



WISCONSIN LEGISLATURE

P. O. Box 7882 Madison, WI 53707-7882

October 7th, 2019

Secretary-designee Craig Thompson
Wisconsin Department of Transportation
Hill Farms State Office Building
4822 Madison Yards Way
Madison, WI 53705

Dear Secretary-designee Thompson,

We write to you as concerned legislators regarding issues with a number of road reconstruction projects in southeastern Wisconsin. Rep. Sanfelippo represents West Allis, where the Wisconsin Department of Transportation (“WisDOT” or “the Department”) recently contracted with a paving company, Cornerstone Pavers, LLC of Caledonia (“Cornerstone”), to resurface large stretches of W. National Ave., a key thoroughfare in West Allis. That project dragged on for months past the deadline, as Cornerstone fell farther and farther behind schedule. Throughout the process, local officials and residents repeatedly contacted him to express complaints about Cornerstone regarding the delays, the poor quality of work, and the detrimental impacts that the disruptions to W. National Ave. were having on local businesses along the construction route. Additionally, Cornerstone was removed from WisDOT’s Highway 20/83 reconstruction project in Waterford, which has left Downtown Waterford with major disruptions since January.

It has recently come to our attention that there have been irregularities in another Cornerstone project, the repaving of County Highway MM in Mount Pleasant in Racine County. WisDOT and Racine County jointly financed this \$5.3 million project, with WisDOT responsible for 80 percent of the costs, Racine County paying for the remaining 20 percent, and a similar split on any cost overruns. Cornerstone won the bidding for the project. This seven-month project was originally scheduled for completion in November, 2018. However, due to repeated delays by Cornerstone, that deadline came and went, resulting in the prolonged shutdown of this major Mount Pleasant thoroughfare for well over a year.

In accordance with the contract, WisDOT rightfully imposed fines for liquidated damages on Cornerstone in excess of \$400,000 earlier this year. However, we have learned that on July 12, 2019, WisDOT and Cornerstone finalized a negotiated settlement to set a new deadline for completion of the work, with WisDOT agreeing to waive all, or substantially all, of the fines that Cornerstone had been assessed for their failure to timely complete the project as agreed. Moreover, we have also become aware that WisDOT has agreed to make additional payments to Cornerstone for further work on the project. According to press reports, County officials were not consulted during, or even made aware of, the negotiation of this settlement; indeed, statements by County

officials indicate that they would have opposed such a settlement had they been made aware of it prior to its finalization.

Needless to say, these facts as we understand them raise serious questions about WisDOT's actions in this matter, which is why we are reaching out to you today. We are troubled by the lack of communication between the state and its local financing partners in County government. More importantly, we have grave concerns about the reasoning behind WisDOT waiving the penalties rightfully levied against Cornerstone for the company's remarkable failure to complete the project within an acceptable time period. These delays significantly burdened residents who had to endure severe disruptions to a major thoroughfare for more than double the scheduled duration. We worry about the dangerous message that it sends to contractors around the state when they see that there is no accountability for failing to fully honor their contracts and, indeed, that they may be rewarded with additional payments. As stewards of the state's transportation dollars, it is incumbent upon WisDOT to be vigilant in holding contractors to account and to be transparent about its efforts to do so. It is for this reason that we write to you today: to ask for information to help explain how WisDOT conducted itself in this matter and to help understand the Department's justification for those actions. Consequently, we ask that you provide us with answers to the following questions:

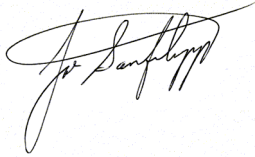
- When did WisDOT become aware of the potential for delays in the completion of this project and what efforts did the Department undertake to address these issues?
- What fines or penalties did WisDOT seek to impose on Cornerstone for Cornerstone's delays and other failures to fully perform on the contract? What authority and justification did the Department have for those fines or penalties? What fines or penalties did WisDOT ultimately agree to assess?
- Did WisDOT agree to make additional payments to Cornerstone, whether as an inducement to complete the project or otherwise? If so, what was WisDOT's justification for those additional payments?
- Who made the final determination to waive or reduce the fines or penalties imposed on Cornerstone? Why was this determination made? What is the process for making such a determination?

Furthermore, we request that WisDOT furnish all relevant records respecting the County Highway MM project. Specifically, we request those records that concern WisDOT's understanding of the project delays; their efforts to bring the project to completion; any deliberation or negotiation about imposing, reducing, or waiving penalties against Cornerstone; and any deliberation or negotiation about providing further payments or consideration to Cornerstone. These records may include, without limitation, any physical or written records, notes, electronic document transfers, emails, text messages, or other electronic communications relating to this project by or between WisDOT staff, including Southeast Region Manager Dewayne Johnson, as well as any communications concerning this project between WisDOT and Cornerstone or any other outside entity.

We also request that WisDOT furnish a list of all projects that were awarded by the Department to Cornerstone since January 1, 2018, including a list of the original scheduled start and completion dates; the actual start and completion dates; and any fines imposed, or disciplinary actions taken, in conjunction with these projects.

It is our hope to work with the Department to develop a full understanding of how it conducted itself in this matter, and we look forward to discussing this further with you. We request that you provide us with a written response to this letter and its inquiries as soon as practicable, but no later than Monday, October 21st, 2019. Thank you for your attention to this important matter.

Respectfully,



Representative Joe Sanfelippo

Wisconsin's 15th Assembly District



Senator David Craig

Wisconsin's 28th Senate District



Senator Chris Kapenga

Wisconsin's 33rd Senate District



Senator Steven Nass

Wisconsin's 11th Senate District



Senator Duey Strobel

Wisconsin's 20th Senate District