

# **TABOR CITIZEN REVIEW COMMITTEE 2017 REPORT**

## **RECOMMENDATIONS REGARDING IMPACTS OF TABOR ON THE CITY OF FRUITA**

### **CITIZEN COMMITTEE MEMBERS**

Jon Graziano

Mary Graziano

Karen Leonhart

Stacey Mascarenas

Yvonne Peterson

Wyatt Popp

John Rodwick

Doug Van Etten

### **PURPOSE:**

In July of 2017, the Fruita City Council passed a resolution establishing a citizen review committee to study the effects of the TABOR amendment on the City of Fruita. The committee was given a scope of work related to the review of the TABOR amendment and analyzing its potential impacts on the City of Fruita. The Committee was asked to develop a recommendation to the City Council on a course of action regarding the TABOR amendment and whether to place a revenue retention measure on the ballot for the regular municipal election in April 2018. The purpose of this report is to summarize the committee's findings and recommendations to the City Council.

### **TABOR BACKGROUND:**

In 1992, Colorado voters approved the Taxpayer Bill of Rights (TABOR), an amendment to the state's Constitution designed to restrain growth in government. TABOR is a complex constitutional amendment that affects virtually every aspect of how governments in Colorado generate and spend money. While TABOR is multi-faceted, it has two primary components. First, TABOR limits the amount of revenue a government can generate, collect, and keep by prescribing a formula that caps growth in revenue generation (based on CPI and population growth) and requires that all revenue collected in excess of that cap be returned to taxpayers. Per TABOR, if the annual increase in revenue received by a government exceeds the amount allowed for by TABOR formulas, no matter if the source of those additional funds is generated from new businesses, homes, grants, or other economic development related sources, those excess revenues must be refunded to the citizens. This limit is referred to as the Fiscal Year Spending limit. However, based on the way the limit is determined within the TABOR amending, it is more appropriately a limit on revenues, not expenditures. The only time those funds do not need to be refunded to the citizens is if the voters, through an election process, vote to allow the government to keep those revenues. This is often times referred to as a de-brucing measure or a voter-approved revenue retention measure.

The second major component of TABOR is to require voter approval for all tax increases. Tax rates, mill levies, and debt limits can be lowered without voter approval, but increasing any of those rates requires a positive vote of the citizenry. Unlike the revenue retention portion of TABOR, this requirement to approve tax increases cannot be changed. A vote of the people is always required to increase tax rates. While there are many other facets of TABOR, these are the primary two points dealt with by the City of Fruita TABOR Review Committee.

### **TABOR'S HISTORY IN FRUITA**

The City of Fruita has gone to the voters on a number of occasions to ask for retention of revenues in excess of the TABOR limits and authorization for tax increases and/or debt issues since the approval of TABOR in 1992. The following is a summary of the election results for these TABOR issues. Highlighted items are questions for retention of revenue

in excess of the TABOR limits. All seven revenue retention questions have been approved by voters with a favorable vote ranging from 74% to 83% of voters in favor.

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4/3/2012	Revenue Increase	Revenues/Grants - CIP, Maintenance of capital improvements - 1/1/2013 through 12/31/2018	2154	643	77%
4/1/2014	Tax increase	Recreational marijuana tax	1913	1425	57%

**SCOPE OF WORK.**

The TABOR Citizen Review Committee was charged by the City Council with reviewing the TABOR amendment and analyzing its potential impacts on the City of Fruita. The Committee was asked to develop recommendations and a course of action for the City to follow in dealing with this constitutional provision. Specific areas that the Committee was

directed to review included the following:

- A. Determine community sentiment and support for the current revenue retention (de-brucing) measure.
- B. Determine the risks and benefits of a revenue retention measure and how it would affect the financial condition of the city and future budgeting processes.
- C. Analyze the potential of the ratchet-down effect occurring to the City of Fruita budget.
- D. Determine if a revenue retention measure is in the best interest of the City.
- E. If it is found to be in the best interest to go to the voters again and ask for approval for a revenue retention measure, make recommendations on what course of actions should be followed. Recommendations to the following issues should be made:
  - 1) For how long should a new revenue retention measure be in effect?
  - 2) Should the excess revenues be used exclusively for any specific purpose, project(s), or operation?
  - 3) When should the question be placed on the ballot?
  - 4) How best can the public be educated about these issues?

## **FINDINGS:**

### **Community Sentiment:**

The City of Fruita recently completed the 2017 Community Survey. While no specific questions were asked regarding the revenue retention measure, the overall perception of the City was favorable, with 95% of the respondents indicating that the quality of life in Fruita is either excellent or good. This is significantly higher than the national average of 73%. Of the 33 areas assessed, the City of Fruita rated significantly higher than the U.S. average and the average of communities with populations of 30,000 or less (difference of 5% or more) in 27 of these areas.

The Committee reviewed the Fiscal Year Spending summary from 2012 through 2016 that shows the City was able to retain \$2.75 million in “excess revenue” during that time frame. The City was able to use the “excess revenues” and other funds to successfully obtain grant revenues of \$5.7 million and complete \$13.5 million in capital projects.

There was a general consensus among the Committee that the current 2012 revenue retention measure has met the goals as intended and that the citizen satisfaction with overall services provided by the City as measured in the 2017 Community Survey indicates a positive sentiment in the community for another revenue retention measure.

### **Determine the Risks and Benefits of a revenue retention measure.**

The Committee reviewed the attached *Fiscal Year Spending Summary 2012 through 2016*. This worksheet shows that the City was able to retain \$2.75 million in excess revenue during this time frame due to approval of the last revenue retention measure. This is in addition to specific voter approved tax increases of \$6 million and exceptions allowed pursuant to TABOR of \$7.5 million.

The \$2.75 million in excess revenue was generated primarily from grant revenues. The City was able to construct \$13.5 million in capital projects during the time frame from 2012 through 2016 with \$5.7 million of the funding necessary for these projects coming from various grant sources. Without voter approval to retain excess revenues, it would not be financially feasible for the City to apply for these grants as refunds of “excess revenue” would have to be made from the City’s operational budget which would reduce services such as police protection and road maintenance provided to the citizens. Some of the more significant projects that were completed from 2012 through 2016 include:

- Police Building expansion
- Shop Facility expansion
- Pine Street improvements
- Overlays
- Downtown improvements
- Ottley Avenue improvements
- Greenway Business Park infrastructure improvements
- Lower Little Salt Wash Trail

The primary drawback to a voter-approved revenue retention measure is the potential for misuse of those funds. There was an acknowledgment that the potential existed, if not monitored correctly, to spend retained revenue on projects not desired by the voters. The committee came to the consensus that it was ultimately the responsibility of the elected officials to ensure any excess funds are spent correctly and that maintaining a sunset provision in a revenue retention measure was important to providing accountability to the voters for use of any excess revenues. A sunset provision allows voters to monitor and evaluate the use of funds and assess its success on a regular basis.

### **Determine the Potential for a Ratchet-Down Effect on the City of Fruita**

TABOR places a limit on the amount of revenue a City can collect and retain in a given year based on the prior year’s revenues and the local growth factor which includes the change in the CPI and change in value of property in the City due to new construction and annexations. If a City experiences a decline in revenues for a given year (due to any reason including recession or a slowdown in building), the following year’s limit is based on that lower base number. For example, in 2016, the fiscal year spending limit was \$9.5 million but actual

fiscal year spending was \$8.9 million. Because actual spending was less in 2016 due to reductions in revenue, the fiscal year spending limit for 2017 is reduced by \$310,000 even though revenues have rebounded. This illustrates the ratchet down effect of TABOR on the City, and if not for the voter approved revenue retention measures, this ratchet down on revenues would have a serious negative impact on the quality and quantity of services provided by the City to the citizens and affect the overall quality of life in Fruita. The ratchet-down effect was designed by the author of TABOR to shrink government.

### **Determine if a Revenue Retention Measure is in the Best Interest of the City**

After review, the Citizen TABOR Review Committee determined that:

- 1) A revenue retention measure is NOT a tax increase.
- 2) A revenue retention measure allows for the collection of funds that are a result of the economic growth of the community.
- 3) A revenue retention measure allows the City to be aggressive in applying for grants.
- 4) Any dollars kept over TABOR limits would be limited to capital projects and their maintenance.
- 5) Between 2012 and 2016, the City was able to retain \$2.75 million in excess revenue, and able to construct \$13.5 million in capital projects.
- 6) Requesting voter approval on a revenue retention measure every six years is an effective tool to provide accountability to the public and community and also provide stability in the financial operations of the City and ability for long range planning.

With these determinations, the committee agreed that it would be in the best interest of the City to bring forward a revenue retention question to the voters for consideration.

### **Ballot Question Issues:**

#### 1) Length of Measure

The consensus of the committee was that the ballot question should be for a six year time frame. While there was some support for placing no time measures on the revenue retention question, the committee felt that the a six year time frame provides accountability to the public on the financial operations of the City. The six year period is consistent with past measures and provides a sufficient time frame to accomplish goals of the City.

#### 2) Restrictions on Use

The committee discussed the proposed uses for the revenues retained over the TABOR limits and concluded that maintaining the current restrictions of using funds only on capital projects and maintenance related thereto was appropriate and also consistent with past measures and thus to restrict the revenue collected and retained over the TABOR limits to capital improvements and the maintenance related thereto.

#### 3) Election Timing

The Committee agreed that the Regular Municipal Election schedule for April of 2018 was the most appropriate time for the City Council to bring this question to the voters.

4) Public Education

The committee felt that public education was important to the success of this issue on the ballot needs to be locally based, transparent, and as clear and simple as possible. Suggestions for education on the issue included:

- Pro statements submitted by committee members and the general public for the ballot issue as part of the required mailing of TABOR notices prior to the election
- Informational articles published in the City Link
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- Press releases

**CONCLUSION:**

The Citizen TABOR Review Committee met to review the many facets of TABOR and understand how this constitutional amendment affects the City of Fruita. Some committee members joined this effort with a minimal understanding of TABOR and other members had extensive knowledge, but all took the time to learn the specifics of the issues to understand how it specifically related to Fruita. The committee agreed that this request is not a tax increase and that the City of Fruita has used the revenue generated over the TABOR limits in an efficient, effective and logical manner and, most importantly, as it promised in 2012. Therefore, in order for the City government to continue to meet the needs of the community, a revenue retention measure with the conditions outlined above should be put before the voters in April of 2018.

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**FISCAL YEAR SPENDING SUMMARY 2012 THROUGH 2016**

	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Total</b>
<b>Fiscal year spending limit</b>	8,256,924	8,609,742	8,976,603	9,365,021	9,578,169	44,786,459
Expenditures and reserve increases	11,450,303	12,568,993	11,789,669	12,078,155	12,545,726	60,432,846
Exception from expenditures -allowed by TABOR	(1,402,756)	(1,899,536)	(1,132,382)	(742,787)	(2,365,234)	(7,542,695)
Exceptions from expenditures - Voter approved changes - Taxes*	(1,145,338)	(1,191,090)	(1,237,508)	(1,177,996)	(1,245,995)	(5,997,927)
<i>Subtotal - FYS less exception from TABOR and Tax increases</i>	8,902,209	9,478,367	9,419,779	10,157,372	8,934,497	46,892,224
Exceptions from expenditures - Voter approved changes - Excess revenue	(645,285)	(868,625)	(443,176)	(792,351)	-	(2,749,437)
<b>Fiscal year spending base</b>	8,256,924	8,609,742	8,976,603	9,365,021	8,934,497	44,142,787
Total Local Growth %	4.273%	4.261%	4.327%	2.276%	3.732%	
Total Local Growth \$	352,818	366,861	388,418	213,148	333,435	-
<b>FYS Limit for following year</b>	8,609,742	8,976,603	9,365,021	9,578,169	9,267,932	44,142,787

**Local Growth Components**

Inflation %	1.943%	2.771%	2.777%	1.176%	2.772%	
Local Growth %	2.330%	1.490%	1.550%	1.100%	0.960%	
<b>Total Local Growth %</b>	4.273%	4.261%	4.327%	2.276%	3.732%	

**Capital Expenditures**

Capital projects	2,249,499	2,928,808	2,430,982	3,078,581	2,524,822	13,212,692
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**Voter Approved Tax Changes**

1% sales and use tax for Community Center operations and debt service  
 3% lodging tax for marketing and promotion of the city  
 Interest on 1% sales and use tax for Community Center

**TABOR Amendment Exceptions**

Total reserve expenditures  
 Total reserve transfers  
 Total refunds  
 Totals gifts  
 Total federal funds  
 Total collections for another government  
 Total pension contributions by employees  
 Total pension fund earnings  
 Total damage awards  
 Total property sales  
 Lottery proceeds (CTF funds)  
 Lottery proceeds (GOCO grants)