

By Cameron A. Weist

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Communities Must Rely on Financial Innovation to Win the Race against Aging Infrastructure

PUBLIC WATER AND WASTEWATER UTILITIES have provided Californians with some of the best water and wastewater service in the world. However, California's local utility managers now face growing pressure to replace aging and failing infrastructure and to keep up with the costs of ever-increasing State and Federal regulatory mandates.

California's water and wastewater systems face an estimated funding gap of \$5 billion a year between current investments in infrastructure and the investments that will be needed annually over the next 20 years to replace aging and failing pipes and to meet the mandates of the Clean Water Act (CWA) and Safe Drinking Water Act.

Financial innovation is seen by many experts as making the difference between success and failure for many of these public improvement projects

Current federal contributions fall significantly short of helping since they have declined by 75 percent in real terms since 1980, and today represent only about 10 percent of total outlays for water and wastewater infrastructure.

A combination of reduced federal spending and increased State and Federal mandates to meet treatment requirements is taking its toll. The collective aging of our pipes and systems further exacerbates the problem. Seventy-five percent of our capital investment in wastewater and drinking water infrastructure is buried underground. The

useful life of these pipes is coming to an end. Any additional deferral of the needed investments to repair and renew these systems will lead to greater increases in the costs associated with providing clean and safe water services. Elected officials, businesses, and residents of California's communities agree that State and Federal contributions are insufficient to address current and future problems.

The financial impact of replacing the underground system of aging pipes, and updating treatment systems with 75-year old components dating back to the early 1900's is staggering.

Recent stories of California communities financing themselves back to health are beginning to emerge. Small communities are using a combination of grant and low interest loan money, together with local bond monies to provide the capital necessary to complete projects that have been on the books for years. Financial innovation is seen by many experts as making the difference between success and failure for many of these public improvement projects.

The problem for many small communities is that their projects are simply not large enough in size to garner the attention of the experts that truly possess the skill and industry contacts necessary to efficiently bring these projects to a successful economic conclusion.

Byron Sanitary District, a small utility district located in Contra Costa County, is a recent

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instance of a community's perseverance in the face of seemingly insurmountable odds. Byron is an example of how committed government officials, working together with experienced bond counsel and financial consultants, can develop innovative financial strategies necessary to succeed in today's tough economic environment.

"For the past several years our community has been under constant attack from regulatory agencies to either clean up its act or face the bitter prospect of being shut down," said Carol Jackson, Finance Director of the Byron Sanitary District. "It wasn't until we retained the services of our very competent financing team that we finally broke through the mire of years of failure and frustration," Ms. Jackson continues. "They resolved our Prop 218 issues, found us a strategic partner, formed our JPA and at that same time worked closely with the State to develop a coordinated financing program utilizing Grant money and bond money to resolve the gridlock that has plagued us for years."

Byron Sanitary had never in its 65-year history borrowed money to fund a capital project prior to the Wastewater Treatment Plant Expansion Project. The Board of Directors had a long-established conservative fiscal policy that relied on "cash in hand" to fund public works projects. The residents in the area had never really had to consider a significant rate increase, and the prospect of raising rates to the levels necessary to support a bond transaction seemed overwhelmingly daunting. This philosophy had greatly constrained the District's ability to provide its constituents with new facilities in the past.

Once it was determined that the Byron Bethany Irrigation District would lend its support by partnering in the formation a joint powers

authority, the Byron Sanitary District had found the helping hand they needed to successfully enter the municipal bond market as a credible issuer.

The next challenge was to pull together all available resources to pledge to the revenue bonds. A great deal of time and effort was spent preparing the public informational material necessary to explain the reasons for the District's need to raise rates, and making sure the "campaign" was conducted in compliance with Proposition 218 and all other associated laws. The election was a tremendous success, passing without a single objection, even in the face of a 100% increase in utility rates.

Three different funding sources paved the way for the financing of the Project, including a grant from the State of California, proceeds from the District's first-ever issuance of revenue bonds, and cash from the District coffers.

"Our financing team brought new thinking to the Board of Directors regarding fiscal management," says Jackson. The programmatic financing gained the support of the media, the general community, the Board and staff. "This support allowed the Board to move forward and approve the Project's innovative financing."

About the Author

Cameron A. Weist is a Public Finance lawyer whose practice is devoted primarily to public finance projects, typically as either Bond Counsel or Disclosure Counsel. Mr. Weist has established a long-standing excellent reputation in securities law, having advised clients on well over \$9 Billion in tax-exempt and taxable transactions. Mr. Weist can be contacted at www.weistlaw.com