

Minority Report – Final Draft

October 12, 2015

***Disclaimer:** Several members of the Transit Task Force were appointed because they represent specific groups or organizations by which they are employed or of which they are members. Participation of those members in the Task Force, and their subscribing to any part of this report, does not necessarily reflect the opinions of such groups and organizations, and is not binding on them. With respect to the individual members of the Task Force who contributed to this report, or indicated support for the main conclusions of this Minority Report, individual members may have different opinions with respect to specific matters contained in this Report.*

Introduction:

Some members of the Transit Task Force did not support the main recommendations of the Task Force Report, which was approved by a 12 – 3 vote, on October 7th, 2015 (with 18 of the 33 voting Task Force members not voting or not present for the vote). Some members who did not support the Task Force Report share some of its key goals – expanding transit service and identifying new sources of funds, for example – but did not reach the same conclusions about the advisability of the entire Rapid Transit System (RTS); or the proposed Independent Transit Authority (ITA) structure to finance, build and operate it; or both. Others advocated entirely different transit strategies, different funding priorities, and/or different financing mechanisms, all of which are summarized briefly below. Our goal in this report is to provide a more thorough accounting of the depth and breadth of discussion that took place on the Task Force, and highlight some of the alternatives that were identified in the course of those discussions, but did not make it into the main report. Some of the findings and recommendations outlined below were raised in public testimony, while others were discussed at length by the Task Force but did not receive majority support.

The following Minority Report is submitted by Richard Parsons and James Zepp in their capacity as individual members of the Task Force. It reflects input from several other Task Force members whose organizations have not yet taken a formal position on all of these issues, or who were not present at the final meeting, and so were not able to lend their names to this report; as well as from testimony received in the public hearings from various groups and individual citizens.

Regardless of the conclusions each member of the Task Force reached, all of us express sincere appreciation for the opportunity to voice our concerns and the concerns we heard from members of our community, on a topic of such importance to the future of Montgomery County.

Transit Task Force Minority Members’ Findings:

1. The Task Force Minority members (the Minority) applaud Montgomery County Isiah Leggett for attempting to address the County’s current and future transportation concerns, recognizing that current funding sources do not provide adequate funding for local transit needs, and/or recognizing that some new dedicated revenue sources are needed to expand and improve our transportation networks. Other minority members feel it is not simply a question of spending more money or adding an entirely new transit system, but also finding ways to more efficiently and effectively use existing transportation resources, and keeping an open mind as to the right combination of solutions. Consequently, the Minority is troubled that this initiative has focused too narrowly on the widespread implementation of a single favored new transportation alternative, i.e., local bus-rapid-transit (BRT), and a single financing option, i.e., the local Independent Transit Authority (ITA), while not allowing an equal consideration of

other alternatives that may be more realistic under current economic conditions, more effective in meeting current and near term transportation needs, and more appropriate in light of uncertainties over future travel patterns and demands; and impacts on County workers.

2. The Minority does not believe the Independent Transit Authority proposal recommended by the Task Force majority is the best way to structure such an authority, that sufficient effort was made to identify best practices in other jurisdictions, or that this is the best approach to secure additional transportation funding. Several other models for such an authority have been established in other jurisdictions, including the Northern Virginia Transportation Authority, which provide various advantages and disadvantages, but these options were given little consideration by the Task Force. Furthermore, the Minority believes much more extensive outreach and community stakeholder feedback is needed in developing any proposal with such far-reaching impacts, and a far more effective community engagement strategy is needed that considers all the options, if the goal is to generate broad public support.
3. As noted above, the Minority does not believe adequate time and attention was devoted by the Task Force to examining alternatives to the current ITA proposal, in part due to the limited scope of the Task Force's charge. Nevertheless, the majority report asserts – without adequate basis – that the main choices the County faces are between moving forward with the ITA as proposed, sticking with the status quo, or accepting long delays if the County wishes to consider any alternative strategies. The Minority rejects this assertion as a false choice that does not reflect a number of other viable alternatives that may not take any longer to implement than the ITA, and that may enjoy more political support (which might enable them to be implemented sooner). These include the following:
 - a. Incremental Implementation of Improved Transit Services: Using current funding sources and governance structures, including federal, state and WMATA resources, to implement more affordable and more immediate transit improvements, such as enhanced express-bus service on key corridors, in an incremental fashion. The county is currently working with WMATA to provide MetroExtra express service on the Veirs Mill Road and Route 29 corridors; and with a grant of \$17 million from the federal government to provide similar service on the Route 355 corridor with minimal county funding. This option can be pursued more aggressively to address each of the corridors identified for BRT incrementally, leveraging potential investments from the state, WMATA and the federal government to the maximum extent possible. The major advantages of this approach are that no new State legislation is needed, it avoids the difficulties inherent in creating new administrative and financing structures, and it allows the effectiveness of enhanced express-bus service in each corridor to be evaluated at comparatively little cost to the County before committing to fund the entire BRT system recommended by the Task Force. The Countywide Transit Corridors Functional Master Plan recognizes that for many years to come these corridors would not have the sufficient demand to support “a high level” of BRT treatment in any case. Consequently this would be a more fiscally responsible and reasonable approach than prematurely committing to billions in debt for 30 years. It is true that that this approach would take longer to deliver the full BRT system the Task Force has identified as a priority, and funding from these other sources is not guaranteed beyond what the County has already identified, but given the lack of demand for more expensive BRT service currently, there is little downside risk in proceeding more incrementally in our view.
 - b. Re-organization & Optimization of Existing Transit Routes and Services: Other communities (e.g., Houston, TX; Los Angeles, CA; and Omaha, NE) are achieving significant transit service

improvements through data-driven analyses that reallocate existing transit resources more effectively and efficiently, based on extensive community, stakeholder and user input. In Houston, this has meant:

- 15 minutes bus headways for most routes, including weekends
- 90% of all routes have 10 to 20 minute faster trip times
- 93% of current riders are using the same stops; 99% of riders are within ¼ mile of a stop

The analysis required to make these improvements cost \$1.2 million in Houston, but because 25% of existing resources were simply reallocated, implementation was possible without any new funding. Consequently, planning and implementation were completed in 18 months. This may offer a far more cost-effective approach to improve transit access and service levels in Montgomery County – in a way that can be implemented faster, with far less investment than the \$2.5 billion estimated cost to deliver Phase I of the proposed BRT system (including operating costs). Houston’s approach provided extensive community input and no additional burden on their taxpayers, and a \$1.2 million investment could more easily be covered through existing resources, funded through existing structures and carried out in an incremental fashion. Rebranding existing fleets, as other jurisdictions have done successfully, may also be a reasonable investment to attract new riders, as other jurisdictions have done.

- c. Free Ride On Service: If encouraging transit usage and shifting travel from single occupant vehicles to buses are high priorities for the County government, then some in the Minority feel free Ride On service should be tried. According to County budget documents and staff, the current Ride On fare revenue of \$21 million is 12% of the system’s total cost, including debt service payments. As noted by the Transit Task Force report, WMATA achieves a 30% or greater fare recovery rate for many of its bus routes. Missoula, Montana has recently announced a three-year free fare program to promote transit usage, and other jurisdictions have had ridership increases of as much 60% when offering free fares. The Task Force has cited the decline in the County’s median income and other economic trends that indicate free fares would greatly benefit a significant portion of County residents, and the impact on boosting transit ridership from making Ride-On a free service, at a net cost to the County of \$21 million, should be evaluated against the performance of the proposed ITA/BRT approach recommended by the Task Force and its projected cost of \$2.5 billion.
- d. Regional Transit Authority: Some in the minority feel that another commonly used alternative to the ITA that would provide more additional funding capacity with less impact on County taxpayers is the creation of a regional transit authority (RTA). An RTA would have similar authority in some respects to the ITA (ability to prioritize, finance and build new BRT lines and other transit improvements). However, it would have a broader geographic tax base to draw upon, a broader menu of potential revenue sources beyond property and excise taxes, and the ability to fund and construct multi-jurisdictional transit projects that would address prevailing travel patterns (which are regional and suburb-to-suburb) and provide connectivity between the County’s local transit systems and major activity centers throughout the region. A regional authority is what every jurisdiction in the United States that has an independent transit authority has adopted – there are dozens of them (none have created purely local ITAs). This approach, some Task Force members believe, offers more potential to impact the overall performance of the County’s transportation system; avoids many of the challenges a local ITA faces in qualifying its debt as non-county debt (which the broader geographic boundaries of an RTA make quite clear); and provides a more appropriate structure for setting regional priorities than any County agency would, which some feel is important given the County’s poor track

record in dealing with congestion. This is an option that some members of the Minority feel has potential and is worth further consideration regardless of the County's decision on the ITA.

Any of these alternative approaches, contrary to the assertions of the Transit Task Force Report, can be pursued on a similar timetable to the Task Force Majority's recommended RTS network; they offer a more practical, realistic and immediate approach to addressing transit needs, and at the same or lower net cost to taxpayers than the \$2.5 billion estimated for Phase I of the proposed RTS network that is to be financed and operated by an ITA. In the case of the RTA, this alternative could also take on BRT projects of regional significance that likely would have much greater impact per dollar invested on congestion, transit ridership and access to jobs and housing than a more limited countywide RTS system.

4. Some members of the Minority support the use of BRT to add new capacity in heavily congested corridors, where studies indicate it would be effective, including the Corridor Cities Transitway (CCT), although this is not a universally held view; and are not opposed to expanding the proposed BRT network to additional corridors, if properly evaluated to ensure its cost-effectiveness. However, the Minority does not find convincing the Task Force's recommendation to move forward now on all of Phase I of the RTS system, as none of the corridors in this system (with the exception of the CCT) has yet been shown to be effective or deserving of this level of funding and prioritization, relative to other unfunded transportation needs facing Montgomery County. That case simply has not been made. Moreover, with both the community outreach and the project design for the remaining Phase I RTS corridors still at an early stage, any decision to set up a permanent financing and operating structure like the proposed ITA seems premature.
5. This Independent Transit Authority proposal is focused too narrowly on a \$2.5 billion local RTS system that will not meaningfully address the County's most pressing transportation needs; has not been adequately evaluated; and may make traffic congestion worse instead of better if implemented as proposed, because it envisions taking away current general purpose lanes in heavily congested corridors like MD 355 and MD 29, without a proper analysis of its impacts. More specifically:
 - a. The ITA proposal is limited to funding a purely local BRT network that does not address Montgomery County's dominant travel patterns, which are multi-modal; or today's fast-changing technology that may require more flexibility than the ITA's "single-mode" focus and structure allows; and the proposal fails to address the County's worst traffic bottlenecks, all of which are on major highways and intersections with significant regional traffic flows that local BRT will not address at all;
 - b. Performance data for auto and transit travel times in each corridor and countywide – comparing conditions with and without this system in place – have not been made available to the public to justify this extraordinary level of new taxation. Since roughly 90% of daily trips in suburban Maryland are on our roads (roughly 10% use other forms of transit), data on both modes is critical for making informed decisions of this magnitude, especially since the proposed local BRT network would convert current general purpose lanes to bus-only use in some already highly congested corridors; yet this critical data has not been provided. To some in the Minority, a quality BRT system that adds new dedicated lane capacity to our already overburdened local road network would at least have some prospect of reducing congestion. However, simply adding more buses to heavily congested existing lanes, taking lanes in some cases, moving buses in mixed traffic in others, and calling it "BRT" does County taxpayers a disservice and will likely result in higher levels of congestion, longer travel times overall, and limited travel time

improvements for existing transit riders (and correspondingly reduced economic benefits) in these corridors;

- c. No comparative traffic modeling analysis has been done at the regional or county-wide level to justify an investment of over \$2.5 billion in a purely local BRT network, as opposed to other master-planned projects that are likely to deliver better results and should be higher priorities. For example, adding dedicated regional BRT service on the new electronic toll lanes planned for I-270, from Frederick to the Beltway, and across the American Legion Bridge (which studies show dramatically reduces congestion for roughly 500,000 residents per day, expands transit access, and largely pays for itself) has been identified by area transportation experts as a much higher priority, and is far more likely to win public and community stakeholder support. Similarly, significant gains in ridership might be achieved at lower cost through more incremental efforts to redesign current bus transit routes, as Houston did. However, no formal alternatives analysis has been conducted – comparing the proposed RTS network to any of these alternative scenarios -- in reaching the decision to push forward with the local RTS system that is to be funded by the proposed ITA. Therefore, the Minority feels the necessary analysis to justify this decision simply has not been done;
- d. Ridership forecasts for the proposed RTS system assumed a more extensive network than is now included in the proposal (which only funds the first phase, for only 4 of the 10 routes in the proposed RTS system); therefore, it is unclear what the operating costs and impacts of the current plan will be for County taxpayers. The internationally respected Institute for Transportation and Development Policy (IDTP) reviewed the initially proposed RTS plan and concluded that only one corridor should be pursued in Phase I, and its performance evaluated, before the County should commit any broader BRT system; and that none of the 4 initial corridors they studied approached the ridership levels in other BRT corridors around the world, and none were even close to the FTA’s recommended minimum level of 1,200 riders per peak hour, peak direction (PPHPD). [see chart below from IDTP’s December 2012 report]

Figure 10: Peak hour, peak directional ridership of BRT corridors around the world

BRT Corridors Ridership Compared	
BRT Corridor	PPHPD
Bogota, TransMilenio	36,000
Sao Paulo, Corredor Santo Amaro	35,000
Porto Alegre, Corredor Assis Brasil	28,000
Curitiba, Eixo Sul	10,500
Mexico City, Metrobus	11,000
Pittsburgh, PA	3,500
Los Angeles Orange Line	2,100
Cleveland HealthLine	1,200
Route 29 (Silver Spring)	800
Veirs Mill Road (Wheaton)	280
Route 355 (Rockville/Bethesda)	250
FTA Recommended Minimum	1,200

- e. Most of the projected riders of the more extensive local RTS system initially proposed currently use Ride On, Metro bus or Metro rail (in the case of lower MD 355). It is unclear how much benefit would be afforded these riders in travel time savings, or new transit riders generated per dollar spent, with the reduced Phase I RTS network, compared to other options; or if other less costly approaches to reconfigure bus routes, improve existing bus service in these corridors, and increase parking capacity around existing transit stations would perform better at lower cost;
6. The tax impacts of the ITA are significant – raising property taxes by up to an average of \$380 per year for each County resident (assuming current assessments), from now through 2046, and imposing even higher burdens on commercial properties through a combination of property and excise taxes, and all of this in a jurisdiction already known for high taxes. Residential and commercial property owners are likely to be facing a major property tax increase this year anyway to cover operating budget shortfalls. Higher taxes might be warranted, even in this context, if tied to specific, quantifiable improvements in the performance of our overall transportation network. However, this does not appear to be the case.
7. There are no performance metrics specified or required to be followed by the proposed ITA in developing and prioritizing the RTS corridors now being studied. Hence, there is no assurance to taxpayers that this investment will materially improve congestion, transit ridership, access to jobs and housing, and other commonly used performance metrics. Therefore there is no accountability for results under this structure. Other regional transit authorities (including Virginia’s) have such metrics and are required to follow them, which is an option the County should consider.
8. The ITA’s taxing authority sidesteps the county Charter limit on property taxes in ways that voters are likely to perceive as contrary to the voters’ intent (as expressed via referendum).
9. The \$2.5 billion in new taxes required for Phase I of the RTS system will be paid by all property owners, for a system whose benefits are poorly defined, not adequately evaluated against other potential investments that might perform better, and limited primarily to a few large property owners and developers in the limited number of corridors the Phase I RTS network will serve (Route 355, Route 29 and Veirs Mill Road, in addition to the CCT). Entire areas of the County, and in particular many upcounty neighborhoods, would see little to no benefit but still have to pay the same higher tax rate.
10. Some in the minority raised the issue that, since residential taxpayers currently contribute 70 to 75% of the County’s total property tax revenue, there is a concern about the fairness of the proposed ITA’s tax burden. Increases in owner-occupied residential property values are only realized when the property is sold or transferred, but higher values are reflected in higher property taxes within a few years. Transit riders constitute a small fraction of the County’s population (15% or even less in most areas). Consequently, many homeowners may feel that BRT fares should be a much higher proportion of the system’s revenues or that commercial property owners who derive increased rental income or business revenues should be subject to taxes that recover these direct and immediate windfalls from adjacency to the BRT routes. Others do not share these concerns, but the issue has been raised and deserves further discussion.
11. Some in the minority point out that the Task Force Report fails to recognize that the County has recently increased the mass transit tax by 50%. Along with the increase in state gasoline taxes, residents and businesses are already facing higher tax burdens for transportation projects and services that many perceive to be less than optimal. To follow this up with additional taxes starting in 2017 for BRT projects that will not be operational optimistically until 2023 through 2027 will be straining the remaining credibility that the County government has and testing many voters’ patience.
12. Some in the minority are concerned that the power of eminent domain would be given to the Authority, and feel existing notice requirements do not provide sufficient protection for property owners to ensure

they would be adequately notified and fairly compensated, or that this authority is not abused; and questions remain regarding when notice is required in the capital budgeting process and how current practices can be improved that need further clarification.

13. The ITA creates potentially duplicative and overly complex administrative and finance structures that may lead to new inefficiencies, incur new borrowing that may or may not count as overlapping debt, and would have to be both:
 - a. Independent enough from County authority to assure bond rating agencies that its bonds do not count against County borrowing limits, and
 - b. Dependent enough on County authority to assure voters that its decisions are ultimately accountable to elected officials and, therefore, the voters.

The Minority believes there is an inherent conflict with this structure, not to mention considerable uncertainty that the Task Force has struggled diligently to address. However, this is a daunting challenge that no other local jurisdiction in America has solved (there are no precedents for a local ITA anywhere in the U.S.) – so there is little real-world guidance available.

14. Some in the Minority believe there are elements of the proposed RTS system that may have significant economic and transit benefits, especially in certain corridors where major economic development or re-development efforts will boost job growth and grow our tax base; but Montgomery County does not need an ITA to begin work in any of these corridors, most of which are in early stages of design. The County already has the authority to create special tax districts, as it did in White Flint, and engage the private-sector through P3s, if needed. It can continue to do so on a corridor-specific basis, as these projects move forward and are adequately evaluated for cost-effectiveness, with or without an ITA. Others believe the proposed ITA enabling legislation is premature because there are alternatives for improving the County’s transit services, boosting transit ridership, and addressing traffic congestion conditions that do not require the full BRT treatment being pursued by the County government and, therefore, the establishment of a separate independent transit agency may not be necessary and the massive, long- term financial obligations and associated tax burdens can be avoided.

Transit Task Force Minority Members’ Recommendations:

1. **ITA is Not Recommended:** Enactment by the General Assembly of enabling legislation authorizing Montgomery County to establish an Independent Transit Authority is not recommended at this time.
2. **A More Incremental Strategy is Advised:** Montgomery County should first pursue a more incremental strategy, using current financing structures, including special tax districts if needed (which it already has the authority to do under state law) and leverage additional investments by WMATA, state and federal agencies to the greatest extent possible to improve existing systems in order to increase ridership and decrease congestion. These include completing master-planned transit and road improvements already identified as priorities by the County, adding additional limited stop services such as Metro Extra and Ride On Plus while also improving amenities for bus riders, and other investments that enjoy broad public support; before committing to the establishment of an independent Transit Authority or Phase I of the proposed RTS system. The investment required for an incremental approach would be far less than the \$2.5 billion capital and operating cost of the program the Task Force Report recommends.
3. **Performance Assessments Needed First:** The performance of each transit corridor should be thoroughly evaluated, using commonly accepted economic and transportation measures of effectiveness (MOEs),

including transit and auto travel times between key activity centers in the County and the region, new transit riders generated, and other commonly used transportation and economic metrics, to assure taxpayers that their funds are being invested in a cost-effective manner and that, as any of these RTS corridors are developed, the forecast ridership levels are being achieved -- before the County or any transit authority implemented by the County makes any longer-term commitments that would obligate county taxpayers to fund a multi-billion-dollar RTS system. This information must be shared with the community in an open and transparent process.

4. **Alternatives Analysis Should Guide Investment Decisions of This Magnitude:** A comprehensive alternatives analysis must be conducted and released to the public, with robust and meaningful outreach to the community and all key stakeholder groups. This study must fully evaluate the countywide and regional performance of the proposed Phase I of the RTS network, as well as the entire network, using commonly accepted measures of effectiveness (MOEs); and comparing the RTS to a no-build scenario and a series of alternate scenarios (developed with community and stakeholder input) in which various levels of investment are made, to identify the best possible approach. This is the type of analysis that should have been done already, before seeking to set up a financing structure to raise taxes to this extent for the proposed RTS network. Common MOEs used in such studies include: new job creation; changes in the assessable tax base; accessibility to jobs and housing (across all modes); and impacts on traffic congestion, transit ridership, non-auto mode shares, transit and auto travel times, and travel delay. All data must be clearly conveyed to elected officials and the public – so we can all properly assess and prioritize investment in the RTS system relative to other competing transportation priorities – in order to make the case for this system or any other alternative approach.
5. **Regional Authority Model Should be Explored:** Establishment of a regional transit authority that would include Frederick, Montgomery, Prince George’s and Charles Counties, and possibly Howard and other surrounding Maryland jurisdictions, with appropriate system performance metrics established, and subject to terms and conditions similar to those outlined in proposed legislation by Maryland State Senate President Thomas V. “Mike” Miller (SB 830 in the 2013 session, or similar legislation) and other RTAs already in place in other jurisdictions, should be considered for further evaluation as one possible alternative model for expanding transit service here at the regional level, where it has the potential to deliver far greater benefits for County residents, and is recommended by some Minority members.
6. **Other Issues:** If the County decides to move forward with an ITA at some future point, several additional shortcomings of this particular proposal also would need to be addressed:
 - a. The question of creating one countywide tax district, or multiple tax districts is not decided and must be carefully considered with extensive public input. Different areas of the County will likely feel strongly one way or the other about whether everyone should pay an equal proportion of the costs, or whether those in specific corridors that benefit from the RTS system should pay more. This is a sensitive issue and needs to be addressed in a transparent way;
 - b. The downsides of creating a separate ITA from a governance standpoint need to be considered. One of the strengths of an integrated approach to transportation (as in the current structure) is that it reflects the multi-modal nature of the trips we make and allows county and state agencies to allocate resources across all modes in the most efficient way possible. Creation of a separate ITA focused entirely on one mode (BRT) may create bureaucratic ‘silos’ and more inefficiencies, not less.

- c. Ride-On employees should remain employees of the County, subject to all current agreements, and Ride On should continue to operate under county authority, but with a comprehensive review and re-alignment of routes (as necessary) to effectively integrate Ride-On service with the proposed RTS corridor service and optimize performance, quality of service, and efficiency.

The Task Force Minority appreciates this opportunity to share its views and invites County leaders to continue what has been a thoughtful and constructive conversation on this important topic. We wish to thank all members of the Task Force for their thoughtful consideration of this issue.