an independent entity that exists for an initial term of five years. Before the County Council acts to extend this term, Section 68A-12 of the law requires the Office of Legislative Oversight (OLO) to evaluate the performance of an urban district corporation.

This report evaluates the performance of the Bethesda Urban Partnership. Specifically, it reviews the current legal structure and governance model for the Partnership, describes the Partnership's relationship with the County Government and the County Council, and reviews the Partnership's performance. The report also presents the results of focus groups and surveys conducted to assess the satisfaction of businesses, property owners, and residents with the Partnership's performance.

The structure of the report is as follows:

Chapter II introduces the concept of business improvement districts, profiles the Bethesda central business district, and presents the legislative history of urban districts and urban management corporations.

Chapter III describes the governance structure of the Partnership. The chapter reviews state and county law and the Partnership's articles of incorporation and bylaws.

Chapter IV presents the Partnership's staffing, operating procedures, and funding sources.

Chapter V evaluates the performance of the Partnership. This chapter addresses three issues:

- Has the Partnership has fulfilled the purposes of the organization in County law?
- Has the Partnership has performed effectively? and
- Has the Partnership established a sound set of management practices and complied with the reporting requirements in Chapter 68A?

Chapter VI presents OLO's findings and recommendations.

Chapter VII contains the written comments received from the Board of Directors of the Bethesda Urban Partnership and from the County Government's Chief Administrative Officer on a final draft of this report.

C. METHODOLOGY

This project was conducted from July 1998-October 1998 by Sue Richards, Program Evaluator, and Barry Bautista, Public Administration Intern. OLO reviewed legislative records, budget documents, financial statements and the Partnership files and records.

OLO conducted two survey efforts to assess the satisfaction of property owners, businesses, and residents with the Partnership. OLO worked with the International Downtown Association to convene four focus groups that discussed the strengths of Bethesda, the contributions of the Partnership, and future directions for the Partnership. OLO also surveyed retail businesses to solicit their comments on a similar set of issues.

In addition to these survey efforts, OLO conducted several interviews with staff who interact frequently with the Partnership.

D. ACKNOWLEDGMENTS

OLO worked closely with staff at the Partnership and staff in the County government to understand the Partnership's operations and practices. OLO received excellent cooperation from everyone involved in this study.

In particular, OLO would like to acknowledge the assistance of Matt Hussman, Bill Benoit, Catherine Chapman and Kate Granados of the Bethesda Urban Partnership, Inc., Gail Nachman, Ann Dunleavy and Nancy Greene of the Bethesda Chevy Chase Regional Services Center, Beryl Feinberg in the Office of Management and Budget, Janet Wormack in the Procurement Office, and John Carter and Carolyn Huffbauer of the Montgomery Park and Planning Department.

OLO would also like to thank Elizabeth Jackson, Executive Director of the International Downtown Association. Finally, a special thanks is due to all the businesses, property owners and residents who shared their time and observations about Bethesda and the performance of the Partnership.

II. BACKGROUND

The Bethesda Urban Partnership ("the Partnership") is an independent, non-profit, urban district corporation that delivers maintenance, landscaping, and promotional services in the Bethesda Urban District. The County modeled the Partnership after the concept of a business improvement district. The Partnership and the Bethesda Urban District represent two types of service structures the County uses to provide enhanced services to select geographic subareas of the County. This chapter introduces the concept of business improvement districts, profiles downtown Bethesda, and reviews the legislative history of the urban district and the urban district corporation.

A. An Introduction to Business Improvement Districts

Business improvement districts (BIDs) are special taxing districts that local governments create to enable local property owners in downtown commercial areas to tax themselves. As described in a study by Siemon, Parson and Purdy, the original special district concept dates back to the heyday of special assessments in the 1950's. Under limited legislative powers, early benefit districts used special assessments and other funding sources to finance a single function such as parking or street sweeping within the district.

More recently, special districts have evolved to finance a broad range of management, maintenance, and promotional services. Some experts believe the recent increase in special benefit districts responds, at least in part, to tax limits on general government functions that forced maintenance service cutbacks. A special benefit district funded with assessments that businesses impose on themselves creates an alternative revenue source and allows business to maintain desired service levels. Nationally, 48 states (including Maryland) have passed legislation enabling the establishment of BIDs.

Members of the business community or property owners in a commercial area most often initiate the establishment of a special district. The key questions to be answered in establishing a BID include the following:

1. Why is the district needed?
2. What will the district do?
3. How much will it cost?
4. Who will control the money?
5. Where will it be?
6. How long will it last?

Typically, a majority of the business owners in a specific community submits a plan to the local government that identifies the key operating elements. The elements include: the proposed district boundaries, a list of proposed programs or projects, the estimated project and program costs, the anticipated assessment methodology, and the assessment rate that would be needed to fund the organization.

According to the International Downtown Association (IDA), a non-profit association dedicated to the revitalization of downtowns, the motivation of business owners to establish a BID is driven by the need to:

- Improve sales,
- Supplement city services to provide a high level of maintenance and security services,
- Create a voice for downtown businesses,
- Establish a mechanism that enables individual business owners to create a managed downtown environment that competes successfully suburban shopping center, and
- Establish a long term, sustainable, and equitable financing mechanism.

BIDs typically use revenues to pay for physical improvements and management services. The benefits of a successful district are most often demonstrated through:

- A cleaner, safer and more attractive downtown,
- Improved sales, higher property values, lower vacancy rates and lower crime rates,
- An adequate and predictable resource base, and
- Entrepreneurial management that is more responsive to market and community needs.

The drawbacks of BIDs cited most often include potential mismanagement, inadequate oversight of district operations, lack of representation, and the time and negotiations to build political support for the local legislation required to implement a district.

In general, the roles of local government in the BID process are to:

- Adopt legislation that formally establishes the district including the boundaries and the assessment rate,
- Serve as the revenue collection agent and transmit the revenues to the managing organization, and
- Negotiate a contract with the service delivery organization that defines the baseline municipal services that the government will continue to deliver.

One or more non-profit organizations are set up to manage the district and the local government contracts with the non-profit organization to provide services to the district. Governments use the enabling legislation and the annual contract negotiations with the service provider to provide appropriate oversight and budgetary controls.

B. An Introduction to the Bethesda Central Business District

Located in the southernmost corner of Montgomery County between the Capital Beltway and northwest Washington D.C., the Bethesda central business district is one of the County's premier urban areas. Downtown Bethesda is served by a Metro station, and located at the intersection of three state highways: East-West Highway, Wisconsin Avenue, and Old Georgetown Road.

In 1994, the County Council adopted the Comprehensive Amendment to the Bethesda Central Business District Sector Plan.¹ According to this sector plan, Bethesda functions as a downtown employment and community center for southwestern Montgomery County, particularly the Bethesda Chevy Chase area. Bethesda has over six million square feet of office space and two million square feet of retail space. There are over 3,000 businesses with significant concentrations in services, finance, insurance, and real estate and retail trade.

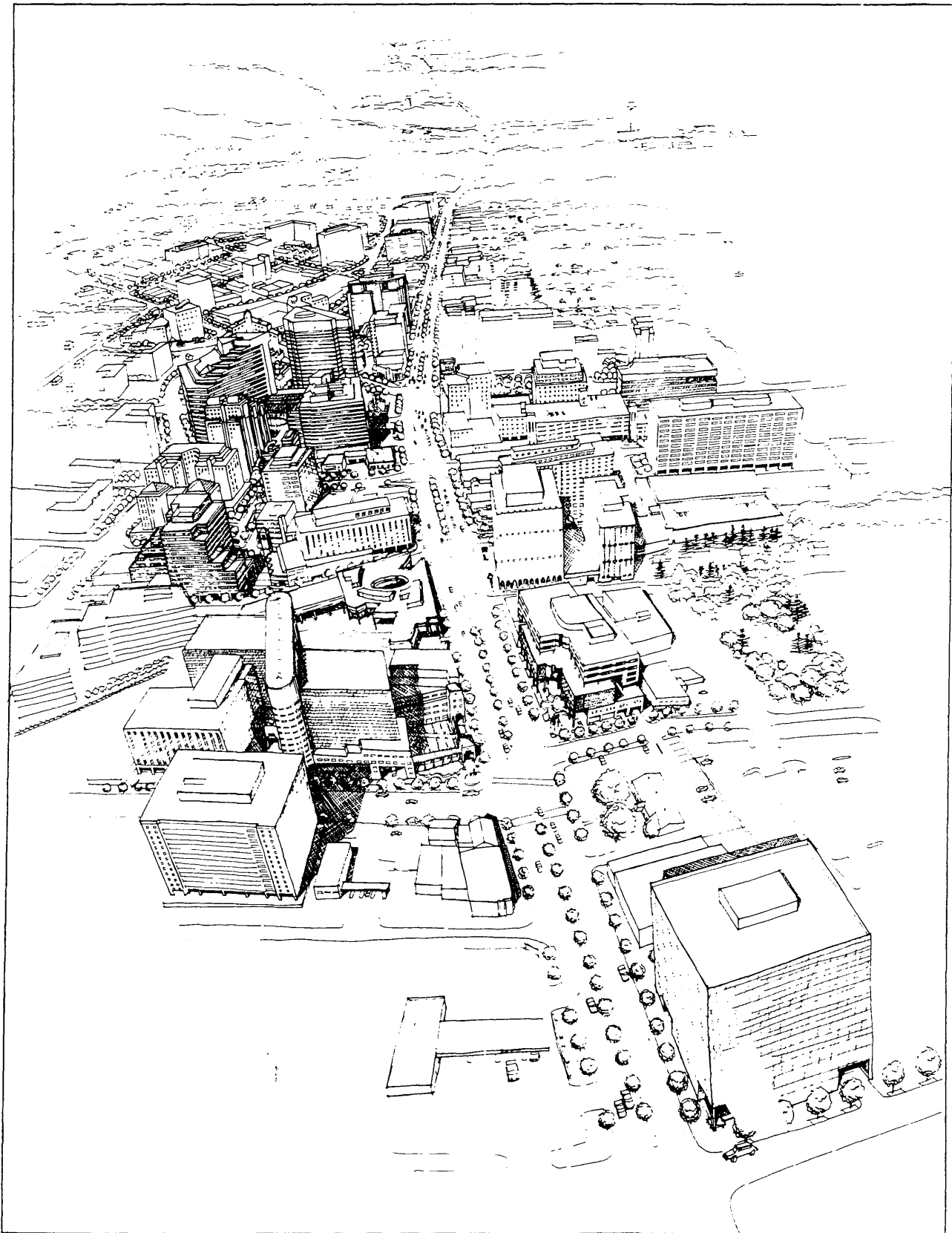
Approximately 35,000 people work in downtown Bethesda. Two federal employment centers, the National Institutes of Health and the Naval Medical Center, with an additional 26,000 to 28,000 employees, are located just outside the northern boundary of the urban district.

The retail shops in downtown Bethesda offer an eclectic mix of goods and services. Major retail categories include home furnishings, women's apparel, electronics and gifts, restaurants, auto services, professional services and neighborhood retail. Retail shops are concentrated in the Woodmont Triangle, and along Arlington Road and Bethesda Avenue.

The sector plan indicates there are approximately 5,200 housing units in downtown Bethesda. Over 4,000 of these are rental high-rise or garden apartment units and there are about 750 single-family homes. Approximately one-half of the rental units are one-bedroom apartments. The largest housing concentrations are in the north along Battery Lane, and in the south, primarily along Bradley Boulevard.

¹ A sector plan is a type of master plan that recommends guidelines for the use of publicly and privately owned land in a specific area. Master plans are recommended by the Montgomery County Planning Board and approved by the Montgomery County Council. According to the Montgomery County Planning Department, master plans look ahead 20 years and provide a benchmark reference for public policy.

Aerial of Downtown Bethesda



BETHESDA CBD SECTOR PLAN

PLANNING BOARD (FINAL) DRAFT

According to a 1997 survey by the Greater Washington Consumer Survey Inc. approximately 19,000 people live in downtown Bethesda and more than 132,000 people live within a three-mile radius of downtown. The average age of the population is 42 and the average household income is \$106,000. Approximately three-quarters of the people who live in downtown Bethesda work nearby in Washington D.C. or Bethesda-Chevy Chase.

The County designated Bethesda a central business district in 1976 when planners for the Washington D.C. Metrorail system located a station at the intersection of the three major highways. The 1976 sector plan applied new mixed-use zoning concepts and established a zoning envelope that permitted 12 million square feet of development. The 1982 sector plan amendment resulted in the staged construction of 12 large optional method development projects.²

The 1994 sector plan amendment guides future public investment and the timing of development. The sector plan's land use objectives endorse concentrating high density office development at the Metro station, building new commercial development that enhances the character of Bethesda, and providing new housing to serve Bethesda's employees.

The sector plan's urban design objectives aim to reinforce Bethesda's sense of community, to provide street activating uses, and to enhance the pedestrian environment through attentive streetscape design. The streetscape plan defines a hierarchy of streets (i.e., mixed streets, local streets, main streets and urban boulevards) and proposes design standards for street paving, street tree planting, and street lighting for each street type.

The sector plan recommends a staging plan to balance the timing of new growth and new transportation capacity. The plan defines three stages of growth. Each stage allows a certain amount of development and requires specific transportation policies, programs and improvements. Stage one begins when the plan is adopted. It requires certain intersection improvements, the establishment of a transportation management organization, and specific streetscape improvements.

The sector plan also recommends amending certain zones to require site plan review for standard method development ("by-right" development). This would help the planning staff assure that a project's site plan conforms to the sector plan's streetscape and design guidelines.

² An optional method project refers to a development proposal that has been reviewed under an approval procedure authorized in the zoning ordinance. Under the optional method process, there are fewer specific development standards and the Planning Board may permit greater densities in exchange for certain public facilities and amenities.

C. The Legislative History of Urban Districts and Urban Management Corporations

Chapter 68A of the Montgomery County Code contains the law for urban districts and urban district corporations. Between 1986 and 1997, the County adopted three bills related to urban districts and urban district corporations:

- Bill 9-86, Urban Districts
- Bill 41-92, Urban District Corporations, and
- Bill 1-97, Urban Districts - Funding

Bill 9-86, Urban Districts

The Council introduced Bill 9-86 at the request of the County Executive in February 1986. A public hearing was held on April 10, 1986. The Council's Transportation and Environment Committee (the T&E Committee) held two worksessions and the County Council adopted a final version of the bill on June 24, 1986.

According to the legislative record, the original idea for an urban district came from the Planning Board staff as a result of the Bethesda "beauty contest." The Planning Board had signed agreements with optional method development property owners that exchanged increased project density for the construction and ongoing maintenance of public amenity and streetscape projects. Planning Board staff envisioned a corporation run by optional method developers but under the ultimate control of the County. The concept was to provide a coordinated maintenance effort for the uniform streetscape that the private developers and the County were building.

The legislative record shows that the T&E Committee considered two alternative structures for these special taxing districts: a proposal by the County Executive for urban maintenance districts and a proposal by Councilmember Potter for full-service urban districts. The Director of Transportation, on behalf of the County Executive, proposed an administrative and financing structure that had three purposes:

- To maintain and replace streetscape amenities on public rights of way,
- To promote the cultural, commercial and public interest activities of a district, and
- To establish a funding mechanism.

The Executive's funding approach called for revenues from an urban district tax, a surcharge on parking fees, and a maintenance assessment on optional method developments. The maintenance assessment would be reasonably related to the difference between the cost of maintaining and

replacing off-site amenities and the amount of taxes paid on optional method developments. The Executive also anticipated revenues from contracts to maintain on-site amenities. The Executive's proposed legislation limited each revenue source so that:

- The parking fee surcharge would fund 25 to 50 percent of the total budget,
- The urban district tax would fund 25 to 50 percent of the total budget, and
- The maintenance assessments would fund no more than 40 percent of the total budget.

A proposed FY 1986 budget for the Bethesda Urban District showed the following revenue sources:

Revenue Source	Amount	Share
Urban Tax	\$447,200	28%
Parking Fee Surcharge	343,750	22%
Maintenance Assessment	187,450	12%
Contracts with Developers for Work on Private Property	593,550	38%
TOTAL	\$1,571,950	100%

The Executive proposed an advisory committee of representatives from the chamber of commerce, the small business community, the optional method developers, and the residential communities. The Executive's bill required the Department of Transportation to develop an annual budget for each district that showed maintenance and replacement costs for the entire district, maintenance and replacement costs for off-site amenities, and maintenance and replacement costs for on-site amenities. The director also had to show the proposed urban district tax, maintenance assessment, and surcharge on parking fees.

Following the Council's public hearing, Councilmember Potter introduced several amendments to the proposed bill. Mr. Potter's alternative bill broadened the services and facilities that a district could provide, proposed the establishment of an urban district office, and allowed a non-profit corporation to administer the district. Mr. Potter proposed adding fees for service to the funding sources identified in the Executive's bill. Mr. Potter also proposed that subdistricts could be established in an urban district boundary to provide "the kinds and amount of public services and facilities appropriate to the needs and development of the subdistrict."

The T&E Committee considered both proposals and adopted several amendments to the proposed legislation. The key amendments recommended that:

- Appropriations for the construction of minor public facilities not exceed \$200,000 annually
- Urban district security forces be responsible for monitoring activities, safety and comfort in public spaces,
- Optional method developers could enter into agreements with the County to provide maintenance of amenities located in or extending into the public right-of-way,
- If the County contracted with a non-profit corporation to administer the urban district, there should be a separate contractor for each district, and
- The maintenance assessment on optional method developments cover the total cost of maintaining off-site amenities, that the assessment be determined on a building by building basis, and that the staff develop the details of implementation.

The T&E Committee also discussed but did not support Mr. Potter's proposal to use parking fee revenues consolidated from all of the parking districts to pay for a substantial portion of the urban district operations. The business community in particular objected to "siphoning funds from the parking district" to substantially pay for urban district operations.

At a second worksession, the T&E Committee adopted additional amendments to the bill to:

- Clarify the intent and purpose of the districts,
- Replace the term "maintenance assessment" with "maintenance charge" and delete language explaining the basis of the charge,
- Replace specific limits on the revenue sources with more general language stating that the parking fees and urban tax must not be less than 20 percent or more than 80 percent of the combined revenues, and
- Limit the use of parking fees to the district where they were collected.

The County Council considered the bill on June 24, 1986. The debate focused on whether the Council should simultaneously create an urban district in Wheaton. After extensive discussion, the Council decided to create an urban district in Wheaton after a budget had been approved and the Council had approved an urban district tax levy for the district. The Council enacted the bill unanimously with the amendments recommended by the T&E Committee.

Bill 41-92, Urban District Corporations

In October 1992, the Council introduced Bill 41-92, Urban District Corporations – Creation. This legislation authorized the County to establish an urban district corporation for the benefit of each urban district to perform certain functions. The corporation would operate as a commercial district management authority under state law. Bill 41-92 proposed an alternative way to manage the delivery of services in the County's existing urban districts so that the community could be more directly involved in providing services to the district.

The legislation proposed specific amendments and additions to the urban district law. These included:

- Making the urban district corporation, and not the County, responsible for streetscaping of the medians, streetsweeping inside the curbs and repair of non-standard sidewalks built by optional method developers,
- Allowing the proceeds from an urban district tax or parking fees not to exceed 90 percent of the combined total (compared to 80 percent for an urban district without an urban district corporation), and
- Establishing a board of directors of the corporation appointed by the County Executive and confirmed by the County Council to replace the eight member urban district advisory committee.

The Council held a public hearing in January 1993. The Bethesda Urban District Advisory Committee, which initiated the legislation, testified it had been frustrated with the existing urban district advisory committee structure. The County had not implemented the projects the committee had identified although money was available. Specifically, the committee had been unable to obtain a Captain McGruff costume to use at local children's events. Similarly, it had not been able to provide a jitney service to link the parking lots and the businesses.

The Bethesda Urban District Advisory Committee testified that the legislation culminated more than 18 months of work. A working group had researched national models, identified management options, and concluded that a non-profit structure accountable to the Executive and the Council would best meet the needs of Bethesda.

The advisory committee testified that "the creation of a new not-for-profit corporation would establish a flexible management approach and organizational structure that would focus responsibility locally, ensure local orientation and involvement, facilitate accessibility and viability, realize greater responsiveness and enable a collection of private funds for special activities." The committee testified that the benefits to the surrounding communities would include the implementation of new programs and services, the enhancement of streetscaping, and other initiatives to advance the business environment and sense of community in Bethesda.

The Bethesda Chevy Chase Citizen's Advisory Board testified that an urban district corporation would achieve greater community involvement and more efficient service delivery. The citizen's advisory board suggested a narrowly defined mission of enhanced maintenance functions and promotional activities to minimize the ambiguity of the organization's mission. The citizen's advisory board also urged the corporation to be diligent in recruiting citizens and businesses to serve on subcommittees open to non-board members.

Representatives from the Wheaton Urban District Advisory Committee and the Silver Spring Urban District Advisory Committee testified that while they were not yet ready to form a corporation, they favored legislation that would allow them to do so in the future. The Bethesda, Wheaton and Kensington chambers of commerce and the Silver Spring Center Citizen's Advisory Board also supported the legislation.

The Town of Chevy Chase supported the proposed bill but suggested changes to increase representation from the surrounding residential communities. The town also proposed limiting the purposes of the corporation to technical functions in support of cultural and other community and business activities.

The East Bethesda Citizens Association, The Edgemoor Citizens Association, and the Bethesda Coalition opposed the proposed legislation. These organizations were concerned that there was insufficient residential representation on the board of directors. They stated it was inappropriate for a private organization to administer public money. Finally, they perceived the scope of the corporation to be too broad and ill defined and believed this would cause too much of an impact on the adjacent residential communities.

The Planning, Housing and Economic Development Committee (the PHED Committee) considered the legislation at a worksession in March. The committee amended the bill to add a resident member of the Bethesda Chevy Chase Citizen's Advisory Board to the board of directors. The PHED Committee also added language that required the corporation to hold meetings in public unless the board voted to close a meeting for a reason specified in its by-laws.

The Council considered the bill on April 20, 1993. Councilmember Krahnke stated that she expected the corporation in Bethesda to serve as a model for other urban districts. Councilmember Adams characterized the legislation as a model proposal from the citizens that fit with the agenda of changing the way government conducts business. The Council debated language the PHED Committee had added to clarify that the corporation was not entitled to public funding and that the County could cancel the agreement at the end of any fiscal year. The Council defeated a motion by Councilmember Krahnke to delete the language and then unanimously enacted the bill as amended by the PHED Committee.

Bill 97-1 and Bill 97-2

The Council President introduced Bill 1-97 and Bill 2-97 in January 1997 at the request of the County Executive. Bill 1-97 proposed amendments to Chapter 68A to authorize urban districts to fund capital improvements, and to change the fiscal relationship between the Wheaton Urban District and the Wheaton Parking District to allow a larger transfer of parking fee revenues. Bill 2-97 allowed the transfer of revenue from the County's general fund to an urban district fund, subject to repayment. The Executive stated the legislative changes were needed because fiscal projections showed it would be difficult for either the Wheaton or Silver Spring urban district to maintain the current level of service after FY 1997, without substantial property tax increases.

The T&E Committee reviewed both bills on February 20, 1997. The committee discussed the need for short-term solutions and long-term solutions for urban district funding, the difference between basic and enhanced services, and how services should be funded in urban districts compared to elsewhere in the County. The T&E Committee recommended amendments that broadened the proposals for the Wheaton Urban District to apply to all urban districts. The T&E Committee also incorporated the authorization to use general funds for Silver Spring from Bill 2-97 into Bill 1-97. The T&E Committee also recommended deleting the authority for a large one-time transfer of parking funds from the Wheaton Parking District to the Wheaton Urban District.

The County Council considered the proposed legislation in March 1997. The Council accepted the amendments of the T&E Committee and added language to sunset the amendments in one year on June 30, 1998. On June 30, 1998, the Council enacted Emergency Bill 12-98, Urban Districts – Sunset Repeal, making the amendments in Bill 1-97 permanent.

III. THE GOVERNANCE STRUCTURE OF THE BETHESDA URBAN PARTNERSHIP

Governance structure refers to the system of decision making and accountability for an organization found in the laws, bylaws, and regulations, policies and practices that guide board operations. State and county law, the bylaws and articles of incorporation, the structure of the board of directors and the roles of the County Council and County Executive shape the governance structure.

When the County Council enacted legislation to establish urban district corporations, it intended to strike a balance between organizational accountability and flexibility. This chapter describes state and county laws that establish the governance structure for the Partnership. It then examines the respective roles and responsibilities of the board of directors, the Executive Director, the County Executive, and the County Council.

A. State Law - Commercial District Management Authorities (CDMAs)

The legal authority to create urban districts comes from Article 25A, Section 5(FF), Annotated Code of Maryland which authorizes charter counties to create commercial district management authorities (CDMAs). These authorities may fund promotions, marketing, security, maintenance, or amenities in commercial districts.

Under State law, CDMAs may be financed through fees or taxes levied against businesses, subject to the authority's jurisdiction. The legislative history of Article 25A indicates Maryland legislators added the option of a business fee to address their concern that those businesses that were not property owners would not pay their fair share. Through this action, state legislation implicitly acknowledges that those who benefit from the services of a CDMA should be the ones who pay for it.

In establishing a CDMA, state law requires the County to specify its purpose, membership, organization, jurisdiction, and geographical limits. Under state law, a CDMA must not:

- Exercise the power of eminent domain,
- Buy, sell or lease office or retail space, or
- Otherwise compete with the private sector.

B. County Law

Chapter 68A of the Montgomery County Code lays the groundwork for the governance structure of the Bethesda Urban Partnership. Sections one through nine of Chapter 68A define the urban district, which is the underlying special taxing district for downtown Bethesda. Sections ten through thirteen set forth the law for an urban district corporation or the management entity for the district itself.

Montgomery County Code, Chapter 68A, Urban Districts

Chapter 68A, Section 3, authorizes the County to provide services and facilities to implement the following purposes of an urban district:

- Maintaining the streetscape and streetscape amenities,
- Promoting and programming public interest activities,
- Providing additional streetscape amenities,
- Providing enhanced safety and security, and
- Providing any capital project that promotes the economic stability and growth of the district.

County law (Section 68A-3(c)) states explicitly that urban districts are created to provide services that:

- Benefit property and people within the district rather than the County as a whole, and
- Are in addition to services and facilities that the County provides generally.

County law (Section 68A-4(a)) establishes the following funding sources for the operation of the districts:

- An urban district tax based on assessed value that cannot exceed \$0.30 per \$100 of assessable property,
- A parking fee surcharge that must not exceed the number of parking spaces multiplied by the number of enforcement hours and by ten cents, and
- A charge against each optional method development property for the cost of maintaining off-site amenities.

To maintain a balance among funding sources, county law limits the amount of urban district tax revenues or parking fees the County transfers into a

district fund.³ The total revenue from either the urban district tax or the parking fee transfer must not exceed 90 percent of the sum of both revenue sources.

The County must segregate the revenues from each urban district in a separate fund and use the money only for purposes specified in the law. Other miscellaneous revenues collected by an urban district, such as charges for services or private contributions, must remain in the urban district fund. Subject to Council appropriation, a district may use these revenues to fund its budget. Section 68A-(4) authorizes the Council to transfer revenues from the general fund to an urban district fund. The transfer may be subject to repayment as specified in the Council resolution that approves the annual operating budget for the district.

County law (Section 68A-5) authorizes establishing an urban district advisory board (UDAB) composed of business and neighborhood representatives in each district. The UDAB meets monthly to advise the County on all aspects of the program, management and finances of the urban district. The membership requirements vary by district. The law requires the County Executive to review the urban district budget with the advisory board to help establish the independence of the appointed advisory board, before submitting the budget to the County. The Executive must include any UDAB comments when he transmits the budget to the County Council.

Montgomery County Code, Chapter 68A, Sections 9-13, Urban District Corporations

Chapter 68A of the Montgomery County Code, (Section 68A-9) states that the County can create an urban district corporation for the benefit of each urban district to perform tasks of benefit to the government. Section 68A-9(b) states an urban district corporation may provide the following services:

- Promotion, organization and support of cultural, recreational and business activities;
- Specialized transportation services;
- Enhancement and maintenance of streetscape and provision of additional streetscape amenities; and
- Other initiatives to advance the business and residential environment and sense of community through such measures as enhanced security, coordination of retail marketing and signage, facade improvements, business retention services, community initiatives and similar activities.

To create a corporation, the County Council must adopt a resolution, which the County Executive must then approve. (Section 68A-9(c), Creation)

³ This report uses the term "parking fee transfer" to refer to the revenues the parking district transfers to the urban district. In fact, a parking district may not legally transfer parking fee revenues. Instead it must transfer revenues from a fund's unencumbered surplus balance.

The resolution must approve the articles of incorporation and the proposed bylaws for the corporation. The articles of incorporation must state the name, location, and first directors of the corporation, the purposes of the corporation, and the powers of the corporation. The County Council may amend the articles of incorporation by adopting a resolution, subsequently approved by the County Executive. If the Executive disapproves the resolution, the Council may adopt the resolution again by a vote of six Councilmembers.

County law (Section 68A-10) requires the establishment of an 11-member board of directors appointed by the County Executive and confirmed by the County Council. The board directs all aspects of the program, management and finances of the corporation. The law states the board should establish supporting subcommittees and should hire an executive director "with substantial experience managing downtown districts."

The board of directors replaces the urban district advisory committee. The membership must include diverse representation from the business and residential communities. Business representatives must include:

- Two members of the chamber of commerce;
- Three owners of optional method development projects, and
- One owner or proprietor of a small business.

Residential representation must include residents from:

- The urban district,
- A community in close proximity to the district,
- A community in the planning area where the district is located nominated by the advisory board serving the area, and
- A resident member of the citizen advisory board.

The board of directors must adopt bylaws and may establish its own rules of procedure. The bylaws must contain provisions that protect against any conflict of interest, that provide for competitive procurement that provide for surety bonds to protect against misappropriations, and that specify how the corporation will comply with the state open meetings law and the state public records law. The County Council and County Executive must approve any changes to the corporation's bylaws.

Consistent with state law, under the county law (Section 68A-11), an urban district corporation has power to:

- Acquire, hold, and use real property;
- Make contracts, and
- Accept grants.

Consistent with state law, county law explicitly prohibits a corporation from:

- Issuing bonds or notes,
- Exercising the power of eminent domain or any police power, or
- Competing with the private sector.

Urban district corporations may sign maintenance agreements with optional method developers to maintain streetscape amenities on private or public property or to maintain amenities on public rights-of-way. (The maintenance charge covers the cost of maintaining amenities on public property. Optional method developers would pay an additional charge for the cost of maintaining amenities on private property.)

Section 68A-12 requires each urban district corporation to annually prepare and submit a budget to the Office of Management and Budget for review. The County Council considers and acts on the County Executive's recommended budget for the corporation in accordance with the budget adoption procedures of the County Charter. The Council may consider any non-county funding available in deciding the amount of county funding to approve.

Each year, the Director of Finance must transfer the monies to the corporation. The County government and the urban district corporation annually execute an agreement that specifies the services the corporation will provide and addresses how the County will transfer the funds it collects to the corporation. The corporation must use these funds for the purpose set forth in the law, in accordance with the articles of incorporation, the bylaws, and the agreement between the corporation and the County.

County law requires a corporation to file an annual report and an annual independent audit and management letter with the Director of Finance. Under the terms of the Partnership's contract with the County, the annual audit is due by October 1.

Section 68A-13 provides the County Council, by resolution, may terminate an urban district corporation five years after the State Department of Assessments and Taxation accepts its articles of incorporation for recording. Alternatively, the Council may extend the existence of a corporation for an unlimited number of five-year terms. The County Council may also terminate an urban district corporation at any time in case of misfeasance, malfeasance, or nonfeasance by the board of directors.

Other County Laws

Other County laws also affect the operations of the Bethesda Urban Partnership. They include:

- Chapter 11B, Procurement, Article VIII, Intergovernmental procurements, Section 11B-41, Public entity contracts – This section authorizes the County, without competition, to enter into a contract for the procurement of goods with a public entity when it is in the best interest of the County.
- Chapter 11B, Procurement, Article VIII, Intergovernmental procurements, Section 11B-42, Bridge contracts - This section authorizes the chief administrative officer to enter into a contract with a public entity named in an appropriation resolution of the County Council as long as the chief administrative officer determines that the contract or lease serves a public purpose.
- Chapter 11B, Procurement, Article XIII, Procurement of Recycled Materials - An urban district corporation must make a good faith effort to achieve procurement goals for the purchase of recycled goods that apply to County government. Under this section a department must give a price preference to bidders who use recycled goods, attempt to achieve the goal that at least 50 percent of the total dollar value of paper is recycled paper, and submit an annual report.
- Chapter 11B, Procurement, Article XIV, Purchases from Minority Owned Businesses – An urban district corporation must make a good faith effort to meet the County's minority, female, and disabled business procurement goals. This article describes the procedures for the County's MFD program.
- Chapter 20, Finance, Article VII, Insurance, Section 20-37, Comprehensive insurance and self-insurance program – This section authorizes the County to establish comprehensive insurance and self-insurance programs.
- Chapter 60, Parking Districts, Section 60-16, Purpose of parking lot funds - Section 60-16(c)(1)(A) states under the law, the County Council may transfer parking fee revenues to the fund of any urban district from which fees are collected as limited by Section 68A-4(a)(2) B which limits the amount of parking revenue to be transferred.

C. The Articles of Incorporation and Bylaws for the Bethesda Urban Partnership

The County Council and County Executive approved the articles of incorporation and bylaws for the Bethesda Urban Partnership as an attachment to Resolution 12-400.

Articles of Incorporation

The articles of incorporation establish the name and duration of the corporation, set forth the powers and restrictions on powers, and identify the registered agent and management/directors.

Article I states the name of the corporation is the Bethesda Urban Partnership. Article II states the duration of the corporation is perpetual except if the Council does not approve a reauthorizing resolution after five years. Article III, Section 3 adds the following purposes to those enumerated in the County law:

- To provide more direct involvement of the community of Bethesda in the provision of services in the Bethesda Urban District;
- To enlist the active interest and financial support of individuals, citizen and civic groups, firms and corporations concerned about the improvement of the urban district, particularly property owners, residents, customers and tenants located within the district;
- To collaborate and cooperate with federal, state and county agencies, civic associations and other improvement associations and business associations whose functions may in any manner relate to any of the objectives hereunder; and
- To support the activities of other nonprofit organizations serving the Bethesda Urban District and make distributions to organizations that qualify as exempt organizations under Section 501(c) of the Internal Revenue Code of 1986 to further the purposes of the Partnership.

Articles IV and V reiterate the powers and restrictions on powers found in County law. Article VI identifies the registered agent and office of the partnership. Article VII provides that the management of the affairs of the partnership shall be vested in the 11-member board of directors.

Bylaws

Article V, Section 5 of the bylaws describes procurement practices of the Partnership. The Partnership must exercise reasonable and prudent business practices and use informal competitive pricing where practical. The Partnership must advertise bids over \$10,000 in one or more local newspapers. The board of

directors may delegate to the executive director the authority to accept offers and enter into contracts subject to conditions imposed by the board.

The Partnership may enter a contract without competitive bidding if the board makes a determination in writing that:

- The specifications for required goods or services are not overly restrictive,
- Competitive procurement is impractical based on past experience, and
- Sole source procurement serves the best interests of the Partnership.

Article V restates that the Partnership shall make a good faith effort to achieve County goals for the procurement of recycled goods, centralized purchasing, and voluntary compliance with the Minority, Female and Disabled (MFD) program. The Partnership must require any non-minority owned business with a contract over \$65,000 to subcontract 20 percent of the total dollar value to a minority owned business.

The bylaws repeat the structure of the board of directors found in County law and provide more detail on terms, regular meetings, compensation and executive and other committees. These items are described in the following section.

D. The Board of Directors

The board of directors is responsible for all aspects of the program, management and finances of the corporation. Section 68A-10 of the Montgomery County Code, the articles of incorporation and the bylaws establish an 11 member board of directors. To balance business and residential interests, the board of directors must be composed of:

- Four members who own businesses,
- Two members appointed by the chamber of commerce
- Four members who live in or near the urban district, and
- An ex-officio, non-voting member who is the County Executive's designee.

Each member serves for a three-year term. The bylaws authorize appointees who were members of the Bethesda Urban District Advisory Board to serve for the remainder of their term on that board. The County Executive and County Council may reappoint members for one term; however, members must not serve more than two consecutive terms on the board. Board members serve without compensation.

The bylaws state that the board of directors must meet at least once quarterly. The bylaws also state that the board intends to hold regular meetings on the third Tuesday of every month except for August and December. The

bylaws provide that a director who fails to attend three board meetings in any year without a reasonable excuse may be recommended by the board of directors for removal by the County Executive.

The bylaws provide the board of directors shall elect officers annually at its May meeting to serve for the following fiscal year beginning July 1st. The officers include:

- A chair who shall preside at meetings, create ad hoc committees, represent the Partnership at community affairs, see that all orders are carried into effect and perform other duties,
- A vice chair who shall assist the chair and preside at meetings when the chair is absent,
- A secretary who shall keep the minutes, see all notices are given as required by law, be custodian of corporate records and perform other duties as necessary, and
- A treasurer who shall be the principal financial officer of the corporation, have the care and custody of all its funds and securities, be the principal accounting officer, and make reports as required by the board

The bylaws (Article 2, Section 10) state "it is the intent of the Corporation to utilize committees to involve a broad spectrum of the local community in its activities." The bylaws empower the board of directors, by resolution, to designate an executive committee and one or more other committees. Each committee must be chaired by a board member and can include people who are not on the board of directors. Through the resolution establishing the committee, the board of directors may specifically delegate authority to a committee. However, this delegation of authority shall not relieve the board of any responsibility imposed by law.

E. The Executive Director

Section 68A-10 (l) states the board "should engage an executive director with substantial experience managing downtown districts or in a related field." According to the bylaws (Article 3, Section 6), the responsibilities of the executive director include:

- Serving as chief executive officer of the corporation,
- Seeing that all orders and resolutions of the board are carried into effect, and
- Performing all other duties incident to the office and as may be assigned by the chair or the board.

Under the bylaws, the executive director shall prepare a proposed annual budget. The board of directors may authorize the executive director to accept offers and enter into contracts, including sole source contracts, subject to conditions imposed by the board. The executive director shall make records of the Partnership available for inspection by the public.

F. The County Executive

The Executive branch exercises oversight of the Partnership in many ways. The County Code gives the County Executive the power to:

- Appoint and remove board members,
- Designate an ex officio non-voting member of the board, and
- Recommend a budget in accordance with the adoption procedures in the County Charter.

The bylaws state that County Executive may reject any person nominated to serve on the board of directors and may request additional nominations from the body that nominated that person.

The County Executive also has a role in any amendments to the articles of incorporation or bylaws of the Partnership. The County Executive may approve a County Council resolution to amend the articles of incorporation. If the County Executive disapproves the resolution, the County Council must adopt it again with six votes. The Corporation must submit any changes to the articles of incorporation or bylaws to County Executive (and County Council) for approval. The Partnership must also file bylaws with the County Executive within five working days of adoption.

G. The County Council

The County Council exercises oversight of the Partnership in several ways. Specifically, the Council;

- Confirms the County Executive's appointments to the board of directors,
- Reviews and approves the annual budget of the Partnership,
- May amend the articles of incorporation, by resolution approved by the County Executive, and
- Approves amendments to the bylaws of the Partnership.

IV. OVERVIEW OF THE BETHESDA URBAN PARTNERSHIP'S OPERATIONS

This chapter presents information on funding, practices, and day-to-day operations of the Partnership. It explains the County budget process, examines the Partnership's funding sources, and describes the Partnership's structure, staffing, and services. The last section presents the Partnership's relationships with County government, the Maryland-National Capital Park and Planning staff, and the optional method developers.

A. The County Budget Process

Chapter 68A Section 12 requires the Partnership to annually prepare and submit a budget to the Office of Management and Budget (OMB) in accordance with County law. Each fall, the Partnership prepares a line item budget for the operations of the Partnership that also meets the budget MARC set by OMB. Recently, the executive director redid the budget categories to more closely match the County's urban district program categories. This new format also more clearly shows the Partnership revenues that supplement the income from the County contract. The budget committee of the board of directors discusses and approves the budget for the Partnership's operations and presents it to the board of directors.

The board of directors forwards the proposed budget for the Partnership's share of the Bethesda urban district fund to the director of the Bethesda Chevy Chase Regional Services Center. The Regional Services Center director submits the Bethesda Urban District budget to OMB. This proposed budget is reviewed by OMB and the County Executive. The County Charter requires the County Executive to recommend an operating budget to the County Council by March 15. The County Council must hold public hearings and may modify the Executive's recommended budget. By June 1, the County Council approves appropriations for the operating budget.

The County Council appropriation for the Bethesda Urban District (including the Bethesda Urban Partnership budget) falls under the spending affordability and property tax limitations in the County Charter. Section 305 of the Charter restricts both the growth of the overall aggregate operating budget and the use of property taxes to fund the budget. Section 305 requires the affirmative vote of six Councilmembers to approve an aggregate operating budget that grows by more than the rate of inflation. Section 305 requires the affirmative vote of seven Councilmembers if the amount raised from tax on existing real property exceeds the amount from the previous year by more than the rate of inflation.

The budget for the Bethesda Urban District (and the Partnership) is included in the calculation of the aggregate operating budget for the County

government. Similarly, the revenues from the Bethesda urban district tax are counted in determining whether the increase in property tax revenues exceeds the amount of the previous year by more than the rate of inflation.

The County's appropriation for the Bethesda Urban District and the contract with the Partnership have remained relatively steady over the last five years as shown in Exhibit 1. (Note: The appropriation and contract amounts differ because the appropriation includes money that the Bethesda Chevy Chase Regional Services Center spends to supplement the Partnership services. The center uses this money to maintain the pedestrian tunnel, to repair concrete sidewalks, to repair streetlights, and to pay for a portion of its staff services.)

EXHIBIT 1. APPROPRIATION AND CONTRACT AMOUNTS, FY 1995 – FY 1999

FISCAL YEAR	APPROPRIATION TO THE BETHESDA URBAN DISTRICT	CONTRACT WITH THE PARTNERSHIP
1995	\$1,480,270	\$1,389,300
1996	\$1,473,650	\$1,378,270
1997	\$1,436,720	\$1,338,600
1998	\$1,446,160	\$1,344,450
1999	\$1,487,730	\$1,379,450

Source: County Council Budget Resolutions and Financial Statements for the Bethesda Urban Partnership.

In November 1998, Montgomery County voters narrowly defeated a charter amendment that would have excluded the Bethesda Urban District budget and the urban district tax revenues from the spending affordability guidelines.

B. Sources of Funds

The County set up urban districts and urban district corporations as self-funded special districts. The County expected the urban district property owners and businesses and other visitors to the district to pay for most operations. The County also anticipated the Partnership would raise other revenues. As the articles of incorporation state, the County organized the Partnership, in part, to enlist the "active interest and financial support of individuals, citizen and civic groups, firms and corporations concerned about the improvement of the urban district, particularly property owners, residents, customers and tenants located within the district."

Urban District Revenues

When the County Council adopted the 1982 sector plan, the Planning staff recognized that over time, many parties, including the County government and several optional method developers, would be responsible for building and maintaining the streetscape, amenities and public spaces in Bethesda. The

County set up urban districts, in part, to provide a uniform maintenance program for these amenities.

The 1986 urban district law envisioned the County would use four funding sources to pay for urban district operations: urban district tax revenues, parking fee transfers, maintenance charges paid by optional method developers, and contract revenues for maintenance of amenities on private property.

Exhibit 2 shows the revenues for the Bethesda Urban District by funding source for FY 1995 through FY 1999.

EXHIBIT 2. REVENUES FOR THE BETHESDA URBAN DISTRICT, FY 1995 – FY 1999

FISCAL YEAR	URBAN DISTRICT TAX	PARKING FEE TRANSFER	OMD MAINTENANCE CHARGE	OMD CONTRACT REVENUES	OTHER REVENUES	TOTAL REVENUES
REVENUE AMOUNTS						
1995	\$269,600	\$746,300	\$104,900	\$0	\$7,200	\$1,128,000
1996	260,600	1,050,000	91,500	0	13,000	1,415,100
1997	232,400	1,081,000	74,800	0	13,600	1,401,800
1998	268,300	1,125,000	80,000	0	1,000	1,474,300
1999	268,700	1,140,000	80,000	0	6,000	1,494,700
REVENUE SHARES						
1995	24%	66%	9%	0%	1%	100%
1996	18%	74%	6%	0%	1%	100%
1997	17%	77%	5%	0%	1%	100%
1998	18%	76%	5%	0%	0%	100%
1999*	18%	76%	5%	0%	0%	100%

Source: Approved Operating and Capital Budgets, Schedules A-5 and C-3, FY97- FY99. FY 95- FY97 show actual revenues. FY98 and FY99 show budget estimates. All amounts are rounded.

Urban district tax revenues – The urban district tax is an ad valorem tax on all property in the urban district. In FY 1986, when the County set up urban district, it set the tax rate at nine cents per \$100 of assessed value. The tax rate has stayed at four cents per \$100 of assessed value since the Partnership began in FY 1995. Urban district tax proceeds have averaged \$260,000 annually between FY 1995 and FY 1999.

Parking fee revenues – The County authorized the use of parking fee revenues because it recognized that the visitors who park in Bethesda would benefit from both the maintenance services and promotions of the district. The law limited the amount of parking fee revenues that the County could transfer annually. Between FY 1995 and FY1999, parking fee transfers have averaged approximately \$1 million annually.

Maintenance charges - Under site plan agreements signed with the Planning Board, optional method developers agreed to construct and maintain streetscape and amenity space on their own private property ("on-site amenities") and on public property ("off-site amenities"). Under the 1986 urban district law, optional method developers agreed to allow the County to maintain the off-site amenities on public property and to pay the County a "maintenance charge" to cover this cost. The maintenance charge revenues have averaged \$86,000 annually or an average of approximately \$7,000 per property.

Contract revenues - The law also allowed the County to enter into contracts to maintain on-site amenities on private property. This could have resulted in additional optional method developer payments; however, so far, none of the optional method developers have retained the County or the Partnership for maintenance of their on-site amenities.

Other revenues - This includes the investment income from the urban district fund.

Relationship between the Urban District Tax and the Parking Fees - Section 68A-4(c) of the Chapter 68A requires that proceeds from either the urban district tax or the transfer of parking fees must not exceed 90 percent of the sum of both revenues. Exhibit 3 shows the relationship between these revenue sources from FY 1995 through FY 1999.

EXHIBIT 3. THE RELATIONSHIP BETWEEN URBAN DISTRICT TAX REVENUES AND PARKING FEE TRANSFERS, FY 1995- FY 1999

FISCAL YEAR	URBAN DISTRICT TAX	PARKING FEE TRANSFER	TOTAL TAX AND FEE	URBAN DISTRICT TAX % OF TOTAL	PARKING FEE % OF TOTAL
1995	\$269,600	\$746,300	\$1,015,900	27%	73%
1996	260,600	1,050,000	1,310,600	20%	80%
1997	232,400	1,081,000	1,313,400	18%	82%
1998	268,300	1,125,000	1,393,300	19%	81%
1999	268,700	1,140,000	1,408,700	19%	81%

Source: Approved Operating and Capital Budgets, Schedules A-5 and C-3, FY97- FY99. FY 95- FY97 show actual revenues. FY98 and FY99 show budget estimates. All amounts are rounded.

Partnership Income

The 1998 financial statements for the Partnership show approximately \$250,000 in income, in addition to the Partnership's primary contract with Montgomery County. The sources of this income are Partnership events, additional Montgomery County contracts, and donations.

The Partnership income includes approximately \$142,000 from the Taste of Bethesda, concerts, and miscellaneous revenues. These totals are gross amounts that do not reflect the costs to produce the events. Since 1997, the

Taste of Bethesda has generated a small (\$5,000 to \$15,000) profit. Imagination Bethesda, the concert series and the Holiday Lighting program – which the Partnership provides at no charge to the public – lose money.

In addition to the annual agreement to provide services to the urban district, the Partnership receives income from other Montgomery County contracts. According to the 1998 financial statements, the Partnership received approximately \$29,000 from a contract with the Department of Public Works to maintain the grounds of the parking garages and parking lots in Bethesda. The Partnership also received approximately \$61,000 from a contract with the Silver Spring and Wheaton urban districts to provide trash collection services.

Finally, the financial statements show the Partnership received approximately \$17,000 in sponsorship donations in FY 1998. According to the executive director, it has been difficult to obtain grants and contributions because the Partnership must compete with several other worthy Bethesda causes.

C. Organizational Structure and Staffing

The Partnership consists of the executive director and nineteen staff positions. See the appendix for an organizational chart of the Partnership. As of November 1998, the Partnership is organized into four sections:

- Office management
- Operations
- Communications and Marketing, and
- Special Events

The office management staff includes an office manager, an office assistant, and a project intern. This group performs all the administrative functions to support the Partnership's services. The office manager works with the accountant to prepare monthly financial reports and works with department heads to prepare the preliminary annual budget. She also manages equipment leases, repair contracts, and office supplies, and maintains employee files. The office manager reports to the executive director

The director of promotions is responsible for all of the tasks associated with the production of events to promote Bethesda. In this capacity, she solicits financial sponsorships, recruits and supervises volunteers, and manages publicity. The director of promotions also works with the County police and public works staff to coordinate street closing and security issues. The director of promotions supervises a special events intern and may also supervise the project intern. The director of promotions reports to the executive director.

The director of communications and marketing is responsible for the design, content, and production of all of the Partnership's promotional pieces. The major publications include a bi-monthly calendar of events and a dining and shopping guide to Bethesda businesses. The director of communications develops thematic communication campaigns to promote the Partnership or Bethesda. The director of communications reports to the executive director.

The operations department consists of the director of operations, the maintenance supervisor, and field maintenance staff. The maintenance staff are organized into three teams: urban beautification, landscaping and solid waste. The maintenance department is responsible for landscaping, streetsweeping, brick sidewalk repair and litter pickup. The director of operations reports to the executive director.

D. Operating Procedures

All organizations operate by some set of procedures be they codified or ad hoc in nature. In the areas of personnel, procurement, and budget, the Partnership has established written procedures.

Personnel

As indicated in Chapter 68A, Section 10, employees of the Partnership are not considered County employees and are not subject to the provisions in the Charter, Code and Personnel regulations for County employees. In 1995, the Board of Directors adopted a motion to approve an employee handbook. This handbook describes policies and procedures for hiring, holidays, annual leave and standards of conduct and discipline.

Benefits

Partnership employees are eligible to participate in the County's health insurance plan and the Partnership pays the employer's share of the insurance. The Partnership also maintains a simplified employee pension plan. All employees who are 21 and have two years of service are eligible to participate. The Partnership contributes 5 percent of the employee's gross salary.

Procurement

The Partnership has established its own procurement procedures. The board gives the executive director discretion to determine, on a case by case basis, whether three bids are required for items under \$1,000. The Partnership practices require obtaining three competitive bids for contracts over \$1,000. The Partnership procedures authorize the executive director to sign checks below \$1,000. The Board requires two signatures, the executive director and either the chairman or the treasurer, for checks over \$1,000.

E. Services

The mission of the Partnership is to foster an environment in which the downtown can thrive and prosper. The Partnership provides maintenance, landscaping, and promotional services which directly enhance economic development. The Partnership also provides additional groundskeeping services for the public parking lots and garages in downtown Bethesda and streetsweeping services in the Silver Spring and Wheaton urban districts.

Core Services

The Partnership's core services include maintenance, landscaping, promotions and special events, and working with other non-profit organizations.

Beautifying, Maintaining and Landscaping Bethesda - The streetscape amenities in Bethesda include brick sidewalks, teak benches, metal trash cans, and park furniture. Since taking over the management of services in the urban district in 1994, the Partnership has reconditioned the trash cans, implemented a bi-annual bench cleaning program, installed 350 street trees, 85 streetscape planters, and 60 bike racks, and increased the number of flowers planted annually from 1,300 to over 50,000.

The annual agreement between the County and the Partnership lists the "standard level of services" the Partnership will provide. The FY 1999 agreement provides for:

- Collecting litter daily;
- Emptying trash cans a minimum of three times per week;
- Cleaning brick sidewalks annually;
- Removing snow from crosswalks;
- Street sweeping;
- Mulching two times per year and watering as needed;
- Fertilizing trees annually;
- Mowing public rights-of-way at least 12 times per year; and
- Maintenance of the special landscape areas.

In practice, the Partnership collects litter two times daily, empties trash cans six days a week, sweeps the main streets three times a week and the side streets once a week, and pressure washes the sidewalks twice a year. The Partnership has also instituted an integrated pest management program and a tree maintenance program.

Marketing Bethesda - The annual agreement with the County states that the corporation may plan, coordinate and manage promotional activities and events that benefit both commercial and residential interests within the urban district. The agreement does not list specific events.

In practice, the Partnership produces several publications and special events to promote businesses and to serve Bethesda's residential communities. The major annual Partnership events are the Taste of Bethesda and Imagination Bethesda. The Partnership recently created a co-sponsorship program for groups to apply for technical assistance to stage events in downtown Bethesda. Some of the events sponsored under this program include the Bethesda Grand Prix of Cycling, the Bethesda Row Arts Festival and the Bethesda ArtWalk. The Partnership also contributes to the mid-Winter Holiday Lighting Festival at the Bethesda Metro Center and organizes and helps fund concerts at several sites in the urban district in the summer and fall.

The Partnership publishes a calendar of events that is distributed bi-monthly to 50,000 households and businesses in and around Bethesda. The Partnership also publishes *Destination Downtown Bethesda*, an annual guide to Bethesda shops and restaurants, and *Eat Here*, a new brochure distributed to visitors and residents.

Partnering with Other Organizations - Under the articles of incorporation, one of the Partnership's purposes is:

To support the activities of other nonprofit organizations serving the Bethesda Urban District and make distributions to organizations that qualify as exempt organizations under Section 501(c) of the Internal Revenue Code of 1986 to further the purposes of the Partnership.

The Partnership works cooperatively with several non-profit organizations to promote community issues and interests. These organizations include the Bethesda Chevy Chase Chamber of Commerce, Bethesda Evergreen, the Arts Council of Montgomery County, A. Salon, and Bethesda Cares. The promotions department works closely with the Children's Inn at NIH and the American Heart Association for the Best of Bethesda Day. Imagination Bethesda showcases many nonprofit arts groups in the area.

Other Services

The Partnership provides many other services in addition to its core services. Some of these services grew out of projects started by the Bethesda Urban Advisory Committee. Others were initiated by the Partnership. Still others developed in response to requests from the County government, nearby property owners, civic associations, and municipalities. The records of the Partnership show the board of directors has consulted the County Attorney frequently about its authority and discussed at length many of the issues these services raise. The following examples are presented to provide a sample of the Partnership's other services.

Capital Improvements - The Partnership planned and renovated one-half mile of the median strip on Wisconsin Avenue. The \$254,000 project demolished the old median strip and installed new pavers, trees and shrubs. The Partnership completed the plans in FY 1994 and installed the improvements between June and September. According to the Partnership, this approach saved money, disrupted less traffic, and allowed the use of funds from three different fiscal years.

Currently, the Partnership is implementing a signage program (The Wayfinding program) for the streets, parking garages, and businesses in Bethesda. The budget for this project is approximately \$375,000 and funding is coming from the Partnership and the Bethesda Parking District.

Maintenance of Gateway Areas - Soon after its inception, the board of directors of the Partnership considered the possibility of maintaining gateway entrances into the urban district. In general, the Partnership was concerned that the lack of maintenance reflected poorly on the district and the Partnership. There were also concerns that the gateway areas were so close to the district that the public had a tendency to assume they were within the district. (The gateway areas the board was considering included the median in Wisconsin Avenue south to Friendship Heights, the median in Wisconsin Avenue north to the Capital Beltway, a portion of Bradley Boulevard, plus select traffic islands.)

In 1995, the Partnership asked the County Attorney for advice on how the Partnership could perform limited maintenance of these gateway areas. In a first opinion, the County Attorney concluded that the Partnership was only authorized to provide maintenance services within the boundaries of the district. In a second opinion, the County Attorney concluded that there were no impediments to using Partnership income for limited maintenance of the gateway areas.

Based on the County Attorney's second opinion, the board of directors decided to maintain a limited number of traffic island gateway areas but to forego a more ambitious maintenance program that extended well beyond the district boundaries.

County Contracts - The Partnership has entered into three contracts with the Department of Public Works and Transportation and the Wheaton and Silver Spring Urban districts to provide groundskeeping, trash collection, and streetsweeping services within the three districts. The Partnership provides these services in addition to those required in the Bethesda urban district contract.

- In 1995, the Partnership signed a contract with the Department of Public Works and Transportation to provide groundskeeping services at the public parking garages and lots in Bethesda. The value of this contract was approximately \$27,000 annually. The term was for one year with the

option of two additional periods of one year each. The contract was renewed in January 1998 at a price of \$36,000. The contract term is for one year, beginning in August 1998. The term may be extended at the County's option for two additional periods of one year each.

- In September 1997, the Partnership signed a contract with the Silver Spring and Wheaton urban districts to provide trash removal services in the Silver Spring and Wheaton urban districts. The contract is for one year and may be renewed for two additional one-year terms. The estimated annual compensation is \$67,900.
- In 1998, the Partnership signed a contract with the Silver Spring and Wheaton urban districts to provide streetsweeping services in each district. The contract is for one year and may be renewed for two additional one-year terms. The estimated annual compensation is \$75,400.

The board of directors asked the County Attorney to review each of these contracts and considered the proposals at length. In the case of the groundskeeping contract, the board believed the service was well within the Partnership's mission of enhancing and beautifying downtown Bethesda. Moreover, the service supported the Partnership's mission to facilitate the use of public parking within the district.

In the case of the trash collection and streetsweeping contracts for the Silver Spring and Wheaton urban districts, these contracts enabled the Partnership to purchase a regenerative air sweeper, to improve the level of service in other urban districts, and to serve its own urban district more efficiently. The regenerative air sweeper removes dust and dirt that the former vendor could not remove using a mechanical sweeper. By operating its own trash truck, the Partnership also offers the flexibility to accommodate special pickups and special requests. In the case of all three contracts, the Partnership has offered a higher quality of service at a lower price than the former vendor.

The County signed each of these contracts with the Partnership as a "public entity." Under Section 4.1.14 of the law, a public entity procurement is an agreement to acquire or use any goods or services with a public entity upon terms and conditions considered to be in the best interest of the County. A public entity procurement does not require public solicitation, nor does it require justification as a non-competitive procurement.

Requests from Organizations Outside the District - The Partnership has received requests to provide maintenance and landscaping services outside the district from municipalities, civic associations and other property owners. In most cases, the board of directors refused requests because the board believed the service would not clearly further the Partnership's mission.

Requests from Property Owners Outside the District -In 1993, the Council adopted an amendment to the Bethesda CBD sector plan which proposed an extended streetscaping plan for downtown Bethesda. In many cases, the sector plan recommended streetscaping elements such as brick sidewalks for standard method or by-right development. As these properties redevelop, the Planning Board encourages the developers to construct the streetscape in the adopted plan or a streetscape that achieves the sector plan objectives.

Unlike the optional method developers, who must turn their maintenance responsibilities over to the County and the Partnership, standard method property owners cannot turn their ongoing maintenance responsibilities over to the County. Instead, the property owner must sign a public improvement agreement to maintain the streetscape and must escrow the cost of constructing the streetscape.

Some property owners outside the urban district who do not want to be responsible for ongoing maintenance have asked the Partnership if it would be willing to provide maintenance services. After consulting with the County Attorney, the Partnership recently signed an agreement with one property owner outside the district to provide maintenance of a brick sidewalk.

F. Interactions with County Departments, the Planning Department and Optional Method Property Owners

As an independent agency responsible for streetscape maintenance, landscaping, litter collection, sidewalk repair, and promotions, the Partnership signs an annual agreement with the County to provide services in the Bethesda Urban District. On a daily basis, the Partnership also works closely with many County departments and agencies.

The Bethesda Chevy Chase Regional Services Center

The director of the Bethesda Chevy Chase Regional Services Center serves as the County's ex-officio representative on the board of directors of the Partnership. The director also administers the County's contract with the Partnership and submits the proposed budget for the Bethesda Urban District to the Office of Management and Budget. (Note: the budget for the Bethesda Urban District includes the budget for the Partnership plus additional funds to repair concrete sidewalks, replace streetlights, and maintain the pedestrian tunnel.) A staff person in the Regional Services Center works with the Partnership and the Department of Finance to bill the optional method development properties for the maintenance of off-site amenities that the Partnership performs.

County Attorney

Section 11(e) of Chapter 68A states that the County Attorney is the legal advisor to each urban district corporation. The County Attorney reviews proposed contracts for the Partnership and provides legal advice and opinions on Partnership operations. In addition to the issue of the Partnership's authority to maintain gateway areas, the County Attorney has also provided advice on the Partnership's liability for personal injury claims and the status of Partnership employees. The Partnership may also hire additional legal counsel approved by the County Attorney.

Director of Finance

Section 68A-12 (b) subjects the transfer of funds from the Director of Finance to "the execution of an agreement between the County and the urban district corporation." The law also requires the Partnership to file an annual report with the Director of Finance and to provide the County with an annual independent audit with any accompanying management letter according to the submission schedule specified in the agreement.

Department of Public Works and Transportation

The Partnership and the Department of Public Works and Transportation (DPWT) jointly maintain the public rights-of-way in downtown Bethesda. DPWT is responsible for maintenance of the streets including the curbs and for maintenance of concrete ("standard") sidewalks. The Partnership is responsible for streetscaping of the medians, for streetsweeping inside the curbs and for the repair of brick ("non-standard") sidewalks. Under the annual agreement with the County, the Partnership must also implement a method of servicing after hour requests for street cleaning and removal of road blockages with the urban district.

DPWT works closely with the Partnership to close and reopen streets during special events sponsored by the Partnership. According to DPWT staff, the use of Partnership staff for these events saves the County overtime costs compared to similar events in other urban districts. DPWT has also worked closely with the Partnership to implement the Wayfinding sign program and the valet parking program. DPWT may use either staff at the Regional Service Center or staff at the Partnership to notify businesses of street closings and street repairs.

The Office of Management and Budget

Section 68A-12 (a) of the law requires the Partnership to prepare and submit a budget to the Office of Management and Budget (OMB) and specifies that OMB meet with the Board of Directors to resolve any area of disagreement. In practice, the executive director of the Partnership works closely with the OMB budget analyst and the director of the Regional Services Center.

The proposed budget submitted to the County addresses the use of County collected revenues only, e.g. the urban district tax revenues, the optional method development fees, and the transfer of parking fees from the parking district fund. It does not address the use of funds from other sources.

The Montgomery County Planning Department

The Partnership and the Montgomery County Planning Department work closely on issues concerning downtown Bethesda. The planning department staff regularly consults the Partnership on specific project proposals under review in Bethesda. The planning department contributed to a manual the Partnership is preparing about the history and maintenance guidelines for Bethesda's public amenities. The two organizations coordinate on long range planning issues and have brainstormed ideas to implement the sector plan bikeway network as well as enhancements to Norfolk Avenue.

Optional Method Developers

The Partnership provides maintenance services for the off-site amenities and streetscape associated with the optional method development projects. The authority for this service is based on agreements the OMD property owners signed with the Planning Board as part of the development review process. To provide for ongoing maintenance of their off-site amenities, the OMD property owners either signed an agreement with the Planning Board or included a condition in the site plan approval that they would participate in a management organization to be set up in the future.

When the County established the urban districts, the Planning Board chair stated that the Planning Board would adopt a resolution to clarify the relationship between the requirements of urban district and the site plan agreements. The Planning Board chair stated that the urban district would satisfy the requirement for a management organization; however, the Planning Board expected to maintain control over whether the maintenance provided satisfied the conditions of the site plan agreement.

Under the terms of the Partnership's annual contract with the County, the Partnership must maintain data regarding the costs associated with optional method developer right-of-way streetscape maintenance. The Partnership must transmit a written schedule of charges and overhead to the County (i.e., the Bethesda Chevy Chase Regional Service Center). The center, in turn, pro-rates the charges for each optional method property owner and transmits this information to the Department of Finance which bills the optional method development owners for streetscape maintenance costs.

The Partnership holds quarterly meetings with optional method developers to discuss current issues and projects. Under the annual agreement with the County, the Partnership must respond to optional method developer inquiries concerning the unit pricing for maintenance charges.

V. EVALUATING THE PERFORMANCE OF THE PARTNERSHIP

When the County Council enacted the urban district corporation law in 1994, advocates identified many potential benefits. The Bethesda Urban District Advisory Committee testified that the creation of a new non-profit corporation would establish a flexible management approach and organizational structure that would ensure local orientation and involvement. The Council strived to create a legislative structure that would balance the flexibility of an entrepreneurial organization with the accountability public funding required.

To fulfill the Council's oversight responsibilities and provide information for the discussion of reauthorizing the Partnership for another five years, this chapter examines the following questions:

- A. Has the Partnership fulfilled the purposes of the organization in county law?
- B. Has the Partnership performed effectively? and
- C. Has the Partnership established a sound set of management practices and complied with the reporting requirements in Chapter 68A?

A. Has the Partnership fulfilled the purposes of the organization in county law?

The purposes of the Partnership and the Bethesda Urban District are defined in county law, the articles of incorporation, and the corporate bylaws. Under county law, an urban district is created to provide services that benefit property and people within the district rather than the County as a whole. These services and facilities are in addition to those that the County provides generally. County law states the County creates urban district corporations for the benefit of each urban district to perform tasks "of benefit to the government." The services that an urban district corporation may provide are broader than those authorized for an urban district. The services include:

- Streetscape maintenance and landscaping,
- Promotions and special events,
- Enhanced safety and security,
- Specialized transportation services including jitney services,
- Providing any capital project that promotes the economic stability and growth of the district, and
- Other initiatives to advance the residential and business environment and sense of community including retail marketing and signage, façade improvements, business retention and community initiatives.

The articles of incorporation for the Partnership add four more purposes to those listed in county law. In brief, these are:

- To provide more direct involvement of the community in the provision of services to the district,
- To enlist the active interest and financial support of those concerned about the improvement of the district,
- To collaborate and cooperate with government agencies, civic associations and other business associations, and
- To support the activities of other nonprofit organizations serving the district.

Finally, the bylaws of the Partnership (Article II, Section 10, Executive and Other Committees) state:

It is the intent of the Corporation to utilize committees to involve a broad spectrum of the local community in its activities. By one or more resolutions adopted by a majority of the directors, the board may designate from among its members an executive committee and one or more other committees, each of which will be chaired by a board member and can include persons who are not on the board of directors.

Since its creation five years ago, the Partnership has compiled a long list of accomplishments that achieve many of these purposes. Exhibit 4 (on page 40) shows how the Partnership's major achievements meet the purposes of an urban district and an urban district management corporation. (See Chapter IV for a more complete description of the Partnership's services.)

The board of directors has modified the original concept of using subcommittees of the board to involve a broad spectrum of the local community in its activities. Soon after it was established, the board established nine subcommittees to oversee operations or address issues of interest. Today, only two of these committees - the executive and events committees - remain in operation. In place of standing committees, the board decided to rely more on task forces and work groups to address specific issues. The board has also encouraged staff to collaborate with other Bethesda groups or organizations to address specific issues such as parking, transportation or the cultural arts.

The executive director states that Partnership continues to address the interest areas identified initially but no longer relies on an extensive committee structure. For example, the Partnership regularly addresses long range planning issues at its annual retreat in the fall and the Partnership works cooperatively with the chamber of commerce to address the arts. In some cases, a committee has been disbanded because a project has been completed. In other cases, the board has discontinued a committee for lack of membership.

EXHIBIT 4. SUMMARY OF THE PARTNERSHIP'S PURPOSES AND ACHIEVEMENTS

PURPOSES	ACHIEVEMENTS
CHAPTER 68A	
Provide streetscape maintenance and landscaping.	<ul style="list-style-type: none"> • Sweeps 4,000 miles of streets and 9,500 miles of sidewalks annually. • Plants more than 53,000 flowers and cares for 1,200 trees each year. • Empties almost 1 million pounds of trash each year.
Provide promotions and special events.	<ul style="list-style-type: none"> • Hosts Imagination Bethesda and Taste of Bethesda. • Sponsors or co-sponsors more than 40 concerts annually. • Publishes the <i>Destination Downtown Bethesda</i> and <i>Eat Here</i> guide.
Provide enhanced safety and security.	<ul style="list-style-type: none"> • Purchased two bicycles and uniforms for the police department. • Responds to accidents and calls for tow trucks and emergency services when possible.
Provide specialized transportation services	<ul style="list-style-type: none"> • Studied this issue and developed plans to implement jitney service. Plans have not been implemented due to lack of funds.
Provide capital projects	<ul style="list-style-type: none"> • Renovated one-half mile of the Wisconsin Ave. median. • Installed new welcome signs, street signs, directional signs and parking signs throughout the urban district.
Other initiatives to advance the sense of community	<ul style="list-style-type: none"> • Distributes a bi-monthly calendar of events. • Publishes Restaurant Raconteur newsletter for Bethesda restaurants. • Convened meetings to address construction congestion, parking problems, long term planning, and cultural arts development.
ARTICLES OF INCORPORATION	
Increase direct involvement of the community in the providing services.	<ul style="list-style-type: none"> • Maintains a database of 500 volunteers and relies on volunteers to help at its major community events. • Established quarterly meetings of optional method developers to discuss district management issues.
Enlist the active interest and financial support	<ul style="list-style-type: none"> • Solicits financial contributions and sponsorships for its events. • Provides services to the American Heart Walk and Come Back to Bethesda, which help raised over \$300,000 for charity in 1998. • Generates approximately \$27,000 in sponsorship revenue and \$55,000 in in-kind sponsor services annually.
Collaborate with gov't agencies, civic associations and business associations.	<ul style="list-style-type: none"> • The Partnership works with the BCC Chamber of Commerce, the Park and Planning department, the Regional Service Center, the Police department, the Public Works department, the Health department, and Permitting Services. The Partnership attends meetings of the Bethesda Action Group, Bethesda Evergreen, the Western County Regional Advisory Board and many Chamber committees.
Support nonprofits serving the district.	<ul style="list-style-type: none"> • The Partnership works with Bethesda Cares, Bethesda Evergreen, many nonprofit arts groups, the American Heart Association and the Children's Inn at NIH.
BYLAWS	
Use committees to involve a broad spectrum of the local community in its activities	<ul style="list-style-type: none"> • Established an event application committee of local business people, property owners and residents to review co-sponsorship applications. • Uses ad hoc committees and focus groups, like those for the Wayfinding project, to solicit community input.

B. Has the Partnership performed effectively?

The effectiveness of a downtown improvement organization can be measured in terms of the vibrancy of the downtown, the perceptions of the organization's constituents, and opinions from members. For this evaluation, OLO used three sources to evaluate the effectiveness of the Partnership and its activities:

- A marketing study commissioned by the Partnership in 1997,
- A series of focus groups conducted by the International Downtown Association in cooperation with OLO in July 1998, and
- A survey of retail businesses in Bethesda administered by OLO in September 1998.

Each study examines the perceptions of downtown Bethesda and the perceptions of the Partnership because there is such a close relationship between the two. The results of each study are summarized below.

Perceptions and Patronage of Downtown Bethesda Businesses – Results of Surveys of Nearby Residents, Business Owners and Managers and Employees

In April 1997, the Partnership commissioned the Greater Washington Consumer Survey, Inc. to conduct a survey of residents and businesses. The purpose was to determine how Bethesda is perceived as a place to dine, shop, work and do business and to identify ways in which the area can be improved. The study consisted of three survey instruments – a telephone survey of 800 households near the urban district, a telephone survey of 300 owners or managers of businesses, and mail surveys distributed to employees of downtown Bethesda businesses.

The resident survey of 816 households represented approximately 95,000 people. Approximately 52 percent of the households surveyed were in Maryland. The response rate for the survey was 58 percent. The range of sampling error was plus or minus five percentage points for responses near 50 percent and smaller for percentages higher or lower than that.

Almost three-fifths of the Montgomery County residents who participated in the survey dine in Bethesda at least once every two weeks. Among the business owners, two-thirds dine in Bethesda once a week or more. Both groups view downtown Bethesda as very vital, pleasant, and safe.

Three-quarters of the Montgomery County residents surveyed said they shop in Bethesda at least once or twice a month. Those who shop cited convenience and the variety of shops as the things they like most about shopping in Bethesda.

For the business owners, the strengths of Bethesda include location, a good customer base, and convenience to public transportation. Parking is the most frequently cited problem, identified by about half of the residents and half of the business owners.

The survey questioned nearby residents about their awareness of the Partnership's events and whether they had attended an event. The responses varied by event. The Taste of Bethesda had the highest level of awareness and participation while Imagination Bethesda had the lowest level of awareness.

Event	Percent of resident survey sample who were aware of event
Taste of Bethesda	66%
Summer lunch and evening concerts	52%
Friday night dances	50%
Independence Day	42%
Mid-winter Holiday Lighting	39%
Imagination Bethesda	23%

The survey questioned business owners about their familiarity with the Partnership as well as its special events and publications. Almost all of the businesses were aware of the special events and one-half had attended an event. Approximately one-fourth of the businesses were familiar with the Partnership's publications. Approximately two-fifths of the employees surveyed were aware of the *Destination Downtown Bethesda Guide*.

The International Downtown Association (IDA) Focus Groups

In July 1998, the Partnership and OLO contracted with the International Downtown Association (IDA)⁴ to survey the constituencies of the Partnership. OLO asked IDA to conduct a series of focus groups made up of representatives from five constituencies:

- The Partnership board of directors,
- Residents and representatives of nearby neighborhoods
- Nonprofit organizations,
- Optional method development property owners, and
- Small business owners.

⁴ The International Downtown Association is a non-profit association of organizations and government agencies dedicated to the revitalization of downtown. IDA sponsors conferences, conducts services and provides consulting assistance to downtown organizations, district management boards, retail councils, and others.

IDA held the focus groups during the week of July 27, 1998 at the Bethesda Chevy Chase Regional Services Center. (Note: OLO cancelled the focus group for small business owners due to the lack of response. Consequently, IDA's observations do not include the views of the small business owners.) OLO and IDA also met with the employees of the Partnership to gain a better understanding of the Partnership's programs.

IDA staff conducted the focus groups and OLO staff observed. Each focus group discussed the following questions:

- What works and what does not work in downtown Bethesda?
- What is the Partnership and what services does it currently provide?
- In the future, what existing services do you think the Partnership should continue to provide? In the future what new services should the Partnership take the lead role in addressing? Are there other new issues where the Partnership should participate in a supporting role?

General Observations - IDA found the focus group participants were well informed about Bethesda, very stimulated in their observations, and extraordinarily interested in the future of downtown Bethesda. Everyone who participated was aware of the Partnership and understood the purpose of the focus groups.

The focus groups agreed on many issues. IDA noted even when groups disagreed, groups understood and respected the opinions of others. IDA believes this level of community understanding and involvement contributes significantly to the success of downtown Bethesda.

Common Themes - Shared perceptions of the district and the role of the Partnership are important indicators of the effectiveness of the organization's efforts. IDA observed that the focus groups shared common perceptions about Bethesda's strengths and weaknesses and agreed on how the Partnership has contributed to Bethesda's success. Members of all focus groups shared the following positive perceptions of downtown Bethesda:

Bethesda is clean, beautifully landscaped, and well maintained. The Partnership has improved landscaping and maintenance in downtown Bethesda. People are especially pleased with the visibility and quality of the street and sidewalk cleaning and the flowers, especially in the spring, are beautiful.

Bethesda is a compact, vibrant and lively with attractions for a mix of ages. People like Bethesda because everything is within walking distance and people walk everywhere. The people and bikes on the streets and the visibility of the maintenance crews all add to the vibrancy of downtown. The presence of Barnes and Noble, as an example, has transformed the Bethesda Avenue area into a destination. A large private employment base not tied to government also

contributes to the vibrancy of downtown. The office vacancy rate is at one or two percent. The vibrancy of the employment and business community is due to market forces, location, and the responsiveness of the police.

Community events and festivals are fun and help tie the community together. The Taste of Bethesda fostered growth in the restaurant community. The Metro Center dance concerts are very popular and draw regular visitors from as far away as Pennsylvania. Imagination Bethesda is a great event for kids and families. Although publicity for events is not as good as it could be, the banners have improved the outreach.

The restaurants have really put Bethesda on the map. The diversity of the restaurants is wonderful and creates more to do at night besides the usual clubs and bar hopping.

The Capital Crescent Trail is fabulous. It contributes to the vibrancy of downtown in many ways. People come to Bethesda to ride the trail or ride the trail to Bethesda and then explore downtown. The trail has added more people and more bikes to the streets of Bethesda.

The pocket parks, green spaces, and flowers are wonderful and create the sense that downtown is not completely paved over. Many participants stated that the amenities are positive but they are not sure how many people are aware of them.

Bethesda is a safe community. Participants said the police are visible and it's nice to see the police on bikes, especially at the festivals. Some noted that the feeling of safety is localized; however, all agreed crime is typically not a problem.

Bethesda is a tight knit community with a small town atmosphere where people work together to solve problems. In the Bethesda business district, issues are addressed collaboratively. There are only a few, isolated naysayers and very little rancor. Other participants voiced a concern that Bethesda is losing home owned businesses and that the increase in restaurants is increasing the number of businesses without roots in the community. There was a concern that there may be fewer businesses to support local schools and other community causes.

The focus groups also agreed on the following list of weakness or problems that Bethesda needs to address:

Parking is a problem. Participants discussed many aspects of the parking problem. Some noted there are not enough spaces and that Bethesda is well under the norm of 3.5 spaces/1000 square feet of commercial space. Others commented that the rules and regulations are inconsistent. Other

participants found the signs are confusing while some stated there is overly diligent enforcement and the fines are too high.

Signage and traffic circulation problems are unbelievable.

Participants cited many specific examples of traffic and circulation problems that make it difficult to navigate Bethesda in a vehicle. Some examples included the uneven distribution of traffic between Leland Street and Elm Street or service vans and delivery trucks that are double-parked on Arlington Road. Others stated that the planters with shrubs at the corners block visibility where it is needed most. Many commented that the layout of streets can be confusing, particularly for first time visitors and guests.

There are many barriers to pedestrian safety. Focus group participants shared a significant concern about pedestrian safety. Some specific issues included: the design of major intersections and the volume and speed of traffic. Many noted the lack of continuous sidewalks hamper circulation and safety, especially for pedestrians and cyclists. Other barriers to pedestrian safety include the amount of time available to cross the street, curbcuts next to parking garage exits, and sidewalks that are too narrow, particularly after the Partnership has planted trees. Some participants acknowledged that the Partnership and DPWT have tried to address specific intersections but this remains a problem.

There were other concerns mentioned by some focus groups but not often enough to emerge as themes. These included perceptions that panhandling and homelessness have increased, that skateboarders and rollerbladers do an enormous amount of damage, and that while access for kids is good, there could be more activities for younger people.

The Role and Success of the Partnership - The focus group members had high regard and substantial praise for the Partnership as an organization, its services and its operations. Participants said, for example, they were "thrilled" with the Partnership and "for what it was chartered to do, it is doing a fabulous job."

Focus group members gave high marks to the Partnership as an organization. They described the Partnership as "professional and credible" and the staff as "professional and involved." There was general agreement that "whatever the Partnership decides to do, it is important that it does it well."

In terms of ensuring local involvement, one individual said, "The Partnership isn't government some place else. It's government here." Another added, "It is our connective tissue and a community builder." The focus group members believed that the Partnership has increased the accountability for local businesses and residents. As one participant stated, "Overall everybody feels that since the Partnership came into existence, it has worked for all residents and shopkeepers and you get the sort of attention that you never get

from Rockville.” Another member described the Partnership as responsive, open, and local. He said, “If you call up, they call back and if you have an idea, they listen to you.” Other participants commented that it made sense for the Partnership to abandon the use of subcommittees as a strategy to encourage local involvement.

In terms of the Partnership’s services, landscaping, maintenance, promotions and communications all received high marks. All the groups agreed that the Partnership has done a fabulous, A+, first rate job with landscaping and maintenance in downtown Bethesda. Some members noted “the Partnership can give attention to detail that the guys in Rockville can’t.” Many noted the Partnership has been known to sneak into neighborhoods to take care of a maintenance issue even though its outside their jurisdiction.

There was agreement among the groups that the Partnership serves an important role in communicating and disseminating information. Participants noted that the Partnership produced a brochure for businesses about how to handle the panhandling issue and that they set up a hot fax system so the police could notify businesses of crimes. One member stated the Partnership did a great job with the Wayfinding project and that it was fun and creative.

Focus group members also agreed that the Partnership works effectively as a partnership organization. Focus groups noted the Partnership has successfully:

- Sponsored festivals and events that promote Bethesda businesses
- Extended the resources of County police by purchasing bikes to increase visibility,
- Opened up communication with Farm Women’s market and helped with landscaping and with a conceptual plan to underground utilities.
- Worked with DPWT on the design of the new garage.
- Fostered partnerships with restaurants and business owners to participate in the Taste of Bethesda, and
- Worked with the County government and merchants to coordinate valet parking and to develop a standard sign acceptable to the County.

Areas of Conflict and Confusion - Some areas of the Partnership’s performance received mixed reviews from focus group members or were identified as possible areas for improvement. For example,

The focus groups recognized the Partnership as “an advocacy organization that serves as the mouthpiece of the larger community;” however, the groups had different opinions about how the Partnership fulfills this role. Members of the residents group saw the Partnership as an advocate organization, but not necessarily an advocate for their issues, by virtue

of the Partnership's boundaries and its stated mission. Optional method property owners discussed whether the Partnership's advocacy fit its perceived purpose as a maintenance, landscaping, and beautification entity. The nonprofits were aware of the Partnership's advocacy and aware that other groups were uncomfortable with it. The board recognized its role as an advocate, particularly in arts development and outreach to the County government.

The focus groups also differed about the role of the Partnership as a liaison between County government and the district interest groups. The board members were clear about the need for the Partnership to serve as an advocate for the district, particularly in relation to implementation of the sector plan and the scheduling of construction and public work activities in the district. However, the optional method developers thought the Partnership was already playing this role on behalf of the business community.

Every focus group expressed concerns about growth; however, there was not agreement among the groups. The board felt that the Partnership must develop new initiatives to respond to the issues generated by growth. The optional method developers stated the potential for continued commercial growth was hampered by the staging guidelines in the sector plan. The nonprofit organizations identified growth as a threat to the number and quality of remaining locally owned businesses. And the residents saw additional commercial growth as threatening to encroach on the quality and function of the neighborhoods.

More than one focus group expressed concern or confusion over the role of the Partnership and the role of the chamber of commerce. While it was universally understood that the chamber represents a larger area than the Partnership, there were concerns about duplication of effort, conflicts in policy/advocacy, and access to resources. While the boundaries of the chamber are larger, there was recognition that the Partnership's constituencies are broader and require a different set of goals than the chamber.

Future Directions for the Partnership - IDA questioned focus group members on the services and direction the Partnership should pursue in the future. Everyone agreed that the Partnership should continue to provide top-notch maintenance and landscaping services and to be responsive and accountable. As one person stated, "The Partnership does not retain credibility unless it continues maintenance, landscaping, and promotions."

In terms of improving existing responsibilities, focus group participants felt the Partnership should focus on modifying or expanding its role as an advocacy organization to put concerns of residents on equal footing with those of businesses. The Partnership could also focus on increasing partnership efforts with County government staff. It could work with public works staff to address

circulation and parking issues and with the police to continue to address homelessness, panhandling, and other safety issues.

Finally, in terms of identifying new responsibilities, the feeling was that the Partnership has built a well-deserved reputation as a professional, responsive organization that makes a significant and important contribution to the success of downtown Bethesda. While it would make sense for the Partnership to expand its role in the future, there was no consensus about the direction that expansion should take.

IDA concluded that the Partnership needs to reconnect with the multiple constituencies much the same way the organizers of the Partnership did five years ago. IDA recommended that the Partnership discuss ideas for new directions with constituents so apparent conflicts among groups can be identified, negotiated, and resolved. IDA proposed that the Partnership continue to listen to its interests groups as it works harder to bring these groups together so they can hear from each other.

The OLO Survey of Retail Businesses

During September 1998, OLO conducted a survey of retail business in Bethesda to supplement the information from the IDA focus groups. OLO used the listing of businesses in *The Destination Downtown Bethesda Guide* to identify a random sample of businesses to survey about their perceptions of downtown Bethesda and their familiarity with the Partnership. OLO contacted 250 of the 658 businesses in Bethesda. Approximately ten percent of the businesses (67 businesses) completed a questionnaire.

OLO encoded the responses and analyzed the results. The findings were generally consistent with the themes of the IDA Focus Groups. Specifically:

The top three strengths the majority of businesses surveyed identified were the many diverse restaurants that bring customers to Bethesda, location, and business diversity. Other businesses added the affluence of people living in the area, customer traffic, and Metrorail.

The lack of parking was the weakness cited most often by those surveyed, followed by traffic congestion and overzealous parking enforcement.

Approximately 85 percent of the businesses surveyed were familiar with the Partnership. When asked to name specific services, the most frequent answers were sidewalk cleaning, the Taste of Bethesda, special events, and the planting of flowers and trees. Of those who were familiar with the Partnership services, 70 percent were satisfied with the Partnership's performance.

C. Has the Partnership established a set of management policies and practices and complied with the reporting requirements in Chapter 68A?

To operate effectively, organizations must have a set of formal or informal procedures and practices. Management establishes guidelines to shape the organization and to set a direction that will outlive the influence of any individual. This creates long term institutional stability for the organization.

The Partnership's articles of incorporation and bylaws direct the board of directors to establish guidelines for the operation of the board as well as for personnel and procurement matters. Over the past four years, the board has adopted several motions to direct the day to day operations and larger policies of the board. (See the appendix for a summary of the Board's motions.)

Chapter 68A, the articles of incorporation, and the Partnership's bylaws require the Partnership to submit many reports to provide the County with oversight of the Partnership's operations. Exhibit 5 lists the reporting requirements for the Partnership in the order items are due throughout the fiscal year. The Partnership has complied with all of its financial and budget reporting requirements, including the annual independent financial audit and management letter and the annual financial audit. The Partnership has also submitted an annual work plan as part of its proposed budget to the Executive each fall.

The Partnership has met the goals of the County's minority, female and disabled business program but has not complied with the reporting requirement. The Partnership also has not filed reports indicating its efforts to comply with the County's goals for the procurement of recycled goods.

EXHIBIT 5. THE PARTNERSHIP'S COMPLIANCE WITH REPORTING REQUIREMENTS

REQUIREMENT	WITH WHOM	DUE DATE	Reference	Compliance
Annual agreement	County Government	June 30	Chapter 68A	YES
Annual report regarding achievement of County procurement goals with Minority, Female and Disabled businesses	Chief Administrative Officer	Sept. 1	Chapter 68A and annual agreement	See text
Annual report regarding achievement of County procurement goals for recycled goods	Chief Administrative Officer	Sept. 1	Chapter 68A and annual agreement	See text
Annual independent audit and management letter	Director of Finance	Sept. 1	Chapter 68A	YES
Budget reconciliation report – monthly and year end by	Submit to Contract Administrator (Director of Regional Service Center)	October 1	Annual agreement (4)	YES
Annual work plan	Attached to Annual Agreement	With proposed budget	Annual agreement	YES
Annual financial report	Submit to Director of Finance	Nov. 1		YES
Annual proposed budget transmittal	Submit to Office of Management and Budget	Nov. 1	Code	YES
Maintenance standards			Addendum I of annual agreement	YES

Source: OLO, November 1998.

VI. FINDINGS AND RECOMMENDATIONS

In 1993, Council amended the County's existing urban district law to create an independent, not-for-profit, urban district corporation. Under County law, the purpose of the corporation was to provide services of benefit to the County government and to manage the delivery of landscaping, maintenance, marketing and promotional activities in an urban district.

On December 7, 1993, the Council adopted Resolution 12-1400 to create the Bethesda Urban Partnership, Inc. and to establish the Partnership's articles of incorporation and bylaws. The State Department of Assessment and Taxation accepted the articles of incorporation for recording on January 31 1994. The Partnership replaced County departments, which had been providing services to downtown Bethesda since the County established the Bethesda urban district in 1986.

The County established an 11-member board of directors to direct and manage the affairs of the Partnership and re-directed most of the funding for the urban district to the Partnership. The law authorized the Partnership to provide a collection of services including landscaping, streetscape maintenance, promotions and special events, and other services to benefit the residential and business environment of Bethesda.

County law and the articles of incorporation for the Partnership provide that, after five years of operations, the Council must adopt a resolution to extend the life of the Partnership for one or more five-year terms. To inform the Council's reauthorization decision, the law requires the Office of Legislative Oversight to evaluate the performance of the Bethesda Urban Partnership.

FINDING #1

The Partnership has performed effectively, especially in the areas of landscaping, streetscape maintenance, special events, and communications.

OLO administered two survey efforts in 1998 and reviewed a survey sponsored by the Partnership in 1997 to evaluate the performance of the Partnership. In all cases, the surveys examined perceptions of downtown Bethesda and perceptions of the Partnership because these are closely linked in people's minds.

The surveys consistently found that both residents and businesses perceive Bethesda as a safe, close-knit community with a vibrant downtown that offers an attractive mix of activities for all ages. Despite concerns about parking, traffic, pedestrian safety, and a lack of activities for young people, many people regularly shop and dine in Bethesda because it is convenient and offers a variety of shops.

Most residents, businesses, and employees in Bethesda are aware of the Partnership. They are especially familiar with its special events, maintenance, and landscape services. The Partnership consistently receives good to excellent marks for its services and high praise for its professionalism, responsiveness, and accountability. The consensus is that "whatever the Partnership decides to do, it is important that they do it well."

For the most part, those surveyed are very satisfied with the performance of the Partnership. One person noted that the Partnership makes Bethesda look cared for and cared about. Another described the Partnership as "our connective tissue and a community builder."

RECOMMENDATION #1

Given the high level of satisfaction with the Partnership's performance, OLO recommends that the Council adopt a resolution to re-authorize the Partnership for another five-year period. OLO also recommends that the evaluation requirement in the law remain in effect because this practice contributes to the Council's oversight.

FINDING #2

The governance structure for the Partnership provides an appropriate level of oversight for public officials that also allows for flexibility and entrepreneurship.

County law, and the Partnership's articles of incorporation and bylaws establish a governance structure that requires public officials to:

- Appoint and confirm members of the board and designate a County employee as an ex-officio member of the board,
- Approve and amend the Partnership's articles of incorporation and bylaws,
- Review and approve a proposed budget annually,
- Sign an annual agreement that specifies the services to be delivered, and
- Collect and distribute tax revenues, maintenance charges and parking fees subject to the conditions in annual agreement.

The director of the Bethesda Chevy Chase Regional Services Center also administers the County's contract with the Partnership. The Partnership has supplemented this external oversight with an internal system of management and financial controls to protect the resources of the organization.

OLO believes this system has provided an appropriate and adequate level of oversight. The Regional Services Center director advises the Partnership on both policy and procedural matters. The annual budget process and the requirement to sign a service agreement also provide public officials the opportunity to review the Partnership's operations.

The proposed budgets submitted by the Partnership have changed over time as the operations of the Partnership have evolved. In its early years, the Partnership submitted budgets reflecting the net costs of an event or activity because the major source of income came from the County's transfer of funds to the urban district. Beginning in FY 1999, the Partnership reprogrammed its accounting software so the budget now shows all income from all outside sources, including contracts with the County and the urban districts.

The budget the Partnership submits for review by the County Executive and the County Council includes revenues for the Bethesda Urban District Fund. The County Executive reviews this proposed budget and then recommends a proposed budget for the urban district funds only. The County Council adopts the budget for the urban district funds only. In OLO's opinion, the current practice makes it difficult for public officials to have a complete picture of the Partnership's operations. It also limits the ability of the County Council to consider other sources of revenues when it determines the amount of County contributions.

RECOMMENDATION #2

OLO recommends that the Council amend the law to clarify that the required annual budget review applies to the budget for all Partnership operations, and not only those paid for by urban district funds.

FINDING #3

The existing agreements between the optional method development project owners and the Planning Board do not clearly define the authority and scope of services for the Partnership's maintenance of optional method development amenities in the public right-of-way.

County law states that the Partnership may enter into agreements with optional method properties to provide maintenance for either amenities in the public right of way or for amenities on private property. The legislative history indicates that the maintenance charge paid by optional method properties was

intended to cover the cost of maintaining the amenities and streetscape in the public right of way. During the focus groups, several optional method property owners commented that it is very difficult to find out what the optional method property owners are responsible for and that there is no firm idea of what the Planning Board expects.

OLO found the agreements between the optional method developers and the Planning Board consist of three documents. They are: a site plan drawing signed by the Planning Board and the original developer; a Planning Board opinion; and a site plan enforcement agreement that authorizes ongoing inspections by the Planning staff. There are no agreements between the County and the optional method developers.

Although a memorandum in the legislative record from the Planning Board Chair indicates that the Planning Board would adopt a resolution clarifying the relationship between the site plan agreements and the urban district legislation, no Board resolution was ever adopted. The Planning staff indicates that, in practice, they contact the property owner and not the Partnership when there is a site plan enforcement problem.

To administer the billing system for the optional method development properties, staff at the Regional Service Center has compiled a list of optional method properties with an inventory of the amenities of each property. The planning staff indicates that the Partnership and planning staff have also compiled a book of the art work for each optional method project along with recommended maintenance suggestions.

OLO is concerned that the Partnership's maintenance service for optional method properties rests on a system of informal lists, joint accountability, and non-specific agreements. The optional method developers have already had difficulty identifying their maintenance responsibilities, particularly when properties have changed hands. As the amenities age and need to be replaced, additional issues are likely to arise about the timing, responsibility, and cost of replacement.

RECOMMENDATION #3

OLO recommends that the Council request the County Government, the Partnership, and the planning staff to develop written agreements that clarify the responsibilities for maintenance of amenities associated with optional method development properties

FINDING #4

The Partnership has generally complied with the reporting requirements set forth in County law.

County law requires the Partnership to submit several reports and documents to various County departments. These include:

- a proposed budget
- an annual report
- an independent audit,
- a report describing the Partnership's compliance with County procurement goals,
- a report describing the Partnership's compliance with County recycling regulations, and
- an annual agreement for services in the form of a contract.

Since 1995, the Partnership has complied with all of its financial and budget reporting requirements as well as the requirements for an annual agreement and an annual work plan. The Partnership has met the County's goals for procurement with Minority, Female, and Disabled businesses (MFD) but has not filed reports to show this compliance. The Partnership has not filed reports on achieving the County's goals for the procurement of recycled goods.

RECOMMENDATION #4

The Council should discuss whether the County's MFD and recycling procurement goals and the reporting requirements are significant enough program aspects to continue the Partnership's reporting requirement. The Council should either amend the law to delete the reporting requirement or require compliance.

FINDING #5

An emerging issue is whether and how the Partnership should provide services outside of the urban district boundaries. Specifically:

- **The Partnership identified the issue of maintaining its gateway areas in its early years of operation.**
- **In 1997 and 1998, the Partnership entered into contracts with the Wheaton and Silver Spring urban districts to provide trash collection and streetsweeping services outside of the Bethesda urban district.**
- **Recently, the Partnership signed an agreement with a standard method property owner outside the district to provide sidewalk maintenance.**
- **From time to time, the Partnership has received requests for services from municipalities and civic associations outside the district.**

A guiding principle of a special district concept is that the property owners, businesses, and others in a district pay for an enhanced level of services that benefit their specific area. Section 68A-3 states, "Urban districts are created to provide public services and facilities that are primarily of benefit to the property and persons within the district rather than to the County as a whole." Section 68A-9 states, "An urban district corporation may be created under this Section for the benefit of each urban district." This section also states an urban district corporation may provide the following services in an urban district to benefit residents and businesses in the district (and which may incidentally benefit neighboring communities.)

The Partnership's successful delivery of high quality landscaping and maintenance services in the Bethesda urban district has created opportunities for service delivery outside the district boundaries. The Partnership has considered these opportunities carefully. Generally, the Partnership has agreed to provide service when the board finds it to be well within the Partnership's mission of enhancing and beautifying downtown Bethesda or facilitating the use of public parking. The Partnership has requested advice from the County Attorney on these issues. The Partnership has refused requests when the County Attorney has concluded it would be outside the authority of the Partnership or when the board has concluded it would not further the organization's mission.

For example, the most recent request resulted in the Partnership signing two contracts with the Wheaton and Silver Spring urban districts to provide trash collection and street sweeping services in the Silver Spring and Wheaton urban districts. In both instances, the service enabled the Partnership to acquire capital equipment so that it could improve the quality of service in all three urban districts, and render service in its own district on a more cost efficient basis.

The Partnership asked the County Attorney to review these contracts. The Partnership signed these contracts with the County under the public entity

provisions of the County Government procurement regulations. They are one-year contracts with two options for a one-year extension. According to the directors of the Silver Spring and Wheaton urban districts, the contracts are in the best interest of the County because the Partnership's prices result in significant savings for both the Wheaton and Silver Spring urban districts.

In OLO's opinion, these events raise some key questions about the legislative intent of Chapter 68A.

- Did the Council intend to limit the availability of enhanced services only to specific "intensely developed communities" and restrict services to areas immediately outside the boundaries?
- Alternatively, did the Council intend to focus services in the district but also allow adjacent "neighboring communities" to receive services? If so, did the Council intend for services to be provided as long as the property owners were willing to pay? as long as the Partnership uses money outside of the urban district fund to cover the costs? or only as long as the boundaries were enlarged?
- Did the Council intend to establish multiple urban district corporations that could operate only within each urban district?
- Alternatively, is it appropriate to allow an entrepreneurial urban district corporation like the Partnership to operate beyond the boundaries of the home district? If so, does the Partnership need to be limited to serving other urban districts, or can it also serve adjacent municipalities, civic associations, or other public agencies?

RECOMMENDATION #5

OLO recommends the Council and the Partnership address these jurisdictional issues and amend the law to clarify the Council's intent. If the Council decides it is not appropriate for an urban district corporation to operate outside its district, the Council will also need to decide the best way to handle the existing contracts that contravene this principle.

FINDING #6

In addition to its agreements with the Silver Spring and Wheaton urban districts, the Partnership has contracted with the Department of Public Works and Transportation (DPWT) as a "public entity" to provide groundskeeping services at the public parking lots and garages in Bethesda.

Under County procurement law, the County can forego the competitive bidding process and sign an agreement with a public entity as long as it is in the best interest of the County (Section 4.14.14). In 1995, DPWT signed a contract with the Partnership as a public entity to maintain the grounds at the public parking garages and lots in Bethesda. According to DPWT, the Partnership offered to provide a higher level of service for a lower price. The Partnership board believed this service was well within its mission of beautifying and enhancing downtown Bethesda and also helped further the use of public parking. The Partnership performed well and DPWT has recently entered into second contract.

In OLO's opinion, the County's use of the public entity clause for these Partnership contracts may conflict with the provision in Section 68A-11 that states an urban district corporation may not compete with the private sector. If this restriction meant an urban district corporation does not have to compete with the private sector when it bids on County service contracts, then the use of the public entity provision would be consistent with the law. If the intent was to restrict the Partnership from bidding on contracts that otherwise would have provided business to a private firm, then the use of the public entity provision would not be appropriate.

RECOMMENDATION #6

OLO recommends that the Council clarify the legislative intent of Section 68A-11 that states an urban district corporation should not compete with the private sector.

FINDING #7

The Partnership has fulfilled many of the multiple purposes of the original legislation found in County law, and the Partnership's articles of incorporation and bylaws. During the same period, funding for the Partnership has shifted towards a significant reliance on parking fee transfers.

The legislative history for the County's urban district law stated the importance of clearly defining the purpose(s) of a special benefit district. This was partly to clarify the scope of services for a district and partly to create a close

relationship between those who benefit and those who pay. The stated purposes for the Bethesda Urban Partnership are found in County law, in the articles of incorporation and in the Partnership bylaws. Altogether, there are a dozen purpose statements. Some identify the Partnership's services while others address the Partnership's organizational structure.

Since its establishment in 1994, the Partnership has fulfilled many of these purpose statements. It has established a top-notch maintenance and landscaping program, hosted well-received promotions and special events and worked closely with many organizations and government agencies to build a stronger sense of place and a more caring community in Bethesda.

Since the County created the Partnership in FY 1995, parking fee transfers have comprised an increasing share of the County collected revenues. In FY 1999, the parking fees provided 76 percent of the operating revenues and the urban district tax provided 18 percent. In part, this evolution may be due to the County's spending affordability process that created an incentive to rely on parking fee transfers.

The consensus opinion expressed by the focus groups OLO convened to evaluate the performance of the Partnership, is that the Partnership has successfully established its core services and is at the point where it is seeking additional direction. The focus group participants offered multiple suggestions for areas of possible Partnership involvement; however, no single themes or consensus about the best future direction emerged from these discussions. To address these multiple priorities, IDA recommended that the Partnership reconnect with the multiple constituencies for downtown to discuss new directions, to identify conflicts, and to negotiate and resolve issues.

RECOMMENDATION #7

OLO recommends that the Partnership engage constituent groups, including select County departments, in a strategic, long-range planning process. The goal of this exercise should be to clarify the purpose, scope, and funding of the organization over the next five years.

OLO suggests the Partnership clarify whether it expects to continue primarily as a service organization or to evolve into a more, independent, full service district. The Partnership may also address the funding mix that would most appropriately match the level of independence it seeks. Finally, the Partnership may wish to revisit the feasibility of one of the County's original goals for a uniform maintenance program. An extension of streetscaping requirements in the sector plan coupled with a shift in County government policy seems to have moved the downtown further from uniform maintenance than it was originally. After the Partnership completes this process, the Partnership may wish to propose that the Council amend the law, or its articles of incorporation or bylaws accordingly.

VII. AGENCY COMMENTS ON DRAFT REPORT

OLO circulated a draft of this report in October 1998 to the Bethesda Urban Partnership, the Chief Administrative Officer (CAO) and the Montgomery County Planning Board. The written comments received on the draft report from the board of directors of the Bethesda Urban Partnership and the CAO are included in their entirety, beginning on the following page.

The final report reflects the technical corrections received from the Bethesda Urban Partnership. OLO appreciates the time taken by the Partnership and the Executive branch to review and comment on the draft report. OLO looks forward to a continuing discussion of the issues raised as the Council reviews the report in the coming months.

Government Working for
a Better Bethesda

Bethesda Urban Partnership
7836 Wisconsin Avenue
Bethesda, MD 20814-3774

301-215-6661
301-215-6664 Fax
www.bethesda.org



Ms. Sue Richards
Program Evaluator
Office of Legislative Oversight
100 Maryland Avenue
Rockville, MD 20850

Dear Sue:

I am enclosing comments from the Bethesda Urban Partnership Board of Directors to attach to your report.

We appreciate all of the effort that you have devoted to this project. You have pulled together a great deal of information, and you clearly understand the aims and objectives of the Partnership. We intend to use your findings to improve our programs and services.

Thanks again for helping us through the reauthorization process.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Matt Hussmann", with a long, sweeping horizontal line extending to the right.

Matt Hussmann
Executive Director

Cc: Board of Directors
File

**Board of Directors Response to
OLO Report 98-3
*A Performance Evaluation of the
Bethesda Urban Partnership, Inc.***

October 28, 1998

The Board of Directors of the Bethesda Urban Partnership has reviewed a draft of OLO Report 98-3. Overall the Board is quite pleased with the report. It confirms our perception that the Partnership has been an effective service provider within the urban district. Over the years, this has been our primary goal, and we are pleased that our constituents are generally satisfied with our efforts.

Earlier this year, the Board established a Reauthorization Committee to oversee the reauthorization process. That Committee has reviewed OLO's draft report in detail, and has prepared a list of technical corrections, which we have forwarded to OLO under separate cover. In this document, we would like to make general comment on the report's findings, and describe for the Council some of our long-term goals for the Bethesda Urban District.

The OLO report makes seven recommendations. We'll discuss them in reverse order.

Recommendation Seven suggests that the Partnership engage in a long term planning process to clarify our purpose and funding in the future. The Board recognizes the importance of working with all of constituents to continue to improve and refine our work program, and endorses this recommendation.

Recommendation Six and Recommendation Five both address the Partnership's contracts for maintenance services to urban districts and to DPWT. The Board believes our decisions to enter into contracts with the Wheaton and Silver Spring urban districts, and with the Department of Public Works and Transportation, are in the best interest of the County, under the "public entity" provisions of the law.

Our contracts with the Silver Spring and Wheaton urban districts have enabled us to purchase equipment that allows us to provide a higher level of service, at a lower cost, to our constituents in the Bethesda Urban District. The county vendor used a mechanical streetsweeper that brushes dirt and debris into the hopper; our equipment vacuums the dirt and cleans far better. It is also quieter. In a similar manner, because we own trash removal equipment, we are able to tailor our routes to meet the needs of our urban district. We now have a level of flexibility to collect trash as it is generated that a private vendor cannot offer.

Without the participation of the Wheaton and Silver Spring urban districts, we would not have been able to afford this equipment to provide the high level of service our constituents demand.

Over the five years of the Bethesda Urban Partnership's existence, some expected sources of outside funding haven't materialized. When the Partnership was established, it was expected that Optional Method Developers would contract with the Partnership to maintain on-site as well as off-site amenities; that hasn't happened. When the Partnership was established, it was expected that businesses would jump at the chance to sponsor events; that hasn't happened. (The lack of special event sponsorship has been frustrating to the Board, but despite significant levels of effort by staff, our sponsorship income amounts to less than 2 percent of our total budget. When the staff resources devoted to soliciting sponsorship are factored in, we break even at best.)

Our budget has been essentially static over the life of the program, but our areas of responsibility have increased. These maintenance agreements—each of which was carefully reviewed and approved by the County Attorney—have been an important source of income for the Partnership.

The OLO report asks the Council to revisit the question whether to allow "public entity" contracting between the urban districts, and between the urban districts and other government entities. We strongly encourage the Council to continue to allow this practice to continue. It is in the best interest of the County, of the urban districts, and of the communities, which receive higher levels of service at lower costs.

Recommendation Four addresses certain reporting requirements. The Board notes that the Partnership has exceeded the County requirements in MFD contracting, and will continue to make a good faith effort in this area. To lessen our administrative burdens, the Board prefers that the Partnership be exempt from these reporting requirements.

Recommendation Three discusses the need to develop written agreements with Optional Method Developers to describe the responsibilities of the OMD's and of the Partnership. The Board strongly endorses this recommendation.

Recommendation Two is intended to require the Partnership to clearly show all sources of income, including contract income, as we prepare our budget. In September of 1997, after we signed trash collection agreements with the Silver Spring and Wheaton urban districts, we determined that our practice of showing the net costs of our events and activities needed to be improved. We hired a CPA to help us establish a new budget structure that clearly showed income from all sources. That new structure was put in place retroactive to July 1, 1998. In other words, as soon as we started generating a significant amount of outside income, we changed our reports to show this outside income as clearly as possible.

Since we believe we have already responded to this recommendation, the Board takes no position on whether the urban district legislation should be changed to codify our current practice.

Recommendation One is the key recommendation in the report: OLO recommends that the Partnership be reauthorized for another five-year period. The Board strongly encourages the Council to reauthorize the Partnership now for another five-year period, because our enabling legislation expires on February 1, 1999.

The Board has two requests related to this recommendation. First, we ask that the Council consider OLO's proposed changes to the urban district legislation early next year. Second, we ask that the Council simultaneously consider some additional changes to the urban district legislation. The Board may ask the Council to:

- Slightly modify the boundaries of the Bethesda Urban District.
- Allow us to comment on sign variances, road closures, transportation projects, site plans and mandatory referrals in the urban district.
- Allow us to own lease or manage certain properties that are important for cultural or promotional reasons.
- Develop additional sources of funding for Partnership activities.
- Clarify our ability to enter into contracts with optional or standard method developers for maintenance or promotional activities.

The Board has discussed each of these issues, but is not ready to make a recommendation to the Council at this time. We hope that the Council can schedule a time during 1999 to consider the urban district legislation in depth. But in order to allow for the orderly operation of the Partnership, we ask that the Council reauthorize the Bethesda Urban Partnership immediately.



OFFICES OF THE COUNTY EXECUTIVE

Douglas M. Duncan
County Executive

Bruce Romer
Chief Administrative Officer

MEMORANDUM

November 6, 1998

TO: Sue Richards, Program Evaluator, Office of Legislative Oversight

FROM: Bruce Romer, Chief Administrative Officer

SUBJECT: Office of Legislative Oversight DRAFT Report 98-3: A Performance Evaluation of the Bethesda Urban Partnership, Inc.

Thank you for the opportunity to comment on the DRAFT OLO Report 98-3: A Performance Evaluation of the Bethesda Urban Partnership, Inc. When the Bethesda Urban Partnership was established nearly five years ago, it was difficult to predict how the organization would evolve and what services it would take on. This OLO report is comprehensive and an excellent reference document on the Bethesda Urban Partnership. The history and description of the governance structure and information on funding, practices and day-to-day operations of the Partnership will be useful in clarifying various provisions of the law that created urban district corporations.

We concur with OLO's recommendation regarding continuation and urge the Council to promptly adopt a resolution to re-authorize the Partnership for another five-year period. We look forward to discussing the other recommendations with Council but want to state our position regarding the following two issues:

- We do not support a requirement for Council approval of the budget of all operations; but only for those operations paid for by urban district funds. This requirement could, potentially and unnecessarily, hamper entrepreneurship and stronger private sector participation. One advantage to operating as a corporation is that it permits a slightly arms-length arrangement with the County, which in turn encourages a stronger private sector involvement in revenue development, participation and oversight.
- We support the ability of the Partnership to provide services outside its boundary to the fullest extent permitted under law. Any unnecessary limitation could squelch an entrepreneurial approach to service delivery that should, in fact, be applauded and encouraged. Not only has the Partnership benefited

from this arrangement, but the Silver Spring and Wheaton Urban Districts save approximately \$82,000 per year and use the funds to provide other services. Without these services, the Silver Spring and Wheaton Urban Districts would be seriously impacted and have to cut back other services.

We appreciate the opportunity to comment on this draft report. Now that we have a more realistic picture of an urban district corporation, it may be necessary to modify the legislation. We look forward to participating with the Council in its review of this report and in addressing these issues.

BR:rsd

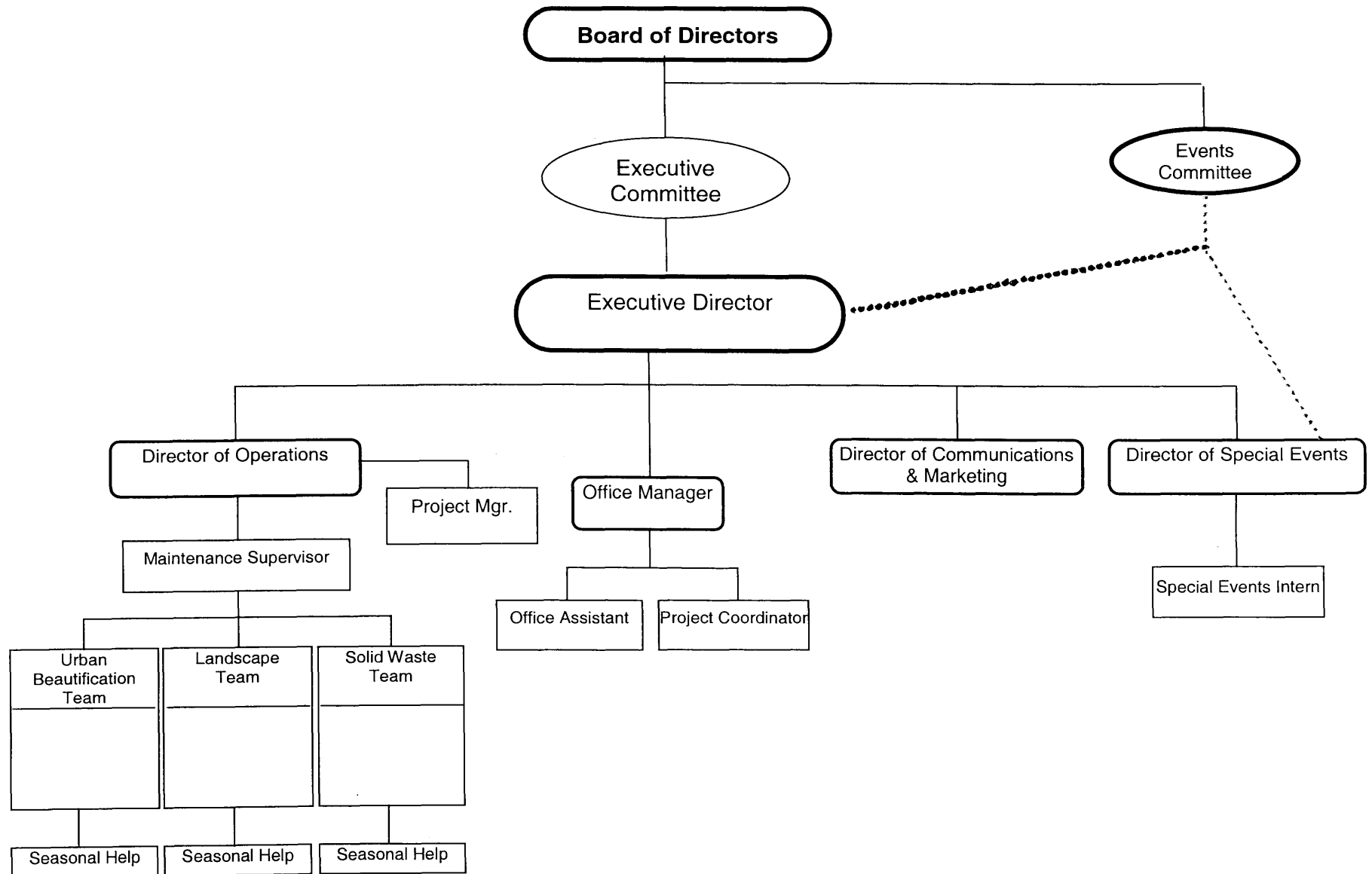
cc: Gail Nachman, Director, Bethesda-Chevy Chase Regional Services Center
Robert Kendal, Director, Office of Management and Budget
Charles Thompson, Jr., County Attorney
Robert Merryman, Acting Director, Department of Public Works & Transportation
Anise Brown, Director, East County Regional Services Center
Natalie Cantor, Director, Mid-County Regional Services Center
Lori Gillen, Director, Silver Spring Regional Services Center
Steve Poteat, Director, Upcounty Regional Services Center

APPENDICES

Boundaries of the Bethesda Urban District



November 24, 1998



**MOTIONS, POLICIES, AND PROCEDURES
ADOPTED BY THE
BETHESDA URBAN PARTNERSHIP BOARD OF DIRECTORS**

Administration	
• Limit on One Signature on Checks	02/03/94
• Increasing Limit on One Signature on Checks	12/19/95
• Sponsor/Host a Meeting of the Metro Area Downtown Associations	01/16/96
Board Policies/Procedures	
• Extended Time for Board Meetings	05/17/94
• Mandatory Board Approval Prior to BUP Endorsements or Positions	03/21/95
• Tree Dedications	11/08/95
• Taking Action Regarding FRIT's Proposed Project for the Bethesda Avenue Area	01/16/96
Committees	
• Establishment of Committees	09/28/94
• Committees-Authority	04/18/95
County Issues	
• Ratify and approve Carol's July 8 letter and testimony re: the Chevy Chase Bank theater plans	07/21/98
Events	
• Taste of Bethesda – Charitable Contribution on Ticket Reimbursement to Restaurants	07/18/95
• Policy on Contracting with Non-profits for Performing or Providing a Service at Bethesda UP Events	12/19/95
• Insurance Requirements for Performers	04/16/96
• Allow alcoholic beverages on a case by case basis at B-UP Co-sponsored events	04/21/98
Grants	
• Community Grants	08/16/94
• Revised Grant Application	03/21/95
• New Grant Program	01/21/97
• Utilize grant monies in other areas of need if the suggestion for improved lighting of the Woodmont Triangle does not turn out to be feasible or use all of the funds	05/20/97
Maintenance	
• Maintenance of Wisconsin Avenue from Bradley Blvd. to Somerset Terrace	09/28/94
• Landscape Maintenance of Public Parking Lots and Garages	02/21/95
• Installation of Bike Racks	03/19/96
• In-House Trash Removal Service	04/16/96
• Repair of the Concrete Sidewalks in the Central Business District	11/19/96
• Demonstration Project on Sidewalk Snow Removal	11/19/96
• Planter Program	01/21/97
Personnel	
• Alternative Health Plan for Employees	12/20/94
• Bethesda UP Employee Handbook	03/21/95
• Establishing a Retirement Plan and Qualification Requirements for Employees	02/20/96
• Personnel Policy on Providing References on Past Employees	05/21/96

**MOTIONS, POLICIES, AND PROCEDURES
ADOPTED BY THE
BETHESDA URBAN PARTNERSHIP BOARD OF DIRECTORS**

Promotions	
<ul style="list-style-type: none"> • Policy on use of Banner Poles on Woodmont Avenue 	01/16/96
<ul style="list-style-type: none"> • Mission Statement 	01/21/97
<ul style="list-style-type: none"> • Policy on inclusion on event calendar 	pending
Street Sweeping	
<ul style="list-style-type: none"> • Purchase a regenerative air street sweeper and that BUP undertake a street-sweeping program, contingent on firm commitments from Silver Spring and Wheaton to participate in the program 	10/21/97
Taxes	
<ul style="list-style-type: none"> • Tax Status 	12/20/94
Three-Bid Policy	
<ul style="list-style-type: none"> • Policy on Bids for Items Under \$1,000 	07/19/94
Wayfinding Project	
<ul style="list-style-type: none"> • Renaming "Arlington Row" District 	02/05/97
<ul style="list-style-type: none"> • Find PHR&A as a sole source contractor for the MapInfo enhancements 	04/21/98