

# Birmingham Transit



## Trail of Tears







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## **Birmingham's Transit Trail of Tears**

This document is a compilation of ideas, interviews and research from the following:

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# HISTORY

## **Birmingham Transit Trail of Tears History**

Birmingham's first public transit system was mule- or horse- drawn cars after the Civil War, beginning with a simple street system formed at the intersection of two major railroads. The street north of the tracks was named Morris Avenue, after one of the city's founders, and the streets going north were designated as numbered avenues beginning with 1st Avenue North.

Next came steam-powered dummies, which were followed by trolleys. A favorite outing for Birmingham residents was to take the trolleys on Sundays to picnics and events in places like Avondale Park.

The first bus system in the area began as the Birmingham Street Railway Company in 1884. By 1890, private transport carriers started operations in the area and consolidated into the Birmingham Railway & Electric Company. The first electric street car began operations in 1891, and the first motorized buses began in 1921.

By 1948 the system had 93 million passengers.

In 1951, the company became the Birmingham Transit Company and began to dismantle the streetcar network.

Among those who paid for and developed the system was Robert Jemison Sr., president of Birmingham Railway Light and Power Company, which later became the Birmingham Electric Company. Jemison's interest was carried out by his son, Bob Jemison Jr., together with Elbert Jemison, William Jemison and other members of the family.

(Information from Street Railways of Birmingham by Alvin W. Hudson and Harold E. Cox)



A story in the *Birmingham Weekly* by Kyle Whitmire noted:  
 “Birmingham once had a bustling trolley system downtown and buses frequently shuttling passengers between downtown and the outlying neighborhoods. But that system deteriorated after years of underfunding and bureaucratic neglect.”

According to written reporters, several factors played into the demise:

- Squabbling among state legislators over bills offered to help transit.
- A bus shutdown in 1981
- Two driver strikes
- A disastrous Birmingham-Jefferson County Transit Authority Board president who fired an extremely competent executive director,
- Voters rejecting a major effort to raise taxes for transit improvements.

At one time, when few people had cars, almost everyone rode the buses, even though they were segregated. Henry Ford and his car-building machine were successful in convincing many people to invest in cars. He even raised the wages of his employees because, he said, he wanted them to buy the cars they were building.

## **The Race Factor**

Throughout the history of transit, race was a factor. White flight sent many people from Birmingham to the suburbs where many had cars. So, routes didn't go to the affluent suburbs but covered mainly Birmingham, Irondale and Bessemer.

Segregation on the buses was eliminated, but ridership was mainly African-American.

## **Shutdown!**

But then a shutdown threatened the very existence of the system.

In 1981, because of reduced income, The BJCTA Board asked that the system shut down. Some on the board, including Chairman Ed Selfe, asked to have that decision postponed and voted against the shutdown.

But those voting to shut it down prevailed in a 5-3 vote, according to a story in The Birmingham News on Feb. 26, 1981. Board members voting to shut down the bus system were Henry H. Caldwell Jr., Albert Sokol, Robert Gordon, Maurine Slaughter and Robert Voight. Voting to postpone the shutdown were Selfe, Robert N. Washington and W.C. Patton, who began riding the buses when he came to Birmingham as an orphan at 6 years old.

The shutdown lasted only three months, but it caused many passengers to find a different way to get to work, and the volume of passengers never reached the level it enjoyed prior to the shutdown. Many former riders simply didn't go back to the bus system.

## **Opportunities**

There were many opportunities through legislation to improve and upgrade the bus system.

In 1971, Birmingham area legislators passed House Bill 1089, which became Act No. 993. It authorized an authority as a public corporation for the purpose of providing public transportation service in the county. The resulting body was named the Jefferson County Transit Authority (JCTA). Its board was to consist of three directors: one elected by the governing body of the governing county; one elected by the governing body of the principal municipality; and one elected jointly by the mayors of all major municipalities. Money would come from the sale of bonds and securities.

In 1977, legislators passed Act No. 232. It provided money for the operation of the bus transit system from ad valorem taxes from the county, each participating municipality and for each resident deemed to be served. This

act provided that the name would be the Birmingham-Jefferson County Transit Authority (BJCTA).

In 1982, Rep. Earl Hilliard offered a bill that became an act and established a beer tax to help fund public transit, guaranteeing the authority a minimum of \$2 million in dedicated funding. This was in addition to the existing ad valorem taxes.

In 1987, the Legislature passed Act No. 449. It repealed Act No. 232 and reduced the amount of tax the county would pay to 5.5 percent of the first \$18 million of ad valorem taxes and reduced the tax the municipalities would pay to 2.5 percent.

## **MAPS**

Then came a series of funding efforts that failed. Most notable was one called MAPS, the Metropolitan Area Projects Strategy. The Legislature passed legislation in 1998 authorizing a countywide vote on the MAPS proposal.

If passed in the referendum, MAPS would have provided a 1 percent county sales tax to be used for a domed stadium, transit improvements and an alphabet soup of other projects and services.

Sponsors of the bill and dome supporters thought voters would approve a sales tax increase only if there was something for everyone.

Sales taxes would have increased from 8 percent to 9 percent in Jefferson County. Sales taxes on food, clothing and other items would be raised by one cent on the dollar, and taxes would go by one-eighth of a cent on the dollar on cars, pickup trucks and other vehicles. The proposed tax increases were projected to raise about \$72 million in the following year and increase about 5 percent annually over the next few years.

The new taxes would have cost a middle-income family of four about \$150 a year. It also would have increased the county lodging tax on hotel and motel rentals from 4 percent to 6 percent, raising about \$2.3 million a year. One-fourth of the sales tax increase would go to a new Birmingham Area Regional Transit Authority to expand bus and shuttle service.

MAPS detractors called it the “Metropolitan Area Pork Scheme” and a \$750 million “horn of plenty,” according to a July 31, 1998, column by Birmingham Post-Herald’s Bill Lumpkin.

MAPS planners included:

HealthSouth Chairman, Richard Scrushy; Alabama Power Company President Elmer Harris; Birmingham Mayor Richard Arrington Jr.; Jefferson County Commission President Mary Buckelew; sports medicine orthopedic surgeon Dr. Larry Lemak; Alabama Sports Hall of Fame former chairman Larry Striplin; and state Sen. Jabo Waggoner.

According to a Jan. 29, 1998, Birmingham Weekly story, if voters had approved it in Aug. 4, 1998, MAPS would have provided funding for the following uses:

- Education: \$75 million for all public schools in the county, serving 154,263 students, or \$486 per child,
- Public Safety: \$20 million, with the expectation that it be used for a countywide radio system upgrade, a fire rescue training center and money for volunteer firefighting departments,
- Cultural/historical: \$25 million for renovations to cultural and historical landmarks, such as the Alabama Theatre, the Lyric Theatre and Rickwood Field,
- Recreation/leisure: \$49 million for the Birmingham Zoo, greenways and walking trails, and a training facility for disabled and able-bodied athletes at the Lakeshore Foundation,
- Convention/entertainment: \$289 million for the domed stadium, and an additional \$2 million more for parking and road enhancement, plus \$87 million to modernize the Birmingham-Jefferson Civic Center.

The authority that would supervise and oversee the spending of three-fourths of the money was to be called the Progress Authority. The one-quarter that represented the transit money would be controlled and spent by the Birmingham Area Regional Transit Authority for the long term, with no end funding point established. funding would not be controlled by the Progress Authority.

The 12-member Progress Authority would have been empowered to condemn land but only in the area picked for construction of the domed stadium. It would follow the state bid law, except for choosing a company to build the domed stadium. It would hold public meetings under state open meetings law.

The authority would not make political contributions and would have records subject to regular audits by state examiner.

Members would include: the Birmingham mayor; the Jefferson County Commission president; a State House member representing Jefferson County and chosen by the county's House Delegation; two state senators representing Jefferson County picked by the county's Senate Delegation; and four members picked by the MAPS steering committee.

Of the four members picked by MAPS steering committee, they would have to include either the chairman of the Metropolitan Development Board, the chairman of the Alabama Sports Foundation or the president or chairman of a commercial business with offices and employees in Jefferson County.

Each of the four picked by the MAPS steering committee could not take office unless confirmed by the Jefferson County House and Senate delegations voting together.

However, there would be no voter control of these members of the authority. And they would determine the priority and timetable for the funding of the projects outside of the transit money. In addition, there was no end to the funding provided in the legislation except to say that it would end when the projects were paid. The authority would decide when it provided the money for the stadium and other projects. There would be no time limits.

## **Opposition**

A group opposed to the project organized as RAPS -- Real Accountability, Progress, Solutions. It included founder Alice Durkee and others, including Birmingham City Councilman Jimmy Blake.

RAPS objected to the absolute control and lack of oversight of the Progress Authority, the lack of an end date for the tax, and many items in the package that it said weren't needed.

## **Vote Fails**

The referendum result was 43 percent, or 71,495 votes, for MAPS, and 57 percent, or 96,490 votes, against MAPS. The vote reflected a high turnout in Jefferson County, rivaling turnouts for previous gubernatorial elections.

A list of voting results on the MAPS Referendum is included in the Appendix.

Interestingly, residents of the city of Birmingham voted largely for the project. But residents of the surrounding suburbs voted against it.

Inner-city residents saw the need for growth and development and projects like transit. The suburbs saw MAPS as too much money for projects that were not necessary.

## **BARTA**

Because there was so much community interest in MAPS, supporters who saw the need for transit improvement hoped another referendum on the transit portion might actually pass.

Although a bill authorizing BARTA was approved by the Legislature in 1997, the BARTA referendum was held up until after the MAPS vote because the community leaders who wanted MAPS took over the initiative for transit and other funding for the county and instead pushed their MAPS agenda. Ahead of BARTA, proponents of MAPS rolled funding for transit into their MAPS effort. Thus, the BARTA referendum was not offered to the voters until November of 1998. It asked for a countywide sales tax of one-fourth of 1 percent to be used for transit.

If BARTA had been held prior to MAPS, since it was for transit only and had the support of many who had worked against MAPS, many people believe it would have passed. But it failed by a small margin, possibly because of all the negative publicity associated with the earlier effort to pass MAPS.

BARTA began in May 1997 when State Reps. George Perdue, Hilliard and others passed Act 678. It would name the transit agency, provide funding

and establish a board. But the act erroneously named the transit agency the Jefferson Area Regional Transit Authority, or JARTA, after the county, Jefferson, instead of the major city, Birmingham.

In August 1997, Perdue introduced legislation to change the name to the Birmingham Area Regional Transit Authority, or BARTA.

### **BARTA Facts: The Vote and the Tax**

According to the legislation, the BARTA vote was to:

- Allow for a countywide (Jefferson) vote on a one-quarter percent sales tax to fund transit improvement determined by BARTA,
- Allow for a referendum vote to be called by the Jefferson County Commission,
- Allow for a 10-member BARTA board to replace the Birmingham-Jefferson County Transit Authority Board,
- Allow that appointments to the board would be made by Jefferson County Mayors Association, Jefferson County Commission and the City of Birmingham based on population by geographic area. There would also be a citizen's representative appointed by Citizens Advisory Committee.

### **The Services**

The services to be provided included:

- Expanded fixed-route services in terms of area of frequency, hours of operation and days,
- Park- and-ride lots for express buses, carpools and vanpools,
- City Center circular,
- Expanded paratransit (door-to-door) service for the elderly and disabled,
- Circular service to connect neighborhoods with nearby shopping,

employment, education, entertainment and medical centers,

- Intermodal transfer terminal,
- High-occupancy vehicle lanes on interstates,
- Light rail service in demand mature regional corridors (long range strategy).

### **Expected benefits**

The services were expected to provide the following benefits:

- Improved mobility, especially for the 3,000 elderly and disabled who had no transportation , and almost 30,000 households in Jefferson County which had no automobile available,
- Reduced congestion for the 40-plus miles of highways that were over capacity,
- Improved air quality to help reduce the number of unhealthy ozone days,
- Improved job access for those getting from “welfare-to-work” .

### **Looking Back**

Looking back, improved funding would have been accomplished by the aforementioned Acts (beginning in 1977) via the 6 percent of ad valorem taxes from the county; 10 percent of ad valorem taxes from participating municipalities; \$1 from the county for each resident of unincorporated areas served by the transit system; and \$2 million per year beer tax.



## **The Phil Gary problem**

And then in 2001, came Phil Gary, chairman of the board of the BJCTA.

Stories in the Birmingham Weekly by Kyle Whitmire on Nov. 11 and 18, and Dec. 6 and 23 tell the story of Gary. Following are reports from those stories:

*Gary had experience with the transit system. Ten years earlier, in 1991, he was the executive director of the system. He eliminated bus routes, cutting them by half, laying off half of the employees and increasing the fee riders had to pay. Ridership declined because riders' routes were eliminated and they had to find alternative routes, beg a friend for a ride or end up buying a car.*

*When an employee disclosed that there were some irregularities in the way Gary approved contracts, Gary fired the employee. And because of a subsequent lawsuit, that employee received \$750,000 and brought the situation to light. Finally (years later), the board realized Gary was inept and fired him.*

*In 2001, City Councilor Pat Alexander recommended Gary to be the BJCTA Board chairman because of his "experience," albeit that the experience was bad for the BJCTA.*

*While on the board, (Gary) hired a remarkable executive director in 2004 named Mark Stanley. But in time, Gary came to realize he couldn't micromanage Stanley or the system.*

*He worked to get Stanley removed. ...*

*Stanley had been hired from California to head up the BJCTA.*

*He was the 16th hired in 22 years, (which presents) a red flag about the operations of the board, whose petty disagreements had been responsible for all those changes.*

*Stanley brought record ridership and a comfortable budget surplus and had high support from many on the Board. But small minded controlling Board Chairman Phil Gary didn't like the fact that he wasn't controlling activities.*

*He asked the board to fire Stanley, citing "general incompetence," although Stanley's record showed that he was far from incompetent.*

But in 2004, according to a story in the *Birmingham Weekly* of December 6, 2004, Gary was successful in getting rid of Stanley at a board meeting with many absent, which worked in Gary's favor.

In that story, Reporter Kyle Whitmire wrote:

*Voting to dismiss were Gary, Johnnye Lassiter, Ronald Lyas and Calvin Elder. Voting against the move to oust him were Dan Trotman and Bob McKenna. Reginald Swanson, Ouida Fritschi and Hugo Isom were absent and would have prevented the move.*

*Stanley had tried to insulate himself from the politics of the board. He had been described as extremely successful in ending years of dwindling ridership and public relations disasters. The BJCTA had numbers that spoke for themselves: Ridership had risen to over 4 million per year, paratransit complaints were down, the system's routes were expanding, bus stops were increasing, the bus fleet vehicles had improved, the financial reserves, according to transit officials, had exceeded \$1.5 million .... Everything appeared to be heading in the right direction, and city councilors and Mayor Bernard Kincaid were totally in support.*

*But Phil Gary got his way and Stanley was fired.*

## **Growth Opportunities**

Several opportunities to grow the system emerged. One notable option came from our U.S. Sen. Richard Shelby, who offered \$85 million in federal funds in 1999 for mass transit in Birmingham with the promise of more to come. Shelby headed up the powerful Appropriations Subcommittee on Transportation in the Senate. But leaders here weren't able to bring the political will or votes needed to provide a 20 percent match, and the gift never arrived.

Political wrangling by the Jefferson County Legislative Delegation, the senators and members of the Alabama House, thwarted any progress through their efforts to protect their "control" over who would serve on the transit authority.

On February 2, 2004, Rep. Perdue sponsored HB125, which when enacted on May 17, 2004, became Act 2004-500.

It amended Act No. 993 enacted in the 1971 Regular Session of the Legislature, which itself was amended by Act No. 329 enacted in the 1973 Special Session of the Legislature to do the following:

- to provide for the selection and appointment of members of the Board of Directors of the Authority;
- to provide for the terms of the members of the Board of Directors of the Authority;
- to provide for the powers of the Authority and its Board of Directors;
- to provide for the creation of a citizens advisory board;
- and that the Authority shall be governed by a Board of Directors composed of 14 directors.

The governing body of the Authorizing County shall appoint three members, two of them shall reside in the unincorporated portion of the Authorizing county and one shall reside in the primary municipality.

The governing body shall appoint five members of the board representing the population of the primary municipality;

The mayors association of all the municipalities within the authorizing county shall appoint five members of the board residing in the incorporated towns and cities within the Authorizing County;

- two of such appointments shall reside in incorporated municipalities with populations equal to or greater than 20,000 residents;
- two of such appointments shall reside in incorporated municipalities with populations less than 20,000 residents and one of such appointments shall reside in an incorporated municipality within the Bessemer Division of Jefferson County;
- the authority's TCAB (Transit Citizen Advisory Board) shall be entitled to one member of the Board, which shall be the chairman of the TCAB (truly a Regional Board).

Several of Perdue's companion bills designed to provide a dedicated funding source for the authority did not pass the Alabama Legislature.

The aforementioned bill, Act No. 2004-500, as passed and amended, required funding of not less than \$60 million and not more than \$70 million to become law.

Amid extreme political wrangling and discord in the County Legislative Delegation, several other opportunities to grow the system and provide a dedicated funding source for transit emerged:

- In February 2000, Perdue offered HB 438, which would have authorized the Alabama Department of Environmental Management to establish standards and requirements providing for periodic testing of motor vehicles to enforce compliance with Alabama's Air Pollution Control Act. This bill would authorize ADEM further and more specifically to establish, implement and enforce a periodic motor vehicle inspection and maintenance program on a county-by-county basis for those areas of the state where motor vehicle emissions are believed to be causing or significantly contributing to non-attainment of national ambient air quality standards for ozone, making it a Class

C misdemeanor to individuals who fail to comply with the requirements of the motor vehicle inspection and maintenance program. The bill would have also prohibited motor vehicle owners and lessees from registering or renewing registration on motor vehicles in counties subject to such inspection and maintenance programs without compliance with the motor vehicle inspection and maintenance program where applicable. The Legislation failed.

- In February 2004, Perdue and other representatives offered HB235, which would have allowed funds derived from fees and taxes relating to the use and operation of motor vehicles and motor vehicle fuels to be used for public transportation: 1.75 percent of said funds to be used for the development and maintenance of rapid transit in urban areas and up to .25 percent of these funds for costs related to rural public transportation. Because it amended Amendment 93 (a constitutional amendment) and was opposed by the Alabama Department of Transportation, it failed to pass the Legislature.
- In February 2004, Perdue offered HB 124, which would have allowed for an increase to the registration or license fee levied by the state on motor vehicles or car tags. It would have cost the average car owner about \$14 a year. It, too, failed to pass.
- In February 2005, Rep. Perdue provided HB 512, legislation that would have allowed an ad valorem tax in Jefferson County to support transit. It was a constitutional amendment because it involved a tax in a county that requires a constitutional amendment. It did not pass the Legislature, and the vote of the people was never required.

The bills sponsored by Rep. George Perdue would have drawn down millions in federal matching funds for transit in Birmingham.

One that was most promising, HB 235, would have provided money to draw down the millions offered by U.S. Sen. Shelby through a new fee added to everyone's license renewal tax.

HB 125 would have provided proportional representation on a restructured regional transit board.

In a story written for the Birmingham Weekly by Kyle Whitmire on June 5, 2003, state Reps. John Rogers, Mary Moore, Oliver Robinson and Eric Major prevented bills in the Legislature from even reaching the House floor, where they may have become law. Following are excerpts from that story:

*Political wrangling by the Jefferson County delegation, the senators and members of the Alabama House, instead thwarted any progress through their efforts to protect their control over who would serve on an authority that would distribute the funds.*

*The four legislators, Moore, Rogers, Robinson and Majors, stood in the way of any progress through their insistence of giving more control to Birmingham.*

*So the approved board- restructuring bill is just sitting out there. It is believed that this is the sticky wicket holding up the state representatives from Birmingham in the Jefferson County Delegation from passing a funding bill. They do not want to give up a majority Birmingham makeup of the BJCTA Board.*

The board-restructuring bill was intact until it was repealed in 2013 when Act. 2013-380, (HB627) sponsored by Rep. Rod Scott, was passed by the Legislature. Act 2013-380 established a Transit Citizens Advisory Body (TCAB) in counties of 600,000 or more, to develop a public transit system and establish funding, thereby repealing the Authority established in Act 2004-500.

### **More Recent Legislation**

In recent years, legislators have tried to bring forth legislation that would aid the establishment of transportation commissions to include public transportation and provide funding.

Alabama, Hawaii and Alaska are the only states in this country that do not have a statewide authority that provides oversight and/or funding for a public transit system. (Alaska actually has a state-owned railroad that connects major cities, but the state does not fund it. It is funded by fares and shipping receipts.) Our 1901 Alabama Constitution does not allow fuel taxes or fees to be used for anything except roads and bridges. In the Appendix is a page showing the sources for our city and paratransit buses.

Our legislators have tried to bring reform. But none of these attempts have made it through the Legislature to become law.

Sen. Cam Ward, in 2011, offered legislation when he was a representative that would allow a Transportation Commission (HB70) to oversee all transportation, including oversight of the Department of Transportation, ALDOT, and allow public transportation to be part of the transportation mix.

And Rep. Patricia Todd has introduced several pieces of legislation that would affect transit.

- HB116 would have provided a constitutional amendment to allow a small percentage of the taxes on fuel to be used for public transportation.
- HB207, another constitutional amendment, would have required 10 percent of the income from taxes on fuel to be used for public transportation.
- A Todd bill would have set up fuel emission standards and testing that would allow the proceeds to be used for public transportation.
- HB109 would have set up a portion of the state sales tax paid for boats and trailers to be used for public transportation. Currently, the state sales tax for boats and trailers is only 2 percent, instead of the customary 4 percent that is charged on all other purchases. This would have raised 2 percent to 4 percent and allow the new 2 percent to be used for public transit.
- HB108 would have established a motor vehicle tag fee in Jefferson County to be used for public transportation.

TO ILLUSTRATE THE TRUE “TRAIL OF TEARS” FOR TRANSIT, A CHRONOLOGY BY DATE OF NEWS ARTICLES WITH ADDITIONAL COMMENTS AND EDITORIALS ARE LISTED IN THE APPENDIX.

Also included is a copy of a 2000 Federal Transit Administration document that shows transit district budgets from several cities, including the Birmingham-Jefferson County Transit Authority. A review of said document shows where Birmingham ranks with our peer transit districts as well as larger districts across the nation.

# **VOICE OF THE RIDERS**



## **Butch Ferrell: Walking for a Better Ride**

*The road calls, and the road not taken exerts a mighty pull. A significant portion of the citizens of Jefferson County yearn to be able to access those places that show great promise of being areas that will be able to improve their lives. But these citizens, Transit Riders, continue to find that the engines of indifference, lawmakers and many voters, are a roadblock impenetrable to reason. Our needs are simple enough as we seek admittance to the same opportunities in transportation that the states' other citizens can take for granted. For years now, the protectors of Alabama's perverted definition of democracy have rejected Senator (Richard) Shelby's federal money and the opportunities down those roads not taken remain lost.*

*So, it is going to be up to the Riders to take the lead in getting these models of stupidity and injustice corrected. Riders have been assailed by a sense of frustration and have resisted testing what organized pressure can achieve. But when Riders learn that a united and organized action can achieve measurable results, they will want to make their influence felt. Riders must find leadership from the ranks of their members that can express themselves as citizens of this community in which they wish to thrive. Until that happens, Riders will continue to live under the inadequate leadership of the car-driving public that has neither the humiliating life experiences nor daily hardships the Transit Riders endure regularly on the highway called Alabama.*

*Riders and supporters of transit recently lost a wonderful friend with the death of Jessie Tehranchi. She possessed an essence that was essential to being the most effective advocate for causes to help ALL the citizens in this state.*

-- "A Bus Rider's Diary," Jan. 30, 2006

By the time I first met Butch Ferrell, he was already a legend, kind of. Ferrell was the "walking man's" embodiment of both the struggles and the hopes of Birmingham citizens who used and needed a real bus system. The "transit dependent," a term Ferrell aptly used to describe his brethren who got neither the attention nor respect by the political and business leaders in the state's largest metro area. And certainly not from those who see Birmingham from the driver's seat of their cars.

Ferrell was and is a tireless, determined and relentless advocate for bus riders. Nothing has been easy in his life or in the cause he has dedicated his life to. Sixty years he has rode Birmingham transit buses. Through relative good years. Through not-so-good years. Through dismal years. Through years in which bus service was so bad, or worse, nonexistent, that the abuse and neglect of bus riders should best be termed criminal.

For those of us who advocated for a better bus system – a real bus system – Ferrell is the window to the world seen on a daily basis by the transit dependent.

It's a world in which most of the metro area and most of Jefferson County are off-limits to those dependent on the bus to get them where they need to go.

It is a world in which the commute to work and back can consume three, four, five even seven hours a day. Every workday.

It's a world in which so few buses run on Saturday and on so few routes that even the weekday commute times are desirable.

It's a world in which late buses, breakdown, even rainwater soaking riders through leaky bus roofs became an accepted part of the transit-dependent's life.

Without Ferrell witnessing, experiencing and documenting these injustices, and prodding year after year, decade after decade, for change, many of these would go untold.

Ferrell, as I said, was a folk hero before I ever penned my first editorial or column in The Birmingham News about the need to transform a dismal bus system into a modern transit system. I first heard of him as the man who walked from Fairfield to Hoover and back to Birmingham Barons baseball games, after the Barons abandoned Birmingham for the affluent suburbs. The trip took Ferrell through Jones Valley and over Shades Mountain – all along roads unfriendly to pedestrians. And unreachable by the Birmingham-Jefferson County Transit System.

Ferrell's treks could take 12, 13 or more hours, putting him alone on dark roads in the dead of night. Just to watch a baseball game. A Minor League baseball game at that.

Ferrell's story, his undeterred determination not to be denied the pleasure of a favorite pastime because of the second-class treatment of the transit-dependent, caught the attention of the Barons management and the news media. It was good advertisement for the Barons that their product was so good that it was worth walking 40 miles for.

Ferrell's long walks brought valuable attention to "Hoover's" Barons. But it didn't bring bus service to their games, or the even to Hoover.

**"Walking may not be the quickest way to get to places but it sure increases your appreciation of getting there."**

*-- A phrase Ferrell commonly uses at the end of his "A Bus Rider's Diary"*

Yet, Ferrell's determination not to accept second-class citizenship made him the most reliable advocate for a better, more reliable, more available transit system. He was and remains a fixture at just about every meaningful gathering at which transit is discussed. For decades, he carried wads of bus schedules, old and current, in his pockets and backpacks. He has collected 40 years of newspaper stories, editorials and columns about the bus system.

He is, almost literally, a walking encyclopedia of the BJCTA, the BJCTA's Metro Area Express and its previous incarnations. He chronicles the many ups and downs of the transit system during its lifetime: the high times when record numbers rode, the budget and service cuts, the

shutdowns, the power grabs, the political maneuverings, and the countless failures to make good on opportunities to create a bus system that actually meets the needs of its users and would-be users.

Perhaps Ferrell's most enlightening contributions to the understanding of the plight of the forgotten transit-dependent are his long-running email accounts, "A Bus Rider's Diary."

*The bus riders are a David, but they're up against an entire army of Goliaths. These quiet and mostly unknown citizens of this community that have no choice but to depend on the small, dilapidated and disheartened public transit system were again run over by the insanity of the car driving legislators. As the numbers of these quiescent citizens have continued to dwindle, their dormant hopes for an improvement in the quality of our lives never got off the ground when the county delegation recognized it wasn't in their best interest to serve ALL the county's citizens. Lamentably, these repressed citizens survive in a state whose political units put political exploitation above the state's interest. The side-effects of this are a swelling inequality.*

*Bus riders noticed the dismissive sensibilities of decision makers when the car driving citizens put up such a howl to have their beloved Malfunction Junction rebuilt and quickly. Then Phil Gary, standing in the presence of excellence, told the community we can't have any more of this and fired the source of this competence, Mark Stanley. Also, Homewood continues to reject the expanded service implemented by Stanley and replaced a rider's friend on the transit board with a less friendly one. Bus riders are asking for much less than the car driving citizens, but those dismissive attitudes seized the lawmakers, and the bus riders desperate needs were, as usual, disregarded. Most of the legislators' response was, "Well, what's in it for me?" These indifferent legislators have been emptied of the bus riders' awareness of what is right and what is wrong.*

*Inaction wasn't an option but nevertheless was the method chosen. The building of a regional transit system would signify a community at peace with itself and would say hello to visitors. It would show this community has a conscience and values its citizens. Funding a regional system correctly would eliminate the pain and frustrations for these citizens and build strong connections among all of us. This would be a community the outside world would notice and welcome in.*

-- "A Bus Rider's Diary," May 15, 2005

Ferrell does not own a car. He never has. He doesn't drive. He never has. His epileptic seizures make driving no longer possible, but so, too, not a regular job.

Still, he has traveled more miles than many. Most by bus from Fairfield home of many years. Many by bicycle. (He used to bike all the way to Atlanta and back for Braves games.) And many by feet, to places where the buses didn't run, in hours when they had stopped running.

A few years ago, Ferrell wanted people to know many buses in the BJCTA's fleet were so old and dilapidated that they left riders wet. He took pictures and wanted to share them with The Birmingham News. He offered to bring them by the newspaper's office.

The night before he was to come to The News, he had a seizure, fell over his computer table and broke his foot. He spent most of the night in the emergency room.

Yet, the next morning, he hobbled through the doors of the newspaper, on canes and his foot in cast. And in his hand were photos of wet buses and riders sitting on garbage bags to shield them from rain-soaked seats.

On another occasion, he wanted to draw attention to the worsening unreliability of the raggedy bus fleet. Birmingham's mayor at the time, Bernard Kincaid, had ridden the bus as a publicity stunt, and the bus broke down. A few days later, Ferrell and outspoken transit advocate Charles Ridley asked me to take a bus ride with them to see how much service had deteriorated and the people who depended on them. The bus broke down, too.

Earlier this year, Ferrell assisted me in interviewing riders at the BJCTA's Central Station. We asked them about their use of buses, what they thought of bus service, what they want improved or changed, and any tales of misfortune. The constant responses were late buses, breakdowns, long waits between buses and having to walk many blocks to get to bus stops. (Thousands of former riders were forced to abandon the bus system because of cutbacks that put buses out of their reach; the buses didn't go where they needed to go or when they needed to go.)

Many of those waiting to catch a bus at the station were tired from a long day's work. A very tired, slender man said he couldn't talk to us. He had worked hard all day, and waiting for a bus added to his long, tiring day. He walked away to take puffs from a cigarette.

Ferrell said that's a common sight.

But it's not for the driving public, whom he points out are blind to the transit dependent and their needs. Car drivers don't see what is obvious because they don't really look. They recount tall tales of empty buses, proof they say that no one rides the bus. Metro Birmingham, they say, doesn't need to put more money into the bus system because it would just be unused.

Of course, the message is, as Ferrell's "A Bus Rider's Diary" reminds us, is they are fine in their cars and they don't care about those who don't drive, can't drive or can't afford to own a car. And the people they elect to the Legislature, to county commission, to city councils, to mayor offices, perfectly represent their shortsighted views.

Ferrell's is a voice calling out in the wilderness of apathy and denial. Not enough people are listening.

***"The greatest tragedy is not the strident clamor of the bad people, but the appalling silence of the good people."***

*-- Another regular phrase from "A Bus Rider's Diary"*

**HEROES**

## Heroes in our Midst

Throughout the years, citizen and officials who were heroes have moved the effort to bring effective transportation to this area.

Among them are: George Perdue, a legislator who sponsored the most transit bills in the House of Representatives; the late Doris Powell, Chairwoman of the Birmingham –Jefferson County Transit Authority; Al Folcher, former Vestavia Hills Director of Development; Scotty McCallum, former Mayor of Vestavia Hills; Larry Langford, former Mayor of Birmingham and a County Commissioner; Shirley Worthington, of United Way, long time advocate and Chair of the Black Belt Commission's Transportation Committee; John Wright, Jr. long-time letter writer and speaker for transit; Butch Ferrell, bus rider and prolific writer of letters to the editor and *A Bus Riders Diary*; Eddie Lard, former Editorial Writer for the *Birmingham News* who wrote about the need as well as Scott Douglas, Executive Director of Greater Birmingham Ministries and that organization; Rev. Lawton Higgs, former Pastor of Church of the Reconciler and originator of the Birmingham Bus Riders Association with Butch Ferrell and Charles Ridley, known as the "Peanut Man" who sold peanuts from his wheelchair on 5<sup>th</sup> Avenue and 20<sup>th</sup> Street.

But perhaps the greatest hero was a small frail woman, handicapped by multiple sclerosis and then cancer, who never let her health problems get in the way of her advocacy for public transit. The late Jessie Tehranchi who has testified before the U.S. Senate Committee on Banking, Housing and Urban Affairs in 2002, became a friend of U.S. Senator Richard Shelby as both of them worked to bring funding for transit to Jefferson County. She was a former elementary teacher, involved in the Universal Health Care Action Network, Citizens for Transit Coalition, Greater Birmingham Ministries, Multiple Sclerosis Society and League of Women Voters.

As Editor Eddie Lard wrote in the *Birmingham News* on March 6, 2005:

*Too often, we look at transit as simply a way to meet the needs of commuters, people traveling to and from work or school. In making the case for improved transit, we point to the increasing traffic congestion around Birmingham and how a good transit system would take some of those vehicles off the road.*

*In doing so, we might also point out that less traffic on roads means less air pollution, and that transit can be an economic development tool as well.*

*All of that is true, and yet it only begins to tell the story of why we need buses that run frequently and on time. Sometimes we need people like Jessie Tehranchi to tell the rest of the story.*

*The Vestavia Hills woman is everywhere, it seems – at transit board meetings, gatherings of citizens transit groups and transportation planners, public policy seminars and rallies of all sorts. She has spoken out at Birmingham City Hall, the Jefferson County Courthouse and the State House in Montgomery. She has even testified before Congress. Her passions are universal health care and transit.*

*Transit, Tehranchi will tell anyone who'll listen, is needed for commuting, for clean air, for economic vitality, for tourism. And for people who don't drive.*

*Tehranchi does her lobbying from a wheelchair. She has multiple sclerosis, which has taken her ability to walk.*

*She's also undergoing chemotherapy for colon cancer.*

*Illness hasn't kept Tehranchi home, however. And it won't stop her from going to Montgomery next week to take part in a legislative rally sponsored by Alabama Arise.*

*Though she can't take a bus to the many meetings, hearings and rallies she attends, Tehranchi gets there. Husband Jim and friends are her transit system. Many others don't have that support, she says.*

*"People in Center Point can't get to the (Riverchase) Galleria or to the Summit on (U.S.) 280. They need this (transit) They've got to have this.*

*"We need to get busy."*

*Getting busy means getting the Legislature to pass two bills sponsored by Rep. George Perdue, D-Birmingham.*

*One bill would increase the ad valorem (property) tax on vehicles to provide about \$48 million a year to remake the transit system in Jefferson County. The other would change a state law to make it possible for up to 2 percent of the state's gasoline tax money to be used for transit purposes.*

*Convincing the Legislature that transportation can mean something other than highways and bridges has been a no-go for years. Road Builders have had a lock on legislators. That small –town and rural lawmakers control the Legislature makes unlocking the grip difficult.*

*Perdue, however, thinks there's an opportunity for cities such as Birmingham and Mobile to combine efforts to get something done on transit. Both cities, he noted, are looking for a better way to move people around.*

*Transit advocates don't have many victories in the Legislature to show for their efforts in past years. But there's no giving up. Especially for Tehranchi.*

*"I have a friend in Fairfield who has to walk everywhere," she says. "He has to walk just to get to where he can catch a bus. We've got to win this time for people like him.*

*"Life is kind of crazy," she says, talking about her health. "But there's a win coming. I know there is. A win for universal health care and a win for transit.*

*"I want to be there to see it"*

She didn't make it to see the Affordable Health Care Act....except in spirit. Here's hoping her dream of reliable transit also comes true.



**RPC AND DOT**

## **Transit Trail of Tears**

In 1992, the U.S. Department of Transportation created the New Starts program to fund new, fixed-guideway transit capital projects. The Federal Transit Administration was given oversight and administrative control of the program.

The FTA developed a set of criteria by which new projects would be evaluated and recommended to Congress for funding. It set up the New Starts program as a process in which transit service providers could compete for limited funding to assist with the capital expenses associated with the startup of a new fixed guideway transit system.

The process entailed regions completing an Alternatives Analysis, a study that considered the impacts of doing nothing at all, making minimal improvements, and all feasible fixed-guideway transit modes that could potentially be constructed.

The study looked at potential ridership of the different transit modes; the cost to construct the new service, operate the service and maintain the service over time; the cost-effectiveness of the service; and the technical and financial capacity of the operator/region to accomplish these tasks as well.

The alternatives analysis considered the mobility improvements that would be experienced from the new services, the environmental benefits and operating efficiencies. It also considered the impact of the new service on land development patterns/land uses, economic development, and both existing and potential transit riders.

Finally, the alternatives analysis considered the local financial commitment to the service. Transit providers and regions presented to the FTA their evidence that they could accomplish these criteria. The FTA then rated them according to how well they accomplished the individual criteria and presented a recommendation to Congress for funding.

In 1998, when Congress reauthorized the transportation law and created the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21), the New Starts program was also reauthorized. Under TEA-21, the FTA was empowered to require communities to prove they could actually build the new fixed-guideway system they desired and, at the same time, maintain their existing systems. In an effort to

motivate the Jefferson County area to create a fixed-guideway transit system, U.S. Sen. Richard Shelby authorized the expenditure of \$87 million out of the FTA New Starts program to provide funding to the Birmingham region to help “jump start” the fixed-guideway system’s development.

Although \$87 million was authorized in the TEA-21 bill, only \$17 million was ever appropriated. This was done over several years. The funds were appropriated to the “Birmingham Transit Corridor,” a generic name that allowed the region maximum flexibility to evaluate any corridor they saw the need to consider.

Additionally, the funding appropriated could not be used for implementation as money for implementation could only be awarded through the FTA’s competitive process.

Beginning in 2000, the Regional Planning Commission of Greater Birmingham began the process of proving the region could successfully compete for New Starts funding. In 2004, the RPC finalized the Birmingham Regional Alternatives Analysis, the Birmingham region’s transit system plan.

The Birmingham Regional Alternative Analysis, aka the Regional Transit Improvement Strategy, highlighted a series of corridors for which enhanced transit services could prove beneficial.

It also highlighted that the region needed to make a lot of small, but important changes to the transportation system, such as building out a sidewalk and trail network and making improvements to the existing fixed-route bus system. The RPC also noted that substantial changes to land development patterns and urban form needed to be made in order to support a fixed-route system. The Birmingham Regional Alternatives Analysis was provided \$14 million in matching funds comprised of value capture of existing studies, in-kind services, a mapping system, some cash and aerial photography used in the studies.

The Birmingham Regional Alternatives Analysis identified six radial corridors emanating from downtown Birmingham. However, the system plan failed to address a key area: how the radial corridors would connect with one another within downtown Birmingham.

The RPC and its supporters identified a streetcar system within downtown Birmingham as their top priority fixed-guideway transit project and attempted to submit a New Starts application for a streetcar system within downtown Birmingham.

However, the streetcar had not been identified or discussed within the Birmingham Regional Alternatives Analysis, and no alternative analysis had been completed in order to provide the FTA with information to make a recommendation to Congress about funding.

Based on the advice of FTA, the New Starts application was withdrawn, and the RPCGB began the alternatives analysis process to determine what kind of system was feasible for the downtown Birmingham area. The process resulted in the In-town Transit Partnership (ITP).

The In-Town Transit Partnership Project was a study of potential transit services in the downtown Birmingham and University of Alabama-Birmingham) areas.

The Regional Planning Commission of Greater Birmingham studied potential transit service improvements and considered a variety of transit service options, including enhanced bus services and rail transit alternatives.

The ITP process resulted in a locally preferred alternative of a bus rapid transit (BRT) service, not the streetcar that was originally envisioned.

BRT was selected as the locally preferred alternative primarily because of its lower cost to implement and operate. However, it also was selected because of its seamless integration with the remainder of the envisioned fixed-guideway transit network, which was anticipated to also be based around BRT.

The alignment for the downtown BRT network was selected because of its connections to large employers as well its ability to be upgraded to a streetcar or light rail system in the future. The alignment follows the historic streetcar lines that were removed in the 1950s and 1960s. For the past several years, the RPC and the City of Birmingham have focused their efforts on implementation and, finally, in 2012, began making preparations to develop the initial BRT system proposed by the ITP process.

Because of the difficulty in meeting FTA criteria and now, the shortfall in federal transportation funding, the City of Birmingham has decided to pursue the project using a combination of local funding and federal transportation funding provided by the Birmingham Metropolitan Planning Organization.

In addition to the ITP process, the RPC has used the remainder of the “Shelby money” to conduct alternatives analysis for four of the six radial corridors identified in the Birmingham Regional Alternatives Analysis. This includes:

I-65/U.S. 31 Mobility Matters, U.S. 280,

U.S. 11 Southwest (Bessemer Superhighway), and U.S. 11 East

Future studies will address travel in the I-65 North and U.S. 78 West corridors.

### **What cooperation can do:**

Implementation of the next transit corridor is taking place along the U.S. 11 Southwest Transit Corridor. This project involves planning for public transportation along U.S. Highway 11 (Bessemer Superhighway), and its parallel corridor I-20/59. It also focuses on the redevelopment of the communities along the corridor, and identifies areas for transit-oriented and transit-ready development.

Like all of the subsequent corridor studies resulting from the Birmingham Regional Alternatives Analysis, the U.S. 11 Southwest Transit Corridor builds on the ITP project as it is the linchpin that connects each of the radial corridors. The corridor also promises to support and possibly even jump-start economic development.

While funding to provide the enhanced transit services that have been recommended for the corridor is problematic, and likely will remain an issue for some time to come, the U.S.11 corridor communities have not allowed this to deter their progress.

Recognizing that there is much work to be done in addition to improving the transit services, these communities have formed a corridor coalition -- a partnership of sorts, to tackle common issues along the corridor. This includes physical redevelopment of the corridor, economic revitalization, infrastructure and service provision, and much more of the “bones” that are needed to support a next-generation transit system.

## Silos of Funding for Existing Transportation in Alabama

These silos represent the way in which money is allocated and that may be the best way to handle allocation. However, these are tools in separate toolboxes, and instead of being separated, they need to be together in order to address transportation more holistically, taking into account land development patterns and economic development.

- The Alabama Department of Transportation (ALDOT) is the administrator of FTA 5311 funds disbursed among 28 rural transit providers. It represents demand-response funds for capital and operating costs in rural Alabama. Of the federal funds available annually, not all of it is used due to lack of matching local funds.
- The Alabama Department of Senior Services (ADSS) is the administrator of FTA 5316 and 5317 funds for rural areas, as well as 5310, funding for transportation of elderly and disabled individuals.  
5310 is funding for transportation of elderly and disabled individuals  
5316 is JARC, Job Access and Reverse Commute Program. It addresses the challenges faced by welfare recipients and low income persons seeking to obtain and maintain employment.  
5317 is New Freedom Program, a **grant** program that provides tools to overcome barriers for Americans with disabilities seeking to work and participate in society. It expands mobility beyond requirements of the Americans with Disabilities Act.
- FTA 5307 funds provide capital resources to municipalities over 200,000 (Birmingham, Huntsville, Mobile) and municipalities over 50,000 and less than 200,000 (Anniston, Auburn, Decatur, Dothan, Florence, Gadsden, Montgomery, Tuscaloosa).

- Five Regional Planning Commissions staff Rural Planning Organizations for 18 counties.
- All twelve Regional Planning Commissions are tasked with transit planning, but do not have any fiduciary responsibility or authority for disbursing transit funds.
- Seven municipalities have transit authorities, each authorized by separate and non-uniform state legislation, some dating back 40 years.
- There is no state agency that plans or manages inter-municipality, inter-county, or intra-county transit.

## **The last chapter, may be the first!!!!**

The Last Chapter of this document, and perhaps the first chapter in moving forward, comes because of a new day at MAX.

We have a new hero on the scene: Ann Dawson-August, the new Executive Director of MAX.

She sees her role in this as her mission and is dedicated to bring reform. She provided some of the following revenue information for this document.



# **APPENDIX**

## Revenue Sources

### **Operating**

Fixed Route Farebox  
Trolley  
VIP Pass Sales

### **Non-Operating - Local Assistance**

Birmingham - Fixed Route & VIP  
Hoover  
Vestavia Hills  
Center Point  
Midfield  
UAB

### **Non-Operating - Ad Valorem**

Jefferson County  
Homewood  
Mountain Brook  
Tarrant  
Birmingham  
Bessemer  
Fairfield

### **Non-Operating - Local Mandate**

Racing Commission  
Beer Tax

### **Non-Operating - Other**

Advertising  
Commissions

### **Federal**

Federal Grant Funds - 5307 - Capital & PM  
Federal Grant Funds - 5309 - Capital

# Detail Operating Revenues

	FY 2014 Budget Revenue
<b><u>Operating</u></b>	
Fixed Route Farebox	2,456,443
dart Trolley	29,243
VIP Pass Sales	172,802
<b>Total Operating</b>	<b>2,658,488</b>
<b><u>Non-Operating</u></b>	
Birmingham - Fixed Route & VIP	10,647,002
Hoover	63,959
Vestavia Hills	71,627
Center Point	62,370
Midfield	105,883
UAB	-
<b>Local Assistance</b>	<b>10,950,841</b>
<b><u>Ad Valorem</u></b>	
Jefferson County	2,619,943
Homewood	263,874
Mountain Brook	87,318
Tarrant	20,726
Birmingham	3,415,257
Bessemer	543,013
Fairfield	316,953
<b>Racing Commission</b>	<b>-</b>
<b>Beer Tax</b>	<b>2,000,000</b>
<b>Local Mandate</b>	<b>9,267,084</b>
Investment Interest	7,000
<b>Investment Interest</b>	<b>7,000</b>
Advertising	66,720
Commissions	26,000
<b>Other Revenue</b>	<b>92,720</b>
Federal Grant Funds	6,000,000
<b>Federal Assistance</b>	<b>6,000,000</b>
<b>Total Non-Operating</b>	<b>26,317,645</b>
<b>Total Revenue</b>	<b>28,976,133</b>

## How Does MAX Compare?

General Info	Birmingham		Charlotte		Jacksonville		Louisville		Memphis		Nashville	
	Transit System	MAX	CATS	JTA	TARC	MATA	MTA	MTA	MTA	MTA	MTA	MTA
	2000 Population	663,615	758,927	882,295	863,582	972,091	749,935					
	Metropolitan Area (Sq Mile)	392	435	411	391	400	431					
	Maximum Number of Vehicles in Service											
	Fixed Route	72	231	144	208	164	108					
	Paratransit	18	59	127	83	47	28					
	Passenger Trips	2,887,149	9,501,032	9,333,566	7,439,078	6,160,600	4,020,863					
	Paratransit Trips	659,392	1,001,759	5,322,211	3,272,748	2,138,685	964,706					
	Total Expenses \$	15,239,116	\$ 63,199,329	\$ 61,711,624	\$ 50,268,154	\$ 46,919,279	\$ 27,095,257					
	Passenger Fares	2073027	8986622	18085463	5468423	9127290	6808631					
	Percent	14%	14%	29%	11%	19%	25%					
	Local Funds \$	8,058,986	\$ 44,675,171	\$ 33,891,483	\$ 31,735,158	\$ 18,257,567	\$ 10,416,650					
	Percent	53%	71%	55%	63%	39%	38%					
	State Funds \$	-	\$ 8,549,698	\$ 5,045,579	\$ 1,516,366	\$ 6,874,062	\$ 3,989,075					
	Percent	0%	14%	8%	3%	15%	15%					
	Other Sources \$	5,181,299	\$ 1,263,987	\$ 4,936,930	\$ 11,561,675	\$ 12,668,205	\$ 5,960,957					
	Percent	34%	2%	8%	23%	27%	22%					

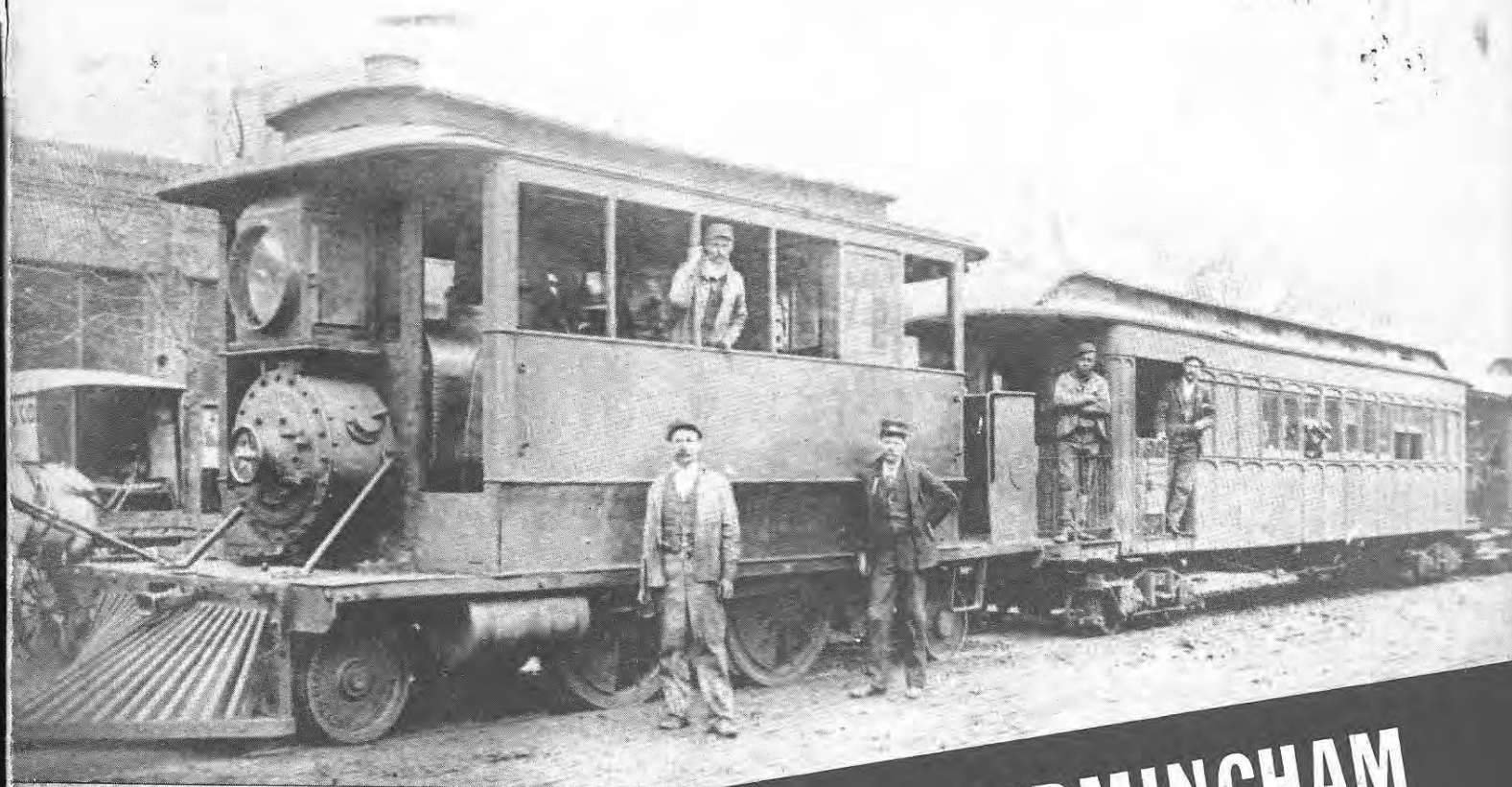
Source 2003 National Transit Database

## Comparison of major city budgets for public transportation

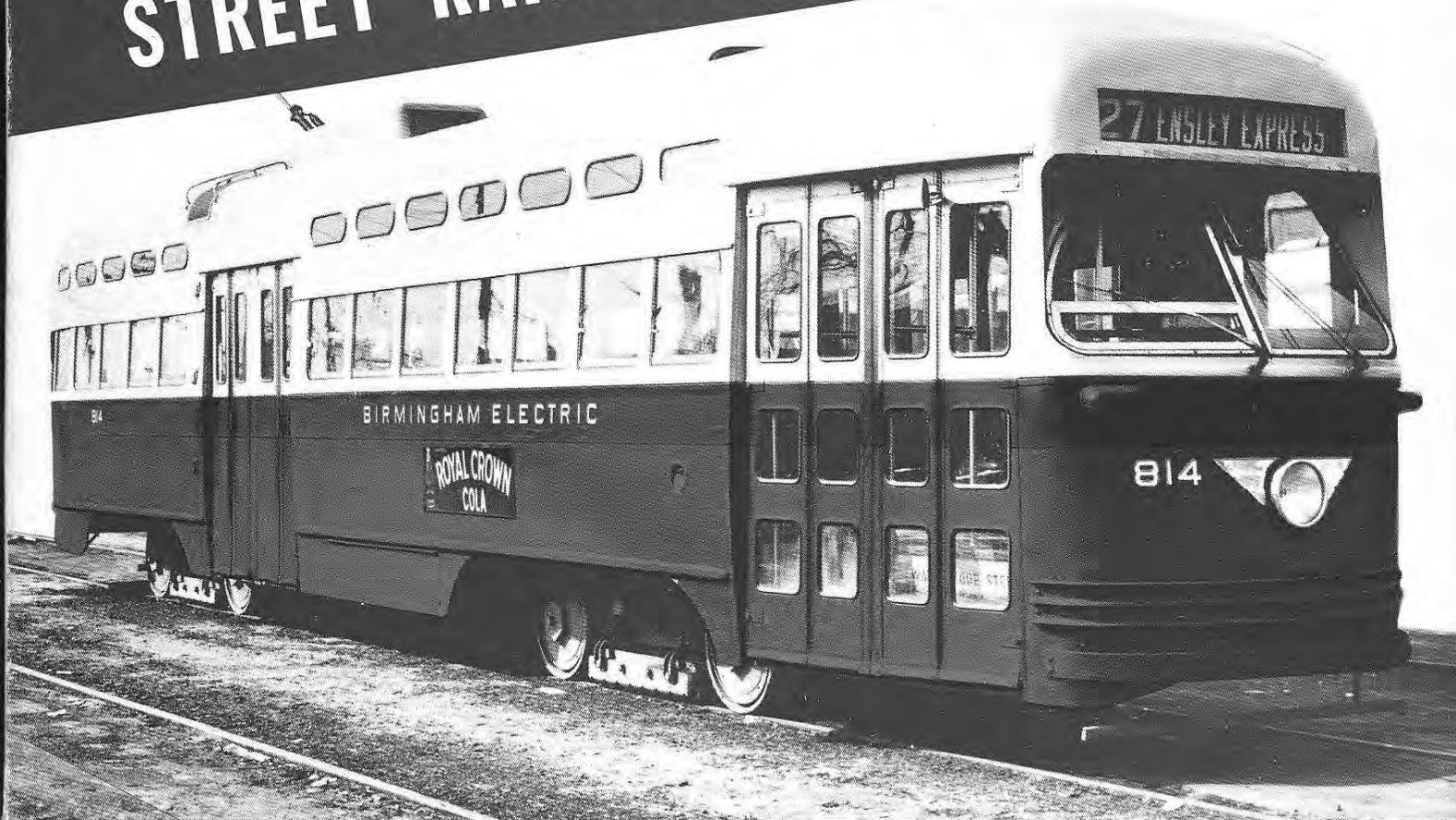
Data provided by The National Transit Association and used in a BJCTA presentation in 2000

Transit Districts:	Operating	Capital	Total
Central Florida Regional TA (Orlando)	\$64,865,700	\$6,697,900	\$71,563,600
Charlotte DOT	\$46,798,300	\$21,542,500	\$68,340,800
Jacksonville Transportation Authority	\$49,020,200	\$10,976,200	\$59,996,400
Transit Authority – River City (Louisville)	\$48,043,800	\$9,040,500	\$57,084,300
Memphis Area TA	\$37,053,200	\$6,511,900	\$43,565,100
Metropolitan Transit Authority (Nashville)	\$23,637,600	\$10,134,800	\$33,772,400
Birmingham-Jefferson TA	\$14,038,500	\$2,717,100	\$16,755,600
Chicago Transit Authority	\$883,911,500	\$352,357,200	\$1,236,268,700
Los Angeles County Metro	\$770,912,200	\$201,554,100	\$972,466,300
Metro Atlanta RTA	\$401,379,000	\$262,577,100	\$663,956,100
Regional Transit District (Denver)	\$256,183,900	\$326,780,100	\$582,964,000
Metro Transit Authority/Harris Co(Houston)	\$278,816,900	\$274,833,700	\$553,650,600
Port Authority of Allegheny Co.(Pittsburgh)	\$260,169,400	\$114,182,800	\$374,352,200
Bi-State Development Agency (St. Louis)	\$149,148,600	\$136,568,800	\$285,717,400
Capital Metro Transport. Authority (Austin)	\$96,496,700	\$35,062,700	\$131,559,400
New Orleans Regional transit Authority	\$107,127,000	\$18,386,400	\$125,513,400

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# STREET RAILWAYS of BIRMINGHAM



by ALVIN W. HUDSON and HAROLD E. COX

# Understanding MAPS

*The devil is in the details, if you can get them*

By Tara Hulén

They say the devil is in the details, and if you ask for details on MAPS, its leaders are likely to look at you like you're the devil.

"Don't be critical until you've studied the proposal," Richard Scrushy, MAPS instigator and HealthSouth and MedPartners CEO, said at the splashy press conference when MAPS' goals were announced.

It'll be unquestionably fabulous for our economy but if you want to know how great, "you do the math," Sen. Jabo Waggoner says in the project booklet. Waggoner (also a Scrushy employee) has urged his fellow legislative representatives to pass the MAPS proposal through Montgomery quickly, getting the issue to the people for a vote.

Well, lots of people read your proposal, did the math, and still came away puzzled. And it's not just the critical press that's bedeviled by the details.

Even MAPS member and Jefferson County Commission President Mary Buckelew stepped out of the ranks and said she wanted an expiration clause capped on the 1-percent sales tax that will provide the bulk of the MAPS money. Buckelew said that over the 30-year proposed life of the bond issue, MAPS would raise nearly \$2 billion more than the half-billion dollars it says it needs.

The next day, Buckelew was pulled back in line. At a hastily called press conference, Buckelew and HealthSouth surgeon and Alabama Sports Foundation and MAPS Chairman Larry Lemak said the MAPS team was still together and that the expiration clause had been discussed earlier among the whole crew.

So the 3/4 cents of the tax that goes to MAPS projects such as the domed stadium/convention center is proposed to expire at some unspecified date when an unspecified amount of MAPS projects are paid for. The 1/4-cent sales tax for a regional transit system won't expire under the proposal-du-jour; it will continue to run the bus system.

Buckelew said MAPS addresses the top two issues that people again and again say need attention - education and law enforcement. When asked if people have cried out for want of a domed stadium, Buckelew said if the people don't like that proposal, they will vote it down. "That's the beauty of this," she said.

Still, even as the legislature prepares to vote on allowing a MAPS referendum for Jefferson County, details are few and questions a plenty on MAPS.

## POWER AND PEOPLE

First, there are the powers of the Orwellian-sounding Progress Authority, which is to oversee the half-billion in projects. Will there be safeguards on their

spending and administrative costs? Will it - as it wants - be exempt from state bid laws or hiring regulations that governments obey? Will it end up with eminent domain and condemnation powers - which it wants - even though the cities and county involved with the plan have those powers?

Well, the answers to those questions depend on which version of the MAPS legislation gets passed in Montgomery. The current bill gives them what they want, but those points are being debated, said Nick Sellers, spokesman for the MAPS steering committee. The Senate was to have taken up the matter again Tuesday.

Lemak himself acknowledges that the Progress Authority will answer only to the Progress Authority. In other words, the checks and balances they talk about aren't balanced. Of course, voters can have a say by not re-electing some of the Progress Authority members to their regular jobs, which include the mayor of Birmingham and president of the Jefferson County Commission.

Then again, the plan for organizing the make-up of the authority keeps changing.

MAPS members keep touting how the public is so strongly represented, and the authority will have five members of the public. But what they're not telling you is these aren't just plain folks.

The members of the public are to be chosen by the MAPS steering committee (a.k.a. the Citizens for the Future of Jefferson County, a.k.a. Scrushy and company) and will serve staggered four-year terms. They aren't to be paid, except reimbursements for expenses.

Authority members must be residents of Jefferson County and at the time of their appointment serve in one of the following capacities: the chairman of the

Birmingham Area Chamber of Commerce, chairman of the Metropolitan Development Board, Chairman of the Alabama Sports Foundation (Lemak) or the head of a commercial business headquartered here with employees working in the county. Not exactly Joe Blow.

Originally the plan said those business leaders had to be the "chief executive officer of one of the 10 publicly-traded companies that have the largest after-tax revenues and maintain their chief executive offices (headquarters) in Jefferson County." That's a rather specific, elite, white-male-dominated bunch, and Scrushy heads two of those top 10 companies.

That criteria was rewritten at the request of legislators to be more inclusive, Sellers said. Though the legislation doesn't seem to include non-profit corporate heads, Sellers said they are eligible.

That would make it more likely for women and minorities to sit on the authority.

As for the six other seats on the Progress Authority, they'll be the president of the Jefferson County Commission, currently Mary Buckelew; the mayor of Birmingham, now Richard Arrington; President of the Jefferson County Mayor's Association, currently Bessemer Mayor Quitman Mitchell; the Jefferson County Sheriff, now Jim Woodward; one state senator appointed by the Jefferson County Senate Delegation and one state representative appointed by the county's House delegation.

The sheriff was a late addition to the list once the legislation got to Montgomery, and appointing him meant taking one public seat away, Sellers said.

Still, all five of the public members could end up coming from the

business/non-profit corporation category; it's not a pick-one-from-each-category rule, Sellers said.

When asked about the lack of true members of the ordinary public on the Progress Authority, Buckelew was a bit defensive.

"I represent just plain folks, thank you, and I'm proud of it," she said. She and the other elected officials on the authority would represent the people who elected

them, she added.

Whether just-plain folks can even watch the Authority operate is unclear. The legislation says the Progress Authority's bylaws will govern meetings, but doesn't specify whether those meetings will be open to the public. The minutes of those meetings will be available to the public, the legislation states, and the board will be subject to the rules of the state Ethics Commission.

## FOLLOW THE MONEY

Feel-good spending that just-plain-folks adore, such as money for parks, police and schools, always gets mentioned high in the public relations campaigns to get new taxes or bond issues passed. But when it comes time to write checks, the figures often change.

Buckelew said the broad categories in the MAPS plan will get what the plan calls for, if the tax passes.

"Let me assure you those five identified categories ... with the money identified within those categories, is not going to change," she said.

For example, under the "recreation and leisure" category, an expanded regional zoo at the current Lane Park site is slated to get \$40 million - guaranteed, she said. After that money is gone, long-term operational and maintenance expenses will have to come from some place else, such as private and public sponsors and tickets, she said.

Of course, the domed stadium/convention center, improvements at the current Birmingham-Jefferson Convention Complex and improvements to parking, walkways and other infrastructure downtown are to get their \$300 million (a figure MAPS officials don't often bring up). The legislation also calls for \$5.5 million for the operation and maintenance of those projects once they're completed.

What's *not* guaranteed is exactly how the non-earmarked money in broad categories such as education and law enforcement will be spent. For example the \$25 million in the cultural and historic category might go to Vulcan, the Alabama and Lyric theaters, Rickwood Field and Tannehill Historic State Park, among other possibilities, she said. But it might not. Buckelew said advisory committees with experts from those fields will help the Progress Authority decide where the money should go.

Sellers said once the tax is passed, the bonds will be sold as soon as possible and each group can get its money in a lump-sum payment. The only variation is money for the regional mass transit system, which gets 1/4 of the one-cent increase proposed.

Birmingham Area Regional Transit Authority spokesman Albert G. Folcher said BARTA will get its share of the sales tax year-round as the revenues come in. BARTA's funds won't be in the bond issue for the rest of the MAPS project and its 1/4 percent sales tax won't expire even if the 3/4 for MAPS projects does. MAPS won't have any dealings with running the transit system, either. **BW**



Already under construction, the McWane Center will get \$23.5 million more under the MAPS plan.



# MAPS money

*What do the other folks getting dollars think?*

By Marie Jones

MAPS wants a domed stadium and convention center. And it wants us to pay for it with sales tax.

But to get that tax OK'd by voters, MAPS officials know they must strategically offer money to other, safer projects closer to the heart of local voters. There's little that's warm and fuzzy about a "multipurpose facility," which is what MAPS calls the dome/convention center.

So the committee has said it will give cash to education, to public safety, to cultural and historical landmarks and to recreation and leisure items. In essence, MAPS is saying: "You vote for a dome and we'll revitalize the city."

"If you don't put it in a package, if you try to vote on them separately, you can kiss your ass goodbye," said Frosty Peak, a city councilman in Oklahoma City, which Birmingham's MAPS proponents use as an example of what they're trying to accomplish. In 1993, Oklahoma City passed its own set of MAPS projects, also using a sales tax to pay for them.

"It's got to be politically palatable," said William Dodge, executive director of the National Association of Regional Councils, an organization that represents regional authorities like MAPS in lobbying efforts both political and public. "If you want to succeed, remember who has the final vote on this. It's usually the public and you'd better find a way to get their input."

The MAPS proposal is designed to pump a great deal of money into the economy and many will benefit, but are the amounts being distributed to regional projects enough? Some of the beneficiaries say "no." Although many are reluctant to say anything negative, so as not to seem ungrateful for the badly needed

money, concerns about the amounts were raised.

Jefferson County Sheriff Jim Woodward said the \$300 million being spent for the domed stadium/convention center makes the amounts given to more important items such as education and law enforcement seem like chump change.

From the arts side of the street, a broad category that gets \$25 million from MAPS, Glenn Conn, chairman of the Birmingham Regional Arts Commission, echoed Woodward's feelings, saying the arts got a disappointing blow.

"I was very disappointed with the money going to the arts," he said. "It was pennies basically."

"We're having to swallow a whopping tablespoon of domed stadium with little teaspoons of the other things," said Rebecca Falkenberg, state legislative chair for the Sierra Club, which is interested in the \$10.25 million that MAPS has pledged to environmental items such as a greenway/walking trail system for the county.

## EDUCATION

The next biggest item on the MAPS agenda is a lump sum of \$75 million to all the public schools in Jefferson County, or more accurately, to all 10 public school systems in the county. There's no guarantee that each of the 188 schools will get money.

With a total of 154,263 students in the county, the \$75 million turns into \$486.18 per child. Can that really make a tremendous impact on the education system?

Ernest Nicholson, superintendent for the Bessemer City School System, was contacted to discuss how the \$75 million would be dispersed. Any money is good money, he said.

"There is almost \$1 billion needed in education for the state," he said. "So \$75 million in our area certainly works toward improvement."

Bruce Wright, superintendent for the Jefferson County School System, said he was never contacted about the project and only knows what he has read in newspapers. He wouldn't comment on his feelings about the amount.

"We didn't have to (contact Bruce Wright)," said Mary Buckelew, president of the Jefferson County Commission and a member of the MAPS team. MAPS talked to Jefferson County School Board President Tom Surtees instead, she said.

"We didn't bring in all of the superintendents," she said, "but that doesn't mean that we didn't seek input."

Wright, however, said not informing him of the plans was a tactical error. Although he wouldn't elaborate, the thrust of his comment was that he was ticked off at being ignored.

Other funds for education include \$23.5 million for the McWane Center, to be used for its educational science center, a project aimed at school children and including educational programs, exhibits and science programs. Also, \$2.5 million will be allocated for a regional virtual library, created by upgrading computer facilities with high-speed switching and communication equipment in all public libraries.

That's a total of \$101 million for education, one-third of that to be spent for the dome and convention center.

## PUBLIC SAFETY

The MAPS committee didn't forget cops and robbers in its quest for a better Birmingham. It allocated \$20 million to the vague category of "public safety."

But under the MAPS plan, public safety gets \$5 million less than the renovation of cultural and historical landmarks. Does that mean that public safety is less a concern than having authentic Victorian drapes?

Most of the public safety money will be used for a county-wide radio system upgrade that improves communication between police jurisdictions. Some money will build a fire/rescue training center to cut down on the costs of sending firefighters to other counties to train. Volunteer firefighting departments will get the final 10 percent of the

money. Sheriff Woodward said the amount given to public safety is good, but he could use the whole \$20 million in his office alone.

"We need more money for personnel," he said. "We haven't had any additional people since 1988."

From his standpoint as a voter, MAPS' mistake was giving education and law enforcement the smallest amount, he said.

Birmingham Fire Chief Raymond Brooks said MAPS is relatively new to him, but he is optimistic that it will do good things for the community. He wouldn't give an opinion on the amount of money being given to public safety.

## CULTURAL/HISTORICAL

MAPS also sets aside \$25 million for renovations to cultural and historical landmarks such as the Alabama Theatre, the Lyric Theatre and Rickwood Field. But these are only where the money *might* go. There are no guarantees. An advisory committee will make recommendations.

Like the others, BRAC Chairman Conn said he was grateful for the money, but thought it low in comparison to the dome and convention center.

"Any money given to the arts is appreciated. We'd be more than happy to receive it," he said. "But in the scheme of things it is very disappointing."

Cecil Whitmire, president of Birmingham Landmarks, Inc. and owner of the Alabama Theatre, is very enthusiastic about MAPS and the money possibly slated for the Alabama.

"Right now the theater brings in about 400,000 people a year," he said. "Improvements would bring in another 100,000 to 150,000 people."

Whitmire said some of the improvements he envisions with MAPS money are an upstairs ballroom and better restrooms.

"I'm definitely in favor of [MAPS]," Whitmire said. "Anyone who isn't is short in thinking. The tax would be a burden but it's fair. Everyone who spends a penny in this county would share in this."

## RECREATION/LEISURE

Over at the Birmingham Zoo, the \$4 million in MAPS money makes them very happy, they had a hand in determining it much they got.

"It's very exciting for us," said Zoo Director Jerry Wallace. "We had some input (the amount) and it looks like they took it."

The only question Wallace has now "when" because, in his opinion, the zoo needs the money yesterday.

"We have things literally falling apart," said.

Also under the Recreation/Leisure heading in the MAPS plan is \$10.25 million to create greenways and walking trails. Groups like Sierra Club are keen on that plan, but as it relates to the other parts of the MAPS plan the enthusiasm quickly fades. Bill Stokes, chairman of the Cahaba Group of the Sierra Club summed it up.

"Our three main concerns are 1) lack of public input as opposed to Region 2020 (a grassroots, goal-setting process now under who constantly seeks out public input; 2) to the entire county for the benefit of a few people; and 3) do we really need the stadium?" Stokes said.

"The best thing about it (MAPS) is that people will have to vote on it," said the Sierra Club's Falkenberg.

Under the recreation/leisure category, \$21 million will be used for a community recreation/training facility for disabled and able-bodied athletes through the Lakeshore Foundation, which is on the campus of the HealthSouth Lakeshore Rehabilitation Hospital.

Where the training facility will be located isn't settled. The Lakeshore Foundation is based at the Lakeshore Rehabilitation Center campus, also owned by HealthSouth, which was founded by MAPS co-creator Richard Scrushy. Nick Sellers, spokesman for MAPS, said the training center is on the list because Jeff Underwood of the Lakeshore Foundation lobbied for it early on. MAPS officials say it will be for all kinds of people, not just the disabled, and could include soccer fields, a multipurpose track and a regional aquatic facility that could be used for local and national events.

## CONVENTION/ENTERTAINMENT

Of course, there's the domed stadium, the meat of the MAPS package.

It gets a whopping \$280 million, then \$20 million more for parking and road enhancements. That doesn't include \$8.7 million for the modernization to the existing Birmingham-Jefferson Civic Center.

When describing parts of the proposed stadium, the committee uses words like luxury, magic, interactive and state-of-the-art. It seems like a dream, but to some it may be a potential nightmare.

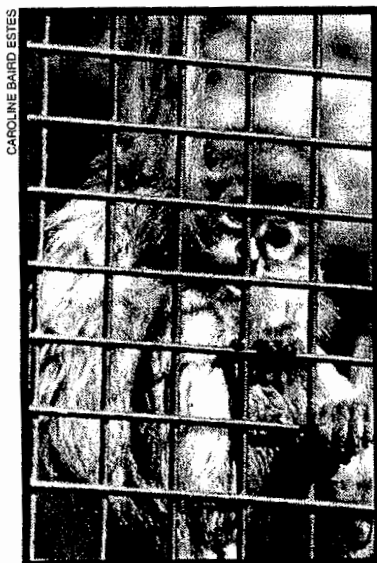
"Let's get down to reality," said BRAC's Conn. "We have the Civic Center and Legion Field, do we need to add another one? Will there be enough events for me to attend at the stadium?"

"For too long we haven't been able to compete with cities like Atlanta and Chattanooga," said the Alabama's Whitmire. "They have been way ahead of us, but MAPS would push us up to a competitive basis." BW



*"If you don't put it in a package, if you try to vote on them separately, you can kiss your ass goodbye."*

Frosty Peak  
Oklahoma City councilman



Not surprisingly, zoo officials are happy with the \$40 million pledged to them by MAPS.



# Too much pork, plan not worth beans

I've had it with this Metro Area Projects Strategy, or Metropolitan Area Pork Scheme, as one local



**BILL LUMPKIN**  
Commentary

columnist described it.

Either way, it comes out abbreviated MAPS.

Thank the Lord it'll be over after Tuesday. That is when Jefferson County voters go to the polls and decide whether to impose a one-

cent sales tax to finance what has become a \$750 million (plus) fragmented horn of plenty.

Does anyone understand it? So many panning recipients are in line with their hands out that some foes on talk-radio are saying MAPS should be spelled "SCAM."

For one, I'm tired of hacks telling me what's good for me. I'm leery of two of Montgomery's most powerful lobbyists being hired at considerable expense to convince the state legislators to approve it. If it's that good, who needs convincing?

I'm suspicious when hundreds of thousands of dollars are "donated" to underwrite a mesmerizing TV blitz that attempts to show MAPS as our future.

Birmingham did come close to being in the big league once. The American Football League had Birmingham down for its next franchise. Unfortunately, the NFL gobbled up the AFL in a merger in 1966, and Birmingham was history.

Even when Legion Field was state of the art, and it isn't bad today, no NFL team came calling. It's a mystery.

Much has been written about the success Oklahoma City has enjoyed after approving a less-entangled MAPS program. Oklahoma City built its progress around a Triple-A baseball team that plays in a sparkling new downtown park carrying a corporate sponsor's name. Answer this: Why are the Barons playing in Hoover and not in a new ballpark downtown?

Was it Birmingham's arrogance that is running the University of Alabama football out of town?

Birmingham had one heck of a hockey team when the Bulls played in the World Hockey League. But when the National Hockey League and the WHL merged, Birmingham was left with its hockey stick hanging out.

Look at the Birmingham Turf Club. Remember when voters were told of lower taxes if horse racing was approved?

Whatever happened to the All American Bowl? Oh, some of these MAPS pushers told us if we killed this postseason classic, which we did, great things will come. With the competition eliminated, Birmingham, more than likely, would be awarded the Southeastern Conference football championship game, apparently for life.

Well, we got it. For two years. Then we Birminghamed it up. We welched on the guarantee. Hey, this time Atlanta didn't take it from us. We gave it to them. How embarrassing.

Please turn to LUMPKIN, page C2. Is the county still using tax money to keep the Sheraton Civic Center hotel afloat? What happened to the once-lively Morris Avenue development? It never became Birmingham's French Quarter, as promised.

Why such a hard sale? A good thing stands on merits. Do MAPS pushers have a problem with MAPS?

How many futures have we had with tax increases in past years?

MAPS began as a crafty plan to build a domed stadium, followed by an oblique illusion that this is a field of dreams and "YT" would come.

"YT," of course, being an NFL franchise. Now read this: An NFL team isn't coming. Former NFL Commissioner Pete Rozelle said that. He told me face to face. Current NFL Commissioner Paul Tagliabue didn't hem and haw about it when in town to christen Birmingham's World Football team, which went on to die on the vine, as did so many others.

Standing before a group of Jefferson County businessmen in 1991 at The Club, Tagliabue told them face to face that "Birmingham is way down on the list" of cities being considered for NFL franchises.

Most dome and open athletic facilities being built today have generous corporate financial investments. Why not Birmingham?

Is Birmingham courting the NFL? Take a guess. Has any group of local investors showed the NFL a letter of credit for \$300 million to purchase a new franchise, if or when available? Guess again.

When these two necessities are on the table, and the NFL should show an interest, then is the time to talk about a new arena. It doesn't have to be roofed

The dome, estimated to cost \$280

million (try another \$280 million in overdrive), suddenly has become a multipurpose facility with many seats and luxury boxes. If MAPS had just stayed with the dome and not become Pando-ra's Box ...

What convinced me totally that MAPS is a bust for the county is Pleasant Grove.

Like many suburban communities, Pleasant Grove has serious financial problems. The city council there re-

jected increasing sales tax from eight to nine percent. It would have generated \$300,000. Instead, it downsized services and employees to make ends meet.

No way can I vote Pleasant Grove a tax increase when MAPS will pocket the \$300,000. Pleasant Grove won't receive enough in return to buy softball uniforms for its firefighters.

MAPS is holding a special election at great expense to the county, apparently believing a light turnout (vacations, you know) will be favorable.

Our family will be vacationing Tuesday. And, as of this morning, I do know MAPS has three no votes. I voted no, my wife voted no and my mother voted no ... by absentee.

Former Sports Editor Bill Lumpkin's column appears each Friday in the Birmingham Post-Herald.

# Opposition to MAPS encircled city center

By SHERREL WHEELER STEWART, JOHN ARCHIBALD and KATHY KEMP  
News staff writers

Like a giant doughnut, opposition in Tuesday's county-wide MAPS referendum encircled Birmingham to the north, south, east and west, leaving the city center alone in the hole.

A *Birmingham News* analysis shows polling precincts that rejected the Metropolitan Area Projects Strategy were largely in white suburbs, forming a ring of disagreement around the mostly black Birmingham residents, who supported MAPS by more than 60 percent.

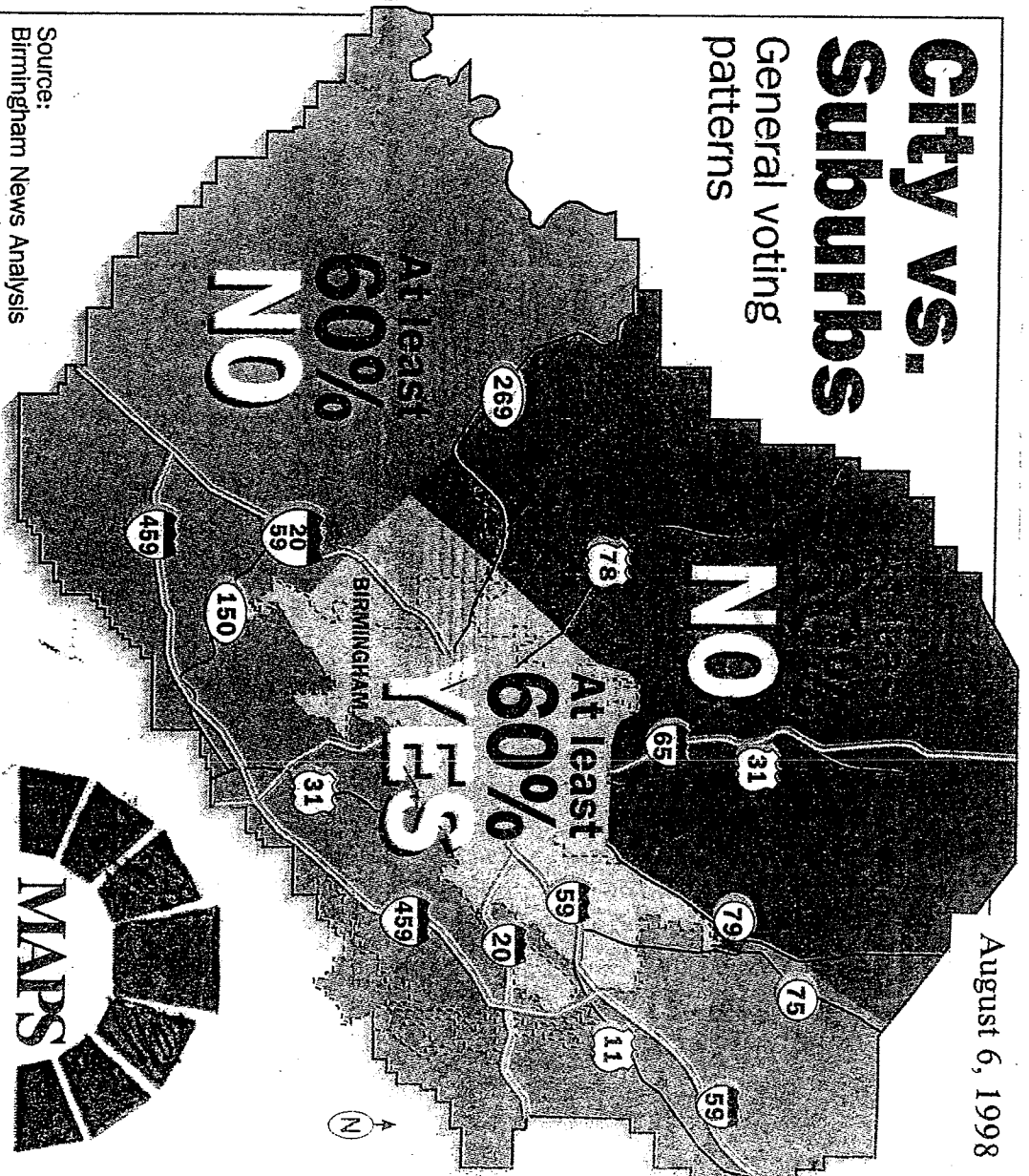
In all, 96,490 people or 57 percent of the county's registered voters defeated MAPS, which would have established a 1 cent sales tax increase to finance \$697 million in community projects, including a domed stadium.

In mostly white northern Jefferson County, from Kimberly and Morris to Graysville and Adamsville, opposition was close to 80 percent.

Suburbs east and south of the city opposed the issue less dramatically. Those areas, including Mountain Brook, Vestavia Hills and Hoover, rejected MAPS by an average of 60 percent, although several polling places in wealthy Mountain Brook were almost evenly divided.

## City vs. Suburbs

General voting patterns



Source:  
Birmingham News Analysis

	Voters	YES	NO	Turnout	Total votes	% YES	% NO
Bessemer and S.W. Jefferson Co.	43,513	6,410	12,217	43%	18,627	34%	66%
East Jefferson Co. and East over the mountain	65,617	9,582	20,499	46%	30,081	32%	68%
Over the Mountain, central	64,350	11,856	20,316	50%	32,172	37%	63%
Southwest Birmingham and Suburbs	37,448	10,532	4,798	41%	15,330	69%	31%
Northwest Jefferson Co.	22,994	1,816	9,182	48%	10,998	17%	83%
Northeast Jefferson Co.	23,243	1,979	9,627	50%	11,606	17%	83%
Central and Northeast Birmingham	49,685	11,708	6,419	36%	18,127	65%	35%
Birmingham and North Suburbs	54,459	13,910	9,288	43%	23,198	60%	40%

"To try to boil it down to race would be incredibly simplistic," said retired educator Odessa Woolfolk, president of the board of the Birmingham Civil Rights Institute.

Alice Durkee, leader of the anti-MAPS group Real Accountability, Progress and Solutions, said the voting results were not based entirely on race. "We had some As Huntley sees it, black people should have rejected MAPS, but for

A BIRMINGHAM NEWSGRAPHIC/MARK BAGGETT



# PUBLIC TRANSIT HELD HOSTAGE

by Kyle Whitmire

City Stages crowds filled parking in downtown Birmingham three weeks ago, and rumbling thunderclouds unleashed torrential rain, winds and lightning. But despite the roadblocks, parking problems and hostile weather, a line of area residents gathered at Birmingham City Hall to give their legislators a piece of their minds.

Their beef — two bills before the Alabama Legislature could affect massive change in regional public transportation, but Representatives John Rogers, Oliver Robinson, Eric Major and Mary Moore are preventing those bills from even reaching the legislature floor.

The first would adequately fund public transportation in Jefferson County, drawing down millions in federal matching funds. The potential benefits include downtown streetcars, high occupancy vehicle lanes and expanded and extended bus service. A second bill would give proportional representation to the communities paying for those services on a restructured regional transit board, ensuring representation for the new taxation.

The citizens who gathered at city hall were few in number — representing only a small fraction of those who support mass transit in Birmingham. The transit proposal has the backing of the Jefferson County Commission, Birmingham Mayor Bernard Kincaid, the Birmingham City Council, the Jefferson County Mayors' Association and the Birmingham Regional Chamber of Commerce — all in addition to the full clout and credit of Senator Richard Shelby.

The citizens waited but no one arrived to hear their complaints. The weather-wary Citizens Advisory Board cancelled the meeting, no legislators showed up and the dedicated few walked back into the rain, disappointed.

Since the aborted meeting, the prospects for the two bills have not improved. On Monday, June 9, the legislature will resume its regular session for a week before adjourning. Neither bill is expected to pass. Unless one of the four legislators has a change of heart, the transit proposals will die in Montgomery.

## What's at stake

For the last five years Senator Shelby has set aside \$85 million in federal matching funds for public transportation in Birmingham. However, those funds remain in Washington because the Birmingham metro area has not provided the required 20 percent match. As the matching funds have approached their expiration dates, Senator Shelby has grown increasingly impatient with his own constituency.

"I am in a unique position to help my people," Shelby said in a January interview. "But to do that my people have to help themselves."

The Senator presides over the appropriations subcommittee on transportation. With his seniority, Shelby has the political pull to corner even more money for Birmingham transit. But Birmingham has not followed through with its end of the bargain. Meanwhile cities across the nation frequently take advantage of the matching funds.

"Here I am sitting on this committee seeing all these places — Denver, Atlanta, Seattle,

Austin — funding all these initiatives in other states, and I am wanting to do that for my own people," Shelby said.

The senator has told local business leaders that he will not renew the matching funds once they expire.

"This is a national embarrassment for him," County Commission President Larry Langford said. "But I think that we have embarrassed ourselves so much that we are immune to it now. We don't see what the world sees."

After speaking to Homewood elementary students in March, Shelby was even more forceful when speaking with the press. "I think this speaks very poorly for Birmingham, if these funds remain unused," he said. "The way it is now, I can't keep renewing these funds forever."

But while chastising the region for its recalcitrance, Shelby has also held out the promise of more matching funds, if the current \$85 million is redeemed.

"Shelby has quoted us up to \$800 million, so we can read into that whatever," said Paul Vercher, director of public policy for the Birmingham Regional Chamber of Commerce. "He is the man with his finger on the trigger of those matching funds."

But merely making the 20 percent match is not sufficient. The region must have the blessing of the Federal Transit Administration. However, in recent years, the FTA has become increasingly skeptical of transit proposals after a series of deals gone sour.

According to Steve Ortmann, the STV Inc. project manager hired by the Regional Planning Commission, the local government must give the FTA a feasible plan for the matching funds as well as continuing revenue source to sustain the improvements in the future. Birmingham has the plan, but not the money.

Without additional revenue the system cannot improve, said Alton Parker, a Birmingham attorney hired by STV consulting to draft the legislation. Under the new transit plan \$100 million would go toward improving existing services in the first five years.

"The current system is inadequately funded to the extent that it is incapable of participating in any major long-term program or for

matching funds," Parker said. "It is, today, incapable of a local match for such things as enough buses and other operational needs."

Without any kind of improvements, the existing transit system will continue to dwindle until there is little left, according to Robert Montgomery, associate director for Greater Birmingham Ministries. GBM is a faith-based non-profit organization that works to reduce poverty and provide crucial services to the needy in the Birmingham metro area. GBM has been a strong proponent of the transportation initiatives.

"When the Birmingham system went through its series of contractions, that limited its reach and made it something far less than an adequate transit system," Montgomery said. "Without public transportation, we are really forcing people to walk or to piece together some kind of transportation that doesn't work."

However, the proposed transit improvements would serve as more than a subsidy for the poor. An effective mass transit system would help reduce ozone pollution and ease traffic congestion along major highways. According to its proponents, an effective transit system would serve white-collar as well as blue-collar workers, with express routes penetrating deep into Birmingham's suburbs.

The Alliance for Transportation Alternatives has fostered the RPC's proposals. The second regional Growth Alliance, ATA is comprised of 60 community, government and business leaders that represent a cross-section of Jefferson County.

Steadily, support for the plan has grown, with endorsements from the Jefferson County Mayors Association, the Jefferson County Commission, the Birmingham Regional Chamber of Commerce, newspaper editorial boards and grassroots organizations.

Representative George Perdue of Birmingham introduced the bills in the state legislature early in the current session. There they have remained.

## The Montgomery Bog

With heavy lobbying by the RPC, the Chamber and the ATA, transit proponents accom-



Steve Ortmann explains how mass transit contributes to positive growth for Birmingham

# WHO KILLED TRANSIT

by Kyle Whitmire

Efforts to build a world-class mass transit system in Jefferson County are dead, at least for the moment, and a years-long struggle between transportation activists and the political forces in Montgomery have reached a stalemate.

With the end of the 2004 regular legislative session, transit advocates have fallen back. Stunned from the blow, they have yet to figure out what went wrong or to determine what they must do next.

To Al Folcher, who represented the consortium of transit funding partners, the impasse was déjà vu. In a recent interview, he recalled an editorial cartoon from *The Birmingham News*. The cartoon depicted a busload of legislators perched on the edge of a cliff. Behind the bus, state Sen. Jack Biddle of Gardendale was pushing the vehicle over the cliff's edge. The caption read: "My constituents don't need no mass transit."

"That [cartoon] was back in early 80s," Folcher recalled. "So it isn't like we haven't been in this situation before."

Birmingham, it seems, has often been one step away from an effective mass transit system.

That hasn't always been the case. Bir-

mingham once had a bustling trolley system downtown and buses efficiently shuttling passengers between downtown and the outlying neighborhoods. But that system deteriorated after years of under-funding and bureaucratic neglect, and most people who would remember it are now dead. As a result, mass transit has lost its cultural foothold in the region, and citizens have lost familiarity with any transportation other than automobiles.

That cultural foothold has been broken further by racial and class division. The irony is that those divisions have created a greater need for mass transit than ever before. White flight has created rush-hour commutes that rival those of metro areas larger than Birmingham. Suburban sprawl has exasperated the region's ground-level ozone problem and

federal transportation funding. Through this position, he has brought the region funding for interstate highway infrastructure, such as the I-459 northern beltline and the soon-to-be complete Corridor X.

That success has not materialized into mass transit funding, but not because Shelby hasn't. Five years ago the senator set aside almost \$85 million in federal matching funds for mass transit improvements in Birmingham, with the promise that he could get "even one billion dollars" where that came from. However, the region has not been able to secure a revenue stream to provide the necessary 20 percent matching funds. According to city officials, Shelby's patience has worn thin during the past five years. The regional recalcitrance has been an embarrassment to the senator, especially as other cities have

## Year One

During the last two regular legislative sessions, mass transit supporters have lobbied the Legislature to pass two bills to support regional mass transit. The first bill, known as "the board bill," would have redistributed representation on the Birmingham-Jefferson County Transit Authority board to a wider constituency of Jefferson County. The second bill, known as the "funding bill," would have raised up to \$60 million per year for mass transit by increasing the cost of car tags in Jefferson County. Both bills were needed to satisfy requirements from the Federal Transit Administration to draw down federal matching funds.

The package was a tough sell, but to this day, transit supporters insist that in 2003 they had enough support from Republican legislators, coupled with assumed support from Democratic legislators, to get the bills out of the Alabama House. In fact, they were successful in passing the bills through the Alabama Senate, traditionally the most difficult stop in the legislative process. However, the lobbyists assumed too much from the House.

The House Republicans, anxious to pass the bills without much fanfare, ramrodded the board bill through the Jefferson County local committee. Four Birmingham representatives — John Rogers, Oliver Robinson, Eric Major and Mary Moore — objected to their haste. The bills passed out of committee, but the four Birmingham Democrats contested the bills, preventing them from reaching a vote

## Birmingham transit hopes die in Montgomery

depressed growth in dwindling manufacturing centers. A fertile crescent of retail and service industry jobs has grown along Jefferson County's northern borders, but many of the people who need those jobs can't get to them without transit.

In Washington, at least, the state's political influence has met the region's transportation needs. Sen. Richard Shelby chairs the Senate subcommittee for transportation, a position that gives him tremendous influence over

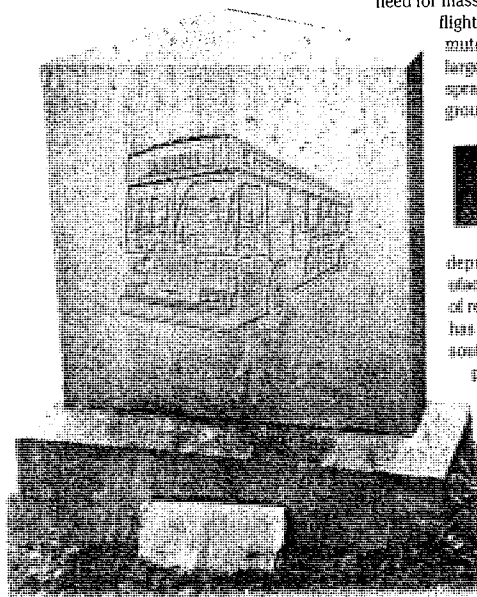
eyed the un-matched federal funds. Recent efforts, however, have reestablished some of that goodwill.

"This was the first year that Sen. Shelby didn't yell at us," Birmingham Mayor Bernard Kincaid said, after the Chamber of Commerce's annual "fly-in" to Washington. "I think he understands that we are trying, albeit slowly, to make this happen."

But while Sen. Shelby's temper has been temporized, the political struggle at home remains frozen by the underlying cause of Birmingham's regional inferiority complex — the Balkanization of race, community and class.

on the House floor. Under state House rules, if four legislators contest a local bill, it cannot come up for vote.

The four legislators gave conflicting and sometimes self-contradictory reasons for contesting the bills. Their action, or inaction drew criticism from city and county leaders, as well as their own constituents. Nevertheless, none of the four would budge in the contest, and at the end of the 2003 legislative session, the transit bills died without ever making it to a vote.





## Halftime

Despite the defeat in the legislature, the struggle emboldened Birmingham transit advocates. In recent years, "grassroots movement" has been overused and misused, diluting the term's meaning. But under the banner of the Birmingham Regional Transit Advocacy Group (BRTAG), citizen activists such as Fountain Heights Neighborhood President Doris Powell started a true grassroots movement. Through town hall meetings and person-to-person campaigning, BRTAG brought real political pressure to bear on Rogers and his legislative allies.

In 2003, support for regional mass transit had been largely top-down, with groups like the Birmingham Regional Chamber of Commerce and Region 2020 leading the charge. Leading up to the 2004 legislative session, lobbying efforts reversed directions, stemming strongly from BRTAG. In one BRTAG meeting, County Commissioners Shelia Smoot and Larry Langford rallied the crowd and promised that if legislators killed transit, they would kill Rogers' pet project — a domed stadium for the BJCC.

But in the intermission between the 2003 and 2004 legislative session, the political climate in Montgomery has changed drastically, and Rogers received unwitting help from a political ally — Gov. Bob Riley.

Over the summer of 2003, Riley pitched his \$1.2 billion tax reform package to Alabama voters. The response was stunning; voters crushed the governor's tax package by a margin of two to one. Critics decried government waste and called for greater accountability in government.

The defeat frightened state legislators in general and Republican legislators in particular. The GOP reverted to its "no new taxes" stoicism. The transit lobbyists had won some reluctant support from Republicans in the 2003 legislative session, but with the overwhelming defeat of Riley's tax package, that support quickly evaporated.

## Year Two

At the start of the 2004 legislative session, Rep. George Perdue again introduced the board bill and funding bill, nearly identical to the bills he sponsored the year before.

Both bills passed out of their committees, but not without opposition, and this time the opposition came from the opposite direction — the Republicans.

Rep. Demetrius Newton of Birmingham amended the board bill with a stringent diversity clause. The amendment amounted to a racial quota, a litmus test issue for Democrats and Republicans alike. The lines appeared out of the legislative haze, and the separation was a familiar one: black urban Democrats in favor and white suburban Republicans against.

"There is nothing regional about this," said Rep. Bobby Humphries of Pleasant Grove. "This is going to be run by the central city. The people in outlying areas have little or no representation."

Of the Jefferson County legislators, only one crossed party lines to pass the bill out of committee. Vestavia Hills officials had lobbied Rep. John Hawkins, the eldest and most experienced Jefferson County legislator, to support the package. Hawkins voted with the Democrats to move the bill to the House floor.

The early action gave transit advocates false hope. Two months passed without further action, only confusion. A consortium consisting of funding partners — Region 2020, the Chamber of Commerce, the Regional Planning Commission, BRTAG, Perdue and city and

county officials — met frequently to plan their lobbying strategy. They decided to err on the side of openness, but ultimately they erred.

"They way you pass bills in Montgomery is you push and push and push some more," said one transit advocate who disagreed with the strategy. "But we gave the bad guys too much time. We tried to play nice and it killed us."

Believing tempers needed time to cool, the strategists attempted to remain open to other compromises. They waited while officials from the Birmingham Jefferson Civic Center floated a plan that would fund both the transit system and a domed stadium. However, the compromise received no support in Montgom-

**BIRMINGHAM, IT SEEMS,  
HAS OFTEN BEEN ONE STEP  
AWAY FROM AN EFFECTIVE  
MASS TRANSIT SYSTEM.**

ery. The BJCC never found a sponsor for the legislation. The time allotted for compromise was wasted.

In the waning days of the legislative session, the transit consortium decided to move forward with the original two bills, but time had almost run out. In a desperate move to win over reluctant legislators, Perdue even agreed to add a public referendum to the transit bill.

## Dead on arrival

With only four days remaining in the session, Perdue fought to have the bills put on the legislative calendar. The board bill passed without a fight, but the funding bill was a different story.

In popular culture, the filibuster has a nostalgic connotation — a lonely last stand, a desperate act of conscience. But the Alabama Legislature isn't *Mr. Smith Goes to Washington*. Rather, the filibuster there is a grotesque act of political stonewalling.

A bill that would affect doctors in Tuscaloosa elicited the opposition of hospital lobbyists. Jefferson County Republicans struck an alliance with Tuscaloosa representatives to keep the hospital bill and the transit funding bill from reaching the House floor.

One by one, the legislators debated bills of picayune importance in an attempt to run out the clock. In the most egregious example, the House spent more than two hours debating whether or not to make the blackberry the state fruit.

House Republicans proposed a 10-minute calendar, a tactic whereby any bill debated for more than 10 minutes automatically fails. House members rejected the proposal after Rep. Perdue threatened to filibuster every bill on the calendar if the 10-minute rule was adopted. Throughout the filibuster, several legislators spoke in favor of the transit bill, including Rogers and his allies, but only Rep. Purdue invested the political capital to claim he fought for the bill.

Of the Republican lawmakers, Rep. Humphries and Rep. Scott Beason of Gardendale gave the strongest resistance. While killing time on other bills, Beason even told their sponsors that he couldn't think of anything bad to say against the bills. His tactics were transparent, if nothing else.

As the day drew to a close, House Speaker Seth Hammett grew tired of the filibuster, and warned House members against killing budget bills farther down the calendar. Ultimately all the opposition had been nothing more than political theater.

What happened next requires a little historical background. Years ago, Alabama voters approved a constitutional amendment that required lawmakers to pass the state budget before all other legislation. However, the state Legislature left itself an escape clause. By a three-fifths vote, the Legislature can pass a "budget isolation resolution." A BIR allows the legislature to take a bill out of order, ahead of the budget. This was supposed to be used for emergencies, but today the legislators pass BIRs as casually as they shake hands. But not for the transit bill.

Sixteen House members voted for the transit BIR. Among them were Linda Coleman, Merika Coleman, Priscilla Dunn, Major, Moore, Robinson, Rogers and Perdue — all black urban Democrats. Thirteen legislators voted against the BIR. Among them were Beason, Jim Carns, Humphries and Arthur Payne — all white suburban Republicans. Another 16 representatives abstained. Without the three-fifths vote needed for the BIR, the transit funding bill died.

Speaking briefly, Perdue promised to try again next year and accused certain House members of working behind the scenes to kill the bill. Rep. Robinson accused lobbyists of not working with certain House members. And Rep. Major, waving a copy of the *Birmingham Weekly*, accused the media of unfairly targeting the four legislators who contested the transit bills a year before. Earlier in the day, Major attempted to move two unrelated bills to the top of the House calendar. Had he been successful, he would have given the filibuster enough fodder to keep the transit bill from reaching a vote.

Having seen enough from the House gallery, Mayor Kincaid was too furious to speak a complete sentence as he left the building. When asked for comment he said only, "Utterly disappointed."

## Post-mortem

Even after the 2004 defeat in the Alabama House, Folcher resisted the notion that a split exists between Birmingham and its over-the-mountain suburbs. He points out that in 1998 the over-the-mountain municipalities voted in favor of BARTA, a plan to raise sales taxes to fund a sophisticated mass transit system. More recently, Vestavia Hills and Hoover have funded a Highway 31 bus route, which has seen steady and growing use over the last year. Rather, the split lies between Birmingham and the northern crescent of Jefferson County suburbs and rural areas.

Recent local political events bear out that analysis, but the effect has not trickled down to Montgomery. While local leaders have found inter-municipal cooperation helpful, the Jefferson County legislative delegation remains divided in a matter that is politically dichotomous and even dichromatic. When speaking about mass transit, Mayor Kincaid reverts to a familiar refrain: "Transit is not a black or white issue; it's green." To the Legislature, however, transit is held hostage by racial animosity.

The cause can be attributed partially to political structure. Racially gerrymandered districts cause representatives to appeal to a narrow constituency. A representative, such as Bobby Humphries — whose district is 94 percent white

and overwhelmingly conservative — has little reason to reach out to black urban Democrats. Legislators play to political extremes rather than wide cross sections of voters. As a matter of demographics, it is unlikely that the legislative players will change after the next election.

What's more, transit advocates have yet to organize a political movement to prod reluctant legislators. Organizations like Region 2020 have effectively set a regional agenda with wide public input. However, without high-power political action committees, these organizations lack the enforcement arm necessary to turn those pipedreams into reality.

In a power-sharing agreement between Jefferson County Republicans and Democrats, next year Rep. Rogers will chair the local delegation. The position will give him authority to set the Jefferson County agenda, not a pleasant thought to transit advocates. While Rogers made a big deal about voting for the transit legislation, he bragged in the House halls that he was wearing his "funeral suit for when we bury the bills."

Recently Rogers has argued for what he calls "municipal option." Under the plan, municipalities would raise their own sales taxes to fund mass transit. Mass transit advocates argue that this funding is system is what Jefferson County uses already. Furthermore, municipal option would not generate enough money to draw down the federal matching funds.

In a recent interview, Mayor Kincaid voiced his displeasure with Rogers. In addition to the transit struggle, Rogers has hijacked city sales taxes to pay for a domed stadium.

"I hope the voters will hold us accountable for what we give them," Kincaid said of his political kinsmen.

"For mass transit?" he was asked. The mayor paused, smiled and repeated himself.

"I hope the voters will hold us accountable."

Write to [kyle@bhamweekly.com](mailto:kyle@bhamweekly.com).



Transit advocate Al Folcher.



# SPINNING HIS WHEELS



**With record ridership and a comfortable budget surplus, Birmingham transit board fires director for 'general incompetence'**

by Kyle Whitmire

For the most part, the October meeting at Birmingham Jefferson County Transit Authority deviated little from the monthly routine. The board approved the previous meeting's minutes. The director gave his regular report. The employee of the month received an oversized check for \$100 before she and her daughter sang a hymn for the occasion. Board members and members of the public asked about new transit stops and new roadside shelters. Things seemed pretty much normal — until the board voted to fire Executive Director Mark Stanley.

In Birmingham political circles, Stanley's termination was another earthquake along a familiar fault line. In recent years, mass transit in the Magic City has been a source of perpetual debate but a cause of little action. Among cities of comparable size to Birmingham, most spend more than \$40 million per year on public transportation. Birmingham spends just over \$14 million. In recent years, private activists and public officials have fought political battles on federal, state and local levels to change the status quo by drawing down as much as \$1 billion in federal matching funds to give Birmingham the mass transit system of its dreams, but with little success. Two consecutive state legislative sessions failed to return the necessary funding, in U.S. Sen. Richard Shelby's words, for "Birmingham to help itself." Instead, the usual issues of racial suspicions and patronage politics lead lawmakers to a stalemate. For the time being, the status quo had prevailed.

Those struggles were, to say the least, divisive. However, during those bouts, Stanley attempted to insulate himself from the politics. He recruited to Birmingham what some board members described as a transit "dream team" from around the country. And for a moment, that team seemed to have turned an important corner. After years of dwindling ridership and public relations disasters, the BJCTA had numbers that spoke for themselves. Ridership had

risen to over 4 million users per year. Paratransit complaints were down. The system's routes were expanding. Bus stops were increasing. The bus fleet vehicles had visibly improved. The financial reserves, according to transit officials, had exceeded \$1.5 million. From the outside in, everything appeared to be heading in the right direction, said elected officials, including City Councilor Carol Reynolds and Mayor Bernard Kincaid.

But two weeks ago, despite the apparent improvements, politics put Stanley out of a job. In a contentious and unexpected decision, the BJCTA board voted to fire him.

## The hammer falls

After the meeting, board members who supported Stanley said they first sensed something unexpected when the board chairman, Phil Gary, asked to move his monthly report to the end of the agenda. Usually, the chairman's report is among the first items of business. Instead, Gary waited until the board has dispensed with regular business before reading from a prepared statement.

Beginning that statement, Gary chastised his fellow board members for spreading what he called misinformation.

"I think that in some instances a few of you have been misguided and misdirected, and misinformation has been shared with some of you at large," Gary said. "And I just wanted to remind you all that we operate under the bylaws of this organization and I am accessible. I have a telephone, I have an office and I have a mailing address. And if you have specific concerns, I would appreciate it if you would address those specific concerns directly to me."

Gary did not specify exactly to whom he had directed his comments; nonetheless, his opponents on the board — Stanley's supporters — interpreted those comments as criticism of them. Before the BJCTA's September meeting,

board members who supported Stanley had encouraged transit activists to attend the meeting. They turned out as asked, along with a strong presence of print and broadcast media. During that September meeting, no action was taken by the board. However, when the public attention had waned by October, the board wasn't so inert.

After airing his grievances with his fellow board members, Gary gave a laundry list of complaints he had against Stanley.

"I am publicly reporting that our executive director has failed to provide executive oversight services and provide executive assistance in accordance with policy, standards and procedures established by the board of directors," Gary said. "Specifically, the executive director has failed to satisfy the performance deficiencies cited in our July 15th letter, wherein we conveyed our concerns about not adhering to procurement policies, slow payment of invoices, and personnel oversight."

According to Gary, Stanley's written response to those complaints "lacked specificity and meaning." The problems included failure to work with the BJCTA board to implement board policy decisions, to provide financial management, to represent the BJCTA in matters regarding federal, state and local governments and to conduct regular meetings with contractors and employees.

For the most part, the board members' facial expressions bespoke their reactions to Gary's comments. Board members Calvin Elder, Johnnie Lassiter and Ronald Lyas sat stoically. Meanwhile Dan Trotman leaned back in his chair, his hands locked behind his head and his face beaming incredulity. Bob McKenna of Birmingham, the newest appointee to the board, voiced his disapproval of Gary's statement.

"I've got to say that I'm shocked by this report, Phil, and I wish you had notified the rest of the board that you were going to be presenting this publicly," McKenna said. "I don't

agree with your statements."

Gary said he did not understand why his comments were a surprise.

"I just want the public to know this is not the view of the full board," McKenna said.

After McKenna's comment, Lassiter, the Bessemer representative, made a motion to fire Stanley, which she read from a piece of paper:

"I move that the BJCTA issue a notice of default and intent to terminate the employment contract of Mark Stanley as executive director for failure to fulfill his obligations, effective 15 days from today's date."

Lyas seconded the motion and a vote followed: Gary, Lassiter, Lyas and Elder in favor of firing Stanley; McKenna and Trotman against. Board members Reginald Swanson of Birmingham, Ouida Fritsch of Homewood and Hugo Isom of Mountain Brook were absent from the meeting.

Once the vote had been taken, Gary adjourned the meeting. When approached for comment, Lassiter declined to answer any questions from the *Birmingham Weekly*. When asked for specific instances or examples that lead to Stanley's termination, Gary responded: "Were you listening during the meeting?" When asked again for specific examples of the generalities he had listed, Gary said only, "general incompetence." Repeated calls last week for follow-up questions from the *Birmingham Weekly* to Gary's office were not returned.

## A shooting star

Whenever you see a bike rack on the front of a city bus, be that city Birmingham or Albuquerque, you are looking at Mark Stanley's master's thesis. He lives and breathes transit. Riding on one of the system's new "Opus" buses last spring, he provided a running narrative of possibilities for the Birmingham system. Pointing to muddy curbs without sidewalks, he explained how every stop is the rider's front door to the transit service. Explaining all the

new technology incorporated into the Opus buses, he told how each vehicle is a rolling advertisement for the BJCTA.

Having worked for Foothills Transit, a private provider in Los Angeles, Stanley was warned not to come to Birmingham, his allies have said, but by Stanley's own account last spring he saw an opportunity to prove himself and to change the community for the better.

"I did my research before I came here," he said. "I realized that this system has gone through a lot of changes. I knew with my background and experience, having seen what the other side looks like, I could contribute something to helping this place grow."

Despite its shortcomings, Birmingham did have opportunities that other cities covet, specifically, Sen. Shelby's seat as chairman of the Senate appropriations subcommittee for transportation. That seat of power has given Shelby the authority to direct transit funding to his home state. However, the Birmingham metro area has been unable to procure the necessary matching funds to draw down the federal dollars. During the last two regular legislative sessions, drafting a plan to provide the local matching funds became a political tug-of-war. In 2003, Representatives John Rogers, Eric Major, Oliver Robinson and Mary Moore contested legislation that would have raised the money through a car tag tax and reorganized the transit board for regional representation. In 2004, Republican lawmakers, gun-shy after Gov. Riley's failed tax reform referendum, killed the same proposal after a filibuster.

Throughout those struggles, Stanley attempted to remain neutral to the politics while still promoting transit.

"The community needs more transit service; that much is clear," Stanley said last spring. "And we need another option besides the automobile. They are the politicians. They are going to decide how we fund transit service. I'm here to say, 'Yes, you do need more service. This is the way we can provide that service to you that has been effective in other communities.'"

Years before Stanley became executive director, the BJCTA had contracted out most of the authority's functions to a private company, First Transit. While private contracting looked good on paper, Stanley said, a lack of competitive bidding from other providers repeatedly drove up costs while services remained stagnant or declined. Stanley asked the BJCTA board for permission to discontinue the contract and bring those services back in-house. The board agreed, and in the first year under the new arrangement, the BJCTA saved more than \$2 million. Stanley then directed those savings back into the bus fleet, paying for the new Opus buses. Instead of the old smog-belching beasts residents had known, the new buses ran smoothly, quietly and efficiently. Further savings went back into the BJCTA's accounts, giving the agency more than \$1.5 million in reserves, board members and city officials said.

Meanwhile, an aggressive marketing and public relations strategy pushed by Robin Paulding, Stanley's marketing director, garnered the agency unprecedented positive press in multiple media outlets. For years, the BJCTA had been plagued by scandals and reports of poor performance, but for once, it seemed, good headlines would carry the day.

"For everything I have seen, ridership has risen, complaints have dissipated, they have almost a \$2 million surplus in the bank, unlike anything we have had before," Mayor Kincaid said in a recent interview. "I don't understand how in the ... in the heck anyone can call that incompetence."

## No good deed

While Stanley tried to insulate himself from the politics of the BJCTA, politics is ubiquitous to the board.

After the Alabama Legislature killed the two transit bills in 2003, a political tempest erupted. Unfortunately, it also coincided with the Birmingham mayoral election.

At the height of the campaign season, City Council President Lee Loder presented an alternate plan to draw down the federal funding for transit. As the plan did not take into full account Federal Transit Authority guidelines regarding the matching funds, the plan was useless.

However, Loder had not drafted it by himself. He had help from Deborah Walker, a Birmingham attorney who also served as counsel for the BJCTA. Before the Birmingham City Council, Walker argued in favor of Loder's plan while contradicting her BJCTA bosses, Gary and Stanley, who were both in the room. After that council meeting, Gary assured Mayor Kincaid that Walker did not speak on behalf of the board and that she would be disciplined. In fact, some board members wanted more than discipline; they wanted Walker fired.

Instead, they cut a deal. According to BJCTA board members and confirmed by Mayor Kincaid, state legislators told BJCTA officials that if Walker were fired then they would retaliate by killing the transit bills in the next legislative session. The BJCTA board gave Walker a one-year extension on her contract. The following spring, the Alabama Legislature killed the transit bills again anyway.

Stanley and Gary seemed to be on the same page during that brief power struggle, but since then, the two men have been at odds with each other. Previously, Stanley had his detractors on the BJCTA board, but with the chairman's opposition, that resistance began to solidify.

In March the board split over whether to hire the Lewis Group under a marketing contract. The votes divided along racial lines, a familiar refrain in the months to follow. Despite the appearance, board members supporting Stanley insist that the differences were about policy, not race.

"As I explain to people, it is about color and the color is green," board member McKenna said in an interview following Stanley's termination. "That's all this is about."

As the new year progressed, board members and transit officials said, Stanley came under more pressure to direct marketing business to the Lewis Group. In fact, a July 15 letter from Gary to Stanley confirms that insistence.

"[T]he board is aware of at least one instance whereby a service contract — in this case marketing — has been circumvented by outsourcing services to other vendors by a staff member," the letter said. "Although the occasional use of other vendors is understandable, the Board approved and hired a specific agent of record [the Lewis Group] and until the Board alters that contractual agreement, that vendor should be utilized exclusively where practicable."

In that same letter, Gary also instructed Stanley to refer all new contracts to the BJCTA counsel Walker. The policy gave Walker a de facto veto power over all contracts.

"But under no circumstances shall contracts be let without prior, written authorization of counsel," the letter said. "Deviation from this policy by any staff member shall be grounds for termination."

The July 15 letter requested that Stanley respond in writing by Aug. 2, and that his response outline solutions to the BJCTA board majority's complaints. Stanley submitted responses as ordered, but Gary was not satisfied with the reply.

## Set up and shut out

"Not only was I shocked, but I was offended," McKenna recalled of the most recent board meeting, "because there was obviously a secret meeting that did not include me."

McKenna said he does not have any absolute proof of a secret meeting, but the circumstantial evidence is strong. At the start of the meeting, Gary moved his chairman's report, usually at the top of the agenda, to the end of the meeting. When Gary did make his report, he read from a prepared statement. Once Gary finished his report, Lassiter's motion to terminate Stanley's contract had also been written ahead of time.

"Mr. Chairman, in light of what you just read, if I am in order, I would like to make a motion," Lassiter said before she read the uncharacteristic legalese from a sheet of paper. When asked after the meeting whether there had been any secret meetings or collaboration beforehand with other board members, Lassiter declined to comment.

Also, board members have since speculated on other peculiarities of the meeting. Most importantly, Gary had moved the meeting date to a time when Isom and Fritsch could not attend. Both Isom and Fritsch have said they would have supported Stanley.

Furthermore, in a complaint filed this week by Stanley's attorney, it is alleged that Gary misled Isom before the meeting. According to the complaint, the morning of the meeting Isom asked Gary whether there would be any major items he would need to be present to

consider. Gary told him that there were none, the complaint says.

Messages left last week for Gary requesting comment were unreturned.

Following the meeting, and despite comments to the contrary during the meeting, Walker directed Stanley to turn over his keys, passes and other BJCTA property before immediately vacating the premises.

Also at issue is the timing of the termination. During last August through the middle of September, Stanley had taken family medical leave to be with his dying father. Several board members have speculated on the potential legal effects that could have on his termination.

Contacted last week, Stanley had already retained legal counsel and prepared his only public statement since his termination.

"I believe in public transportation, and I was heartened by the great strides that we were making at MAX," Stanley said. "Ridership has risen beyond 4 million — up more than 11 percent — fare revenue is up more than 10 percent. We have cut operating expenses by more than \$2 million, and we have reduced our cost-per-vehicle-service hours by almost 15 percent. I am proud of these accomplishments."

Stanley said he was stunned by the board's decision and that he had not been given a satisfactory explanation.

"You don't fire the coach when the team is winning," Stanley said.

Write to [kyle@bhamweekly.com](mailto:kyle@bhamweekly.com)



David Hill (top left) is the last untouched member of Mark Stanley's "dream team" and now the acting BJCTA director. Marketing Director Robin Paulding (top right) and Planning Director Carletta Singleton (bottom) have left the BJCTA under political pressure from transit board members.



# news&opinion

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## A tale of two directors

Transit board chairman knows incompetence first hand



by Kyle Whitmire

Phil Gary, the chairman of the Birmingham-Jefferson County Transit Authority board, was scared out of his wits. He didn't talk to reporters before or after the meeting last Friday but he didn't need to. You could see the fear in his face, as plain as a picture.

As soon as Gary entered the room, TV reporters shoved their microphones and camera lenses in his face, but Gary didn't answer. Never before have I seen one person try so hard to pretend another person, standing only inches away from him, didn't exist. But that's exactly what Gary did.

*Mr. Gary, did you conspire with board member Johnnye Lassiter to fire Mark Stanley? Mr. Gary, did you hold a secret meeting with other board members? Mr. Gary, did you have help from board attorney Deborah Walker to fire Mark Stanley? Mr. Gary, has Jesse Lewis encouraged you to fire Mark Stanley?*

They asked Gary question after question, but he wouldn't even look them in the eye. Around the boardroom, some folks watched the pageant in shock, others in awe. This was the kind of stuff you see in the movies. Gary searched desperately for something to warrant his attention. He shuffled through some papers. He looked out the windows and moved around the room, searching for someone to talk to, someone to throw him a life preserver — but nothing, no one. In a room full of spectators, Gary was alone.

### Old skeletons

Two weeks before, the BJCTA board voted to fire Executive Director Mark Stanley. With several members absent, and in a surprise move, the board voted 4-2 to terminate Stanley's contract.

Afterward, I asked Gary why he had taken such a drastic action.

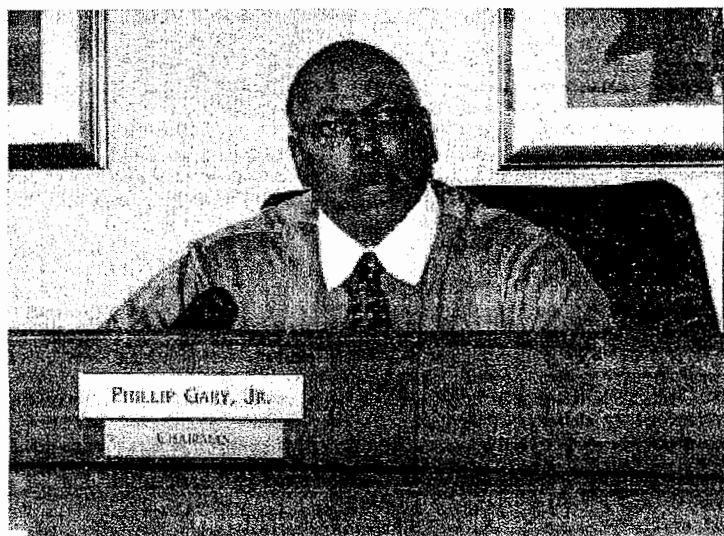
"Were you listening during the meeting?" he asked me.

I told him that I was, but that many of his accusations against the executive director had sounded vague, offering generalities instead of specifics. I asked again, "At the very least, what was the last straw?"

He looked back at me with a dazed expression, much like the one he would give the TV cameras two weeks later.

"General incompetence," he said.

Never mind the brevity of Gary's answer. First, let us look at the context. Gary should



BJCTA Board Chairman Phil Gary — micromanager, transit potentate.

know a thing or two about the competence needed for the director's position. After all, he once held the job of executive director himself.

Beginning in the early 1990s, Gary led MAX through a series of disasters. During Gary's tenure, the transit authority cut its service hours by more than half, from 671 hours per day to 237 hours, according to press accounts at that time. Meanwhile, travel expenses for MAX employees, including Gary, almost doubled. More than 200 MAX employees were laid off. The number of buses dropped from 79 to 48, while bus fares increased 20 percent. In short, MAX customers paid more while MAX provided less — under Gary's leadership. During that same time period, the MAX board spent more than \$100,000 per year on cell phone bills (in the mid '90s, mind you). When a whistleblower tattled on MAX officials, Gary fired him. After a lengthy court battle, the whistleblower walked away with more than \$750,000. Finally, in January of 1996, the BJCTA board put Gary on paid leave until his contract expired later that year.

But Gary's history with the BJCTA didn't end there. Fast-forward to 2001. Never mind his disastrous tenure as BJCTA executive director; why not appoint Gary to the BJCTA board? Sure, there were plenty of reasons — he got fired, he nearly ran the BJCTA into the ground, he was lucky he didn't go to jail. Nonetheless, in September 2001, barely a month before leaving office, Birmingham City Councilor Pat Alexander couldn't find anyone better for the BJCTA board than a man

recently fired by the BJCTA board.

Gary's disappointment/appointment illustrates a larger problem Birmingham, Jefferson County and suburban municipalities have with their boards and agencies. Because of the lengthy terms of office for many boards — six years in the BJCTA's case — there exists a significant lag time between the decisions of voters at the polls and the decisions of board members when making policy. When voters choose new leadership at the upper levels, it takes years for that leadership to assert its influence on boards and agencies. Of the five BJCTA board members from Birmingham, only one was appointed by the sitting Birmingham City Council. The rest owe their positions of power to a council that was summarily rejected three years ago. Eventually, the BJCTA and the Birmingham City Council will match ideologies (probably when the Council makes two new appointments next year), but in the meantime, everyone must wait.

### New blood

Against Gary's record, the most recent BJCTA executive director, Stanley, looks spectacular. Ridership rose to more than 4 million in the last year. Operating expenses dropped by more than \$2 million. Fare revenue rose by more than 10 percent, and cost per vehicle service hours dropped by almost 15 percent.

Since Stanley took over almost two years ago, the BJCTA has received a run of positive press along with praise from public officials. But somewhere along the way, relations

between Stanley and a narrow majority of board members (five of nine) spoiled. In recent months, Gary has moved past policy decisions and begun to micromanage BJCTA business. At times, Gary has even made unilateral decisions without the consent of his fellow board members.

Finally, in an Oct. 29 board meeting, Gary delivered a point-by-point indictment of Stanley's performance as executive director. The BJCTA board, in a 4-to-2 vote, decided to fire Stanley.

Since the meeting, two of the absent board members have alleged that Gary purposely changed the date of the board meeting and misled them about the meeting's agenda so that they would not be present. Despite repeated questions from the press, including interview requests from the *Birmingham Weekly*, Gary has not answered direct questions to the press. He has not given any explanation why he moved the Oct. 29 meeting or whether he collaborated with other board members to fire Stanley. At least one member of the BJCTA board, Dan Trotman, has sent Gary repeated emails requesting answers to similar questions and received no reply.

In the BJCTA's Nov. 12 board meeting, Gary listed a litany of complaints against Stanley. Throughout his comments, Gary attributed every transit shortcoming to Stanley and claimed most of the successes for the board.

Gary blamed Stanley for ruining the engines of the BJCTA's new Opus buses by filling them with the wrong fuel, yet following the meeting he appointed the maintenance director as acting executive director. The maintenance director is responsible for fueling the bus fleet.

"Moreover, calls to the Executive Office were not answered and the only voice you would hear was that of a recording," Gary said.

Of five phone calls made to the Birmingham Parking Authority where Gary works as executive director, none were answered by an actual person. The only voice from Gary's office was that of a recording. Of the messages left requesting comment, none were returned.

When asked why the BJCTA board fired Mark Stanley, Phil Gary said it was a matter of "general incompetence." And who's to argue? When it comes to incompetence, Gary speaks from experience.

*Spin Cycle is a column about Birmingham regional politics. Write to kyle@bhamweekly.com*



# Everything new is old again



by Kyle Whitmire

*All things are wearisome;  
more than one can express;  
the eye is not satisfied with seeing,  
or the ear filled with hearing.*

*What has been is what will be,  
and what has been done is what will be done;  
there is nothing new under the sun.*

— Ecclesiastes 1:8-9

Attend a transit authority board meeting, and you step through a time warp.

Here we have an executive, the popular people's champion, politically crippled by a public body with which he constantly clashes. At first glance, the public body seems split along racial lines, but scratch further and you see the divisions are more complex. The naive newcomers and the jaded old white folks are allied and aligned on one side. On the other side we have the benefactors of a black political network that has outlived its usefulness to the community it no longer serves.

The head of that public body, and the one most at odds with the executive, once held the executive's job — before he was fired. Now he takes the next best thing, usurping the power from the new executive while micromanaging the system from a position of political advantage.

On the fringes of this fracas are Those Who Make Money from Contracts, because what good is politics except for a little graft? One concentric circle further, you will find a cast of supporting characters, many talk radio mouthpieces and self-proclaimed activists who parrot their masters in a more primitive form of talking points.

Their antics vary from the serious to the silly, from the cacophonous to the catastrophic. Good political theatre — consequences be damned. All this drama would be interesting, except I have seen this show before.

## Dejà vu

To understand the MAX board's dysfunction requires a little knowledge of recent local history and Birmingham bureaucracy. That might not sound very approachable, but trust me: it wasn't so long ago that Birmingham politics provided hours of cable access fun with a reality TV show that predated *Survivor* by almost a decade.

As recently as 2000, Birmingham was deadlocked in a political battle identical to the one described above. Newly elected Bernard Kincaid wore a purple hat with "mayor" stitched on the front — about all he had to show for his new job. Meanwhile, City Council President William Bell, freshly defeated in the mayoral election, used his position and his political alliances to prevail in most conflicts with the new mayor. The mayor's veto meant little when Bell had the six votes he needed to override it. Quickly, Birmingham developed a dual form of government: one mayor with the title, another mayor with the power.

However, Kincaid and Bell were among the more eloquent players on the City Hall stage. Political firebrand Jimmy Blake raged at the Jefferson County Citizens Coalition

political machine. Drama queen Sandra Little told Mayor Kincaid he was just "a little man." When bickering got out of hand, elder Councilor Aldrich Gunn warned the dais, "I'm not having that up in this church." Political lightning rod, shrewd attorney and Arrington pal Donald Watkins laughed all the way to Alamerica Bank.

The council meetings, broadcast on public access television, provided weekly entertainment for anyone willing to watch through the public announcements and weed abatement ordinances, but for the fans, the wait was worth it. In one council meeting, Bell had Blake escorted out by the sergeant-at-arms. Whenever an absence put a Coalition councilor in the minority, like-minded colleagues would play hooky also, denying a quorum and preventing a meeting.

Sound familiar? During the last two weeks, the MAX board has aborted two meetings after a quorum of members failed to attend. Unlike the Birmingham City Council, the MAX board can't send the police to compel members to attend. For the time being, things are at an impasse.

## All over again

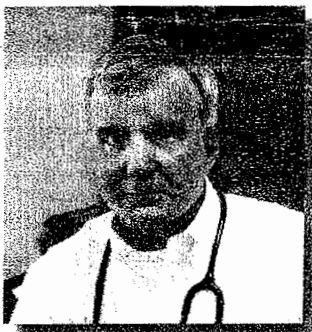
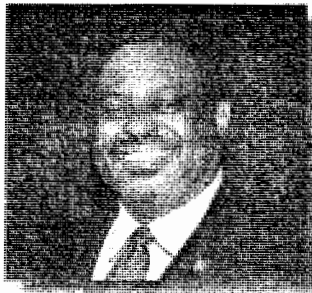
So while we wait for something new to happen, why not play a little connect-the-dots?

As you may have guessed already, MAX board Chairman Phil Gary is a suitable match for former Council President William Bell. Where Bell had once been mayor for three months after the retirement of Richard Arrington, Gary was once executive director at MAX. The transit authority fired Gary when he cost the transit authority for whistleblower lawsuits and mismanaged contracts. The voters fired Bell after he cost the city its water works assets.

Today, BJCTA Executive Director Mark Stanley is the obvious parallel to the newly elected Mayor Kincaid. Bell stripped Kincaid of his fiscal powers and castigated him for lapses in his duties. Four years later, Gary tried to fire Stanley, and forced him to turn over his keys to the office. Any vision offered by Kincaid/St Stanley was quickly quashed, while the Council/MAX board stole credit for the executives' successes.

The similarities don't end there. The tawdry Johnnie Lassiter of the MAX board is a perfect stand-in for garish Councilor Sandra Little. The vociferous Dr. Dan Trotman acts as a kinder-gentler Dr. Jimmy Blake. Hugo Isom is a decent fit for Councilor Bill Johnson, while the latent Councilor Leroy Bandy predated the quiet board member Ronald Lys. The elder councilor, Aldrich Gunn, would probably admire MAX board member Calvin Elder. And finally, in the role of Deborah Walker, who made \$81,000 from the city in the three months that Bell was interim mayor, we have ... Deborah Walker, who bills the MAX board for every picayune contract that Gary insists she review.

A few of these connections are a stretch, I admit, but you have to agree the parallels are uncanny. This isn't a matter of coincidence, like the correlations between the Lincoln and Kennedy administrations. This is a simple matter of causation.



**Before and After: yesterday's politicians (left) Bernard Kincaid, William Bell and Jimmy Blake, and their current counterparts (right) Mark Stanley, Phil Gary and Dan Trotman.**

## Trickle-down politics

Appointments to boards and agencies, such as the MAX board, typically last for six years. Most of the MAX board members were appointed by elected officials who have since been un-elected from office. The former administrations from Birmingham, Jefferson County and member suburbs appointed the standing board, and in doing so they shaped it in their own image. The MAX board is a kind of political specter — a reflection of something that no longer exists.

This lag-time between popular elections and subsequent board appointments is a wrench in the bureaucratic machine and a frustration to politicians. Normally, the six-year difference would not be such a problem, except that in recent years Birmingham City Hall and the Jefferson County Commission have seen radical turnovers, with many incumbents sent home by the voters. However, without like-minded representatives on

boards and agencies such as the MAX board, it is difficult for those newly elected leaders to affect change.

Nonetheless, change is coming. *What has been is what will be, and what has been done is what will be done; there is nothing new under the sun.* Eventually the six-year difference will catch up with the MAX board and others like it. Next year the Birmingham City Council will make two appointments to the MAX board. With those appointments, it is a virtual certainty that the boards' center of political gravity will shift. The position of strength held by Gary and his allies on the board is impermanent, as is the ugly division it has caused. The revolution we saw at City Hall in 2001 and at the County Commission in 2002 will finally trickle down.

*Spin Cycle is a column about Birmingham regional politics. Write to kyle@bhamweekly.com.*



## End of the line

### Transit board terminates lauded director

by Kyle Whitmire

When Mark Stanley interviewed to be executive director of the Birmingham Jefferson County Transit Authority, one requirement for the job was very clear: the BJCTA board expected the new director to hold the job for a long time, at least longer than some past directors. In 22 years, the BJCTA had already gone through 16 directors. Some stability would be a refreshing change.

Colleagues in the transit industry warned Stanley not to come here, he recalls. Birmingham, with its rocky track record, would be a dangerous career move, they said.

Stanley took the job anyway and moved to Birmingham, but his colleagues proved right in the end. Last Thursday, after two months of fighting, sniping and ducking meetings, the full BJCTA board convened. A split vote, five-to-four, terminated Stanley. After 22 months on the job, the latest deposed executive director had outlasted the system average.

#### October surprise

The BJCTA board first moved to fire Stanley in its regular meeting on Thursday, Oct. 28. For some board members, specifically those who had approved of Stanley's job performance, the move came as a shock.

Board Chairman Phil Gary read an ambiguous list of grievances at the end of the meeting. Following his statement, Johnnye Lassiter, the Bessemer representative, moved to terminate Stanley.

"Mr. Chairman, in light of what you just read, if I am in order, I would like to make a motion," Lassiter said. Her inflection feigned spontaneity. Had both Gary and Lassiter not read their statements, it might have seemed as though this was a decision they had come to in the moment. In fact, Gary and his allies on the BJCTA board came into the meeting prepared.

An invoice sent to the BJCTA by the board attorney, Deborah Walker, sheds some light on the build-up to Stanley's termination in the days before the October meeting. As early as three days before the meeting, Walker reviewed board by-laws, specifically the rules regarding proxy voting. Board member Reginald Swanson was hospitalized and could not attend the meeting. A proxy vote from Swanson would have given Gary the majority he needed to fire Stanley had all the other eight board members attended the meeting. Also on that day, Walker teleconferenced with Gary and Lassiter, although the bill does not indicate the topic of their discussions.

The day before the October meeting, Walker reviewed Stanley's contract, specifically regarding performance deficiencies, the invoice said. It was not specified who instructed Walker to review Stanley's contract or why. However, on that same day, Oct. 27, Walker met with Chairman Gary, and subsequently researched procedures for terminating Stanley and taking control of the BJCTA facilities

afterward. Walker also teleconferenced with "various board members," although the invoice does not specify which board members.

"I can tell you four board members who are included in 'various,'" said board member Dan Trotman, one of the four board members who opposed Stanley's termination.

In total, Walker spent five and one-half hours Oct. 27 in preparation to fire Stanley. She did so without the knowledge of the entire board and without the knowledge of Executive Director Stanley. The board members who were left out of the loop characterize this preparation as a conspiracy.

During the Oct. 28 meeting, board member Bob McKenna asked Walker if terminating Stanley at that time would violate the Family Medical Leave Act. Prior to the October meeting, Stanley had taken about six weeks of family medical leave to be with his dying father. Specifically, McKenna asked Walker if enough time had passed since Stanley's leave had ended for the board to take any kind of action regarding his employment. In the meeting, Walker said that Lassiter's motion would not violate Stanley's family leave. However, according to her invoice, Walker did not research or review the Family Medical Leave Act until the day after the meeting.

The invoice does not say that Gary was giving Walker orders, although she was in regular contact with Gary. In the month of October, Walker spoke more with the board chairman than with the executive director.

#### The interim

Stanley's termination took only minutes to introduce, but two months to ratify. According to the executive director's contract, the board was required to give him 15 days to respond to the complaints. Those 15 days came and went, but for two meetings, Gary could not gather the quorum necessary to hold a meeting. Out of protest, board members Trotman, McKenna, Ouida Fritschi and Hugo Isom refused to attend the next two meetings. With board member Swanson in the hospital, Gary was one member short of a quorum.

The four Stanley supporters said they were caught off guard by a proposal to completely reorganize the transit authority.

After the second aborted meeting, Gary gave a laundry list of complaints against Stanley. Included in that list were two items that have proved misleading.

Among his complaints of improper accounting practices, Gary said that Stanley had not completed the fiscal year 2005 budget. When asked on more than one occasion whether he was sure the 2005 budget had not been completed, Gary said that he was certain. However, the minutes from the May 2004 BJCTA board meeting indicate that the 2005 budget was indeed passed. Furthermore, Gary heaped praise on Stanley during that



After 22 months on the job, deposed BJCTA executive director Mark Stanley outlasted the system average. Photo by Phillip Jordan.

meeting for producing such a budget when other transit systems were facing fiscal crises.

Next, Gary pointed to discrepancies cited by the Federal Transit Administration. He neglected to point out that those discrepancies had been corrected, according to the very report he cited.

Following the October board meeting, Stanley's termination became the subject of intense media scrutiny. In his nearly two years as executive director, Stanley had garnered support from community activists and transit riders. However, his disassociation from the politics of his position had not set well in some circles, especially when two bills to raise funding for mass transit lumbered and died in the Alabama Legislature.

Despite the legislative setbacks, Stanley oversaw dramatic changes to the BJCTA. Many services that had been given to private contractors were brought in-house, saving the transit authority millions of dollars. Ridership increased, service expanded and efficiency improved.

In the two months since the October board meeting, Birmingham Mayor Bernard Kincaid even attempted to intervene in the dispute. According to his public comments, Kincaid said the October surprise seemed more like a decision by Phil Gary than a decision by the full board. The mayor encouraged Gary to recuse himself from the dispute and asked other board members to advise Stanley through the impasse. Neither Gary nor the board members in favor of terminating Stanley took the mayor's advice.

#### Ratification

On Dec. 16, the BJCTA board finally gathered the quorum necessary to hold a meeting. Board member Swanson attended in a wheelchair. The room was packed with Stanley supporters, in addition to State Reps. John Rogers and Eric Major. In 2003, Rogers and Major were among four Jefferson County representatives who killed bills in the Alabama House that would have infused funding into the transit system.

Early in the meeting, McKenna asked to allow members of the public to speak to the board. Board members Trotman, Fritschi, McKenna and Isom voted in favor of the motion. Board members

Gary, Lassiter, Swanson, Ronald Lyas and Calvin Elder voted successfully against that motion.

This split among the board members would carry through the meeting. At a brisk pace, the board voted to ratify Stanley's termination. Motions to demand Gary's resignation and to terminate Walker's contract were defeated by the same split in the vote.

At one point in the meeting, Fritschi attempted to ask Walker about any collusion she might have had with Gary before the October meeting. Three times, Walker quickly cut Fritschi off, saying that any discussion of Stanley's termination would have to take place in an executive session because of potential litigation from Stanley.

The Alabama Sunshine Law says that public bodies have the option of meeting in secret to discuss the good name and character of an individual. Subsequent court decisions have expanded that privilege to discussions of pending litigation. However, nowhere does the law require that such discussions be held in secret, as Walker seemed to insist.

After finishing with the agenda items, board members Gary, Lassiter, Swanson, Lyas and Elder went into a closed meeting to discuss potential litigation. Board members Fritschi, Isom, Trotman and McKenna refused to participate in the meeting and remained with the public.

"This is a public body," McKenna said while the others met behind closed doors. "Everything they are doing in executive session should be done in public for the public record. We believe that Deborah Walker and Phil Gary have breached Mark's contract, and we are not going to sit down with people who are going to squander the people's money on what could be a very expensive lawsuit."

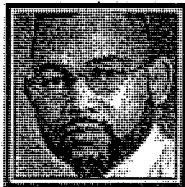
In an interview conducted after the meeting, Stanley said that he is waiting for an offer, but will likely pursue legal action.

"Will there be a lawsuit? Maybe," he said. "I can't let this go by just because of others who will be in my position. This sets a bad precedent and that's not something I can allow."

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# With Jessie's help, transit bills will win the day

**T**oo often, we look at transit as simply a way to meet the needs of commuters, people traveling to and from work or school. In making the case for improved transit, we point to the increasing traffic congestion around Birmingham and how a good transit system would take some of those vehicles off the road.



In doing so, we might also point out that less traffic on roads means less air pollution, and that transit can be an economic development tool as well (a thriving downtown and an expanded convention center need an efficient system to move people around).

All of that is true, and yet it only begins to tell the story of why we need buses that run frequently and on time. Sometimes, we need people like Jessie Tehranchi to tell the rest of the story.

The Vestavia Hills woman is everywhere, it seems — at transit board meetings, gatherings of citizens transit groups and transportation planners, public policy seminars and rallies of all sorts. She has spoken out at Birmingham City Hall, the Jefferson County Courthouse and the State House in Montgomery. She has even testified before Congress. Her passions are universal health care and transit.

Transit, Tehranchi will tell anyone who'll listen, is needed for commuting, for clean air, for economic vitality, for tourism. And for people who don't drive.

Tehranchi does her lobbying from a wheelchair. She has multiple sclerosis, which has taken her ability to walk. She's also undergoing chemotherapy for colon cancer.

Illness hasn't kept Tehranchi home, however. And it won't stop her from going to Montgomery next week to take part in a legislative rally sponsored by Alabama Arise.

## 'Get busy'

Though she can't take a bus to the many meetings, hearings and rallies she attends, Tehranchi gets there. Husband Jim and friends are her transit system. Many others don't have that support, she says.

"People in Center Point can't get to the (Riverchase) Galleria or to the Summit on (U.S.) 280. They need this (transit), they've got to have this.

"We need to get busy."

Getting busy means getting the Legislature to pass two bills sponsored by Rep. George Perdue, D-Birmingham.

One bill would increase the ad valorem (property) tax on vehicles to provide about \$40 million a year to remake the transit system in Jefferson County. The other would change a state law to make it possible for up to 2 percent of the state's gasoline tax money to be used for transit purposes.

Convincing the Legislature that transportation can mean something other than highways and bridges has been a no-go for years. Roadbuilders have had a lock on legislators. That small-town and rural lawmakers control the Legislature makes unlocking their grip difficult.

Perdue, however, thinks there's an opportunity for cities such as Birmingham and Mobile to combine efforts to get something done on transit. Both cities, he noted, are looking for a better way to move people around.

In south Baldwin County, help-wanted signs are all over the place, he said, while people in Mobile need jobs. "But they can't get there."

Sound familiar? Here, jobs at restaurants, stores and other businesses over the mountain go unfilled because people in the city can't get to them.

Birmingham and Mobile also share the fact that if they can find local money for transit, they can count on federal matching money. U.S. Sen. Richard Shelby has steered \$87 million Birmingham's way. Yet we continue to leave most of it on the table because we haven't provided the 20 percent local match.

## A win is coming

Transit advocates don't have many victories in the Legislature to show for their efforts in past years. But there's no giving up.

Especially for Tehranchi. "I have a friend in Fairfield who has to walk everywhere," she says. "He has to walk just to get to where he can catch a bus. We've got to win this time for people like him.

"Life is kind of crazy," she says, talking about her health. "But there's a win coming, I know there is. A win for universal health care and a win for transit.

"I want to be there to see it."

How can our legislators say no to that?

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## EDITORIALS

# Jessie's gone, but not her cause

**THE ISSUE** *Longtime transit advocate Jessie Tehranchi dreamed that a "win" was coming for the people of Jefferson County. It's up to the Legislature to make it happen.*

**E**arly Sunday morning, Jessie Tehranchi lost her battle with colon cancer. Her death came as the issues she fought so long and so hard for — improved transit and universal health care — remain only dreams.

As a memorial service for Mrs. Tehranchi is held today in Vestavia Hills, lawmakers convene in Montgomery for the start of the 2006 legislative session. This should be the year the Legislature finally does something about one of her passions.

Last year, a bill to pay for a revamped transit system won approval of the Jefferson County House delegation, but died when it failed to get enough votes in the full House. Under Alabama's archaic constitution, lawmakers outside Jefferson County ultimately decide whether Jefferson County residents can even vote on taxing themselves for transit.

Mrs. Tehranchi was as spirited an advocate for transit as anyone in the state. Even though just the act of getting around Birmingham with her wheelchair was a challenge (multiple sclerosis had taken away her ability to walk), she was a regular at meetings and hearings on improving transit. She told lawmakers why thousands of citizens here and statewide desperately need public transit.

Mrs. Tehranchi's voice is gone, but not the need for a better transit system.

This is an election year, and as such, lawmakers often shy away from tough issues, such as a tax for transit.

Doing nothing on transit, though, is a disservice to the thousands of people in the Birmingham area who need an adequate transit system. The Legislature owes it to them, and Mrs. Tehranchi, to take on the issue — this year.

Lawmakers can do so in three ways.

First, they should give their OK to a transit funding bill for Jefferson County. Last year's bill would have allowed county residents to vote on a plan to raise vehicle registration fees by an average of about \$50 a year per vehicle to pay for a true countywide transit system. That's still a good plan; lawmakers need to pass it.

Second, the Legislature should remove a constitutional ban on using gasoline taxes for anything other than highways. In past years, bills to make public transit eligible for gas tax revenues were shot down in the Legislature by roadbuilders who want every dime for roads.

And third, legislators should heed the growing call for a constitutional convention to give the people a new state constitution. The 1901 Constitution that makes it difficult for Jefferson County to provide for a transit system is also a roadblock to many other needed reforms, such as easing the tax burden on the poor.

Jessie Tehranchi once predicted "there's a win coming . . . a win for universal health care and a win for transit."

She did everything within her power to make that happen. Now, it's time for the Legislature to do its part.

# Who will carry transit torch in Legislature after Perdue?

When state Rep. George Perdue called last week to say he had decided to end his 23-year career in the Legislature after this year, he sounded tired, yet relieved, as if a heavy burden had been lifted off his shoulders.

One of the burdens Perdue has carried for the better part of a decade has been as torchbearer in the Legislature for public transit. He sponsored the bill that enabled a 1998 vote on a one-quarter cent sales tax for transit, as well as the more recent bills to create a countywide transit system and a vehicle registration fee to pay for it. In doing so, he bumped heads with colleagues in the Jefferson County delegation who had, let's say, a different agenda.

"When you look and try to figure out what went wrong, there's always someone out there against you," Perdue said.

That's even more reason why transit needs a committed ally in the Legislature. Perdue has filled that need since 1998.

He was part of the blue-ribbon committee that put together a plan for a regional transit system, the Birmingham Area Regional Transit Authority or BARTA, and he sponsored the legislation calling for a vote on BARTA. Before county residents could vote on BARTA, however, it was folded into the Metropolitan Area Projects Strategy.

"It wasn't supposed to be in MAPS," Perdue said. "It was a stand-alone project. It was added to MAPS to give MAPS a better chance. That was a mistake."

MAPS lost in the countywide referendum. Transit advocates then came back with a separate, advisory vote on BARTA's one-quarter cent sales tax dedicated solely to transit. The tax narrowly lost countywide, but won in three of the five County Commission districts. That left BARTA's fate to the commission.

Commissioners decided against it with Commissioner Chris McNair joining two others in opposing it, even though voters in his district voted overwhelmingly for it. "They agreed that if the vote passed in three of the five districts, they would vote for it," Perdue said of the commissioners. "It passed in three districts."

That vote was the beginning of a string of defeats for transit. Perdue's

first vehicle registration fee bill died in committee. Two years ago, Perdue won passage of a bill establishing a new countywide transit system. But his companion bill to pay for it with a vehicle registration fee failed.

Last year, a bill that would allow county residents to vote on a scaled-back vehicle fee narrowly made it out of committee, but died on the House floor.

So what will it take to move transit along? New leadership.

"It's going to take educating the public about the connection between transit and economic development," Perdue said. "The so-called leadership in the region is afraid to touch it."

Though he's leaving, Perdue is encouraged. He said the two newest members in the delegation, Jack Williams, R-Vestavia Hills, and Paul DeMarco, R-Homewood, are more open to transit than the people they replaced. "They'll listen."

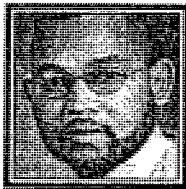
Plus, this election will bring more change. Two automatic no votes on transit, Republicans Jim Carns and Bobby Humphries, are giving up their House seats to run for the County Commission.

As for his legacy, Perdue points to other accomplishments besides transit. He sponsored the legislation to compensate Freddie Lee Gaines, who spent 13 years in prison for a murder he didn't commit. He passed legislation to make it easier for minority contractors to get government construction work. And he targeted the state's high infant mortality by passing legislation to make more poor pregnant women and infants eligible for Medicaid.

Perdue says his real job as director of the Office of Minority Business Affairs at UAB also has helped minority businesses. In the 18 years he has held the office, the number of contracts to minority- and women-owned firms doing business with UAB jumped from about a dozen to more than 1,000 a year, and the value of those contracts went from about \$1.5 million a year to \$34 million.

"It's the best-kept secret at UAB, and I want to write about it."

I also want to write about a success story — a transit system that meets the needs of citizens. Whoever replaces Perdue can help write that ending.



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## FRIDAY FORUM



**Eddie Lard**

# We shouldn't fight over public transit

**W**e spend far too much time fighting old wars. We, as in mankind.

In the Middle East, one of the reasons why "they," the Muslim extremists, hate us so much is the Crusades of centuries ago. Many in the Muslim world view our present-day acts, such as liberating Iraq, with suspicion, thinking that what we really want is to convert them — their government, their culture and, yes, their religion — to our way of life. It's the new Crusade.

Another war being rehashed is Vietnam. Some critics of President Bush see Iraq as a similar quagmire in the making.

Here in Alabama, some people would have us reargue, if not refight, the Civil War. The decision by the Faculty Senate at the University of Alabama to apologize for the university's use of slave labor ignited a firestorm.

Many letters to the editor expressed indignation that today's university employees and officials would dare apologize for the acts others did more than a century and a half ago. Some use the apology as an excuse to debate the cause of that great, tragic war. It wasn't about slavery at all, they say.

Thanks, but I'll take a pass on that debate.

## The transit divide

After watching the games played by our state legislators over the past couple of years, I wonder if past wars might be at least partly behind the difficulties they're having in passing public transit bills. Or, at least, past wounds and animosities.

There is a chasm in this community between those who see a need to greatly upgrade transit in Jefferson County and those who don't. Many people are embarrassed by our malnourished bus system and think it's shameful that many people without cars, especially the poor and elderly, can't

get where they need to go. But others want nothing to do with transit; they don't see themselves using it and for sure don't want to pay for it.

How much of this, I wonder, is connected in some way to our troubled history?

A major front in the battle for civil rights was over public accommodations — segregated schools, restrooms and lunch counters here and, of course, the bus boycott in Montgomery. Jim Crow died decades ago, but might the stigma it branded on our bus system live on?

Years ago, Birmingham had a model public transit system of street cars and buses. But the system never fully recovered from the civil rights turmoil. Suburban sprawl, with whites fleeing the city, weakened the bus system even more.

Buses that served as lifelines for many city residents didn't reach much of the suburbs. As silly as it sounded, some officials, when asked to help pay for bus service to their cities, wondered out loud if buses would bring crime to their suburban paradise. As if a thief would take a bus to the mall, snatch a shopper's purse and then head to the bus stop to hop a ride back into the city.

But it has proved hard getting beyond such thinking. So, too, the notion that public transit is just for blacks.

Despite the political charade being played by a handful of black representatives from Birmingham, much of the opposition to public transit in the Legislature comes from white, suburban legislators. Their line is that people in their districts don't want it.

What their shortsightedness overlooks is that many people in their districts do need it. The lives of the elderly who no longer drive, the disabled and individuals who can't afford cars (not everyone in suburbia is wealthy) would be greatly enhanced by dependable, adequate public transit. A recent study ranked our region the worst in the nation in the isolation of people without cars.

Another point some lawmakers so willingly overlook is that their commuting constituents will find navigating congested highways increasingly difficult. (See U.S. 280 for an example.) Area commute times already are among the nation's highest; it's only going to get worse.

Widening and improving roads are good, but they're no substitute for rapid transit. Rising gasoline prices and increased parking fees downtown also make transit a more viable option.

## Not about race

Transit isn't an option, though, for most commuters. And it won't be anytime soon unless suburban senators and representatives experience an epiphany and recognize what many of us see so clearly: We — all of us, inner city and suburban, black and white — need a good public transit system.

This isn't something our lawmakers should fight over. And race, despite whatever vestiges of segregation still exist, ought not be a factor.

Now, how do we convince our people in Montgomery of that?

*Eddie Lard is an editorial writer for The News and edits "Readers' Opinions," the newspaper's letters section. His e-mail address is*



EDDIE LARD

# We've turned blind eye to our most critical need

**M**arva Douglas lives in Midfield. And she rides the bus. That might not sound remarkable — until you consider Midfield doesn't have bus service. Douglas drives to Western Hills Mall in Fairfield, three miles away, to catch a MAX bus to downtown's Central Station, then another bus to her destination. Sometimes she walks.



But hers isn't a real hardship, not compared with those faced by the thousands of area

residents whose livelihoods are tied to a bus service that has too few routes, too few buses on those routes, limited hours and doesn't cover much of the county.

Douglas is retired; she doesn't depend on MAX to get to work like many people across the Birmingham area. She does ride the bus often, though, to her many civic and volunteer activities around town. Driving at night is increasingly difficult because of declining eyesight.

She's also a former chairwoman of the Transit Advisory Committee. As TAC chairwoman, she made a point to talk to riders about service. She still does. What she hears demonstrates the lengths people must go just to use the bus system.

Riding the bus — actually *waiting* for the bus — takes far too much time. "Anyone who has to go anywhere has to go to Central Station. There are no cross-town buses," she says.

"The time it takes to make connections is impractical. I'm retired; I have the time. The person who's working does not."

A Bessemer woman, for example, must catch a bus at 5:45 a.m. to get to her job by 8 a.m. at Montclair Baptist. A woman suffering from severe arthritis rides from the Western Hills Mall area and waits an hour at Central Station for another bus to take her to Cooper Green Hospital.

But at least they can ride the bus. No Sunday bus service and no late-night service leave some people in a real bind. A worker at the Palisades told Douglas she sometimes has to walk home to Loveman's Village late at night after her shift ends because buses stop running

shortly after 9 o'clock. A woman who works at Century Plaza has walked there — *four hours* — from her western-area home on Sunday because buses don't run that day. An elderly woman who no longer drives quit her longtime church to go to one closer to home so she could walk. The stories go on and on.

Why is bus service here so poor that it creates such hardships for people? Money. MAX operates on a budget of about \$17 million a year, a fraction of the transit system budgets of similar-sized metro areas. Simply, you don't get what you don't pay for.

So, what's being done to improve funding? Nothing, even as more than \$80 million in federal transit money has gone unclaimed for years, needing only a 20 percent local match. In past years, bills to tax vehicle registrations to pay for transit failed in the Legislature. This year, there's not even a bill.

What's especially disheartening is that while nothing is being done to help transit, local governments are contributing money for a study to see if building an elevated toll road along U.S. 280 is feasible. Most of the \$200,000 to \$250,000 needed for the study has been committed, with Jefferson County, Birmingham and Shelby County the biggest contributors.

A 12-mile, elevated road could cost upward of \$1 billion. Tolls aren't likely to come close to paying for the road, so massive amounts of state and federal dollars would have to go into it — even as MAX scrounges for pennies.

To help pay for the U.S. 280 study, Hoover has been asked to kick in \$10,000. That's more than what that city pays for its limited MAX bus service — for an entire year. Shelby County agreed to contribute \$50,000 to the study, even though it pays nothing to MAX and has no bus service.

We seem to have lost sight of what's important. Are we really at the point where we would consider spending \$1 billion to relieve traffic on *one* highway when people must literally walk across town to make ends meet?

I think we're better than that. We have to be better than that. God help us if we're not.

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# Leaders must bridge growing transit chasm

**T**ry as we might, we who drive cars to work can't fully understand what it's like to be dependent on Birmingham's bus system. When I hear the frustrations of friends who ride Metro Area Express, and others who must turn to friends and relatives for transportation because they can't ride



MAX, I think I get part of it.

When I hear people who drive talk about the inconvenience of having to endure rush-hour traffic, I know they don't get it. And when I hear elected officials who are in a position to do something about public transportation talk only about making it easier for commuting, I know they don't get it, either.

There is a chasm — wide, deep and long — separating people who *need* transit from those who *don't*, even from those who *want* transit but can get by without it.

Let me explain.

If you drive to work and wouldn't leave your car at home even if you could ride a bus or train to work, you probably don't want to pay more for something you think you won't use. You might prefer widening Interstate 65 or building an elevated highway to ease congestion on U.S. 280.

If you drive to work but would use transit if it were available, you're likely more open to the idea of paying more taxes to make it possible, as long as the taxes are reasonable. But access to transit isn't an absolute necessity to you — your job, your health, your independence don't depend on it.

But if the bus is the only way for you to get to your job, to the doctor, to church, to shopping, to visit relatives and friends, transit is as indispensable as food, clothing and shelter. Livelihoods and more are on the line.

People on one side of the chasm — our side — don't understand, can't fully understand, what the fuss about transit from the other side is about. Folks on that other side can't understand how we can zoom along in our cars and do nothing to ease their obvious pain.

At state Sen. Jabo Waggoner's monthly meeting of elected officials Friday at Ross Bridge Resort in Hoover, Birmingham City Councilwoman Carol Reynolds told of a woman she said she saw the night before. The woman, Reynolds said, was wearing a waitress uniform, grocery bags in her arms, waiting at a bus stop in the rain in knee-deep water.

It's that woman — and thousands more like her in the Birmingham area we see every day but give little thought to — we need to pay more attention to, understand and look out for. Yet, we have failed her, badly.

I write a lot about transit, and I get calls and e-mails about how cruel getting around in the Birmingham area without a car can be. People who walk to and from work, miles and hours long, on weekends and late at night when the buses aren't running. People who must leave home three hours or more before work or their doctors' appointments because it takes so long to get there by bus. People who lose or quit jobs, even change churches, because they simply can't get there.

When drivers hear about this, the tendency is to blame the bus service. Why can't it cut waste, improve service and meet these people's needs? The people running MAX need to show they can better use the money they're already getting before asking us for more money.

But that's asking the impossible. MAX is woefully underfunded. It's a miracle it operates at all. To think it can substantially improve service without substantially more money is living in the land of denial.

That's where too many people are right now. Many of them are our elected officials; too blind to the obvious needs of the hurting as well as the benefits of transit to everyone in the county; too closed-minded to the notion of anything that might include a tax.

So, they do nothing — or worse, block others' efforts — and the chasm grows.

It's not only a chasm between the haves and have-nots. It's a division of voice, as well. Those on the other side have no voice.

None of the decision-makers — no one in the Jefferson County legislative delegation, on city councils, the County Commission, in mayors' offices — is transit dependent. Not one of the nine members on the transit board itself needs transit.

So, who must speak for those who need transit? Leaders.

How transit is handled will determine, more than any other issue, whether the promising monthly gathering of elected officials eventually evolves into a gathering of real leaders.

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