

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

<b>MEETING DATE:</b> August 6, 2019	<b>TYPE OF AGENDA ITEM:</b> <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Timed <input type="checkbox"/> Consent
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<b>DEPARTMENT:</b> Board of Supervisors <b>APPROVING PARTY:</b> Heather Foster, Clerk of the Board <b>PHONE NUMBER:</b> 530-289-3295
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**AGENDA ITEM:** Resolution denying the appeal of Solid Waste Assessment Fees for 2018-2019 filed by filed by Mr. James Howatt for APN 008-090-020-0.

**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><b>BOARD ACTION:</b></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:**

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CLERK TO THE BOARD

\_\_\_\_\_  
DATE

**BOARD OF SUPERVISORS, COUNTY OF SIERRA, STATE OF CALIFORNIA**

**Resolution Denying Howatt Solid Waste Appeal**

**Resolution No. \_\_\_\_\_**

At the Board of Supervisor’s meeting on June 4, 2019, the Board conducted a hearing on the appeal filed by James Howatt, contesting the imposition of a solid waste fee on the property owned by Howatt, and identified as APN 008-090-020-00. The property is improved with single-family residential structure. Solid waste fees were imposed against the parcel pursuant to the provisions of County Resolution 2018-078 for the 2018-2019 fiscal year.

At the appeal hearing Howatt was not present and relied on a letter directed to the board as evidence with attachments to sustain his contention that the solid waste fee was inappropriately imposed, pursuant to Resolution 2018-078, with respect to the subject property. The Board is left to try and discern Howatt’s objections and evidence to establish that his appeal should be upheld. In that regard, Howatt does not appear to dispute the fact that the subject property is improved with a structure that would commonly be characterized as single-family residential structures. Howatt’s argument is that the current condition of the property renders it uninhabitable and that the proper permitting for the structure was never completed, despite the fact it has been a rental property prior to his purchase of the property.

Following the conclusion of the testimony and acceptance of Mr. Howatt’s letter in lieu of testimony, 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 the property 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 2018-078.
4. The Board further finds that contrary to what appears to be Howatt'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. 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.
6. The fact the property not be properly permitted does not as a matter of law prevent the property from be declared to have a single-family residence. The Board finds that the property is improved with a single family residence.

**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 6<sup>th</sup> day of August 2019, by the following vote:

AYES: Supervisors

NOES:

ABSTAIN:

ABSENT:

COUNTY OF SIERRA

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PAUL ROEN  
CHAIRMAN, BOARD OF SUPERVISORS

ATTEST:

APPROVED AS TO FORM:

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HEATHER FOSTER  
CLERK OF THE BOARD

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DAVID PRENTICE  
COUNTY COUNSEL