# Sierra County Board of Supervisors’ Agenda Transmittal & Record of Proceedings

**Meeting Date:** June 18, 2019  
**Type of Agenda Item:**  
- ☒ Regular  
- ☐ Timed  
- ☐ Consent  

**Department:** Solid Waste Fee Administrator  
**Approving Party:** Laura A. Marshall  
**Phone Number:** 530-289-3283

### Agenda Item: Resolution pertaining to Solid Waste Fees for the 2019-2020 fiscal year

**Supportive Documents Attached:**  
- ☐ Memo  
- ☒ Resolution  
- ☐ Agreement  
- ☐ Other

**Background Information:** Adoption of annual Solid Waste Fees

**Funding Source:**  
- General Fund Impact: No General Fund Impact  
- Other Fund:

**Amount:** $ N/A

**Are Additional Personnel Required?**  
- ☐ Yes, -- --  
- ☒ No

**Is This Item Allocated in the Budget?**  
- ☒ Yes  
- ☐ No

**Is a Budget Transfer Required?**  
- ☐ Yes  
- ☒ No

### Space Below for Clerk’s Use

**Board Action:**  
- ☐ Approved  
- ☐ Approved as amended  
- ☐ Adopted  
- ☐ Adopted as amended  
- ☐ Denied  
- ☐ Other  
- ☐ No Action Taken  

- ☐ Set public hearing  
  - For: ____________________  
- ☐ Direction to: ______________  
- ☐ Referred to: ______________  
- ☐ Continued to: ______________  
- ☐ Authorization given to: ______________

**Resolution 2018- _________**  
**Agreement 2018- __________**  
**Ordinance ________________**  
**Vote:**  
- Ayes:  
- Noes:  
- Abstain:  
- Absent:  
- ☐ By Consensus

**Comments:**

- ____________________________________________________
- ____________________________________________________
- ____________________________________________________
- ____________________________________________________
- ____________________________________________________

**Clerk to the Board ______________________  Date ______________________**
WHEREAS, pursuant to the provisions of State law, including without limitation California Government Code Section 25820 to 25830, and Chapter 8.05 of the Sierra County Code, the Board of Supervisors is authorized to establish a schedule of fees, which may be imposed on real property, businesses and persons who benefit from the use or ability to use the County's solid waste system, the revenue from which is used for the acquisition, operation, and maintenance of county waste disposal sites and for financing waste collection, processing, reclamation, and disposal services, where those services are provided; and

WHEREAS, the Board of Supervisors has determined that, for the 2019-2020 fiscal year, it is necessary and appropriate to continue to impose and to collect said solid waste fees from properties that use, or as to which the solid waste system is immediately available for their use, in proportion to their respective estimated use of the solid waste system during the 2019-2020 fiscal year, which fees are used for and essential to the operation of the County's solid waste system; and

WHEREAS, the amount of the fees have been calculated for each of the 2,166 individual properties within Sierra County that benefit from the use, or the immediate availability for use of the County solid waste system, based upon the nature of the uses occurring thereon and the volume of waste generated from the uses and other factors that reasonably relate the waste disposal fee to the property or business or person upon which it would be imposed and based thereon has determined that the fee for disposal for a residential use shall remain $ per year (per each residential unit on the property), and the fee for non-residential users remaining at the rate of $ per loose cubic yard; and

WHEREAS, pursuant to the provisions of Article XIII A of the California Constitution (Proposition 13) and Articles XIII C & D (Proposition 218), the imposition of fees for the use and support of the County solid waste system in proportion to the waste generated by property owners and other users of the solid waste system does not constitute special taxes, and are legitimate user based fees; and

WHEREAS, this is a continuation of the 2018-2019 fiscal year fee, no new fees are to be assessed, Proposition 218 procedures are not necessary.
NOW THEREFORE, BE IT HEREBY RESOLVED BY THE SIERRA
COUNTY BOARD OF SUPERVISORS that:

Section 1. Solid Waste Fees to be Effective July 1, 2019.

A. Effective July 1, 2019, the solid waste fees, for all categories as set forth in Section 1 above, are hereby established for the 2019-2020 fiscal year for the use of and/or disposal of refuse at the Loyalton landfill and at any County transfer station, as set forth herein. All property, businesses, entities, organization or persons (collectively hereinafter referred to as "properties") that use the County solid waste system, or for which the solid waste disposal system is available for their use, shall pay a solid waste fee for the 2019-2020 fiscal year as follows:

<table>
<thead>
<tr>
<th>Category</th>
<th>Fee per year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Residential</td>
<td>$5</td>
</tr>
<tr>
<td>(including equivalent uses)</td>
<td>per year, continuation of 2018-2019 fiscal year fee</td>
</tr>
<tr>
<td>Multi-Family Residential</td>
<td>$7</td>
</tr>
<tr>
<td>(i.e., apartments, duplexes,</td>
<td>per year per residential unit, continuation of 2018-2019 fiscal year fee</td>
</tr>
<tr>
<td>granny houses and guest houses)</td>
<td></td>
</tr>
</tbody>
</table>

B. All other developed parcels, businesses, entities, organization or persons occupying property or conducting any activity that generates waste, collectively referred to herein as the "non-residential properties" or singularly as a "non-residential property", shall pay a fee at the rate of $8 per (uncompacted) cubic yard based upon the estimated volume of the refuse generated on the property (excluding material that is recycled), which volumes are reported to the County by the licensed waste hauler (consisting of waste generation for non-residential properties between April 1, 2018 through March 31, 2019) or are otherwise reasonably estimated or documented by County. The waste generation information for non-residential properties is based upon the waste generation information compiled from the records obtained by the waste hauler serving the property showing the waste disposal for the property during all or portions of the preceding fiscal year, or such other information as may reasonably establish or provide the basis for an estimate of the amount of refuse generated from the property, enterprise or business. Non-residential properties (and which are not properties otherwise exempt) shall pay the fee established by the Solid Waste Fee Administrator based on the rate of $8 per (uncompacted) cubic yard for the use or estimated use of the solid waste system for the 2019-2020 fiscal year.

C. Any non-residential property which exceeds the amount of refuse that is established for the property as the basis for the calculation of the parcel charge shall be subject to the imposition of an additional charge at the rate of $8 per (uncompacted) cubic yard for any additional refuse that is generated on the property. The Solid Waste Fee Administrator is authorized to perform random reviews of the waste generation of property in order to insure that the amount of the refuse has been appropriately and fairly determined for the property. An additional charge shall be imposed at the rate of $8 per (uncompacted) cubic yard for any additional refuse generated on the property that is over the amount which
was used as the basis for establishing the fee for the property, enterprise or person.

D. For the purpose of this Section, a residence shall be deemed to exist and a fee shall be imposed as to real property upon which a structure considered to be a single-family residence or its equivalent is located.

E. Any real property containing a single family residential unit as a separate structure or unit and one or more other residential units (such as a "granny" or handicapped unit, or any other structure or shelter in which people live on the property) shall pay a fee for the single family unit as established herein and an additional amount of $ for each additional unit.

Section 2. Calculating Volume of Non-Residential Waste.

Pursuant to Sierra County Code section 8.04.040, all non-residential properties are required to subscribe to a solid waste collection service. In the event that collection service is unavailable, or that County is otherwise unable to obtain information as to the specific amount of waste generated by a particular property, the Solid Waste Fee Administrator is authorized to consider any and all relevant evidence in determining the appropriate fee, including but not limited to past estimates or data, waste generation by comparable operations, and direct observation by witness (including any staff at landfills or transfer stations). The owner of such non-residential property, however, shall retain all rights to present contrary evidence pursuant to Sierra County Code section 8.05.025(a)(3).

Section 3. Appeal Provisions

Fees established by this Resolution shall be subject to the appeal/adjustment procedures as set out in Chapter 5 of Part 8 of the Sierra County Code. It is the intent of the Board of Supervisors that these appeal or administrative adjustment procedures shall constitute an administrative procedure that allows individual property owners to appeal the solid waste fee as to their respective properties. Individual property owners shall be required to comply with the appeal provisions, as a means to exhaust administrative remedies, in order to file a claim with the County for a refund.

Section 4. Collection of Fees

The solid waste fees may be billed and collected by the County Tax Collector as part of the regular county tax billing system (on the property tax bill). Notice of the appeal/adjustment procedures shall be included as part of the property tax bill if the fees are collected on the property tax bill. Any separate bill sent for collection of the fees shall also include a notice of the right to seek an administrative appeal or adjustment of the fees following the procedures set out in Chapter 5 of Part 8 of the Sierra County Code.

Section 5. Application or Code of Civil Procedure Sections 860-870 to Actions
Contesting Fees

Pursuant to the Provisions of Section 8.05.110 of the Sierra County Code, the provisions contained in California Code of Civil Procedure Sections 860-870 shall be applicable to the adoption of solid waste adopted by the Board of Supervisors and any legal action contesting the validity of this Resolution or contesting the validity of any fee or charge shall be filed within sixty (60) days from the date of the adoption of this Resolution if contesting the validity of the County's authority to or procedures used in adopting the solid waste fees. Any person or entity contesting the application of the fees to their individual property shall be entitled to contest the decision made by the Board as a result of an administrative appeal hearing (see Section 2, above) within the time requirements set out Section 8.05.025 (b)(10) of the Sierra County Code, and shall do so by way of an action under Code of Civil Procedure Section 1094.5.

PASSED AND ADOPTED by the Sierra County Board of Supervisors on June 18, 2019, by the following vote:

AYES:
NOES:
ABSENT:

COUNTY OF SIERRA

____________________________
PAUL ROEN
CHAIRMAN
BOARD OF SUPERVISORS

ATTEST: APPROVED AS TO FORM:

____________________________
HEATHER FOSTER DAVID PRENTICE
Clerk of the Board County Counsel
Sierra County Board of Supervisors
VIA Heather Foster, Board Clerk

June 17, 2019

Wayne De Lisle
133 Pike Short Cut
500 Pike City Rd.
Pike City, California 95960-9600

Re: My protest opposing Adoption of Annual Solid Waste Fees 7258

‘good intentions’ don’t mean squat without predicate execution thereof

Fee Administrator, Marshall, has been deliberately swaddled by successive BOS in heavily soiled machinations to obvious and explicitly stated prohibitions both in Article XIII D, §6, (b), and, numerous State Appellate and Supreme Court cases ruling on the constitutionality under authority of Article XIII D, §6. Should Fee Administrator, Marshall, actually peruse, with critical thinking, or, competent counsel, Article XIII D, §6, and the cited supporting cases proffered, those heavily soiled machinations would rapidly be disabused.

Dirty handed Fee Administrator, Marshall's, retort, to Article XIII D, §6, (b)(3), is that nothing in the court cases I’ve cited has said that her Agency must not exact a fee or charge that is not proportional to the cost of providing the service to the particular parcel.

No, Fee Administrator Marshall, article XIII D, §6, (b)(3), actually says that what ever your exactions are, they “shall not exceed the proportional cost of the service attributable to the parcel.” Should your Agency lack the capacity to “not exceed the proportional cost of the service attributable to the parcel”, Article XIII D, §6, (b)(3), explicitly prohibits Your Agency from executing your illicit exactions from me for my parcels.

Fee Administrator, Marshall, bases her denials of my appeals therefrom the irrelevant assertion that this board of supervisors’ has lawfully classified my
parcels as residential is reminiscent of her unfulfilled sworn duty to proffer a nexus with this exaction within Article XIII D, §6, (b)(3), and, her irrelevant assertion that this Board of Supervisors’ has lawfully classified my parcels as residential. Well, Agency Fee Administrator, Marshall, is almost correct, so, no cigar. Marshall asserts that article XIII D, §6, (b)(3), doesn’t command her to apportion these exactions to particular parcels, unless, of course, the particular parcel just happens to be classified as a commercial parcel. Again, no cigar for Marshall. Nothing can be found within §6, (b)(3), that grants latitude to either this Board of Supervisors, their Counsel, their Fee Administrator nor their predecessors to exact a fee that exceeds the actual proportional cost of providing the service to the individual parcel.

The irrefutable fact that Solid Waste Disposal Fee Administrator, Marshall’s, own computations found within her plethoras of Waste Generation Surveys demonstrate the current possession of the adequacy to both identify and quantify broadly disparate quantities of waste generation on identified separate unique parcels. Yet, Marshall refuses to provide a single nexus to verifying, supporting, her Agency comporting with §6, (b).

Fee Administrator, Marshall's, seemingly inexorable march of perpetually covering up article XIII D, §6, (b)'s, prohibitions against rogue application of these illicit extortions under a well known preposterous guise of irrelevant "classification", the forceful conflation of independent off-point Government Code authorities, one subject to article XIII D, §6, and, the other subject to article XIII D, §4 is unsustainable.

Moreover, Fee Administrator. Marshall’s deliberate obstructions of justice repeatedly and directly fly in the face of Marshall’s sworn allegiance to that Constitution. Acts flying directly in the face of sworn allegiance to that Constitution are an abomination not only to all California parcel owners forced to pay illicit exactions, without redress, for someone else's known waste generation, it is an abomination to all of California's Proposition 218 supermajority voters.

In distributing individual parcel exactions, Fee administrator, Marshall, knowingly assigns the fees she has identified by her as being due from higher volumes of waste generated on parcels to parcels known by her to be generating lower volumes as demonstrated in Fee Administrator’s grossly deceptive Waste Generation Surveys all while positing misleading
compliance with every jot and tittle of Article XIII D, (b).

While, arguendo, the Fee Administrator, Marshall’s, grossly deceptive Waste Generation studies positing misleading compliance with every jot and tittle of article XIII D, (B), may partially comport with (b, 1), her deceptive Waste Generation studies do not comport with article XIII D, (B)(3).

Here, it is the silly notion that the future is always known, it is the passed that is always changing. Here, if it can be dreamed, it can be legislated. Here, when that legislation is demonstrated unconstitutional, reference thereto is either verboten or not worthy of unbiased consideration [challenges to compliance with §6, (b)]. Here, rather than producing viable evidence of comporting with §6, (b), we get both a feigned, but, unfulfilled unintended pledge to comporting with §6, (b) and a demonstrably insupportable illicit county code, the royal prerogative of kingly edict is the enforced rule.

Where, within the cognitive context of §6, (b, 3), is basing the exactions imposed upon my parcels solely upon the BOS’ classification of my parcels as residential to be found?

Classification of parcels is neither anywhere to be found within §6, nor is Classification of parcels therein implied to relieve this Board of Supervisors, their Agencies or any of their counsels from the express prohibitions within §6, (b), nada, zilch, nothing. Before any charge or fee may be exacted, every jot and tittle within §6, (b), must first have fully been complied therewith. Neither this Board of Supervisors, their Agencies, any of their counsels nor any of their predecessors complied with every jot and tittle within §6, (b), in spite of numerous bogus finding of fact (Their whereases in resolutions imposing this illicit exaction.) The BOS’ lame note on intention to maybe finding time somewhere in the future to get around to implementing compliance buys the BOS nothing demonstrative of compliance. However, it does well demonstrate first hand personal knowledge of their duty to so do prior to imposing any exaction subject to article XIII D, §6. Not one of the BOS ever has even attempted that. What they have done, for a decade or so, is to rejected out of hand that Proposition 218 gave property owners the right to vote on these exactions.

Fee Administrator, Marshall, fails to make a cogent argument for this
weaponized Agency review apparatus to ultra vires support your illicit violations of §6, (b), ever since the passage of Proposition 218 beginning with your long repeated (Like for decades.) well known outright theft of the now constitutionally guaranteed right to vote on these illicitly applied exactions.

We did not grant power to modify or to re-construe either of Article XIII C or XIII D to a Board Of Supervisors or any of their Agencies regardless of how fat their heads have become, quite the opposite, we tightly hobbled their ability to deploy their ever so precious penchant for exercising their lame versions of Hegelian Prestidigitation.

Fee Administrator, Marshall’s, alleged “calculations” address averaged selected residentially classified parcels, not waste generation from individual parcel waste generation as required by article XIII D, §6, (b)(3). Juxtaposition of the two concepts disrobes the common objectives from very distinctively different motivations.

Fee Administrator, Marshall, relies on paralegal’s alleged legal opinion and misstated counsel’s opinion on Government Code §25832 denying appellee’s access to underpinning to Fee Administrator Marshall’s determinations on my requests for adjustment of her exactions from me for my parcels. Neither the paralegal, counsel nor Fee Administrator, Marshall, have rebutted my challenges to their positions, never the less, no response has been forthcoming from my multiple Public Records Act requests.

*******

The first three exhibits are your Fee Administrator, Marshall’s denials of my appeals from the exactions as applied to my ownership of my parcels by your Fee Administrator, Marshall, at your instructions. Take particular notice that not one of the issues marked on the front page of each of the
four appeals to be addressed by your Fee Administrator at your directive are not addressed therein by your Fee Administrator, Marshall, as directed by this Board of Supervisors.

In your Fee Administrator, Marshall’s, May 29, 2018, denials, she asserts that according to the 2016 Study for fiscal year 2017/2018 both my parcels produced approximately 18 loose cubic yards of solid waste from each of my parcels solely because “both of my parcels are improved with a single family residence “classifications”. This indicates these exactions, rather than target the volume of solid waste generation, the intended target is really parcels that have been classified as Single Family Residence. Otherwise, the huge disparity in the volume of solid waste generation between individual parcels would have in effect on the size of exactions on individual partials, but here it doesn’t have an iota of effect. That irrefutable fact demonstrates that article XIII D, §6, (b)(3), carries no weight whatsoever in Fee Administrator, Marshall’s deliberations. So, how does article XIII D, §6, (b)(3), compliance exist in the abject absence of its very consideration? It doesn’t.

Fee Administrator, Marshall claims that her 2016 study for fiscal year 2017/2018 waste generation reveals that single family residential units produce approximately two cans per week—calculating to 18 loose cubic yards per Single family residence, per year. Perhaps Fee Administrator, Marshall would taking stab at demonstrating just how your “calculating” massages a 6 can pickup fee down into a two can fee?

The Fee Administrator, Marshall, falsely asserted that her Waste Generation Surveys to have been "calculated" when in reality, she was merely guessing—throwing a dart at a dart-board. Fee Administrator, Marshall, admittedly uses the prior year’s data to “estimate” the next year’s waste generation, a pretty solid method for estimating unknown future need. The appellant, however, is required, under penalty of perjury, to produce hard evidence in support of their claims. When evidence, that has yet to be created, is required to be presented under penalty of perjury, that seems to be pretty risky. Speaking of level playing fields, it’s reminiscent of an aged legal counsel advice for government entities to fortify revenue sources so as to protect it against loss from appeals. Guess it was extraordinarily perceptive of Proposition 218’s framers to have put the burden of proof on the agency to demonstrate agency compliance with article XIII D. Because Fee Administrator, Marshall, cannot carry her
burden of proof of compliance with article XIII D, she recoils back to irrelevant proper classification desperately avoiding article XIII D, §6, (b)(3), and, (b)(4), items plainly on the application for adjustment form.

The Board of Supervisors require independent filings for each APN challenging this fee. I have no problem with you combining multiple parcels under the same ownership were that what you actually do. You do not combine my appeals. What you do do is cut the allotted time for each parcel’s appeal presentation in half. If I were to be appealing on twenty parcels, you’d be limiting me to an even more niggardly 1.5 minutes for each parcel regardless of the diversity of my actual use of each individual parcel. That blatant manipulation (Read: Prestidigitation.) of equal access to law/application of law and freedom of speech is not masked by your ability to combine appeals, that lame trickery exposes your blatant skullduggery for exactly what it is and brings that skullduggery to the fore. That skullduggery is the very antithesis of the equal access to law/application of law. The more one pays on these illicit exactions, the less time is allotted for prosecuting their individual parcel appeals.

Article XIII D, §6, subdivision (b)(4), prohibits fees or charges based on potential for future use of a service. Standby charges, weather characterized as charges or assessments, shall be classified as assessment and shall not be imposed without compliance with section 4. Fee Administrators, including the current, along with numerous members of this Board have strongly recommended that multiple parcel owners, including unoccupied parcel owners, who challenge this exaction are instructed to rent the unoccupied parcel, sell it, or change the parcel classification. This exaction is expressly for the service to the parcel for waste disposal. Article XIII D, §6, subdivision (b)(3), requires that "the amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel. Fee administrator, Marshall, exacts the same one-size-fits-all flat rate fee regardless of the amount of waste generated by any individual parcel classified as residential. Some parcels generate more than the exaction covers, some generate less. Some parcels generate a lot more than the exaction covers, some parcels generate a lot less than the exaction covers. And then, there are some parcels not generating and iota of solid waste. Nevertheless, fee
administrator, Marshall, insists every parcel classified residential must pay the same one size fits all flat rate exaction. That is, of course, unless the owner changes this structure’s classification. What within article XIII D, §6, subdivision (b)(3), allows Fee Administrator, Marshall to bypass prohibiting the exaction on a parcel from exceeding the proportional cost of providing the service to that parcel to prevent lower waste generating parcels from augmenting the exactions on higher waste generating parcels? Nada, zilch, nothing allows Fee Administrator, Marshall to bypass article XIII D, §6, subdivision (b)(3)’s, prohibition.

Unfortunately, Fee administrator, Marshall, is having nothing to do with that repugnant notion.

The question is how to characterize this rob peter to pay paul antic by Fee Administrator, Marshall? Well, I guess it could be seen by some as an inverted Robin Hood in Sherwood Forest gig. But it looks like the authors have already done all the heavy lifting for that. Article XIII D, §6, subdivision (b)(4), also says “Fees or charges based on potential or future use of a service are not permitted.” So, Fee Administrator, Marshall, via your own waste generation surveys, up close and personal in your face knowledge that approximately half of your surveyed residential parcels are being over charged, paying more than the actual proportional cost of the service attributable to the parcel, and, the other half are being under charged. The revenue derived from the portions of those comprised over charges can only be derived from prohibited potential or future uses, inasmuch as there have been no apparent section 4 impositions for want of compliance therewith. Furthermore, §6, (b)(1), says “Revenues derived from the fee or charge shall not exceed the funds required to provide the property related service.” The provided property service is specifically denoted waste disposal service to the parcel. Fee Administrator, Marshall, you simply have no authority deriving revenue from excess fees or charges exacted from individual residential partial owners.

If it is not falsifiable, it is not evidence of comporting with Article XIII D. Unsupported naked assertions are nothing more than naked assertions. Relying upon Parcel classification does not demonstrate compliance with article XIII D, §6, subdivision (b). Relative to compliance with article XIII D, §6, subdivision (b), classification is nothing more than a naked assertion.

By requiring me to present, and, support every assertion I need to address
here within the four corners of this oral hearing while, at the very same time short-sheeting me of the very same niggardly time allotted to the vast majority of like single parcel appellants thus subjecting me to a craftily constructed legal impossibility to prevail because you shirk your sworn duty to execute your own express intentions, exactions “that fairly reflects the anticipated waste generation arising from each parcel, enterprise or activity.”, and, insure your Fee Administrator, Marshall, executes her’s, exactions “that fairly reflects the anticipated waste generation arising from each parcel, enterprise or activity”, and, “the burden shall be on the agency to demonstrate compliance with this article XIII D, §6, subdivision (b)(5)]” Members of this Board and their Fee Administrator, Marshall, have held that while §6, subdivision (b)(3), proportionality requirements of this exaction only relates to commercial parcels, but, not to residential parcels. Nothing in §6, subdivision (b)(3), differentiates applicability to commercial parcels from residential parcels. This is a naked assertion, an alternate conceptionalization of reality — §6, subdivision b)(3), applies to all parcels that are subject to this exaction, nothing therein differentiates one from the other, nada, zilch, nothing. Neither agency nor anyone else has ever proffered an iota of evidence authorizing either this Board or its agency to apply the §6, subdivision (b)(3), proportionality prohibition in any other manner other than the exaction cannot exceed the proportional cost of providing the individual service to the individual parcel.

Article XIII D, §6, (b), preempts Agency exaction if any one of the five prerequisites are ignored, violated or not supported.

Conflate - combine hearings - eliminate time allotment for one parcel — deny multiple parcels owners equal access to law/application of law. Out of one side of your mouths you redefine both article XIII D, §6, (b), and the very Paland Court conclusions you tout being consistent with in every jot and tittle while comporting with neither, and, at the very same time, out of the other side of your mouths, illicitly redefining both that Paland Court’s conclusions and article XIII D, §6, (b), to accommodate County’s nefarious desires.

When questioned on proportionality of commercial rates verses residential flat one-size-fits-all rates, the response is that prop 218 commands proportional rates for commercial users, but, proposition 218 does not pertain to residentially classified parcels. Proposition 218 contains no language differentiating commercial from residential
use. Article XIII D, §6, (b)(3), expressly applies to both classifications.

I have no lawful means of transporting solid waste to County transfer sites due to County prohibitions on private hauling.  

Neither of my parcels generate 18 loose cubic yards a year.

Do the Board of Supervisors, the fee Administrator, Marshall, and their counsel all suffer from a myopic attitude towards article XIII D, §6, (b)’s requirement for their extractions and the court rulings in Paland v. Brooktrails, or, is this an lawful premeditated product of suffering from the same vexations that devout Never Trumper's are experiencing?

From one side of their collective mouths the BOS posits their strict compliance with each element of Article XIII D, §6, (b), 8.05.010 Solid Waste System Charges, (a), Pursuant to the provisions of Section 6 of Article XIII D of the California Constitution, then blatantly acknowledge personal individual foreknowledge and willful intent of not comporting with either Article XIII D, §6, (b) or the court ruling in Paland v. Brooktrails Township Community Services Dist. Bd. of Directors, 176 Cal.App.4th 158.

Fee Administrator Marshall has previously corrected these Board’s misconstruction of the Paland court’s holding that burden of proof for “immediate availability” in Fee Administrator Marshall’s unsworn testimony before these Boards falls squarely upon the agency Fee Administrator Marshall heads without ever addressing “immediate availability” issues raised in my numerous requests both for adjustment of exactions imposed on my parcels both before Fee Administrator Marshall and appeal hearings.
here from those exactions before these Boards.

Fee Administrator Marshall is correct in asserting that nothing directly directs, requires her to adjust these exactions from me for waste generation on my parcels that exceed the cost of waste actually generated on my parcels or use revenue derived therefrom to augment insufficient exactions on other’s exactions.

Fee Administrator Marshall’s Waste Generation Surveys unequivocally demonstrates that exactions from low generating parcels are illicitly applied to undercharged higher generating parcels.

CHAPTER 8.05 - SOLID WASTE SYSTEM FEES AND CHARGES

8.05.010 Solid Waste System Charges

(a) Pursuant to the provisions of Section 6 of Article XIII D of the California Constitution, Government Code Section 25830 and/or Health and Safety Code Section 5470 et. seq., the Board of Supervisors is authorized to establish a schedule of fees for solid waste services provided by the County to the residents, businesses, property owners and any others that may benefit from the use of the County solid waste disposal system or the immediate availability of such system for use by their properties. Revenue from the fees may be used only for the acquisition, operation, and maintenance of county waste disposal sites and disposal services. The Board is hereby authorized to establish such schedule of fees annually and may do so by enactment of either a resolution or an ordinance. It is the intent of this ordinance to authorize the continued use of the solid waste fees, and to authorize and direct that the actual schedule of fees for each year be established annually by the Board of Supervisors by the adoption of a resolution of the Board, based on the most recent waste generation information obtained by the County that fairly reflects the anticipated waste generation arising from each parcel, enterprise or activity.

Based on the last sentence above, the Board of Supervisors acknowledge their duty to fairly reflect the waste generation from “each parcel.” That appears to be accomplished for commercially classified parcels. Such is not the case for residentially classified parcels. Were that treatment to be reversed, our Board of Supervisors would be facing some very serious
money in court against them.

(b) Annually, on or before the first day of July of each calendar year, the Board of Supervisors may elect to continue or to adjust the fees for solid waste disposal based upon the refuse generation factors as established in a resolution to be adopted by the Board of Supervisors. Solid waste fees shall be imposed on the owners of property for the estimated use of the solid waste system by the property or the immediate availability of the solid waste system for use by the property. As used herein “immediate availability” or “immediately available” shall mean that the property is developed with a structure or otherwise used, the customary nature of which is that the use of the structure or the customary use of the property would normally generate solid waste or create a need to dispose of solid waste from the property and as to which, the County solid waste system is available to the property owner for his or her use. The election of a property owner not to use his or her real property for any period of time does not negate the fact that the County solid waste system being available for the property owner’s use. (Immediate availability such be interpreted consisted with the court ruling in Paland v. Brooktrails Township Community Services Dist. Bd. of Directors, 176 Cal.App.4th 158.) In the event that the Board does not adjust the solid waste fees from the preceding year, the fees shall be deemed to remain at the level (amount) set forth in the preceding year.
level (amount) set forth in the preceding year.

The last sentence in 8.05.010  Solid Waste System Charges, (a), is in direct contradistinction to the last two sentences in 8.05.010  Solid Waste System Charges, (a), using the rhetorical device of antithesis. Should the Board fail to establish such schedule of fees annually by enactment of either a resolution or an ordinance annually, on or before the first day of July of each calendar year, the exaction thereof is not authorized.

precedence on top of precedence

your allegiances have been pledged to our Constitutions, not pledged to advance purposes in contra-distinction from those Constitutions, perjuring of those to those Constitutions.

Not one iota of evidence has been presented by Agency’s Administrator, Marshall, of Agency comporting with Article XIII D, §6, (b, 1-5)’s pre-requisitely mandated conditions for imposition of these illicit exactions on my parcels, zip, nada, zilch not one iota. Rather than timely and broadly addressing Article XIII D, §6, (b, 1-5)’s permissive conditions, Agency Administrator, Marshall, instead anchors her grossly miss-held conclusions and statements that do not logically follow from Article XIII D, §6, (b,)’s Requirement for Existing, New or Increased Fees and Charges, wherein, no fee or charge shall be extended, imposed, or increased of these illicit exactions on my parcels by any agency unless that agency meets all of the requirements following in (b, 1-5). of these illicit exactions. Agency Administrator, Marshall, instead ill-advisedly

These blatant deficiencies.
must _man up_ and obey the Constitution instead of unconstitutional dictates of the current version your truth. The Administrator’s myopic attitude to Agency’s constitutionally explicitly mandated compliance to prohibitions on imposing illicitly imposed exactions upon my residually classified parcels is a willful misdirection, prestidigitation.

**Just like Article XIII D, §6, (b, 1-5), tells this Board of Supervisors and their Agencies what they cannot do, Our Federal Constitution’s bill of rights tells the feds what they cannot do.**

Marshall’s finding of facts demonstrates that parcels producing one can of garbage a week are attributed five times the costs to county that parcels producing five cans of garbage, a collection of beliefs or practices mistakenly regarded as being based on scientific method.

John Adams, the second president of the United States said, “Our constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other.”

Wayne De Lisle
133 Pike Short Cut
500 Pike City Rd.
Pike City, California 95960-9600
Sierra County
Board of Supervisors’
Agenda Transmittal &
Record of Proceedings

<table>
<thead>
<tr>
<th>MEETING DATE:</th>
<th>June 18, 2019</th>
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<tbody>
<tr>
<td>TYPE OF AGENDA ITEM:</td>
<td>☑ Regular</td>
</tr>
<tr>
<td>DEPARTMENT:</td>
<td>Solid Waste Fee Administrator</td>
</tr>
<tr>
<td>APPROVING PARTY:</td>
<td>Laura A. Marshall</td>
</tr>
<tr>
<td>PHONE NUMBER:</td>
<td>530-289-3283</td>
</tr>
</tbody>
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**AGENDA ITEM:** Resolution pertaining to Solid Waste Fees for the 2019-2020 fiscal year

**SUPPORITIVE DOCUMENTS ATTACHED:** ☐ Memo  ☑ Resolution  ☐ Agreement  ☐ Other

**BACKGROUND INFORMATION:** Adoption of annual Solid Waste Fees

**FUNDING SOURCE:**
- General Fund Impact: No General Fund Impact
- Other Fund:
  - AMOUNT: $ N/A

**ARE ADDITIONAL PERSONNEL REQUIRED?**

| ☐ Yes, -- -- | ☑ No |

**IS THIS ITEM ALLOCATED IN THE BUDGET?** ☑ Yes  ☐ No

**IS A BUDGET TRANSFER REQUIRED?** ☐ Yes  ☑ No

**SPACE BELOW FOR CLERK’S USE**

**BOARD ACTION:**
- ☐ Approved
- ☐ Approved as amended
- ☐ Adopted
- ☐ Adopted as amended
- ☐ Denied
- ☐ Other
- ☐ No Action Taken

- ☐ Set public hearing
  - For: ____________
- ☐ Direction to: ____________
- ☐ Referred to: ____________
- ☐ Continued to: ____________
- ☐ Authorization given to: ____________

**Resolution 2018- ____________
Agreement 2018- ____________
Ordinance ____________
Vote: Ayes: ____________
Noes: ____________
Abstain: ____________
Absent: ____________
- ☐ By Consensus

**COMMENTS:**

- ____________________________________________
- ____________________________________________
- ____________________________________________
- ____________________________________________
- ____________________________________________
- ____________________________________________
- ____________________________________________

**CLERK TO THE BOARD** ____________________________  **DATE** ____________________________
WHEREAS, pursuant to the provisions of State law, including without limitation California Government Code Section 25820 to 25830, and Chapter 8.05 of the Sierra County Code, the Board of Supervisors is authorized to establish a schedule of fees, which may be imposed on real property, businesses and persons who benefit from the use or ability to use the County's solid waste system, the revenue from which is used for the acquisition, operation, and maintenance of county waste disposal sites and for financing waste collection, processing, reclamation, and disposal services, where those services are provided; and

WHEREAS, the Board of Supervisors has determined that, for the 2019-2020 fiscal year, it is necessary and appropriate to continue to impose and to collect said solid waste fees from properties that use, or as to which the solid waste system is immediately available for their use, in proportion to their respective estimated use of the solid waste system during the 2019-2020 fiscal year, which fees are used for and essential to the operation of the County's solid waste system; and

WHEREAS, the amount of the fees have been calculated for each of the 2,166 individual properties within Sierra County that benefit from the use, or the immediate availability for use of the County solid waste system, based upon the nature of the uses occurring thereon and the volume of waste generated from the uses and other factors that reasonably relate the waste disposal fee to the property or business or person upon which it would be imposed and based thereon has determined that the fee for disposal for a residential use shall remain $ per year (per each residential unit on the property), and the fee for non-residential users remaining at the rate of $ per loose cubic yard; and

WHEREAS, pursuant to the provisions of Article XIII A of the California Constitution (Proposition 13) and Articles XIII C & D (Proposition 218), the imposition of fees for the use and support of the County solid waste system in proportion to the waste generated by property owners and other users of the solid waste system does not constitute special taxes, and are legitimate user based fees; and

WHEREAS, this is a continuation of the 2018-2019 fiscal year fee, no new fees are to be assessed, Proposition 218 procedures are not necessary.
NOW THEREFORE, BE IT HEREBY RESOLVED BY THE SIERRA COUNTY BOARD OF SUPERVISORS that:

Section 1. Solid Waste Fees to be Effective July 1, 2019.

A. Effective July 1, 2019, the solid waste fees, for all categories as set forth in Section 1 above, are hereby established for the 2019-2020 fiscal year for the use of and/or disposal of refuse at the Loyalton landfill and at any County transfer station, as set forth herein. All property, businesses, entities, organization or persons (collectively hereinafter referred to as "properties") that use the County solid waste system, or for which the solid waste disposal system is available for their use, shall pay a solid waste fee for the 2019-2020 fiscal year as follows:

- Single Family Residential (including equivalent uses): $ per year, continuation of 2018-2019 fiscal year fee
- Multi-Family Residential (i.e., apartments, duplexes, granny houses and guest houses): $ per year per residential unit, continuation of 2018-2019 fiscal year fee

B. All other developed parcels, businesses, entities, organization or persons occupying property or conducting any activity that generates waste, collectively referred to herein as the "non-residential properties" or singularly as a "non-residential property", shall pay a fee at the rate of $ per (uncompacted) cubic yard based upon the estimated volume of the refuse generated on the property (excluding material that is recycled), which volumes are reported to the County by the licensed waste hauler (consisting of waste generation for non-residential properties between April 1, 2018 through March 31, 2019) or are otherwise reasonably estimated or documented by County. The waste generation information for non-residential properties is based upon the waste generation information compiled from the records obtained by the waste hauler serving the property showing the waste disposal for the property during all or portions of the preceding fiscal year, or such other information as may reasonably establish or provide the basis for an estimate of the amount of refuse generated from the property, enterprise or business. Non-residential properties (and which are not properties otherwise exempt) shall pay the fee established by the Solid Waste Fee Administrator based on the rate of $ per (uncompacted) cubic yard for the use or estimated use of the solid waste system for the 2019-2020 fiscal year.

C. Any non-residential property which exceeds the amount of refuse that is established for the property as the basis for the calculation of the parcel charge shall be subject to the imposition of an additional charge at the rate of $ per (uncompacted) cubic yard for any additional refuse that is generated on the property. The Solid Waste Fee Administrator is authorized to perform random reviews of the waste generation of property in order to insure that the amount of the refuse has been appropriately and fairly determined for the property. An additional charge shall be imposed at the rate of $ per (uncompacted) cubic yard for any additional refuse generated on the property that is over the amount which
was used as the basis for establishing the fee for the property, enterprise or person.

D. For the purpose of this Section, a residence shall be deemed to exist and a fee shall be imposed as to real property upon which a structure considered to be a single-family residence or its equivalent is located.

E. Any real property containing a single family residential unit as a separate structure or unit and one or more other residential units (such as a "granny" or handicapped unit, or any other structure or shelter in which people live on the property) shall pay a fee for the single family unit as established herein and an additional amount of $ for each additional unit.

Section 2. Calculating Volume of Non-Residential Waste.

Pursuant to Sierra County Code section 8.04.040, all non-residential properties are required to subscribe to a solid waste collection service. In the event that collection service is unavailable, or that County is otherwise unable to obtain information as to the specific amount of waste generated by a particular property, the Solid Waste Fee Administrator is authorized to consider any and all relevant evidence in determining the appropriate fee, including but not limited to past estimates or data, waste generation by comparable operations, and direct observation by witness (including any staff at landfills or transfer stations). The owner of such non-residential property, however, shall retain all rights to present contrary evidence pursuant to Sierra County Code section 8.05.025(a)(3).

Section 3. Appeal Provisions

Fees established by this Resolution shall be subject to the appeal/adjustment procedures as set out in Chapter 5 of Part 8 of the Sierra County Code. It is the intent of the Board of Supervisors that these appeal or administrative adjustment procedures shall constitute an administrative procedure that allows individual property owners to appeal the solid waste fee as to their respective properties. Individual property owners shall be required to comply with the appeal provisions, as a means to exhaust administrative remedies, in order to file a claim with the County for a refund.

Section 4. Collection of Fees

The solid waste fees may be billed and collected by the County Tax Collector as part of the regular county tax billing system (on the property tax bill). Notice of the appeal/adjustment procedures shall be included as part of the property tax bill if the fees are collected on the property tax bill. Any separate bill sent for collection of the fees shall also include a notice of the right to seek an administrative appeal or adjustment of the fees following the procedures set out in Chapter 5 of Part 8 of the Sierra County Code.

Section 5. Application or Code of Civil Procedure Sections 860-870 to Actions
Contesting Fees

Pursuant to the Provisions of Section 8.05.110 of the Sierra County Code, the provisions contained in California Code of Civil Procedure Sections 860-870 shall be applicable to the adoption of solid waste adopted by the Board of Supervisors and any legal action contesting the validity of this Resolution or contesting the validity of any fee or charge shall be filed within sixty (60) days from the date of the adoption of this Resolution if contesting the validity of the County’s authority to or procedures used in adopting the solid waste fees. Any person or entity contesting the application of the fees to their individual property shall be entitled to contest the decision made by the Board as a result of an administrative appeal hearing (see Section 2, above) within the time requirements set out Section 8.05.025 (b)(10) of the Sierra County Code, and shall do so by way of an action under Code of Civil Procedure Section 1094.5.

PASSED AND ADOPTED by the Sierra County Board of Supervisors on June 18, 2019, by the following vote:

AYES: 
NOES: 
ABSENT:

COUNTY OF SIERRA

____________________________
PAUL ROEN
CHAIRMAN
BOARD OF SUPERVISORS

ATTEST: 
APPROVED AS TO FORM:

____________________________
HEATHER FOSTER
Clerk of the Board

____________________________
DAVID PRENTICE
County Counsel