

HRTAC Meeting – July 17, 2014
Answers Prepared by HRTPO Staff in Response to Questions Received
During the Public Comment Period¹

Mr. Frank Papcin

Referring to Agenda Item 7 – For Your Information – HRTF Monthly Financial Report – Table 2 – Administrative Fees, Mr. Papcin stated the table lists the fees but does not say where the money came from or what it is spent on. He asked the following questions:

1. How is this fee generated?

Responses provided by the Department of Taxation (TAX) and the Department of Motor Vehicles (DMV)

TAX – The administrative fees deducted from the distribution are strictly for TAX costs, not the costs involved in setting up the HRTAC. The administrative costs are the reimbursement of the direct expenses incurred by TAX to implement and administer HB2313 as allowed in the 2013 Acts of the General Assembly, Chapter 806, Item 275B. These costs included system changes and testing, mailings to taxpayers, collection etc. The legislation allows for TAX to continue recovering costs incurred in the administration of these taxes. The costs are proportionally charged to the funds benefitting from HB2313.

DMV – This was Hampton Roads’ portion of the information technology (IT) costs incurred by DMV to set up a system for the collection of regional fuels taxes.

2. Why is there a difference in the amounts from different localities?

Response provided by the Department of Taxation (TAX) and the Department of Motor Vehicles (DMV)

Fees are based on the amount of revenue collected per locality. Localities can have different levels of taxable activity.

3. Why did the amount of money diminish for a certain period of time and then go back up?

Responses provided by the Department of Taxation (TAX)

TAX – The spikes and dips in the charges are due to the workflow and availability of funds for reimbursement. For example, costs incurred for the work prior to July,

¹ **Note:** The answers contained herein are provided as an accommodation, not pursuant to a request under the Virginia Freedom of Information Act.

2013 were not recovered until the tax was collected. It was then spread out over August – October 2013.

Mr. Papcin asked the following question regarding Route 460:

4. Is the money coming from our local taxes going to be used to build it? I do notice that it is here, it is mentioned in this plan.

The Route 460/58/13 Connector project referenced in the materials distributed at the July 17, 2014 meeting is the project included in HRTPO Board Resolution 2013-09, which supported a list and map of candidate projects to be funded, in whole or in part, with Hampton Roads Transportation Fund (HRTF) revenues; specifically, to upgrade the section of Route 460/58/13 between the I-664/I-64 interchange at Bowers Hill and the eastern end of the Suffolk Bypass to interstate standards with overpasses to the Regional Landfill and the Hampton Roads Executive Airport.

The Route 460 project that VDOT is reevaluating relates to improvements proposed from the Suffolk Bypass to Petersburg and has nothing to do with the project included for funding with HRTF revenues.

Ms. Dianna Howard

Referring to Agenda Item 7 – For Your Information – HRTF Monthly Financial Report – Table 2 – Administrative Fees, Ms. Howard asked the following questions:

5. Since the HRTAC was not official until July 1, 2014, how is it possible that there have been nearly a half million dollars in administrative costs?

Response provided by the Department of Taxation (TAX) and the Department of Motor Vehicles (DMV)

The Hampton Roads Transportation Fund (HRTF) has been in existence since July 1, 2013. See responses to Questions 1 and 2.

6. Is it the cost of setting up the HRTF, the cost of collecting additional taxes exclusively for Hampton Roads?

Responses provided by the Department of Taxation (TAX) and the Department of Motor Vehicles (DMV)

Cost of collecting taxes – see below on fees.

TAX – The administrative fees deducted from the distribution are strictly for TAX costs (see response to Question 1).

DMV – The fees are Hampton Roads’ portion of the information technology (IT) costs incurred by DMV to set up a system for the collection of regional fuels taxes.

7. Are the taxpayers paying for VDOT, a state agency, to produce this financial report for us, or is it for the HRTPO to post HRTAC on its website and host the meetings?

Administrative fees in the HRTF Monthly Financial Report do not include any charges from VDOT for preparing the reports.

The legislation that created the HRTAC states that HRTPO staff and VDOT staff shall work cooperatively to assist the proper formation and effective organization of the HRTAC and that until such time as the Commission is fully established and functioning, the staff of the HRTPO shall serve as its staff. The legislation further states that the HRTPO shall provide the Commission with office space and administrative support and that the Commission shall reimburse the HRTPO for the cost of such staff, office space, and administrative support as appropriate.

To date, the HRTPO has not been reimbursed for work done in support of the HRTAC, including establishing and maintaining an HRTAC webpage on the HRTPO website and hosting meetings.

Mr. Reid Greenmun

Mr. Greenmun asked the following questions:

8. Why is there no public comment time limit specified (in minutes) in the HRTAC Bylaws?

A specific time period is not required under applicable law.

From the HRTAC Bylaws, Article IV – Meetings, Item P – Order in Conduct of Business, Item 1 – Persons Addressing the Commission:

“Prior to public comment and public hearings, the Commission will provide guidelines for length of presentation by individuals and group representatives.”

An HRTAC Bylaws Committee has been established, and comments regarding the time allotted for public comments have been provided to that committee.

9. Who has legal standing to steer this body and who’s responsible – is it the Commonwealth’s Attorney, is it the Attorney General of the Commonwealth?

We do not know what is meant by “legal standing to steer this body.” The Commission is a political subdivision and its members have the power to make decisions in respect of the Commission.

10. Who do I go to sue when you violate the law?

If you think the Commission has failed to comply with some law, the person who has standing to bring an action over the alleged noncompliance depends on the law. Many laws state who may bring an action to enforce the law. For example, a citizen may bring an action to enforce the Freedom of Information Act.

Mr. John Anton

Mr. Anton asked the following questions:

11. Will you have the authority or will you have the ability to revisit the toll issues on the Downtown Tunnels?

No. The Commission's powers apply to projects that are constructed by the Commission.

12. What will the HRTAC do to keep from becoming another type of SPSA organization?

Unable to respond because the question is unclear.

Ms. Cary Nunaully

Ms. Nunaully asked the following questions:

13. Where in the Bylaws is there a law that directs the HRTAC to communicate with us?

From the HRTAC Bylaws, Article IV – Meetings:

- **Item E – Public Notice**, states that: *“All meetings of the Commission shall be preceded by public notice given in accordance with the provisions of Section 2.2-3707 of the Virginia Code. Notice of all meetings shall be published on the Commission’s website and available in the offices of the Commission.”*
 - Under the Virginia Freedom of Information Act (FOIA), copies of agenda packets and, unless exempt, materials furnished to the members are made available for public inspection.
- **Item F – Public Hearing**, states that: *“Public hearings may be held at the direction of the Commission and shall, unless otherwise specified by the Commission or these Bylaws, be upon notice published on the Commission’s website and in a newspaper or newspapers having general circulation in the geographic area encompassed by the Commission.”*

- **Item G – Open Meetings**, states that: *“All Commission meetings shall be open to the public in accordance with the Virginia [Freedom of Information Act](#) (Virginia Code §2.2-3707 et seq.), provided that the Commission may meet in closed session for those purposes authorized by, and held in accordance with the requirements of the Virginia Freedom of Information Act, to include requirements for public notice.”*
- **Item N – Minutes**, states that: *“Minutes of the meetings of the Commission, except closed sessions, shall be kept and be a public record.”*
- **Item P – Order in Conduct of Business**, addresses the issue of persons addressing the Commission.

HRTAC Bylaws, Article V – Committees, Item A – Open Meeting Requirement, specifies that: *“Commission appointed committees and subcommittees shall comply with the open meeting requirements of the Virginia Freedom of Information Act.”*

HRTAC Bylaws, Article VII – Finances, Item C – Budget and Fiscal Year, states that: *“After a duly convened public hearing held in accordance with the requirements of [Virginia Code §33.1-470\(A\)](#) the Commission shall adopt an annual budget for each fiscal year which budget shall provide for all of the revenues and the operating, capital, and administrative expenses of the Commission for the fiscal year.”*

14. How will citizens know what information was identified, captured, and communicated, and in what form and time frame that will enable us – the citizens – to know that you are carrying on your responsibilities?

As discussed above, citizens will have access to agendas and may attend meetings and public hearings.

In addition, **HRTAC Bylaws, Article IV – Meetings, Item N – Minutes**, states that: *“Minutes of the meetings of the Commission, except closed sessions, shall be kept and be a public record.”*

Normally, the minutes of one Commission meeting will be included in the agenda of the following meeting for approval. Meeting agendas are posted on the [HRTAC webpage](#) and HRTPO Facebook and Twitter social media pages.

HRTAC meetings are also video recorded and the videos are made available on the HRTAC webpage and HRTAC YouTube Channel – usually within a day of the HRTAC meeting.

15. Who will be monitoring the communication process to assess the quality of the communication over time?

Ms. Kendall Miller, the HRTPO Public Involvement and Title VI Administrator, will monitor the communication process in order to ensure that the process is in compliance with all applicable regulations.

Ms. Beatrice (Petey) Browder

Ms. Browder asked the following questions:

16. What are the rules of order being utilized by the HRTAC and will these rules be implemented in the future?

The rules of order that are utilized are those contemplated by the Bylaws, the Commission's enabling legislation and other applicable law. In addition, **HRTAC Bylaws, Article IX – Procedures – Parliamentary Procedure**, states that: *"In all matters of parliamentary procedure not specifically governed by these Bylaws or otherwise required by law, the current edition of Robert's Rules of Order, newly revised, shall apply."*

17. Why would the votes be weighted differently if they all carried the same weight?

The Commission's enabling legislation (and the HRTAC Bylaws) sets out a multi-prong test for approving a Commission decision, which takes into account: 1) the number of members present and voting, 2) the number of chief elected officers of the cities and counties present and voting, and 3) the population represented by those chief elected officers of the cities and counties present and voting.

18. Shouldn't a motion have been placed on the floor, seconded and then following discussion, be voted on? (Referring to the Voice Vote for the HRTAC Vice-Chair).

HRTAC Bylaws, Article IV – Meetings, Item K – Voting, Item 2, states that: *All voting shall be taken by voice or by roll call if requested by any Member.*

In the case of the final vote for HRTAC Vice-Chair, there was a motion and a second to nominate Senator Wagner. There being no other nominations made by a member of the Commission, the vote taken was by voice vote without any dissenting votes and without any request for a roll call.

19. Why are the city managers in attendance and why are they sitting at the table when the taxpayers are not permitted to do so or forced to stand?

City managers, as any member of the public, are welcome to attend HRTAC meetings. At the regular July meeting, the Chairman limited the persons seated at the table to HRTAC members and staff, and advisors for the Commission invited by the Chairman.

Seating for the public at all meetings held in the boardroom of the Regional Building at 723 Woodlake Drive is on a first come, first seated basis. Seating availability is in consideration of number of attendees, and the legal maximum occupancy of the boardroom.

20. Why would it be that when a group of Virginia Beach concerned citizens met with Mayor Sessoms, they were told he would not bring their concerns to the table for consideration?

The Commission welcomes public comments regarding its meetings and activities, but is otherwise unable to respond.

21. Who then do we turn to in order to address our concerns if we had previously taken them to our representative and they fall on deaf ears?

Citizens are welcome to submit written comments to the HRTAC and/or to address the Commission orally during the public comment portion of each HRTAC meeting.

Written comments should be submitted to Ms. Kendall Miller, HRTPO Public Involvement and Title VI Administrator at kmiller@hrtpo.org, or by regular mail to HRTAC - Regional Building, 723 Woodlake Drive, Chesapeake, VA. 23320. Submitted comments will be included in the HRTAC agenda packet.

Public comment cards, for those intending to address the Commission orally during HRTAC public meetings, should be handed to Ms. Kathlene Grauberger prior to the beginning of the meeting.