OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

MEMORANDUM

November 25, 2024

TO: Andrew Friedson, President
Montgomery County Council

FROM: Marc Elrich, County Executive

SUBJECT: Veto of Bill 16-24, Development Impact Tax - Amendments

My primary reason for this veto is because Bill 16-24 reduces the revenues brought in by impact taxes, and impact taxes are specifically intended to provide revenue for infrastructure that must accompany development. While it is the Growth and Infrastructure Policy (GIP) that lays out the policy for raising the revenue, it is Bill 16-24 that implements the actual impact taxes that raise the revenue. Both the GIP and impact taxes stem from the Adequate Public Facilities ordinance, which as Montgomery Planning's website explains is the "foundation" to providing adequate infrastructure to support growth (Growth and Infrastructure Policy - Montgomery Planning).

The bill is expected to have a negative revenue impact of $13 million over the next six fiscal years. This will be compounded by a reduction in school impact tax estimates for the FY26-30 Capital Improvement program after a decrease in FY24 collections to levels not seen since FY09 and the Great Recession. In FY14, the County collected $60.8 million in school and transportation impact taxes, compared to FY24 collections totaling $15.6 million, a reduction of $45 million or 74.4%.

I have expressed multiple times that we should implement alternative methods to impact taxes for raising revenues for infrastructure. While impact taxes may not be the ideal tool for funding transportation and school infrastructure, further reductions to impact tax revenues should not be enacted before an alternative has been identified, discussed and approved.

This bill represents the continued reduction of impact tax revenues supporting critical transportation and school improvement projects. While some of the reductions were stated to spur creation of affordable housing, there is no clear impact tax rates spurs the creation of affordable housing, MPDUs, and 3+bedroom units that this bill is intended to promote. I appreciate that the Council improved the version recommended by the Planning Board, which would have cut revenues even more, but this is the sixth time since 2013 that the Council has cut the development tax revenues available for providing adequate public facilities.

The County's Capital Improvements Program (CIP) is constrained by spending affordability guidelines for General Obligation bonds and declining Recordation and Impact Tax revenues due in part to impact tax adjustments approved in the last Growth and Infrastructure Policy update.

These reductions substantially hamper our ability to make critical community investments in school capacity projects and transportation improvements. In FY25, the following are some of the projects that had funding reduced, eliminated, or deferred due to lack of CIP resources:

- Bradley Boulevard Improvements
- Forest Glen Passageway
- Goldsboro Road Sidewalk and Bikeway
- Tuckerman Lane Sidewalk
- Paint Branch High School Addition
- Mill Creek Towne Elementary School Addition
- James Hubert Blake High School Addition

The bill uses transportation impact taxes as development incentives and disregards the need for those taxes to provide adequate public facilities. Trip generation data, shared by Planning at the GO Committee work sessions, demonstrate that the exempted development types have equal or greater transportation impacts as non-exempted development types.

The bill includes numerous exemptions from the transportation impact tax for developments types that have known and significant transportation needs; the rationale is that transportation impact tax has no basis in capital needs. However, residents of 3+ bedroom units, MPDU, and office-to-residential building conversions will still create demand for pedestrian infrastructure, transit improvements, and other new multimodal capacity.

The exemption from impact taxes for developments without parking is especially inadvisable as developments near Metrorail already have reductions in impact taxes and exemptions from motor-vehicle-related mitigations. Impact taxes in these areas are especially needed to fund pedestrian improvements, BRT, and other transit projects.

Reducing impact taxes reduces the funds available for infrastructure, and if development does not pay their fair share of costs, then one of two things happen:

- The costs get shifted to residents in the form of taxes, or
- The infrastructure simply doesn't get built and it leaves us with inadequate schools and transportation.

Neither of these choices are better than maintaining impact tax revenues until we have a satisfactory replacement.

I would urge you to leave the impact taxes where they are now and not reduce revenues, and let's work together to produce an alternative revenue source that can replace impact taxes.