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

MEETING DATE: December 17, 2019

TYPE OF AGENDA ITEM: ☑ Regular ☐ Timed ☐ Consent

DEPARTMENT: Board of Supervisors
APPROVING PARTY: Heather Foster, Clerk of the Board
PHONE NUMBER: 530-289-3295


SUPPORTIVE DOCUMENTS ATTACHED: ☐ Memo ☑ Resolution ☐ Agreement ☐ Other

BACKGROUND INFORMATION: On September 3, 2019 the Board made a motion of intent to deny Mr. Arata's appeal and directed County Counsel to prepare findings. The attached resolution adopts said findings and denies the appeal.

FUNDING SOURCE: N/A
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 2019- ____________
Agreement 2019- ____________
Ordinance _________________

Vote:
Ayes: ______________________
Noes: _____________________
Abstain: __________________
Absent: ____________________
☐ By Consensus

COMMENTS:
____________________________________________________________________
____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

_______________________________ ________________________________
CLERK TO THE BOARD DATE
Resolution No._____

Resolution Denying Arata Solid Waste Appeal

At the Board of Supervisors meeting on September 3, 2019, the Board conducted a hearing on the appeal filed by Joseph Arata regarding the imposition of the solid waste fees pertaining to the property identified as APN 009-142-001-0. At the conclusion of the hearing the Board made a motion of intent to deny the appeal and instructed County Counsel to prepare a resolution with proposed findings. In consideration of the testimony of the parties, the Board makes the following findings and determinations:

1. The subject appeal follows appeals by Mr. Arata over the last several years, seeking to set aside the imposition of a solid waste disposal fee for the above referenced property. Mr. Arata stated that he only uses the structure on the subject property for storage and it has not otherwise been occupied. Mr. Arata related he uses the structure for storage as the adjoining property (and cabin) that he also owns. Mr. Arata asserts that due to his use of the property for storage of his personal items that it is inappropriate to characterize the property as residential.

2. Laura Marshall, the County Solid Waste Fee Administrator, testified that the structure is classified as residential structure/property. Ms. Marshall introduced exhibits which included pertinent portions of the County’s ordinance regarding residential zoning – applicable to the subject property – and the basis for imposing solid waste fees based on the volume of solid waste that on average is collected from residential properties within the county, case law supporting the position and photos of the property.

3. Mr. Arata was unable to attend the hearing in person due to his wife’s health. He submitted a letter dated August 6, 2019. His claims are essentially that his properties are residential properties, but not residences. He asserts one is vacant 100% of the time, and the other is vacant 95% of the time. He also asserts that the IRS has considered these properties “incidental use” properties. He also challenged how much he is charged relative to his actual use of the service.

4. Based on the statements of the parties and the information in the record, the Board finds that there is a single family residence existing on the subject property. The property is capable of and subject to being occupied as a residence. The election of the property owner to not rent or otherwise use the property is at the discretion of the property owner.

5. The Board further finds that the solid waste system is immediately available to the property within the meaning of Sierra County Code section 8.05.010(b) and applicable published case law.
6. The record in this appeal reflects that there is a single-family residential structure existing on the subject property that is capable of being used and is legally entitled under the County Code to be used for human occupancy, which occupancy would customarily and reasonably be expected to generate solid waste to be disposed of through the County solid waste system. Consistent with the Court’s analysis in *Paland v. Brooktrails Township Community Services District Board of Directors*, 176 CAL App. 4th 158.), the property owner’s decision to not use the solid waste system does not negate the legal basis for imposing the fee.

**NOW THEREFORE BE IT HEREBY RESOLVED BY THE SIERRA COUNTY BOARD OF SUPERVISORS,** that the Board hereby adopts the findings set out herein, reaffirms its motion of intent and hereby denies the solid waste fee appeal pertaining to the above referenced property.

**ADOPTED** by the Board of Supervisors of the County of Sierra on the 17th day of December, 2019, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Paul Roen  
Chairman, Board of Supervisors

Attest:  
Approved as to Form:

Heather Foster  
Clerk of the Board  
County Counsel