



Agenda Memorandum

Agenda Date: 5/3/2016

Item #: 22 File #: DIR 2016-028

To: Honorable Mayor and Members of Town Council

From: David L. Corliss, Town Manager

Discussion/Direction: Update Report on TABOR

Executive Summary

Town Council in June 2014 directed staff to manage Town finances to keep revenues within Colorado Taxpayers Bill of Rights (TABOR) limits to the extent possible. Staff has done so since that time; yet, the Town still ended 2015 with a TABOR surplus of more than \$700,000.

Because 2015 revenues have exceeded TABOR limits, Town Council has until the end of the year to carry out one of two choices: 1) Refund the money in some manner, or 2) Ask voters to keep the money to spend on local services.

This memo provides an overview of these issues for preliminary Town Council discussion and direction on this topic. No decision is required at this time regarding which course to pursue with regard to the 2015 TABOR surplus. Any direction Council offers at this time would be helpful in clarifying for staff any additional information Council would desire.

Discussion

Background

Article X of the Colorado Constitution, more commonly known as TABOR, has a provision that imposes revenue restrictions on state and local governments. An additional provision within TABOR allows voters to remove these restrictions on their local governments, either temporarily or permanently, which is commonly known as "de-Brucing."

Town Council in June 2014 directed staff to manage Town finances to keep revenues within TABOR limits to the extent possible, and staff has done so. Still, due to favorable economic conditions and increased Town revenue, the Town has exceeded its TABOR revenue cap for 2015 by \$714,580, according to preliminary 2015 year-end financial information. This number is subject to change based on potential year-end entries and will be finalized upon completion of the Town audit.

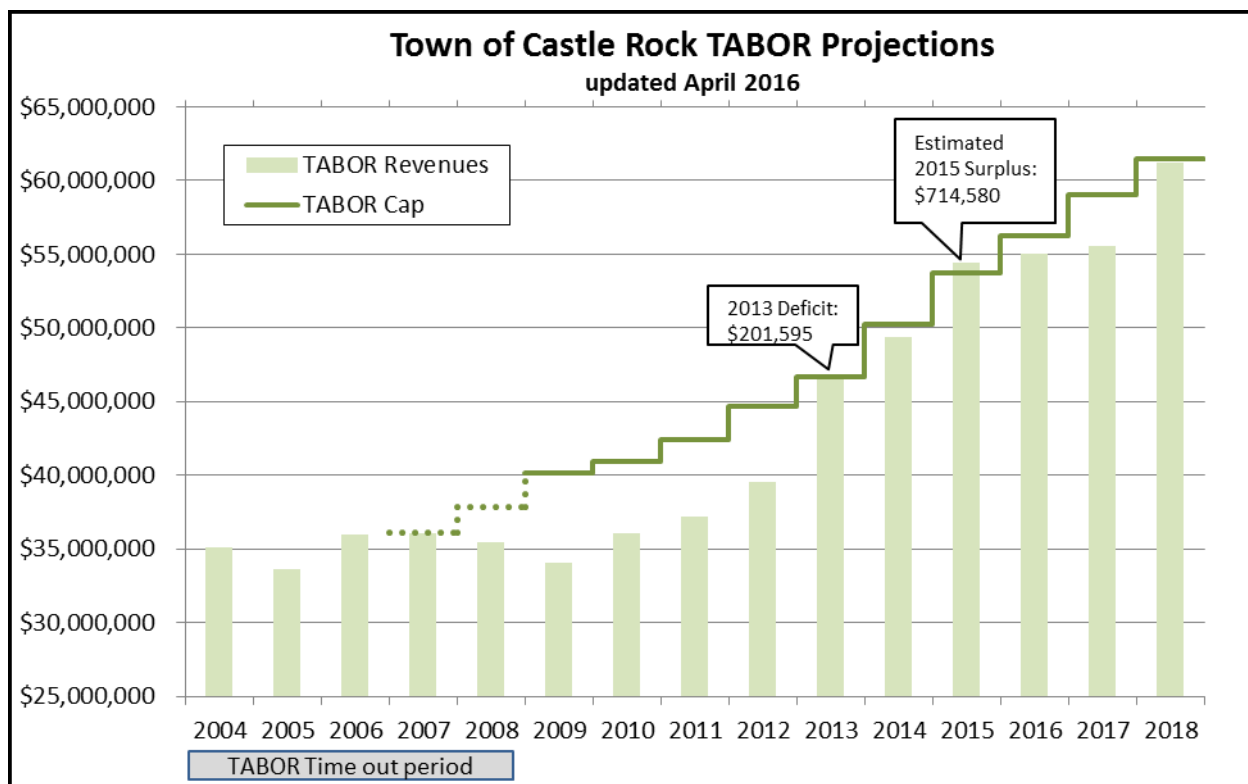
Various factors have contributed to the surplus, including strong sales tax growth in 2015, at 8% over the sales tax revenue amount for 2014, and contributions for the construction of the North Meadows Extension and Philip S. Miller Park.

The Town has been very successful in obtaining and/or securing funds from other sources to help fund various capital improvement projects within Castle Rock, resulting in lower costs to Town taxpayers. For example, for the North Meadows Extension project, the Town, over the course of the project, will receive and/or secure \$4.6 million from the Colorado Department of Transportation toward the interchange at U.S. Highway 85; more than \$10 million from Douglas County toward funding the portion of the roadway between U.S. 85 and Interstate 25; and more than \$7 million in funding has been pledged by Castle Rock Development Co. toward design and construction.

This totals more than \$22 million that the Town's taxpayers and development fee payers did not have to directly pay for this new roadway. Portions of these contributions received in 2015, however, have contributed to the excess TABOR revenue for that year. In fairness to the budget process, it's important to disclose that all eligible revenue received during 2015 ultimately contributed to the TABOR surplus.

To provide additional context, staff in 2014 conducted a survey of the 25 most populous municipalities in Colorado regarding their current TABOR status and refund history. At that time, the Town was one of only four cities that was not "de-Bruced" in any significant manner. (The others were Colorado Springs, Littleton and Pueblo.)

In Castle Rock, Town Council has twice elected to give TABOR refunds, in 2000 and 2001, and once successfully asked the voters for a five-year TABOR time-out, which covered the years 2004-2008. Town revenues have not exceeded the TABOR cap since that time period, as shown in the chart below.



Polling completed on the Town’s behalf in May 2014 revealed there was a relatively low level of familiarity with TABOR within the community. At that time, voters indicated they liked the idea that the Town could keep regional dollars for regional projects. Still, the likelihood of a successful TABOR election was uncertain at that time. Some additional public education has occurred since that time, including updates in the Your Town Talk newsletter and on the Town website. The News-Press also featured an article on the topic.

Alternatives

Ask Voters to Retain

Myriad options exist with regard to Council pursuing either refunds or voter approval to retain the revenues, each with different potential impacts. For example, Council could determine that it is appropriate to ask voters to lift TABOR revenue restrictions in the discrete area of regional dollars contributed for regional projects. This type of provision would allow the Town to retain the more than \$700,000 from 2015 that was over the TABOR cap and would make it unlikely that Town revenues would exceed the TABOR cap over the next three years. Voters of at least one area community, the City of Louisville, have lifted TABOR restrictions on these types of revenues.

Issue Refunds

With regard to the option of refunds, there are two major components for Council to consider:

1. Method: To whom and how would the refunds be issued?
2. Means: From what fund(s) would the refunds come, and what, if any, impacts would that cause?

Council has considerable discretion and latitude in determining what is reasonable in these regards. When considering refunds, prior Councils have striven to issue refunds in a fair and practical manner. Council also historically has taken into consideration the specific revenue streams that caused the TABOR cap to be exceeded.

The last time Council prepared for potential TABOR refunds, in 2005, it was primarily building use tax and impact fees exceeding the cap. Hence, refunds that year were proposed to be given primarily to developers. That is not the case for 2015, when regional contributions for regional projects are a major contributing revenue source.

If Council decides to issue refunds, a process would be engaged with Council to determine the universe of recipients and the method of providing the refunds.

The refunds might most reasonably go to the Town's general taxpayers - residents and businesses. A few options exist within that recipient universe, which would have a minor impact on the estimated total refund to each recipient, which regardless of what option chosen is expected to be \$30-\$40. In addition to issuing refunds to each household in Town (17,500), Council could choose whether to issue refunds to various classes of businesses:

- Businesses with a physical presence in Castle Rock: 1,210
- Businesses with a physical presence excluding home-based businesses: 655
- Any business holding a Town business license: 3,670

Additionally, refunds could be issued in a number of ways:

- Checks: this option tends to be more administratively burdensome and also involves the added "hard" cost of printing and mailing checks
- Utility bill credits: this option is the most administratively efficient of the alternatives presented, because the Town performs the utility billing
- Property Tax Credit: this option is more complicated and would require coordination with the County
- Another method as determined by Council

Important to note is that if Council decides to issue refunds, a funding source to accomplish a refund would need to be incorporated as a 2016 Budget Amendment. A proposed funding mechanism for the refunds would need to be determined, as well.

Staff Recommendation

Staff believes the most efficient refund method would be providing credits on utility bills. If Council so directs, staff could bring back a more detailed report regarding that option, including a proposed funding mechanism, so that Council could adopt a refund methodology.

Proposed Motion

Council may wish to consider the following motions in conjunction with this item:

“I move to direct staff to further refine the option of providing utility bill credits so Council may further consider this alternative for refunding 2015 revenues in excess of the TABOR cap.”

AND/OR

“I move to direct staff to solicit public input regarding the various options for addressing the 2015 revenues in excess of the TABOR cap.”

AND/OR

“I move to direct staff to provide Council additional information regarding _____ option for addressing the 2015 revenues in excess of the TABOR cap.”