

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: August 6, 2019	TYPE OF AGENDA ITEM: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Timed <input type="checkbox"/> Consent
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DEPARTMENT: Board of Supervisors APPROVING PARTY: Heather Foster, Clerk of the Board PHONE NUMBER: 530-289-3295
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AGENDA ITEM: Resolution denying the appeal of Solid Waste Assessment Fees for 2017-2018 filed by Mr. Wayne DeLisle for APN 006-130-024-0 and 006-130-025-0.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other

BACKGROUND INFORMATION:

FUNDING SOURCE: N/A
GENERAL FUND IMPACT: General Fund Impact
OTHER FUND:
AMOUNT: \$97.66 + tax 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

<p>BOARD ACTION:</p> <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken	<input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____	Resolution 2019- _____ Agreement 2019- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus
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COMMENTS:

CLERK TO THE BOARD

DATE

BOARD OF SUPERVISORS, COUNTY OF SIERRA, STATE OF CALIFORNIA

Resolution Denying De Lisle Solid Waste Appeals

Resolution No. _____

At the Board of Supervisor’s meeting on June 4, 2019, the Board conducted a hearing on the appeals filed by Wayne De Lisle, contesting the imposition of a solid waste fee on the two properties owned by De Lisle, and identified as APN 006-130-024-0 and APN 006-130-025-0. The two properties are improved with single-family residential structures, one of which is a manufactured home. Solid waste fees were imposed against each of the parcels pursuant to the provisions of County Resolution 2017-087 for the 2017-2018 fiscal year.

At the appeal hearing De Lisle made an oral presentation allowing his computer to read allowed a document his contention that the solid waste fee was inappropriately imposed, pursuant to Resolution 2017-087, with respect to the subject two properties. De Lisle further submitted a written document which was received by the Board as to which the Board is left to try and discern his objections and evidence to establish that his appeal should be upheld. In that regard, De Lisle does not appear to dispute the fact that the subject properties are improved with structures that would commonly be characterized as single family residential structures. However, he contends that since he is the only person to live in the structures on the parcels, that the designation of “single family residence” is not appropriate. It is discerned by the appeal documents filed by De Lisle that his contention is that since there is only one person living in the structure that the solid waste fees do not apply due to the fact that there is not a family living in the structure.

De Lisle further argues, through his appeal document, that the solid waste system is not immediately available because it is only open one day per week and argues that the fee is not calculated based on actual use of the system.

Following the conclusion of the testimony of the parties, the Board made a motion of intent to deny the subject appeals. The following provides a summary of the reasons for the Board’s action in denying the appeals.

1. Pursuant to Section 8.05.010 of the Sierra County Code, solid waste fees are imposed on 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 shall be interpreted consistent with the court ruling in *Paland v. Brooktrails Township Community Services Dist. Bd. Of Directors*, 176 Cal.App.4th 158.)

2. Further, pursuant to section 8.05.025 an adjustment to the solid waste fee is to be made if it is established that . . . as to single family residences, the property was erroneously classified (i.e. shown as some other type of use), or the solid waste system is not immediately available for use by the subject property.
3. The Board finds that based on the evidence submitted by the Solid Waste Fee Administrator, that the subject properties are improved with single family residential structures that customarily need and thus benefit from use of the County solid waste disposal system. The Board therefore finds that the customary use of the subject properties is such that two properties would be expected to generate solid waste requiring disposal through the solid waste system including the local transfer stations and the landfill. The two properties have been properly classified as single family residences for the purpose of the County's solid waste fees in accordance with Resolution 2017-087.
4. The Board further finds that contrary to what appears to be De Lisle's objection, legal authority supports property related fees that are based on reasonable categories for the delivery of water and other services to real property – see *Paland v. Brooktrails Township Community Services District* 179 CA 3d 1358 (sewer and water rates based on flat rate charge); also see *Pajaro Valley Water Management Agency v. Amrhein* 150 Cal.App.4th 1364. Accordingly, the Board finds that the solid waste fee imposed on the subject properties represents a reasonable estimate of solid waste to be generated from properties within the County that are developed with single family residential structures.
5. De Lisle appears to contend that the County solid waste disposal system (facilities) is not immediately available to him (and the subject properties) since the system is not open or accessible at all times of the day (or night) due to the limitations on the hours of operation that are open to the public. The Board finds that the solid waste disposal system is immediately available to De Lisle and his two properties in the same manner that it is open (weekly) to public use.
6. The solid waste fees have been adopted, following the provisions for property related fees under the provisions of Section 6 of Article XIII D of the California Constitution and was subject to the majority protest provisions required under Section (a) of Article XIII D.

NOW THEREFORE BE IT HEREBY RESOLVED BY THE SIERRA COUNTY BOARD OF SUPERVISORS, that the Board hereby reaffirms its motion of intent and hereby denies the solid waste fee appeals pertaining to the two above referenced properties.

ADOPTED by the Board of Supervisors of the County of Sierra on the 6th day of August 2019, by the following vote:

AYES: Supervisors
NOES:
ABSTAIN:
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