



## SACRAMENTO STATE – Department Of Public Policy & Administration

Case Study Excerpt Adapted From:

### **The Whittier Sewer Project: The Promise and Perils of Collaboration**

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#### **Phase One: Background/Situation Assessment**

It is the year 2000 and the setting is Whittier, North Carolina, a small, unincorporated rural community located in the Smoky Mountains, straddling Jackson and Swain Counties, and immediately adjacent to the Cherokee Indian Reservation (Eastern Band of the Cherokee Indians or EBCI). Like many rural communities, Whittier lacks sewer infrastructure. A Whittier Sanitary District was created in the 1990s in order to provide water to about 90 households. But the community never had sewer service, a situation that presented environmental and public health problems and was always an impediment to growth. Whittier's many failing septic systems (and even some residences with no septic, "straightpiping" their sewage directly into the river) were a source of contamination of the Tuckasegee River which runs through the heart of the community.

Being an un-sewered community was also a problem for the neighboring campus of the Church of God's Western North Carolina Assembly. Plans to significantly expand the church's campus for summer programs were contingent upon having sewer service. The nearby Smoky Mountain Elementary School (a Jackson County public school) likewise was in dire need for sewer service, having surpassed the capacity of its septic system for years. Finally, the ECBI (also referred to as "the Tribe") owned several hundred acres of property, including a recreation facility, in the Whittier area. The Tribe had long expressed interest in developing a portion of its property in the area with a golf course and dozens of housing units. But these plans, again, would require sewer service.

Finally, another stakeholder was the Tuckasegee Water and Sewer Authority (TWSA), serving Jackson County. This regional authority had been in place for nearly a decade, providing water and sewer service to several Jackson County municipalities and some parts of unincorporated Jackson County (but not Whittier).

A project like developing a sewer treatment facility in a small, lightly populated area like Whittier would require a significant amount of capital--millions of dollars--an amount beyond the ability of TWSA, the county, or any of the any other stakeholders, on their own. Thus, while the benefit of sewer service was clear, a way to make that happen was not. So nothing was done for many years.

Bill Gibson had been the executive director of the Southwestern Commission, a regional council of governments with headquarters in Jackson County, since 1976. He was a Jackson County native and given his role leading a boundary-crossing organization, he was in an excellent position to act as convener and facilitator of the various stakeholders. Bill knew all the stakeholders personally and had a great deal of what he describes as "relationship capital" built up with them. He was also what Peter Senge (2006) has called a "systems thinker." He could see how the interests and needs of the stakeholders were coming into alignment around doing something in Whittier. Some kind of sewer facility would benefit all parties: the school (and, by extension, the county) for its immediate needs;

the Tribe; the church; the community members and ecosystem; and to at least some extent, the broader economic development interests in the area, including the industrial park. Assessing the situation, the stakeholders, and having a good understanding of what funding sources might be available, Bill decided it was time to take action.

### **Phase Two: Initiation**

In the Spring of 2000, Bill Gibson began having one-on-one conversations with some of the principal stakeholders (the Tribe and county officials, for example). It was clear to him that there was a significant community need that could not be met by any single entity acting alone, and that the shared interests of the disparate stakeholders seemed to be compatible with jointly building some kind of satellite sewer treatment facility in Whittier.

Gibson was also aware of funding sources, principally of rural sewer grants being made by the North Carolina Rural Center, a statewide grant-making agency. He also recognized that the threat of school closure created a sense of urgency. Thus, there was a problem, at least a potential solution, and some sense among principal players in the county that action needed to be taken soon.

After informal conversations with the Tribe and County, as well as the EDC and TWSA, indicated interest in moving forward, Gibson initiated a process of exploring options for building a sewer treatment facility in Whittier. Each of the four initial partners—the EDC, the Tribe, Jackson County, and the TWSA—agreed to pay one-fourth of a \$26,000 feasibility study. Sponsoring a feasibility study established these five members (the four partners, plus the Southwestern Commission as agent) as a working group with the intent of providing sewer service if feasible.

The initial meetings were alternately hosted by the different stakeholders and the process was kept informal. Bill was the de facto facilitator, but the parties were all at the table as equals.

### **Phase Three: Deliberation**

The feasibility study came back with a positive outlook for a sewer facility in Whittier. A parcel in the industrial park (owned by the EDC) was eventually chosen as the location for the treatment plant. With most of the necessary pieces in place, a grant application was developed by Southwestern Commission staff. In early 2001, the NC Rural Center awarded \$3.0 million to the Whittier Sanitary District for development of the new sewer plant. Jackson County, the Tribe, and TWSA also agreed to contribute a total of \$40,000 toward the project.

With the funds secured, the permitting process commenced and everything appeared to be a “go.” But soon thereafter the sewer project faced major setbacks which would require the stakeholders to come together many more times to address issues in order to keep moving on the new sewer system.

The permitting process ended up taking two years to complete (2001-03). There were environmental issues with threatened species in the river and the discovery of a Native American archeological site on the proposed location of the plant. By the time the permitting process was complete, the cost of the project had increased significantly, by about \$1.0 million. It was now early 2003 and the project was completely bogged down. Additional monies were needed for mitigation (environmental and archeological) as a result of the permitting process. For the next three years the project was essentially in a holding pattern.

During that time Gibson, continued work on behalf of the working group, sought additional funds and was able to make up part of the difference with new grants from the Appalachian Regional Commission (\$200,000), U.S. Department of Agriculture (\$99,000), and the Cherokee Preservation Foundation (\$45,000). That still left the working group short \$750,000. The Tribe, recognizing their significant interest in seeing the project move forward, first proposed and agreed to contribute additionally to the project, with Jackson County following.

Right around this time, Bill had approached the Church of God as a potential partner. Bill and the other stakeholders were aware of the Church's significant interest in the sewer facility. The church, given their level of interest and how much they stood to benefit from the effort, agreed to fund a third of the deficit, along with the Tribe and County (i.e. \$250,000 each).

With those commitments in hand, the project finally went out to bid in the Fall of 2006. The result was yet another setback. The lowest bid was over the budgeted amount by close to \$1.3 million. With some adjustments in the budget, the overrun was brought down to just under \$1 million. Having tapped all available sources, even to the point of getting the main partners, including the church, to contribute over \$250,000 each, the future of the project was again in question.

The N.C. Rural Center had given an August 2006 deadline to have all funds raised and long-term operating costs secured, or the plug would be pulled from the project altogether. Gibson again returned to the core stakeholders, a group which now included the church, "with his hand out" in search of funds to fill the funding overrun gap. The Rural Center agreed to an additional \$200,000, for a total commitment of \$3.2 million (Gibson 2008).

At the local level the Jackson County Board of Commissioners stepped forward first. They stated that they would increase their portion by another \$250,000 and also underwrite a portion of expected operating losses for the first three years. The Tribe quickly matched the county's additional commitment of both capital and covering a portion of short-term operating losses. Finally, the Church of God returned to the table with a \$250,000 additional commitment. With Jackson County, the Tribe, and the Church now invested at \$1,500,000, (approximately \$500,000 each), and with the County and Tribe agreeing to underwrite expected initial operating losses, the project was again a "go."

During this time, when the potential for the project to fall apart was very real, the value of Mr. Gibson's facilitative leadership was evident. He played a key brokering role to help the partners not only sustain, but increase their commitment. Larry Blythe, then Vice-Chief of the Tribe, explained that all of the partners "had the same goal in mind . . . we had a couple or three good meetings, just very cooperative . . ." (2007). Blythe noted that "Bill [Gibson] and his office [was] a major pushing player in this thing . . . [not only from] a funding standpoint [obtaining and managing the grants] . . . [but also] facilitating groups" (2007).

It was through these negotiations and a lot of back-and-forth that a final agreement was made between the three major local funding partners in 2006. The Church of God, Jackson County, and the Tribe each again added to their original commitments, bringing final commitments of funds to about \$500,000 each, to cover the anticipated revenue shortfall for the first three years of operating costs while customers were being added to the system. Approximately 100 customers would be needed for the enterprise to be self-funded, according to an estimate at the time.

A critical part of the deal was the TWSA agreeing to operate and manage the system. This, too, was a significant part of the puzzle. Joe Cline, then director of TWSA, explained that his board of directors

initially wanted to “steer clear” of any commitments to the Whittier sewer project. It certainly was a risky proposition from an operating cost standpoint.

With the funds secured, the project commenced. Questions were raised as the lines were being laid about the cost for residents to connect to the system. The relationships built over years of cooperative negotiations helped pave the way for a policy announced in April, 2007: there would be no charge to connect to the system if residents did so within the first 120 days of the system’s completion. The project was mostly completed in the Fall of 2008, with a little more than a dozen initial hook-ups.

Providing sanitary sewer service to the Whittier area was seen at the time as a success; an example of public value being created through collaboration. It was not just the Tribe, or the Church of God, or the Smoky Mountain Elementary School that stood to benefit from the project. The entire community would benefit through the improvements in water quality and from the economic development that assumed to occur as a result of the infrastructure.

In 2008, with the sewer facility mostly completed, the project looked like a success, particularly when considering the obstacles that were overcome. The partners also strengthened relationships and looked positively at the future. EBCI leaders felt like not only were new development opportunities on the horizon for tribal land, but they were happy to be building better relationships with their neighbors. Vice-chief Larry Blythe explained the cooperative sentiment best, “If we’re able to spend the dollars we’re making to help [our] neighbor [with] their needs, it’s only going to help us too. We’re all in this together” (2007).

#### **Phase Four: Implementation**

Securing grants, breaking ground, overcoming setbacks, and finally getting the treatment facility built and main lines installed was certainly part of the implementation phase. That process, which spanned almost six years, demonstrates how the phases of collaboration often repeat over and over (make decisions, implement those decisions, make new ones, engage new stakeholders, make more decisions, and so on). But for the Whittier Sewer Project to ultimately be implemented and become sustainable over time, the elementary school would need to be connected to the system, along with dozens of residential hook-ups, to generate the operating revenue to be self-sustaining and not a financial drain on the TWSA. That was the plan. The plan did not work out.

The school was eventually connected in 2009, but only a little over a dozen residential hook-ups were made during the 120-day free connection window. Hooking onto the system was not mandatory, and given the economic instability that was occurring, along with miscalculating the level of interest of local stakeholders (outside the school and church), led to major operating deficits in the initial years of operation. Jackson County made their payment toward covering operating losses in 2010, but the EBCI did not pay, even after being sent multiple invoices.

Meanwhile the Whittier Sanitary District (WSD) was fiscal agent for the facility until TWSA would take full ownership. WSD was having financial and governance issues that were ultimately resolved, but made for bad publicity. In the Fall 2010 local elections, key Jackson County board members who supported the Whittier Sewer Project partnership were swept out in a “Tea party” wave election. The new county board members were openly critical of the financial support of the project. The Tribe eventually paid their portion, but relationships were fractured.

By 2012, the project was limping along. There were way too few customers, so the short-term operating losses were not improving. TWSA had taken it over via contract arrangement with WSD. A

2012 financial feasibility study was conducted under the leadership of a new director. The study concluded that the original project was flawed in large part because residents should have been legally mandated to connect. The only way to become sustainable was through a significant increase in customers. The new TWSA director, Dan Harbaugh, explored a rate increase in combination with line extensions to new customers, to try to plot a path for WSD to be financially self-sufficient.

By this time, the partnership was not much of a partnership. Jackson County leaders and TWSA were coordinating efforts, but the larger stakeholder group had not convened in a long time. Gibson had retired in 2013 after 40 years of service at the Southwestern Commission. That meant that an important “active glue” for the sewer project was no longer involved. By the end of 2015, the core group wanted to re-engage Bill Gibson as a facilitator. Even though he was in retirement, Bill agreed to work informally with the group to help them figure out a path forward. The original stakeholders were contacted to come again to the table and work as a true partnership to see implementation through. Here is what they faced.

Other events, far from Whittier, were having an effect on the situation. Following the 2012 election which yielded a North Carolina Republican governor, and Republican control of both houses of the legislature, the NC Rural Center was disassembled. Its grant-making powers and funds were transferred to the Department of Commerce. Closer to home, in 2015 a new Chief of the EBCI was elected. Both personal and institutional relationships had weakened which affected the collaboration, and now key, original stakeholders were no longer at the table. Bill Gibson was retired. Jackson County was under new leadership. The Rural Center was essentially out of the picture. The TWSA and the Tribe were also under new leadership.

Furthermore, there was no clear delineation of service area limits of the Whittier Sanitary District. TWSA reported it has been difficult working with the EBCI and getting a clear answer on their development plans because the EBCI is a sovereign nation and thus legally disconnected from the county government, TWSA, WSD, and so on. EBCI leadership is viewed as cautious about sharing certain information, since TWSA is required to handle customer information as public information. EBCI is on the hook for covering some of the operating losses, so is addressing this unhappy surprise.

TWSA is looking for its best opportunities for sustainable service, and these areas are not necessarily within the Whittier Sewer District. There are service boundaries, but once TWSA takes over, they no longer need to honor those boundaries. The TWSA charter allows service across county lines because TWSA is a regional authority and will no longer be constrained by the WSD boundaries.

As the follow-up feasibility study pointed out, the lack of a mandatory connection policy continues to be a problem. Another issue that affected the finances of the project was how stakeholders contributed “one time” at the beginning of the project. This kind of contribution does not allow a broadly cooperative spirit for continuing the new system. There are no incentives for the EBCI to connect anybody to the system, and their development plans have been on hold.

The bylaws of TWSA specify that any new project needs to have a projected return on investment of 5 years. There is uncertainty about how to measure such a return on investment in terms of capital and operating costs. At present, if the revenues from the connected customers does not meet operating costs, then the working group stakeholders should agree to cover the shortfall until revenues rise. Which points back to the need for customers and the potential policy change for mandatory hook-ups.