

Hayes, Kathy

From: Eugene Denson <edenson95511@gmail.com>
Sent: Monday, July 6, 2020 6:11 PM
To: COB
Cc: Eugene Denson
Subject: Agenda item H-1 July 7, 2020
Attachments: Abatement ordinance changes of July 2020 - a letter in oppsition..docx

H-1

This is from Eugene Denson. I am presenting the text in this email, and also appending it as a file.

To the Humboldt Board of Supervisors Considering Changes to the Nuisance Laws

No just society can penalize an innocent person for the act of another. Just as it is not a crime to be present when a crime is committed, a person cannot justly be penalized for owning a place where a crime has been or is being committed. The first job of the lawmaker is to do no harm, and all proposed legislation should be viewed in the light of these fundamental premises and opposed if it violates either of them.

With that in mind, here is my response to the proposed changes to the county nuisance ordinances.

351-6 (c) requires abatement notices to be recorded with the County Recorder. This will mean that any title search will reveal the notice. This will help prevent unsuspecting people from buying land subject to abatement fines. I endorse it so long as a section (d) is added requiring the CEU to record the satisfaction of an abatement notice with County Recorder, and both the recording of the abatement notice and its satisfaction be done promptly or within 14 calendar days at the most.

352-3 (h) "clarifies" the ordinance to add violations of the building, electrical, plumbing, etc and zoning to category 4 status (with daily penalties of \$6000-\$10,000 per violation) if the violation "exists as a result of or to facilitate the illegal cultivation of cannabis." This is not a statement of current law, it is a broad expansion of an already draconian penalty program which already quickly exceeds the prohibition of excessive fines. I oppose it on the grounds that the existing penalties are improperly high, and increasing them is almost entirely legally pointless and does not accord with the public good. At the least you should modify this wording to avoid bringing past violations into present abatements by ending it with "the illegal cultivation of cannabis presently existing." I also suggest "No lack of permit for any violation not created by the present responsible party shall be considered a violation for purposes of this section." That is to prevent the county from making technical violations on a par with physical violations that can contribute to harm. You should not be profiting by violations you neglected to discover when fresh.

353-3 (m)(ii) This amendment abolishes the 10-day correction period during which an alleged nuisance can be abated without penalty. I oppose this, first on the grounds as stated above that the penalty structure is already impinging on the prohibition of excessive fines. Second, this abolishes the small enough mercy these laws you have passed contained. It means that before effective action can be taken the penalties can easily reach the value of the property and is forfeiture under a different guise. Thirdly, like all abatement penalties, these are imposed upon the wrong person. The violator should be penalized not the land owner.

You know that there are parcels owned by absentee landlords who are unlikely to be giving a close reading to Humboldt County Ordinance 353-3(m)(ii) (1)–(3) before making a rental agreement. Recording the Abatement notices helps avoid the innocent purchaser from buying a hidden liability. Requiring particular wording in a lease or rental agreement is simply setting a trap for landlords, especially those who are now in physical and financial decline as they age. These penalties will be blood money in many cases.

I have met with you to discuss the innocent owner's plight when there is a trespass grower, and other than admitting that this will cause injustice to only a small percentage of people, I see no accommodation to these people in these changes. A maxim of law is that it is better than 10 guilty people escape prosecution than that one innocent person is convicted. I cannot find that your present change accords with that statement of the highest purpose of government.

I would at the least strike (1) and (2) and reword (3) to say "Owner or agent did not know that any person was illegally cultivating commercial cannabis, and no complaint....."

352-4 see 351-6 (c) comments above

352-5 (b) (ii) see 352-3 (m)comments.

352-13 (a)(ii) No comment

I have not commented on the unchanged sections of these ordinances, as they are not at issue. This does not mean that I find the sections just, or reasonable. I believe the time has come to admit that fighting unpermitted commercial cannabis through civil law has been a failure achieved at the cost of great harm to individuals and society as a whole. At a time when criminal penalties for such cultivation have been drastically reduced by the vote of the people of the state, and past convictions are being reduced or eliminated on a mass scale, you are running against the tide of justice by imposing penalties as bad as, or worse than, those at the height of drug war madness.

I believe you should largely Defund the Code Enforcement Unit by reverting to the nuisance ordinances in effect before you decided that given the choice of admitting the failure of the cannabis licensing program or doubling down by striking at property owners, you would start to make our county emerge from the fever of licensing and regulation brought on by legalization.

Eugene Denson

H-1

Hayes, Kathy

From: Thomas Grover <grovert58@yahoo.com>
Sent: Monday, July 6, 2020 10:58 AM
To: COB
Subject: input for tuesday board of supervisors

The planning department request for changes to the abatement program changes (item H) states ANY code violation will be considered a category 4 violation . In other words, if the county imagines you are growing pot they can fine you \$10,000 a day for 7 plants....This program is full of problems which need to be addressed. Now is not the time to add new violations to the mix. Where is the public participation , where are my rights to do agriculture? Please read Norris on Redheaded blackbelt web site. Please put this off or kill this until an annual report is completed and public input is taken on the conduct of this program.

Hayes, Kathy

H I

From: Moriah Miranda <mmiranda@cuddebackschool.org>
Sent: Tuesday, July 7, 2020 7:27 AM
To: COB
Subject: Agenda Item H, Section 1, item 1

Regarding The proposed Ordinance amending section 351-6 of Chapter 1, Division 5, Title III, and sections 352-3, 352-4, 352-5, 352-8 and 352-13 of Chapter 2, Division 5, Title III of Humboldt County Code (HCC) relating to public nuisances, Abatement's and penalties and waive the first reading;

Hello,

My name is Moriah Miranda, and my husband Phil and I would like to express our concerns about the Abatement program. We believe the Abatement Program needs to be abated. There are many reasons we feel this way, and it's mainly because this extremely heavy handed program has many flaws in its design.

We understand the need to protect the environment, as well as having guidelines and consequences for egregious environmental outlaws. But what happens when the Code Enforcement Unit makes a mistake? Who do you go to, that listens and cares and investigates the potential mistake? Who comes out to fact check the cited violations from the Aerial imagery? Who pauses the "ticking clock of daily fines" while the actual accusations are being investigated? You are offered an appeal on paper to complete that takes weeks to get logged into the system and meanwhile the daily fines are accruing. Who are you supposed to go to when Your assigned Code Enforcement Officer never responds to your phone calls or emails showing proof of innocence? What does an innocent citizen do in a situation where there assigned Code Enforcement officer never responded, even once, to them in the entire Abatement Process (in our case 9 months)!!! What does it mean to the people when this happens to them? It can literally destroy their lives, and right now it feels like Humboldt Count Planning Department doesn't care about doing their job respectfully, or efficiently. When you get it wrong it feels abusive, and instead of Pausing and fixing this existing problem you're talking about adding more abuse to the people. Who cares about Humboldt Farmers in the Planning Department? The answer, from our perspective is No one. There is no "neutral committee" to go to when the county makes a mistake...your basically being required to work with your abuser. This is a problem that needs to be 1. Acknowledged 2. Addressed Immediately.

So before we look at imposing more abuse on Humboldt County Citizens let's Investigate the disrespect and government inefficiency taking Place within the Code Enforcement Unit, particularly with Warren Black. So we have a few suggestions around adding an additional step/option for people who have truly been unjustly abated.

1. When people get abated they are entitled to a respectful conversation with their assigned Code Enforcement Officer.
2. You can request an "on the ground" site visit to fact check the violations in question. This site visit should include a person from a "neutral committee" (perhaps voted in) to ensure the integrity of the visit.
3. The ticking clock of daily fines is paused while your case is being investigated.
4. Your Code Enforcement Officer has 10 days to respond to your requests, or the Abatement is dissolved.

We believe Humboldt County Citizens require a more respectful and collaborative approach. In order for this to happen it is important for the County to lead by example. If this "step in the process" had been in place when we were abated, we wouldn't be out 286k, and have the levels of Anger and Distrust that we have. Please consider our point of view on this matter.

Respectfully,

Moriah & Phil

Sent from my iPhone

Sent from my iPhone

Hayes, Kathy

From: Moriah Miranda <mmiranda@cuddebackschool.org>
Sent: Monday, July 6, 2020 9:47 PM
To: COB
Cc: S Nv; Brittany Massaro
Subject: Abatement Program

Hello,

My name is Moriah and my husband Phil and I would like to express our concerns about the Abatement program. We believe the Abatement Program needs to be abated. There are many reasons we feel this way, and it's mainly because this extremely heavy handed program has many flaws in its design.

We understand the need to protect the environment, as well as having guidelines and consequences for egregious environmental outlaws. But what happens when the Code Enforcement Unit makes a mistake? Who do you go to, that listens and cares and investigates the potential mistake? Who comes out to fact check the cited violations from the Aerial imagery? Who pauses the "ticking clock of daily fines" while the actual accusations are being investigated? You are offered an appeal on paper to complete that takes weeks to get logged into the system and meanwhile the daily fines are accruing. Who are you supposed to go to when Your assigned Code Enforcement Officer never responds to your phone calls or emails showing proof of innocence? What does an innocent citizen do in a situation where there assigned Code Enforcement officer never responded, even once, to them in the entire Abatement Process (in our case 9 months)!!! What does it mean to the people when this happens to them? It can literally destroy their lives, and right now it feels like Humboldt Count Planning Department doesn't care about doing their job respectfully, or efficiently. When you get it wrong it feels abusive, and instead of Pausing and fixing this existing problem you're talking about adding more abuse to the people. Who cares about Humboldt Farmers in the Planning Department? The answer, from our perspective is No one. There is no "neutral committee" to go to when the county makes a mistake...your basically being required to work with your abuser. This is a problem that needs to be 1. Acknowledged 2. Addressed Immediately.

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Respectfully,

Moriah & Phil

Sent from my iPhone

H1

From: [Jeff and Marisa St John](#)
To: [Bass, Virginia](#); [Madrone, Steve](#); [Bohn, Rex](#); [Wilson, Mike](#); [Fennell, Estelle](#); [COB](#)
Cc: [Ford, John](#)
Subject: 20-779 Record Notice to Abate Nuisance and Notice of Violation Ordinance Public Comment
Date: Tuesday, July 7, 2020 8:08:20 AM
Attachments: [NoticeOfSubdivisionMapActViolation.pdf](#)
[NoticeOfNuisanceWithAttachment.pdf](#)

Hello Board of Supervisors,

Please approve the proposed changes with one exception: wherever cannabis is specifically called out, please have the verbiage changed to make it clear that the ordinance applies to *all* violators.

Providing disincentives for repeat violations will be a very good improvement. It is surprising that the Notices are not already being recorded, yet good to include in the ordinance. Here are copies of a Notice of Nuisance and Notice of Subdivision Map Act Violation (two of at least ten from 2007 in the Titlow Hill area) that were recorded.

Thank you for considering these public comments.
Marisa St John
Titlow Hill



Recording Requested By & For Benefit Of:
COUNTY OF HUMBOLDT
When Recorded, Mail To:
CODE ENFORCEMENT UNIT
Courthouse Bldg., 825 Fifth Street
Eureka, California 95501
707.476.2429

Exempt From Fees For Gov't C. § 27303

2007-28665-6
Recorded — Official Records
Humboldt County, California
Carolyn Cnich, Recorder
Recorded by HUMBOLDT CNTY
Exempt from payment of fees
Clerk: MM Total: 0.00
Sep 26, 2007 at 10:15

NOTICE OF NUISANCE

To: Vilca LLC
Address of Subject Premises: Assessor's Parcel Numbers 522-012-002, 522-013-004 and 522-013-010.

NOTICE IS HEREBY GIVEN that conditions described on "Attachment A" exist on premises situate in the County of Humboldt, State of California, as described on Attachment "B", which are in violation of state law and the Humboldt County Code. These conditions exist to an extent that endanger the life, limb, health, property, safety or welfare of the public and, as such, constitute a "nuisance". Therefore,

YOU ARE HEREBY ORDERED to immediately abate said nuisance. Failure to immediately abate said nuisance may result in:

- **Imposition of an administrative penalty.** The Code Enforcement Unit may impose an administrative penalty upon you, in which event you may be liable for a monetary penalty of between \$250 to \$10,000 per violation, for each and every day the violation exists. In that case, the penalty shall be made a special assessment against the premises, shall become a lien upon the property and may be collected at the same time and in the same manner as is provided for the collection of ordinary county taxes and, further, shall be subject to the same interest and the same procedure of foreclosure and sale in the case of delinquency as is provided for in ordinary county taxes; and/or it may be collected as a personal obligation against you; and/or

- **Commencement on an abatement proceeding before the County Board of Supervisors.** If corrective action is not undertaken and diligently pursued to abate the nuisance within thirty (30) days from service on you of this Notice of Nuisance, then the Code Enforcement Unit may apply to the Board of Supervisors of Humboldt County for an order to abate the nuisance. In the event the Code Enforcement Unit applies to the Board of Supervisors for an order to abate the nuisance, the cost of such abatement may become a charge against the premises and in that event may be made a special assessment against the premises which may be collected at the same time and in the same manner as is provided for the collection of ordinary county taxes and may be subject to the same penalties and interest, under the same procedure of foreclosure and sale, in the case of delinquency, as is provided for in ordinary county taxes; and/or

- **Commencement of a civil action.** In the event the Code Enforcement Unit commences a civil action for injunctive relief and to abate the nuisance, you may be liable for monetary damages including the costs of abatement, civil fines and penalties, as well as for court costs and attorney's fees.

Please be advised — Violation of Humboldt County Code is a misdemeanor, punishable by imprisonment in the County Jail for a term not exceeding six (6) months, or a fine up to \$1,000, or both such fine and imprisonment, for each day of a violation.

Dated: August 20, 2007


SHELLEY MORRISON
Deputy County Counsel

A.P. No: File No: 07CEU037

1



Recording Requested By & For Benefit Of:
COUNTY OF HUMBOLDT
 When Recorded Mail To:
GDS, Planning Division
 3015 H Street
 Eureka, California 95501
 707 268.3729

Exempt From Fees Per Govl C. § 27383

2007-21140-2
 Recorded — Official Records
Humboldt County, California
 Carolyn Crnich, Recorder
 Recorded by HUMBOLDT CNTY
 Exempt from payment of fees
 Clerk: LH Total: \$0.00
 Jul 16, 2007 at 11:52
CONFORMED COPY

NOTICE OF SUBDIVISION MAP ACT VIOLATION

Government Code § 66499.36
 Humboldt County Code Section 328-3

Grantor: James K. Olson and Pamela W. Olson

Grantee: Aaron Gabriel Ochoa and Katie Jean Ochoa

NOTICE IS HEREBY GIVEN that the real property within the County of Humboldt, as more particularly described below, and/or in the legal description attached as Exhibit A (recorded as Document Number 2002R36804, dated November 5, 2002) has been **DIVIDED IN VIOLATION** of the Subdivision Map Act (Section 66410 et seq., Government Code, State of California) and/or the Humboldt County Code (Section 321-1 et seq. County of Humboldt)

This notice shall be deemed to be constructive notice of said VIOLATION to successors in interest on such property. Notice of the County's intent to record a NOTICE OF VIOLATION has been provided by the County in accordance with the provisions of Government Code § 66499.36

DETERMINATION OF VIOLATION

Pursuant to the authority delegated to me by the Humboldt County Board of Supervisors, I HEREBY certify that I have reviewed the division of the above-cited real property and have found it in violation of applicable provisions of the Subdivision Map Act and the Humboldt County Code. The parcels comprising this division therefore, may **NOT BE SOLD, LEASED, FINANCED OR TRANSFERRED, NOR SHALL ANY PERMIT PERTAINING TO BUILDINGS OR USE OF THE LAND BE ISSUED** until full compliance with the applicable provisions of the Subdivision Map Act and the Humboldt County Code are fulfilled or implemented.

Dated: July 16, 2007

Claude Young
 Code Compliance Officer

STATE OF CALIFORNIA)
 COUNTY OF HUMBOLDT)

LUCINDA J. JACKSON
 COMM #1451268
 Notary Public - California
 Humboldt County
 My Comm. Expires 12/31/2007

(SEAL)

On July 16, 2007, before me, **LUCINDA J. JACKSON**, Notary Public, personally appeared **CLAUDE YOUNG**, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal.

LUCINDA J. JACKSON, Notary Public