



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

D-7

For the meeting of: **June 21, 2016**

Date: **June 3, 2016**

To: **Board of Supervisors**

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

Subject: **Special Assessment for Unpaid Administrative Penalty for John Epperly, Whitethorn, A.P. 111-112-036**

RECOMMENDATION(S):

That the Board of Supervisors, pursuant to Humboldt County Code section 2131-8 (e):

Adopt the attached resolution declaring a special assessment against said real property for an unpaid administrative penalty.

SOURCE OF FUNDING:

General Fund

DISCUSSION:

Pursuant to Government Code 53069.4 and Humboldt County Code Section 2131-1 *et seq.* the Code Enforcement Unit (CEU) is authorized to issue administrative penalties against parties who have violated the Humboldt County Code, codes or ordinances adopted by the County, or for the failure to comply with an order issued by the Board or a hearing officer.

The purpose of administrative penalties is to provide the County with additional remedies to correct violations and, where necessary, to penalize violators for their failure to comply with the County

Prepared by Teri Gridley

CAO Approval *Kathy Hayes*

REVIEW:

Auditor *[Signature]*

County Counsel _____

Human Resources _____

Other _____

TYPE OF ITEM:

☒ Consent
☐ Departmental
☐ Public Hearing
☐ Other _____

PREVIOUS ACTION/REFERRAL:

Board Order No. _____

Meeting of: _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
Upon motion of Supervisor _____ Seconded by Supervisor _____

Ayes _____
Nays _____
Abstain _____
Absent _____

SEE ACTION SUMMARY

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

Dated: _____

By: _____

Kathy Hayes, Clerk of the Board

PULLED FROM AGENDA

codes and ordinances.

The issuance of an administrative penalty may be appealed by the responsible party in a hearing before an impartial hearing officer. If the responsible party or the CEU is aggrieved by the hearing officer's decision, either party may appeal that decision to the superior court. If a timely appeal is not taken to the superior court, the order imposing the administrative penalty becomes final and must be paid within 25 days of the final order being served. If the penalty remains unpaid after 25 days, then the CEU may collect the penalty plus costs and interest. One method of collecting the penalty is by way of a resolution declaring the unpaid penalty, costs and interest a special assessment against any real property owned by the responsible parties against whom an administrative penalty has been imposed. Once the resolution is adopted, the special assessment will be collected at the same time and in the same manner as ordinary taxes are collected and are subject to the same penalties and the same procedure and sale in the case of delinquency as provided for ordinary property taxes.

The unpaid administrative penalty that is the subject of this staff report has been imposed by the CEU for violations of the County Code or violations of a uniform code adopted by the County. Given that this unpaid administrative penalty has become final and due and has still not been paid, the CEU is bringing the attached resolution to your Board to have the unpaid penalty that is detailed below declared a special assessment against real property.

1) John Epperly, Whitethorn, A.P. No. 111-112-036.

On May 11, 2015, the Code Enforcement Unit (CEU) received a referral from the Planning Department concerning the property. The report that accompanied the referral indicated that there was a violation for storage of a recreational vehicle, boat trailer and utility trailer on parcel on the property.

CEU confirmed the violations and on June 3, 2015, a Notice of Nuisance was issued, and then served on the owner on June 16 and June 17, 2015. The notice detailed a violation of Section 352-26, junk vehicles.

On January 13, 2016, an administrative penalty in the amount of \$250 was issued to the owner. No appeal of the administrative penalty was requested within the 30 day appeal period and the penalty became final on February 23, 2016. The unpaid penalty and costs are Two Hundred Sixty-Three Dollars and Forty-Four Cents (\$263.44), plus interest of 10% per annum from March 19, 2016, as set by statute.

FINANCIAL IMPACT:

The outstanding fine and costs are Two Hundred Sixty-Three Dollars and Forty-Four Cents (\$263.44), plus interest of 10% per annum. When paid, the fine and interest will be deposited into the Code Enforcement Revenue Account # 603-040.

The collection of administrative fine supports the Board of Supervisors' Core Role of enforcing laws and regulations to protect residents.

Special Assessments for Unpaid Administrative Penalties

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OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Your Board could decline to declare the unpaid penalty a special assessment. This is not recommended as this fine is past due and a special assessment provides a way for the County to collect unpaid fines in a timely manner.

ATTACHMENTS:

Attachment A – Resolution re John Epperly, Whitethorn, A.P. 111-112-036

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings, Meeting on

RESOLUTION NO. _____

**RESOLUTION TO DECLARE AN UNPAID ADMINISTRATIVE
PENALTY A SPECIAL ASSESSMENT AGAINST THE REAL
PROPERTY OWNED BY JOHN EPPERLY
(APN 111-112-036) PURSUANT TO HCC § 2131-8(e)**

WHEREAS, Government Code 53069.4 authorizes the County of Humboldt to enact an Administrative Penalty Ordinance; and

WHEREAS, pursuant to this authority the County enacted section 2131, *et seq.*, of the Humboldt County Code establishing administrative penalty and collection procedures; and

WHEREAS, on June 3, 2015, a Notice of Nuisance was issued by the County of Humboldt Code Enforcement Unit to John Epperly (herein after referred to as Owner) regarding the property located at 502 Nob Hill Court in Whitethorn, CA (herein after referred to as Property) for the following violation of the Humboldt County Code: Section 352-26, Junk vehicles; and

WHEREAS, pursuant to HCC §§ 2131-1 *et seq.*, on January 13, 2016, the Humboldt County Code Enforcement Unit issued an order imposing administrative penalty to Owner in regards to the Property in the amount of Two Hundred Fifty Dollars (\$250.00).

WHEREAS, the order imposing administrative penalty advised Owner that an appeal of the imposition of the administrative penalty must be filed within thirty (30) days of the date the order was served and that if an appeal was not requested the order imposing the administrative penalty shall be final; and

WHEREAS, the order imposing administrative penalty was served on Owner by certified mail on January 13, 2016; and

WHEREAS, Owner did not appeal the imposition of the administrative penalty and a final order re administrative penalty in the amount of Two Hundred Fifty Dollars (\$250.00) was served on February 23, 2016; and

WHEREAS, the final order re administrative penalty advised Owner that judicial review of the final order pursuant to Government Code § 53069.4 must be filed within twenty (20) days after service of the final order; and

WHEREAS, the final order re administrative penalty provided that the administrative penalty shall be paid within twenty-five (25) days of service of the final order and if not paid within said time the penalty shall be made a personal obligation of the Owner and may be made a lien against the property or may be collected by special assessment; and

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings, Meeting on

WHEREAS, Owner has not sought judicial review of the final order within 20 days and has not paid the administrative penalty within twenty-five (25) days of service of the final order; and

WHEREAS, pursuant to Humboldt County Code §2131-8(c) an administrative penalty shall accrue interest at the same annual rate as any civil judgment, which is currently set at 10% per year; and

WHEREAS, the amount of the unpaid administrative penalty, interest and any other costs as provided by Humboldt County Code §§2131-1 et seq. may be declared a special assessment against any real property owned by Owner within the County of Humboldt upon presentation by the Code Enforcement Unit of a resolution to declare a special assessment to the Board of Supervisors; and

WHEREAS, upon the adoption of said Resolution to declare a special assessment, a Notice of Special Assessment Lien shall be recorded with the Humboldt County Recorder's Office and the assessment lien may then be collected at the same time and in the same manner as ordinary taxes are collected and shall be subject to the same penalties and the same procedure and sale in the case of delinquency as are provided for ordinary property taxes;

NOW THEREFORE BE IT RESOLVED:

1. The unpaid administrative penalty and costs, in the amount of Two Hundred Sixty Three Dollars and Forty-Four Cents (\$263.44), plus interest of 10% per annum from March 19, 2016, as set by statute, shall be assessed as a special assessment against the following parcel number 111-112-036.
2. The special assessment shall be a lien on the Property and shall be collected at the same time and in the same manner as ordinary taxes are collected and shall be subject to the same penalties and the same procedure and sale in the case of delinquency as are provided for ordinary property taxes.
3. A Notice of Special Assessment Lien shall be recorded with the Humboldt County Recorder's Office.

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BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

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Mark Lovelace, Chair

Adopted on motion by Supervisor
and the following vote:

, seconded by Supervisor

AYES: Supervisors--
NOES: Supervisors--
ABSENT: Supervisors--
ABSTAIN: Supervisors--

STATE OF CALIFORNIA)
) ss.
County of Humboldt)

I, KATHY HAYES, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be a full, true and correct copy of the original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto
Set my hand and affixed the Seal of
Said Board of Supervisors

KATHY HAYES

Clerk of the Board of Supervisors of
the County of Humboldt, State of
California

By _____
Ana Hartwell, Deputy Clerk of the Board