

June 17, 2005

Dear Mr. Wagner,

Thank you for attending the Southern New Castle County Alliance meeting last evening. We appreciate your insights regarding the Office of the State Auditor. As we discussed last night, we have a number of concerns regarding the DelDOT financing of transportation infrastructure regarding specific private development projects in Southern New Castle County. As you requested, we are submitting the following questions for your consideration:

1. How and when was the Secretary of Transportation, Nathan Hayward, granted the legal authority to begin negotiating and executing these "Joint Development Agreements"? (We are aware that legislation was passed to address the Bayberry Agreement but to date we have no information regarding the legal authority to execute the Westtown Agreement.)
2. The language in the Bond Bill (HB 550, sec. 112) specifically refers to adhering to "the tenets of the model joint development agreement executed earlier this year between the developers of Westtown, the City of Middletown, and the Department." The Westtown Agreement contains an "Exhibit B" or schedule of contributions detailing the "fair share" dollar amounts required by all parties. The Bayberry Agreement has no such exhibit. (Please see email from DelDOT dated 3-8-05) Why doesn't the Bayberry Agreement have an "Exhibit B"?
3. The Draft Meeting minutes dated August 23, 2004 indicate a DelDOT "recommendation" that "the right-of-way width for an improved SR 896 needs to be determined before any of the Bayberry plans are recorded, as the plans must dedicate the necessary rights of way." Does the commitment of an unknown amount of DelDOT (TAXPAYER) funds to the Bayberry project and the above described "recommendation" prejudice the selection and options available for the much needed Route 301 improvements?
4. In light of the repeated references in the email communications to keep the Bayberry Agreement "confidential", can you provide any insights into whether or not it is acceptable for DelDOT to commit to such large expenditures of public funds without any public input?

Again, we thank you for your time and your commitment to contact the Attorney General regarding the legal questions we have presented. We recognize the fact that our request for a full financial review of the above-described issues is an important and potentially arduous task and we have confidence that you and your staff will do your best to satisfactorily address our concerns.

We look forward to hearing from you in the next few weeks. Please do not hesitate to contact us if you need additional information.

Sincerely,

Charles Mulholland, President  
Southern New Castle County Alliance

Leann H. Ferguson, Exec. V.P.  
SNCCA