



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

C-11

For the meeting of: **December 8, 2015**

Date: **November 20, 2015**

To: **Board of Supervisors**

From: **County Counsel's Office, Code Enforcement Unit
Blair Angus, Assistant County Counsel**

Subject: **Administrative Abatement Funding Transfer
Russell Papstein
4181 Weiler Road, Eureka, California; AP# 019-161-021**

RECOMMENDATION(S):

- (1) Authorize the cost of abatement to be advanced by the County of Humboldt, pursuant to Humboldt County Code section 351-31, and if unpaid by the property owner, that a lien be placed against the parcel in the amount of the costs of abatement pursuant to Humboldt County Code sections 351-33 to 351-44;
- (2) Authorize a transfer from the Code Enforcement Trust Fund, account #3440000, in the amount of \$3,500 to the County Counsel's revenue account #1100-121-603-040 to cover the cost of the abatement.

Prepared by Jason Sheets and Jeff Conner

CAO Approval

Blair Angus

REVIEW:

Auditor WBM County Counsel BA Personnel _____ Risk Manager _____ Other _____

TYPE OF ITEM:

- Consent
- Departmental
- Public Hearing
- Other _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor Lovelace Seconded by Supervisor Bass

Ayes Sundberg, Lovelace, Fennell, Bohn, Bass
Nays _____
Abstain _____
Absent _____

PREVIOUS ACTION/REFERRAL:

Board Order No.: K-3

Meeting of: July 14, 2015

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: Dec. 8, 2015
By: Kathy Hayes
Kathy Hayes, Clerk of the Board

SOURCE OF FUNDING:

General funds were used to prepare this agenda item.

DISCUSSION:

On July 14, 2015, your Board held a public hearing regarding the conditions on the property located at 4181 Weiler Road, Eureka, California, AP# 019-161-021, owned by Russell Papstein. The conditions on the property included junk vehicles, maintaining a junkyard, and the improper storage and removal of solid waste. At the hearing, evidence was presented by the Code Enforcement Unit. Russell Papstein attended the hearing and testified on his behalf.

At the conclusion of the public hearing, your Board found that the conditions constituted a public nuisance and ordered that the nuisance be abated within 30 days of the service of the Findings of Nuisance and Order to Abate. Your Board further ordered that the Code Enforcement Unit return for abatement funds if the owner did not comply with the abatement order by the deadline imposed, and to seek a lien on the property if the owners failed to pay those costs. On July 16, 2015, a copy of the Findings of Nuisance and Order to Abate from the first hearing was mailed to Russell Papstein pursuant to Humboldt County Code Sections 351-22 and 351-11 at his residence. On the same day, another copy was posted on the property.

On August 20, 2015, a follow up inspection was made of the property. It was apparent that an effort had been made to collect the trash and solid waste into concentrated locations where they could be more easily removed. At least two of the junk vehicles on the property had been removed. Numerous attempts to contact Papstein and offer assistance were made, but he refused to communicate with the Code Enforcement Unit. Despite the efforts made by the property owner, violations of County Code remain on the parcel including the presence of junk vehicles, maintaining a junkyard, and the improper storage and removal of solid waste. Four pictures taken on November 13, 2015 are included in Attachment "B."

FINANCIAL IMPACT:

The costs of the abatement have been estimated at \$3,500 for the removal and disposal of the solid waste and junk vehicles. This is further broken down as follows:

One 40 yard bin and one 20 yard bin	\$2,250
Removal and disposal of two junk vehicles	\$200
SWAP Crew	\$500
Contingency	\$550
Total	\$3,500

The balance of the Code Enforcement Trust Fund is currently about \$24,000.

OTHER AGENCY INVOLVEMENT:

It is anticipated that a crew from the Sheriff's Work Alternative Program (SWAP) will conduct the cleanup.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. Extend the timeline for voluntary compliance by the property owner. This alternative is not recommended as the property owner has had adequate time to abate the conditions constituting a nuisance on the parcel and appears to be unwilling/unable to do so.
2. Do not authorize abatement cleanup of the property by the Code Enforcement Unit. This alternative is not recommended as the conditions on the property remain violations of Humboldt County Code, are a public nuisance, and a detriment to the health, safety and welfare of the citizens of Humboldt County.

ATTACHMENTS:

Attachment A - Findings and Orders from the Abatement Hearing before the Board of Supervisors on July 14, 2015

Attachment B – Digital photographs of the conditions on the property taken on November 13, 2015.

Administrative Abatement Funding
Transfer
Russell Papstein
4181 Weiler Road, Eureka, California
AP# 019-161-021

ATTACHMENT "A"

Findings of Nuisance and Order of
Abatement

**BOARD OF SUPERVISORS
COUNTY OF HUMBOLDT
825 FIFTH STREET
EUREKA, CALIFORNIA 95501 PHONE (707) 445-7471**

FINDINGS OF NUISANCE & ORDER OF ABATEMENT

In Re: Abatement Hearing

Russell Papstein
4181 Weiler Road, Eureka, California; AP# 019-161-021

July 14, 2015

WHEREAS, Humboldt County Board of Supervisors (Board) considered the evidence concerning conditions on the subject property, including relevant documents, writings, codes, ordinances and oral testimony; and

WHEREAS, the Board declares that the conditions on the property are public nuisances in that the conditions are detrimental to the health, safety, comfort and general welfare of the public and persons residing in the neighborhood

Now therefore the Board Finds:

1. The property located at 4181 Weiler Road, Eureka, California is located in a Residential: Single Family zone, in the unincorporated area of Eureka, Humboldt County, California, referred to as Assessor's Parcel No. 019-161-021; and

2. The staff of the Code Enforcement Unit for the County of Humboldt confirmed the existence of violations on the property; and

3. The property owner was served with a Notice of Nuisance pursuant to Humboldt County Code §351-12 &13, describing the conditions constituting the violations and ordering abatement of those conditions and that the Notice of Nuisance was posted on the property pursuant to said County Code; and

4. The property owner has had significant and reasonable time to correct all violations but has refused and/or failed to meet the deadlines prescribed by the Notice; and

5. The property owner was served with a Notice to Abate Nuisance pursuant to Humboldt County Code §351-15; to wit, the Notice to Abate Nuisance was posted on the property pursuant to said County Code and the property owner was sent a certified letter containing the Notice to Abatement Nuisance with the date and time of the hearing; and

6. The property owner has the legal responsibility for maintenance of the property, including abatement of all violations and compliance with all orders of the County; and

7. The violations still exist at the property and the property remains in violation of Humboldt County Code Sections 352-26, junk vehicles; 371-2 maintaining a junkyard; and 521-4, the improper storage and removal of solid waste; and

8. The conditions on the property are public nuisances in that the conditions are detrimental to the health, safety, comfort and general welfare of the public and persons residing in the neighborhood.

NOW, THEREFORE, IT IS HEREBY:

ORDERED:

1. The forgoing findings, including the findings of conditions constituting a public nuisance on the subject property, are incorporated herein by reference and made a part hereof;
2. That the property owner abate all violations of the Humboldt County Code as described above. The property owner shall take the following actions:

§352-26 Junk vehicles
Corrective Actions: a) Restore vehicles to operative condition, and/or
b) Remove inoperable vehicles, and/or
c) Store inoperable vehicles within an enclosed structure

§371-2 Maintaining a junkyard
Corrective actions: a) Contain all debris within a 200 square foot area,
and/or
b) Contain all debris within an enclosed structure, and/or
c) Remove all debris

§521-4 Improper storage and removal of solid waste
Corrective Action: Contain and dispose of all solid waste properly

3. That the abatement of all violations be completed within 30 days of the service of these Findings of Nuisance and Order of Abatement, including a final inspection by the Code Enforcement Unit;
4. That the Code Enforcement Unit is directed to take all necessary steps to assure the abatement is completed as ordered. If the property owner fails to comply with this order the Code Enforcement Unit shall be empowered and authorized to abate said nuisance and shall return to the Board for authorization for a transfer of funds to abate such nuisance, and that the costs of abatement shall become a lien on the subject property.

Dated: 7/14/2015



Chair, Humboldt County Board of Supervisors

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF HUMBOLDT)

I, TERI GRIDLEY, say:

I am a citizen of the United States, over 18 years of age, a resident of the County of Humboldt, State of California, and not a party to the within action; that my business address is Humboldt County Courthouse, Eureka, California; that on July 16, 2015, I served a true copy **FINDINGS OF NUISANCE & ORDER OF ABATEMENT**

XX by placing a true copy of the aforementioned document in a sealed envelope individually addressed to each of the parties and caused each such envelope to be deposited with the U.S. Postal Service and/or picked up by an authorized representative, on that same day with fees fully prepaid at Eureka, California, in the ordinary course of business as set forth below: **(Certified Mail)**

**Russell Papstein
3458 Buttermilk
Arcata, CA 95521**

_____ by personally delivering a true copy thereof to the person as forth below.

_____ by placing a true copy thereof in the designated place at Court Operations to the attorney/parties named below.

_____ by fax

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 16th day of July, 2015, at the City of Eureka, County of Humboldt, State of California.


Teri Gridley, Legal Office Services Manager



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

K-3

For the meeting of: July 14, 2015

Date: June 29, 2015

To: Board of Supervisors

From: County Counsel's Office, Code Enforcement Unit
Davina Smith, Deputy County Counsel

Subject: Administrative Abatement Hearing
Russell Papstein
4181 Weiler Road, Eureka California, AP# 019-161-021

RECOMMENDATION(S):

That the Board of Supervisors, pursuant to Humboldt County Code sections 351-21 and 351-22

- (1) Hold an administrative hearing to determine whether a public nuisance exists on the subject property.
- (2) Adopt the attached Findings of Nuisance and Order of Abatement consistent with the evidence presented at the hearing.

SOURCE OF FUNDING:

General funds were used to prepare this agenda item.

Prepared by Davina Smith and Jeff Conner

CAO Approval

Amy Wiser

REVIEW:

Auditor _____ County Counsel DS Personnel _____ Risk Manager _____ Other _____

TYPE OF ITEM:

- Consent
- Departmental
- Public Hearing
- Other _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor Bohn Seconded by Supervisor Lovelace
Ayes Sundberg, Lovelace, Fennell, Bohn, Bass
Nays _____
Abstain _____
Absent _____

PREVIOUS ACTION/REFERRAL:

Board Order No. _____

Meeting of: _____

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: July 14, 2015
By: [Signature]
Kathy Hayes, Clerk of the Board

Administrative Abatement Funding
Transfer
Russell Papstein
4181 Weiler Road, Eureka, California
AP# 019-161-021

ATTACHMENT "B"

Photographs taken on November 13,
2015



