

TABOR CITIZEN REVIEW COMMITTEE 2023 FINAL REPORT

RECOMMENDATIONS REGARDING IMPACTS OF TABOR ON THE CITY OF FRUITA

CITIZEN COMMITTEE MEMBERS

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PURPOSE:

The Fruita City Council adopted Resolution 2023-16 establishing a citizen review committee to study the impacts 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 2024. 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 by TABOR, the excess revenues must be refunded to the citizens. This limit is referred to as the Fiscal Year Spending limit. Based on the way the limit is determined it is more appropriately a limit on revenues, not expenditures. The only time "excess" 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.

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 the voters.

TABOR ELECTION RESULTS IN THE CITY OF FRUITA

Date	Tabor Issue	Description	Results			
			Yes	No	Total	%
11/2/1993	Revenue Increase	CHS Grant - \$31,000	574	158	732	78%
11/2/1993	Revenue Increase	State of Colorado Grant - Kingsview Sewer	542	193	735	74%
11/2/1993	Revenue Increase	City and county sales tax revenues for street maintenance and improvements	580	154	734	79%
4/5/1994	Debt	CWRPDA Loan - Kingsview Sewer	165	45	210	79%
11/7/1995	Revenue Increase	Revenues/Grants - CIP, Street maintenance and improvements - 1/1/1996 through 12/31/2000	574	142	716	80%
4/2/1996	Tax increase	3% Lodging Tax	379	156	535	71%
4/4/2000	Revenue Increase	Revenues/Grants - CIP, Street maintenance and improvements - 1/1/2001 through 12/31/2006	927	189	1116	83%
4/4/2006	Revenue Increase	Revenues/Grants - CIP, Maintenance of capital improvements - 1/1/2007 through 12/31/2012	1408	402	1810	78%
4/1/2008	Tax increase + debt	1% sales and use tax increase for debt pmts and operation of Community Center - Issuance of \$15m in debt for construction of Community Center	1262	1262	2524	50%
11/4/2008	Tax increase + debt	1% sales and use tax increase for debt pmts and operation of Community Center - Issuance of \$15m	2821	2703	5524	51%
4/6/2010	Tax increase	Medical marijuana tax	1533	936	2469	62%
4/3/2012	Revenue Increase	Revenues/Grants - CIP, Maintenance of capital improvements - 1/1/2013 through 12/31/2018	2154	643	2797	77%
4/1/2014	Tax increase	Recreational marijuana tax	1913	1425	3338	57%
4/3/2018	Revenue Increase	Revenues/Grants - CIP, Maintenance of capital improvements - 1/1/2019 through 12/31/2024	2243	480	2723	82%
4/7/2020	Tax increase	3% additional lodging tax for economic development and public places	1684	1089	2773	61%

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 conducted a Community Survey in 2021. While no specific questions were asked regarding the revenue retention measure, the overall perception of the City was favorable, with 93% of the respondents indicating that the quality of life in Fruita is either excellent or good. Of the 37 areas assessed, the City of Fruita rated above the U.S. average in 32 of the areas assessed.

The Committee reviewed the Fiscal Year Spending summary from 2017 through 2022. Total fiscal year spending for that time frame was \$67 million with the City able to retain \$6.8 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 \$4.5 million and complete \$9.8 million in capital projects.

There was a general consensus among the Committee that the current 2018 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 2021 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 2017 through 2022*. This worksheet shows that the City was able to retain \$6.8 million in excess revenue during this time frame due to approval of the last revenue retention measure.

The \$6.8 million in excess revenue helped fund \$9.8 million in capital projects during the time frame from 2017 through 2022 with \$4.5 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.

Capital projects completed from 2017 through 2022 include:

- Kokopelli Trail
- Highway 340 Roundabouts – Sculptures and Landscaping
- K.4 Road Improvements
- Overlays (various)
- Pine Street Bridge
- Maple Street Improvements
- Sidewalk replacements
- Mulberry Street Outdoor Plaza
- Little Salt Wash Park land acquisition for future expansion
- Fruita Bark Park (new dog park)
- Fruita Bike Park improvements
- Prospector Park playground equipment
- Design for Reed Park improvements

Capital projects included in the 2023 Budget include:

- Electric Vehicle Charging Station at Civic Center (\$140,000)
- N Mulberry Downtown Plaza (\$450,000)
- Broadband connections (\$738,000)
- Overlays \$269,100
- Pine Street Bridge (\$1.3 million)
- Fremont Street (18 ½ Road) land acquisition (\$410,000)
- Maple Street Bridge land acquisition (\$100,000)
- 19 Road land acquisitions (\$400,000)
- Civic Center building renovations (\$400,000)
- Reed Park Improvements (\$1.6 million)

Capital projected currently proposed in the 2024 Draft Budget include:

- Downtown Improvements – Self cleaning restroom in downtown Fruita - \$350,000
- Pedestrian crossing on Pabor at Sycamore Street (\$50,000)

- S Mesa Street Improvements between Circle Park and SH 6 - \$2.1 million including \$1.7 million CDOT grant
- Overlays - \$560,000
- 16 Road railroad crossing improvements continued from prior years (\$388,870)
- Maple Street Bridge – Design and Engineering (\$225,000)
- 19 Road Improvements between Hwy 6 and J Road intersection (\$6 million)
- Hwy 340 Trail connection to Colorado River (\$250,000)
- Snooks Bottom restroom (\$100,000)

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 a pandemic, recession or a slowdown in building), the following year’s limit is based on that lower base number. For example, in 2019, the fiscal year spending limit was \$10.05 million but actual fiscal year spending was \$9.6 million. Because actual spending was less in 2019, the fiscal year spending limit for 2020 was reduced by \$429,803. 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 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.

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 and grant awards.
- 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 2017 and 2022 the City was able to retain \$6.8 million in excess revenue, and able to construct \$9.8 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. The Committee suggested that a question be placed on the next Community Survey to determine community support for extending the time frame for future “de-brucing” ballot questions or support for an unlimited time frame (in perpetuity).

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 on capital projects and maintenance of infrastructure 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 2024 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
- 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 2018. 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 2024.