



RESOLUTION No. 07-620

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

A RESOLUTION ADOPTING A PROGRAM FOR THE ABATEMENT OF THE PRINCIPAL AMOUNTS OF CERTAIN COUNTY LOANS FOR IMPAIRED ASSETS OF PUBLIC SEWER SYSTEMS IN NEVADA COUNTY SANITATION DISTRICT NO. 1

WHEREAS, the Board of Supervisors of Nevada County finds and declares as follows:

A. The Board of Supervisors ("the Board") finds that increasingly high user rates for the services of public sewer systems are a matter of great concern in Nevada County, and that this concern warrants a program pursuant to Government Code Section 26227 (hereinafter "the Program") through which the Board may, in its sole discretion, take actions to abate unreasonable and unwarranted debt burdens related to "impaired assets" of public sewer systems; and,

B. The Board finds that "impaired assets" may result from a variety of causes, all related to unexpected or early obsolescence, including but not limited to facilities damaged by natural causes, facilities at risk of damage by natural causes, engineering designs for facilities that are uneconomic to construct or use, and facilities that are constructed but not used to the benefit of the ratepayers; and,

C. The Board endorses having a Program to abate the principal amounts of County loans which were originated to finance assets that are now determined to be impaired assets; but, the Board does not endorse the abatement of accrued interest on the principal amounts of such loans when the interest has been accrued prior to a determination that an asset is impaired; and,

D. The Board finds that relief from the principal amounts due on such loans is warranted to meet the social needs of the population of the County, and also for the protection in the County of the public's health, safety and welfare, in that unreasonably high sewer rates due to loans for impaired assets can adversely and unfairly impact sewer system users on fixed or low incomes, with a subsequent risk of forcing such users from the occupancy of their homes; and,

E. The paragraphs below list specific information for the County loans subject to this Resolution, for which principal amounts will be abated subject to the terms and conditions set by the Board of Supervisors; and,

F. By Resolution No. 89-258, adopted on June 13, 1989, the County of Nevada extended a loan ("the June 1989 Loan") in the principal amount of \$55,000 to the Nevada County Sanitation District No. 1 (hereinafter "District No. 1") for the purpose of financing the construction of a sewer line located along Spenceville Road in Zone 6 (Penn Valley); and it is now apparent to the County and its Community Development Agency ("County/CDA"), and it is hereby determined, that this sewer line will not be used by surrounding properties and, due to deterioration, is very unlikely to serve its intended purpose; and,

G. By Resolution No. 94-60, adopted on February 22, 1994, the County of Nevada extended a loan ("the February 1994 Loan") in the principal amount of \$128,422 to the District No. 1 for the purpose of financing construction of a wastewater treatment facility ("the 1996 WWTF") located in Zone 8 (Cascade Shores); and the aforesaid principal amount has been paid down to a current principal balance of \$64,211; and it is now apparent to the County/CDA, and it is hereby determined, that the 1996 WWTF is an impaired asset because it has become outmoded and will not serve its intended useful life of 20-30 years because of a natural disaster (landslide on May 9, 2005) with consequential risks from upslope instability, accidental discharges, and potential fines from the Central Valley Regional Water Quality Control Board ("CVRQCB"); and,

H. By Resolution No. 03-285, adopted on June 24, 2003, the County of Nevada extended a loan ("the June 2003 Loan") in the principal amount of \$45,000 to the District No. 1 to assist with cash flow problems associated with the financing of testing and analysis for a new Wastewater Treatment Plant design ("2005 WWTP Design") to be located in Zone 8 (Cascade Shores); and it is now apparent to the County/CDA, and it is hereby determined, that the 2005 WWTP Design is an impaired asset because the 2005 WWTP Design is economically infeasible to use, as shown by two failed attempts at competitive bidding for WWTP construction based on the 2005 WWTP Design; and, further, it is unlikely that the District's costs attributable to the 2005 WWTP Design would ever be recovered since recovery would require an unreasonable increase in future sewer rates for capital facilities and operations, and that increase is unlikely to receive property owner assent pursuant to "Proposition 218" [Cal. Constitution Article XIII D]; and,

I. By Resolution No. 05-308, adopted on June 28, 2005, the County of Nevada extended a loan ("the June 2005 Loan") in the principal amount of \$ 100,000 to the District No. 1, to finance engineering and related services for the 2005 WWTP Design for Zone 8 that has been determined, in Paragraph H above, to be an impaired asset; and,

J. By Resolution No. 05-526, adopted on October 11, 2005, the County of Nevada extended a loan ("the October 2005 Loan") in the principal amount of \$200,000 to the District No. 1 to finance engineering and related services for the 2005 WWTP Design for Zone 8 which has been determined, in Paragraph H above, to be an impaired asset; and,

K. By Resolution No. 06-49, adopted on January 24, 2006, the County of Nevada General Liability Self-insurance Fund extended a loan ("January 2006 Loan") in the principal amount of \$ 150,000 to the District No. 1 (in effect a loan back to District No. 1 from the District's prior required contribution to that Self-insurance Fund) in order to assist with cash flow problems associated with the financing of engineering and related services, and other project costs, for the 2005 WWTP Design for Zone 8 which has been determined, in Paragraph H above, to be an impaired asset; and,

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. Pursuant to Government Code Section 26227, as recommended by the County Counsel, the Board of Supervisors establishes the Program for the Abatement of the Principal Amounts of Certain County Loans Made for Public Sewer Systems in Nevada County Sanitation District No. 1.

2. In support of the Program the Board makes the following findings:

(a) The Board restates its findings in Paragraphs A through K above, and incorporates them here by reference.

(b) It finds that the residents and property owners in Zone 8 of the District are already paying sewer rates that are among the highest in the State of California, at approximately \$2,000 per year, and that it would be unconscionable to expect District No. 1 to seek additional rate increases to recover costs related to the principal amounts of loans made for assets now determined to be impaired.

(c) It finds that non-abatement of the principal amounts of Loans referenced in this Resolution could result in health and safety risks and problems affecting sewer service in Zone 8 and Zone 6 in the event that (1) higher sewer rates are proposed but not approved by the users, or (2) some users (with low or fixed incomes) are unable to pay approved higher sewer rates.

3. The accrued interest on the above-referenced loans is still owed to the County of Nevada (except on the January 2006 Loan the accrued interest is owed to the General Liability Self-insurance Fund of the County), and all this accrued interest still constitutes a debt to be paid as scheduled or otherwise at the earliest feasible time.

4. Pursuant to Paragraphs A through K of this Resolution, the principal amounts of the Loans referenced therein are hereby declared to be abated and canceled, and the principal amounts shall no longer constitute a legal and collectable debt, thereby relieving the District No. 1 of any obligation of repayment of the principal, but not the accrued interest.

5. The Auditor-Controller of the County of Nevada is hereby requested to implement the directives in this Resolution upon the financial records of the District No. 1, the County of Nevada, and its General Liability Self-insurance Fund; and, further, it is directed that the County General Fund shall reimburse the General Liability Self-insurance Fund for the January 2006 Loan. The abatement of principal of all the Loans shall be made from General Fund 0101-10206-272-1000.

6. A copy of this Resolution shall be filed with the governing board of District No. 1 and the Director of Sanitation.

7. This Resolution shall be effective on the date of adoption, but the provisions affecting Loans referenced in Paragraphs G through K above shall not be operative as to Zone 8 of District No. 1 until the District has completed the award and execution of a construction contract for a new WWTP for Zone 8. If those operative provisions, as to Loans referenced in Paragraphs G through K above, remain latent after June 30, 2008, then those provisions shall be deemed null and void, absent any further action by the Board of Supervisors.

^{special} ~~regular~~ PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a ~~regular~~ meeting of said Board, held on the 18th day of December, 2007, by the following vote of said Board:

Ayes: Supervisors Nate Beason, Sue Horne, John Spencer, Hank Weston & Ted S. Owens.

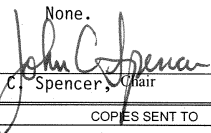
Noes: None.

ATTEST: Absent: None.

CATHY R. THOMPSON Abstain: None.

Clerk of the Board of Supervisors

By: 


John C. Spencer, Chair

DATE	COPIES SENT TO
12/20/07	DOS
	CEO
	Counsel
	A-C*