

# Washburn's Fees - A

## 1 CASE BACKGROUND

The City of Washburn (the City) is one of New Mexico's most populous cities, with a population of about 45,000. It is well-situated, given its relative closeness to two major tourist attractions, including Adams National Monument and is also home to New Mexico State University at Washburn and its student population of over 10,000. It has grown rapidly over the last two decades and is consistently ranked one of the fastest growing micropolitan cities in the United States, as well as one of the strongest economies of its size.

Washburn's population growth accelerated in the 1990s. After increasing by only 5 percent between 1980 and 1990, its population grew by 20% in the 1990s. The population also grew by 32% in the 2000s (with the housing stock increasing by over 50% in that decade), and is projected to grow by another 33% in the 2010s. The City's rapid growth drove it to annex several thousand acres of land, and it is currently covers 12,900 acres, 80% more than in 1996. Details of Washburn's population growth can be found below in Table 1.

**Table 1: Washburn Population, 1990 - 2020**

Year	1990	1995	2000	2005	2010	2015	2020 (Projected)
Population	22,827	27,555	28,210	34,983	37,326	43,399	50,000

By the 1990s, Washburn's growth started to strain its resources. Because of this, City leadership sought the most appropriate ways to pay for its growing infrastructure needs, specifically roads, sewers, water and fire/EMS that the construction of these new developments would drive.

Until then, the primary funding sources for local infrastructure were property taxes as well developer payback agreements. City Leadership felt that significant increases in property taxes were politically "off the table."

Washburn policymakers took the view that new users were the drivers of increased capital needs, rather than existing users, and therefore alternative approaches would be a fairer way to pay for this construction. They focused their thinking on impact fees but were not wedded exclusively to that technique. They also considered special assessments as well as developer contributions.

After years of study Washburn adapted impact fee ordinances based on examples used in other states and passed them.

During the City's deliberations it was clear that a developer group was opposed to impact fees or any special fees since they felt that such fees added to the cost of homes and made it harder to sell them, hurting the developer community and Washburn's prosperity in general. Indeed, one study by the National Association of Home Builders concluded that every \$819 charged at the time of construction would add \$1,000 to the final price of a home.

Finally, New Mexico's state laws on impact fees were ambiguous and it was not clear that the City had the legal right to implement them or any other similar value capture approaches.

In 1997 Washburn's streets impact fee was challenged by some home developers, with the view that impact fees were charged too early – during the approval phase, as opposed to when the impact actually occurs – after homes are built. Additionally, fees were challenged as unfairly allocated based on lot size, rather than the number of residents likely to occupy a unit. For example, a lot with a single home would pay the same amount as a multiplex development, regardless of the actual expected occupancy.

This dispute between the City of Washburn and developer advocates continued for several years in court and in the legislature.

Over a decade later, the City had continued capital expenditure needs due to a growing population. Because of the litigation and legal limits to using impact fees, it sought alternative funding sources and a way to save the impact fee ordinance from further political attacks from the developer community.

## **2 CASE OBJECTIVES**

You are part of a task force that includes public officials from Washburn, business people and community representatives from Washburn, and state officials from New Mexico's DOT and Department of Economic Development jointly appointed by the City of Washburn and the Governor's office. In the time available, they want you to figure out other funding sources and a way to save Washburn's Impact Fee ordinance so it can continue as an option for Washburn and potentially for other New Mexico cities experiencing similar growth issues.

You must recommend the following:

1. What other funding sources could help pay for the City's capital expenditure needs?
2. What planning or land use measures could you recommend?
3. How would you address the developers' on-going legal actions?
4. What other solutions should you consider to maintain impact fees and/or allow for other value capture options?

### 3 CASE GUIDELINES

Please:

- Read the case materials thoroughly;
- Appoint two people who will serve as facilitators and present your findings to the session attendees;
- Discuss as much as possible the items in section 2 above;
- If any items of the case are unclear or you feel that data are missing, take advantage of your collective experience to make reasonable assumptions;
- Do not consult any sources—online or otherwise about this actual case. The purpose of the exercise is not to find the right answer but to gain understanding about the issues related to value capture;
- Either the facilitators or other group member take notes on poster paper to organize the group's thoughts. This does not have to be pretty—it just has to be legible enough so that your facilitators can read them out loud;
- The facilitators present their findings at the end of the session in around a minute or two.