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March  
2014

#### STATEMENT OF PRINCIPLE

Monitor and selectively evaluate government actions including laws, regulations and policy.

Provide appropriate forums for informing as well as soliciting input from the public.

Establish positions based on responsible studies consistent with the aims and purpose of the organization.

Advocate these positions.

Founded in 1962, the Civic League is a non-profit volunteer organization, which studies and illuminates County and State government actions concerning comprehensive developments and the quality of life and is a vocal advocate of relevant positions.

*County Comments* is the official publication of the Civic League for New Castle County.

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# COUNTY COMMENTS

CIVIC LEAGUE FOR NEW CASTLE COUNTY  
Informed Citizens for Sound County Growth

**For its monthly meeting, the Executive Committee of the Civic League has decided to substitute attendance at the following very important event taking place at the same time.**

## **“The Politics of Free Speech: FOIA & Open Government in Delaware”**

A Panel Discussion Hosted by Delaware Press Association and Delaware Coalition for Open Government

Tuesday, March 18, 2014  
Widener University School of Law  
Ruby Vale Moot Court Room  
4601 Concord Pike  
Wilmington, Delaware  
6:30 p.m. - Social Gathering and Networking  
7:00 p.m. - Panel Discussion  
Light refreshments

FREE and open to the public.

#### Panelists

The Hon. Greg Lavelle, Delaware State Senator and Minority Whip (R-Sharples)  
The Hon. John Kowalko, Delaware State Representative (D-Newark South)  
Jason Staib, Deputy Attorney General, State of Delaware  
Jon Starkey, Reporter (government, politics), The News Journal  
Patrick Sweet, Data Journalist, The News Journal

Welcome: DPA President, Mark Fowser

Opening Remarks: DelCOG President, John Flaherty

Moderator: Chris Carl, Director of News & Programming, WDEL 1150-AM

During Sunshine Week, March 16 - 22, Delaware Press Association and the Delaware Coalition for Open Government will focus on the need for open government. We hope you will attend this public forum on Tuesday, March 18, to hear our distinguished panel discuss topics such as:

- What is the state of open government in Delaware?
- How well does the Freedom of Information Act work in the First State?
- What tools do we need to effectively fight for government accountability and for better protection for working journalists?

(continued)

Go here <http://www.eventbrite.com/e/the-politics-of-free-speech-foia-open-government-in-delaware-registration-10575219767#> to register for the panel discussion.

You will get a map and directions when you click to register for this free event.

Parking will be available in the lighted parking lot at Widener University.  
For more information: [dpaprograms@hotmail.com](mailto:dpaprograms@hotmail.com)

We hope you will join in the conversation on March 18!

Laurie Bick, DPA First Amendment Liaison  
Jeff Jackson, DPA Programs VP

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## COASTAL ZONE ACT-TIME TO REVIEW/REFINE

by CHARLIE WEYMOUTH, AIA

### **Before the Civic League for New Castle County, herein, Resolved:**

**Whereas** both New Castle County Government and the State of Delaware have evaded the clear mandates in restrictions required in Federal funding for interstate highways/roads within subject County land defines and with most specific regard to, currently, said Federal requirements requiring limited points of direct access at secondary interchanges, **AND FURTHER**

Such avoidance to the contrary of Federal requirement, has caused near unlimited, direct access and thus constricted required commercial thruways to the State's Port(s), air, road, and rail terminuses, **Be it so provided** and, further, incorporated into **Delaware State Code**, the following:

No points of direct access shall be permitted on any interstate Highway, subject roads/highways lying within New Castle County, unless via a prior approved secondary road interchange, such interstate roads to include, but be not limited to, the following designated Routes and same such future alignment designation: Rts.: 141, 40,41, 52,92,100, Lancaster Pike-Rt. 30/Lancaster Avenue-Wilmington, 13,301,896-I-95, I-295, I-495.

### **Be it Further Resolved:**

**The County** AND TO INCLUDE BOTH INCORPORATED AND UNINCORPORATED jurisdictions lying within County physical parameters, wherein, exists such direct access to said interstate highways, there shall be provided, in substitute, adequate alternate access to a Federally approved, limited access to subject interstate highway.

**The County and, wherein applicable**, subject incorporated and unincorporated jurisdictions, lying within County physical defines, shall either provide funding for required alternate access or agree to State funding with State elimination of both the State's ownership and maintenance of secondary and privately used roads/currently, presently maintained within the County by the State. Such funding provision shall apply to other local jurisdictions and other private entities.

# THE PROPOSED US 301/SR 1 CONNECTOR ROAD

by Vic Singer

## INTRODUCTION

The recent WILMAPCO public comment workshop on its Draft Transportation Improvement Program (TIP) for FY 2015 thru FY 2018 prompted the following comments on the proposed US 301/SR 1 Connector, that I submitted in my own behalf rather than in behalf of any group. I sent the same comments to State Rep Quinn Johnson and State Senator Bob Venables, co-chairmen of the General Assembly's Bond Bill Committee.

## SUMMARY

One of DelDOT's goals in its project to connect US 301 at the Maryland line and Delaware's SR 1 south of the Roth Bridge with a 14 mile long four lane wide toll road, is well-stated in Wilmapco's current Draft TIP as follows:

*" . . . DelDOT seeks to minimize use of state Transportation Trust Fund revenue and have those who use new US 301 pay for the construction, while preserving DelDOT's credit rating and capacity. . . "*

The findings of the latest traffic projections, showing that the 301/SR 1 toll road will attract only 5200 toll payers per day, lead to the perception that toll revenues will cover at most only \$225 million, only about half the \$440 million cost projection of the project that DelDOT envisions.

What DelDOT envisions is a four lane limited access \$440 million facility from the Maryland line to a half-way point near the present intersection of US 301 with Armstrong Corner Road or Marl Pit Road, a four lane limited access facility from there to SR 1, and after that, a two lane limited access facility at \$80 million additional cost from the Armstrong Corner Road area to the Summit Bridge.

But there's a saving grace. Interpreting DelDOT's own cost projections on a per lane mile basis, it appears that the southern half - - mostly limited access from the Maryland line to the Armstrong Corner Road - - together with a limited access connection to the Summit Bridge expanded to four lanes, can be built for \$221 million. That would leave the link from the Armstrong Corner Road neighborhood to SR 1 to be built later, when traffic grows to a level that would make it an attractive alternative to toll free Boyd's Corner Road, now designated as part of Route 896.

## SUPPORTING DETAILS

At the 4 pm to 7 pm public display session for the draft TIP at the WILMAPCO offices on 2/24/2014, I had a half-hour long conversation with DelDOT's Mark Tudor on ROM numbers associated with the 301 Connector, starting with a total projected cost of ROM (Rough Order of Magnitude) \$440 million including ROM \$40 million in "financing charges." The \$440 million appears to reflect rounding of the \$435,417,000 total for FY 15 thru FY 18 that results from subtracting the FY 14 commitment of \$38,583,600 from the \$474, 000, 600 total for FY 13 thru FY 18, as shown on pg 2-84 of the Draft TIP.

The following round numbers are from my notes taken during that conversation, reflecting components the \$440 million total:

- <> \$170 million TIFIA funds (Transportation Infrastructure Finance & Innovation Act)  
(loans from the Federal Government to be repaid out of future State revenues)
- <> \$45 million cash (out of current State revenues)(reflects either the \$44,739,300 amount shown on pg 2-84 of the draft TIP for GARVEE debt - - to FHWA - - for FY 15 thru FY 18, or the \$38,583,600 GARVEE debt shown for FY 14.
- <> \$225 million (Toll Revenue Bonds, all that is fundable in light of anticipated 5200 vpd traffic load)(substantially different from the \$404,864,500 Toll Bond total shown on pg 2-84 of the Draft TIP for FY 14 thru FY 18, but exclusive of the additional \$56,065,500 Toll Bond total there shown for FY 19 and FY 20)

The cost of the "Spur Road" connection between the 301 intersection with Armstrong Corner Road and the Summit Bridge was represented (in the conversation with Mark Tudor) to be \$110 million. Though I didn't record it in my notes and didn't recognize the significance of this part of the discussion at the time, I remember Mark's telling me that the Spur Road would be built AFTER completion of the link to SR 1 south of the Roth Bridge. That along with the two lane width (one each way) have been confirmed in a telecon some days later. The same telecon also confirmed that the 14 mile plan includes a new separate four lane road parallel to the existing 2.5 mile stretch of 301 near the Maryland line that is already four lanes wide.

### **NOW FOR SOME ARITHMETIC:**

The TIP text says that from the start at the MD line to the SR 1 terminus the road will be four lanes wide (2 each way) and 14 miles long. It says also that the Spur Road connection between the 301 intersection with Armstrong Corner Road and the Summit Bridge will be two lanes wide (1 each way) and 3.5 miles long. I assume 3.5 miles to be the length exclusive of the portion of the existing roadway that is already four lanes wide.

It follows that the four lane portion comprises 56 lane-miles and the Spur Road comprises 7 more lane miles. Since the projected \$440 million cost is exclusive of the Spur Road, the cost is \$7.86 million per lane-mile. Mark's \$110 million projected cost of the Spur Road comes to \$15.7 million per lane mile, nearly twice the projections for the 14 mile portion from the MD State line to SR 1. Hard to believe! It's easier to believe that the \$78,036,300 projected FY 2019 and 2020 expenditure reflects the Spur Road all by itself - - even though it results in a projection of \$11.15 million per lane mile, but even that is more than 40% over DelDOT's projection for the 14 mile long portion.

The total of the 3.5 mile length of the Spur Road between the Summit Bridge and Armstrong Corner Road and the additional 6 miles to where 301 crosses the Maryland line, is 9.5 miles. If this were built four lanes wide the whole way at \$7.86 million per lane mile in lieu of the routing to SR 1, the total cost would be nearly \$299 million.

But if the 6 mile long southern portion uses the existing 2.5 mile stretch of four lane road so that only 3.5 miles of new four lane road is needed south of the Armstrong Corner Road neighborhood with the Spur Road enlarged to four lanes, the total length of four lane wide new road is seven miles. At \$7.86 million per lane mile, this comes to \$220 million, which is below the \$225 million that can be covered by Toll Revenue Bonds.

It's interesting to recognize that when WILMAPCO's Draft TIP tabulation on pg 2-84 was prepared, the expectation was that Toll Revenue Bond borrowings could cover a total expenditure of \$460.9 million from FY 14 thru FY 20 (total of last two columns) while during the 2/24 conversation with Mark Tudor, such borrowings were scaled back to \$225 million in light of the most recent traffic projections. Following the original plan demands abandoning the goal to minimize the TTF burden.

### **SEVERAL FURTHER COMMENTS.**

Implicit in the above is the notion that it's worthwhile to increase road capacity for north/south traffic thru Delaware between US 301 at the Maryland line and somewhere along I-95. AADT information at the DelDOT website is instructive in this regard. AADT's for US 301 are generally below 15,000 vpd south of Marl Pit Road and in the 20,000 to 25,000 vpd range north of Marl Pit Road.

Several two lane roads in New Castle County - - one lane each way - - carry higher vehicle loads than 301 south of Marl Pit Road, for instance Red Mill Road and Harmony Road between Kirkwood Highway and Ruthar Drive, at 19,233 and 22,122 vpd respectively. And Boyds Corner Road, designated part of Route 896, presently carries a bit over 14,000 vpd on its two lanes, one each way.

The proposed four lane facility for 5200 vpd is hardly justified except if the public can get it essentially for free, i.e., via Toll Revenue Bonds without any impact on the TTF. For that to come true, the travel time savings from making the road limited access and four lanes wide has to be worth the out-of-pocket cost to the traveler. The most recent projection - - 5200 vpd - - shows that DeIDOT's proposed four lane link between existing 301 and SR 1 won't be attractive enough to capture much more than a third of the existing traffic on Boyds Corner Road, or much more than a third of the traffic crossing the Maryland line on existing US 301, or a fifth of the present traffic just south of the Summit Bridge. Why kill the TTF to execute such a proposal?

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## **DeIDOT SECRETARY GRILLED ON GASOLINE TAX AND 301 CONNECTOR**

by Vic Singer

Shailen Bhatt, Delaware's Secretary of Transportation, was the featured guest at Civic League for New Castle County's February meeting. He spoke at length about Gov. Markell's proposed 10 cent per gallon increase in the State tax on all gasoline sold in Delaware. The Governor contemplates a \$50 million annual revenue enhancement to offset relocating to the State's General Fund, a \$40 million annual revenue stream long devoted to the Transportation Trust Fund.

When CLNCC members asked how much recent attention had been given to CLNCC's proposal, five years ago, to impose a "buck-a-barrel" tax on crude oil lightered at Big Stone Anchorage, the Secretary said he had heard nothing about it and knew nothing about it. He added that he wasn't yet in Delaware five years ago.

"Lightering" is off-loading from deep draft ocean vessels to shallower draft vessels able to reach port facilities up the Delaware or other rivers. Delaware's Coastal Zone Act forbids bulk product transfers of materials delivered by sea. Just one company that has been lightering continuously at the Anchorage since before the CZA was enacted is "grandfathered" to continue its non-conforming activity, though all expansions and extensions are subject to CZA conditions. (The Anchorage can accommodate vessels with 60 ft drafts in a more sheltered environment than open-sea lightering.)

DNREC reports that over 58 million barrels of crude were lightered at the Anchorage in CY 2013. The Delaware City refinery's Coastal Zone permit enables receiving more crude by rail than the refinery can use - - hence its planned exports to a sister refinery outside Delaware. A barrel of crude can produce as much as 29 gallons of gasoline plus residual oil (a separately marketable product). The "buck a barrel" proposal thus amounts to a tax smaller than 4 cents per gallon of gasoline sold mostly to non-Delawareans.

CLNCC members explained that since the lightering activity is initiated, performed and completed well within Delaware's territorial limits, it is just as immune from Federal interstate commerce constraints as Delaware's ongoing 8% tax on hotel/motel room rentals, which the Governor currently proposes to increase.

Five years ago, the Governor opposed a tax on lightering, and suggested instead a one-time permit fee of \$100,000 on the lightering company, which was enacted. Obviously, there can be no connection between the Governor's opposition to a tax on lightering and the fact that his Legislative Liaison - - later, Deputy Chief of Staff - - is the son of the lobbyist for the company with the lightering monopoly right at the Anchorage, because that would violate the second sentence of the Oath of Office: ". . . I further swear (or affirm) always to place the public interests above any special or personal interests. . .".

Thus for no evident reason, the Governor advocates a \$50 million revenue enhancement via a 10 cent per gallon punishment on Delawareans in preference to a \$58 million revenue enhancement via a less than 4 cent per gallon tax on non-Delawareans.

While avoiding comment on the interstate commerce aspect of the "buck-a-barrel" proposal, Secretary Bhatt acknowledged that it certainly is sufficiently attractive to be given attention at this crucial time. Hopefully, the Governor will be equally welcoming.

CLNCC members also pressed Secretary Bhatt on the proposed four lane wide 301 Connector toll road, in light of recently reported currently projected traffic of only 5200 vehicles per day. The associated toll revenue is far short of what would be needed to pay for the road via revenue bonds. If this road is to be built, a large fraction of the cost will have to be paid out of other State revenues.

DelDOT's website shows daily traffic counts of 19,223 and 22,122 vehicles per day respectively on Red Mill Road and Harmony Road between Kirkwood Highway and Ruthar Drive, both two lane roads on rights of way narrower than the 62 ft median of the proposed 301 connector. There are no current proposals for expanding either Red Mill or Harmony Roads.

That prompts two observations and a question: 1) The traveling public seems not to need a four lane 301 connector, when four times the anticipated traffic is being carried on two lane roads; and 2) The proposed 301 connector is intended to serve something other than the needs of the traveling public. What might that be?

Secretary Bhatt explained that he ordered the study that produced the 5200 vpd projection because he doubted earlier projections. He added that many on his staff are emotionally committed to the proposed 301 connection despite the projections. Is that sufficient justification for tax revenue expenditures of tens - - or hundreds - - of millions of dollars for a four lane superhighway?

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## **Over 25% of All Traffic Fatalities in Delaware Are Pedestrians**

By James Wilson  
Executive Director Bike Delaware

**Last year, overall traffic fatalities fell in Delaware to their lowest level in 50 years.**

That's an impressive statistic and one that our state department of transportation has a right to take some credit for.

But when we dig just a little deeper into this accomplishment, we find a disturbing fact. The decline in traffic fatalities in Delaware has been entirely driven by a decline in motor vehicle occupant fatalities. Pedestrian and cyclist fatalities have not fallen. In fact, over a quarter of traffic fatalities in Delaware are now pedestrians.

**Over a quarter of all traffic fatalities in Delaware are pedestrians**

Every traffic fatality in Delaware is a human catastrophe, depriving families of sons and daughters, brothers and sisters, and fathers and mothers. This is as true of pedestrian (and cyclist) fatalities as it is of motor vehicle occupant fatalities.

The loss of a human life is also an economic catastrophe, representing millions of dollars of lost economic productivity as well as other more difficult to quantify but still real costs associated with disrupted families.

What are we doing to reduce the number of pedestrians killed on our roads? **Not enough.**

Road safety in Delaware (just as everywhere else) is primarily funded through a federal program called the Highway Safety Improvement Program (HSIP). Here are total levels of safety spending for Delaware roads between 2008 and 2013 and the total spending on pedestrian or cycling safety:

	Delaware Total HSIP Spending (\$ Millions)	Delaware HSIP Spending on Ped or Bike Safety Projects (\$ Millions)	% of Total HSIP Program Funds Spent on Ped or Bike Safety Projects
2008	8.8	0	0
2009	6.4	0	0
2010	6.7	0	0
2011	10.0	0	0
2012	9.0	0	0
2013	9.6	0	0
<b>TOTAL</b>	<b>50.5</b>	<b>0</b>	<b>0</b>

Source: FHWA Fiscal Management Information System

Delaware has not been using its federal road safety funds for pedestrian or cyclist safety projects.

The Highway Safety Improvement Program is not the *only* source of funds for road safety. Safety “improvements” can be (and are) made as part of larger road projects using generic capital funds rather than HSIP. Unfortunately, however, these safety “improvements” end up having little or no positive impact. Why is that? The reason is because these “improvements” are not being done at the places where pedestrians are dying.



To try to bring pedestrian safety into better focus, DeIDOT last year formed a Pedestrian / Bicycle Safety Working Group. One of the working group's first items of business was to answer the question: where are pedestrians being killed? The answer actually turned out to be relatively simple and straightforward.

Most pedestrians killed in Delaware are being killed in New Castle County,

More specifically, most pedestrians are being killed in northern New Castle County.

Even more specifically, most pedestrians are being killed on multi-lane arterial roads such as Kirkwood Highway, Dupont Highway, Concord Pike and Pulaski Highway in northern New Castle County.

This simple and important insight revealed why all the years of safety “improvements” by DeIDOT have completely failed to lower the number of pedestrian fatalities. The reason is that (unless they just fortuitously happened to be installed at one of the exact right spots on one of our multi-lane arterials), they weren't being installed where they are needed!

That brings us back again to the federal Highways Safety Improvement Program. The reason that the federal government created this program in the first place was a recognition that (a) states were under-investing in safety and (b) there needed to be strategic investments in safety.

The Highway Safety Improvement Program is still needed in Delaware. It's still needed to help reduce motor vehicle occupant fatalities. But now we also need to start using this program to also make strategic investments in reducing the number of pedestrian fatalities, too. People walking on our busy roads have just as much right to safe infrastructure as people driving on those roads do.

We can save lives and avoid a lot of human grief by using HSIP to lower pedestrian fatalities just as we have lowered motor vehicle occupant fatalities. And if we do so by improving infrastructure, that's a one time cost that will pay for itself many times over. For example, if a \$10 million investment avoids a single additional traffic fatality a year, that's a \$5 to \$10 million dollar return to Delawareans each year.

Our congressional delegation is helping with this issue. Just last week, Senator Chris Coons and Representative John Carney became co-sponsors of the federal Bicycle and Pedestrian Safety Act, which would establish a quantitative measure for pedestrian and cyclist safety for the Highway Safety Improvement Program. That important because without a quantitative measure for the program, how can DOT leaders be expected to manage?

If you are interested in reading further about this issue, go to [www.bikede.org](http://www.bikede.org) and click on "Road Safety".