



AGENDA ITEM NO.

L-2

COUNTY OF HUMBOLDT

For the meeting of: **June 14, 2016**

Date: May 25, 2016

To: Board of Supervisors

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

Subject: Cost Recovery Accounting Hearing
Elmer Hames
520 Delaney Drive, Willow Creek, California
AP# 522-351-003

RECOMMENDATION(S):

That the Board of Supervisors, pursuant to Humboldt County Code section 314-55.2.8.9:

1. Open the Public Hearing for discussion of the Cost Recovery Accounting for 520 Delaney Drive, Willow Creek, California.
2. Close the Public Hearing for the Cost Recovery Accounting for 520 Delaney Drive, Willow Creek, California.
3. Adopt the attached resolution declaring a special assessment against said real property for an unpaid cost recovery accounting.
4. Direct the Auditor, upon receipt of the monies assessed, to deposit seven hundred eighty-two dollars and forty cents (\$782.40) into the County Counsel's Office revenue account number 1100-121-603-040 to recoup Code Enforcement Unit staff time, mileage and office expenses incurred enforcing

Prepared by Jeff Conner

CAO Approval *E. K. Hayes*

REVIEW:

Auditor *MSM*

County Counsel *BA*

Personnel

Risk Manager

Other *MSM*

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 *Sundberg* Seconded by Supervisor *Fennell*

Ayes *Sundberg, Fennell, Lovelace, Bohn*

Nays

Abstain

Absent *Bass*

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

Dated: *June 14, 2016*

By: *Kathy Hayes*

Kathy Hayes, Clerk of the Board

the Humboldt County Code in this matter.

5. Direct the Auditor, upon receipt of the monies assessed, to deposit eight hundred ninety-five dollars (\$895) into the Humboldt County Sheriff's Department revenue account number 1100-221-9-138 to recoup the Humboldt County Sheriff's Department's staff time, mileage and office expenses incurred enforcing the Humboldt County Code in this matter.

SOURCE OF FUNDING:

General funds were used to prepare this agenda item.

DISCUSSION:

Pursuant to Humboldt County Code ("HCC") Section 314-55.2.8.9, the Clerk of the Humboldt County Board of Supervisors ("Clerk of the Board") is required to mail the enforcing officer's accounting of the cost of the abatement of the nuisance caused by a violation of the Humboldt County's small parcel, personal use, medical marijuana ordinance to the owner of the parcel and to schedule a cost recovery hearing before the Humboldt County Board of Supervisors ("Board") no less than five days after the mailing to allow the owner to contest the accounting. At the request of the Clerk of the Board, the Code Enforcement Unit ("CEU") is bringing this matter before your Board to hear and consider confirming the accounting and proposed assessment, together with any objections and protests, of the abatement that took place on September 14, 2015, for the property known as 520 Delaney Drive, Willow Creek, California; AP# 522-351-003 ("Premises"). The abatement has been completed and the property owner has been served with a Cost Recovery Accounting of the charges incurred by the County of Humboldt ("County") in completing the abatement of the nuisance on the subject property as required by HCC 314-55.2.8.9.

On July 2, 2015, the CEU served an inspection warrant at the Premises and counted one hundred forty-seven (147) marijuana plants with an approximate canopy of four hundred fifty-two (452) square feet. In addition, numerous marijuana plants were located less than twenty (20) feet from the adjacent property boundary. A Notice and Order to Abate Unlawful Marijuana Cultivation was personally served on the owner and two copies were posted on the Premises. The owner, Elmer Hames ("Owner"), did not abate the nuisance nor did he request a hearing before your Board. On August 31, 2015, the CEU, with assistance from the Humboldt County Sheriff's Department ("Sheriff's Department"), served an abatement warrant at the Premises. However, for logistical and safety reasons, the marijuana was not removed and it was decided that the Sheriff's Department would seek a search warrant to complete the abatement. The search warrant was served on September 14, 2015 and the Sheriff's Department, with assistance from the CEU, removed all of the marijuana plants on the Premises.

As required by HCC Section 314-55.2.8.8, the CEU maintained an accounting of the costs of the abatement and that sum is one thousand six hundred seventy-seven dollars and forty cents (\$1,677.40). The costs of the CEU's staff time, mileage and office costs are further broken down in the Cost Recovery Accounting, which is attached as Exhibit 1. The Sheriff's Department's costs are included in a spreadsheet attached as Exhibit 2. The costs for CEU staff's driving time and mileage were reduced by a factor of four as the enforcing officer was inspecting numerous other parcels in the Willow Creek area during each of the inspections of the Premises. Two of the deputies involved in the abatement are part of a grant funded program and the County cannot be reimbursed for their expenses.

The total proposed accounting and assessment is one thousand six hundred seventy-seven dollars and forty cents (\$1,677.40). We respectfully ask that your Board adopt the attached resolution declaring a special assessment against the Premises for the entire amount.

FINANCIAL IMPACT:

If the proposed accounting and assessment is denied or reduced by your Board, the County must absorb the cost of abatement up to the total of \$1,677.40.

The assessment will support the Board of Supervisors' Core Roles of enforcing laws and regulations to protect residents and creating opportunities for improved safety and health.

OTHER AGENCY INVOLVEMENT:

Humboldt County Sheriff's Department

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Your Board could make modifications and revisions to the proposed account and assessment or deny the account and assessment. Neither of these alternatives are recommended by staff as the County would then bear the costs of the abatement on the subject property.

ATTACHMENTS:

Attachment 1: Cost Recovery Accounting

Attachment 2: Costs incurred by the Sheriff's Department in abating the nuisance

Attachment 3: Resolution to Declare an Unpaid Cost Recovery Accounting a Special Assessment Against the Real Property Owned by Elmer Hames (APN 522-351-003) Pursuant to HCC 314-55.2.8.10.4

Cost Recovery Accounting Hearing
Elmer Hames
520 Delaney Drive, Willow Creek, California
AP# 522-351-003

Attachment 1

Cost Recovery Accounting

Code Enforcement Unit
COUNTY OF HUMBOLDT
 825 Fifth Street, Eureka, CA 95501
 [707] 476-2429

COST RECOVERY ACCOUNTNG

Name: **Elmer Hames**
 Address: Post Office Box 513
 Willow Creek, California 95573
 A.P.# 522-351-003
 File # 15CEU-26
 Location: **520 Delaney Avenue**
Willow Creek, California

Date	Staff/ Vendor	Staff Time Description	Hours/10ths	Cost
5/14/2015	JC	Initial Inspection and Request for Consent	0.65	\$44.85
6/23/2015	JC	Obtain Inspection Warrant	2.00	\$138.00
7/2/2015	JC	Serve Inspection Warrant/Serve Notice	1.25	\$86.25
8/10/2015	JC	Followup Inspection	0.50	\$34.50
8/20/2015	JC	Obtain Initial Abatement Warrant	2.00	\$138.00
8/31/2015	JC	Serve Initial Abatement Warrant	1.00	\$69.00
9/14/2015	JC	Obtain Second Abatement Warrant	1.00	\$69.00
9/14/2015	JC	Serve Search Warrant/Abatement Warrant	2.00	\$138.00
SUB-TOTAL - Staff Time				\$717.60

NOTE: Fees vary each year depending on the fee schedule. Driving time has been reduced as additional properties in the area were also inspected.

Date	Staff	Mileage Distance	Rate	Cost
5/14/2015	JC	24	\$0.540	\$12.96
7/2/2015	JC	24	\$0.540	\$12.96
8/10/2015	JC	24	\$0.540	\$12.96
8/31/2015	JC	24	\$0.540	\$12.96
9/14/2015	JC	24	\$0.540	\$12.96
SUB-TOTAL - Mileage				\$64.80

NOTE: Mileage has been reduced as additional properties in the area were also inspected.

Contractors and Other Agencies

OTHER AGENCIES

Costs incurred by Sheriff's Deapartment in abating nuisance less grant funded positions	\$895.00
SUB-TOTAL - Other Agencies	\$895.00

Date	Office Costs Description	Amount
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None

SUB-TOTAL - Office Cost	\$0.00
TOTAL	\$1,677.40

Cost Recovery Accounting Hearing
Elmer Hames
520 Delaney Drive, Willow Creek, California
AP# 522-351-003

Attachment 2

Costs Incurred by the Sheriff's Department in Abating the Nuisance at 520 Delaney Drive

Costs Encurred by the Humboldt County Sheriff's Office in Abating the Nuisance
at 520 Delaney Drive, Willow Creek, California; AP# 522-351-003

Date	Staff	Rank	Description	Time	Cost
7/2/2015	MP	Deputy	Civil standby during the service of an inspection warrant	1.0	\$100.00
8/31/2015	JM	Deputy	Service of initial abatement warrant	3.0	\$300.00
9/10/2015	JM	Deputy	Search warrant preperation	1.0	\$100.00
9/14/2015	JM	Deputy	Service of search warrant/second abatement warrant	3.0	\$300.00
9/14/2015	CM	Deputy	Service of search warrant/second abatement warrant	3.0	\$300.00
9/14/2015	DD	Deputy	Service of search warrant/second abatement warrant	3.0	\$300.00
9/14/2015	KI	Sergeant	Service of search warrant/second abatement warrant	3.0	\$330.00
9/15/2015	JM	Deputy	Report writing and booking of evidence	2.0	\$200.00
9/15/2015	CM	Deputy	Marijuana destruction	1.5	\$150.00
9/15/2015	KI	Sergeant	Marijuana destruction	1.5	\$165.00
Total					\$2,245.00
██████████ Grant funded positions					
Removing grant funded positions					\$895.00

Cost Recovery Accounting Hearing

Elmer Hames

520 Delaney Drive, Willow Creek, California

AP# 522-351-003

Attachment 3

Resolution to Declare an Unpaid Cost Recovery Accounting a Special Assessment Against
the Real Property Owned by Alex Poulos

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings, Meeting of June 14, 2016

RESOLUTION NO. 16-69

RESOLUTION TO DECLARE AN UNPAID COST RECOVERY ACCOUNTING A SPECIAL ASSESSMENT AGAINST THE REAL PROPERTY OWNED BY ELMER HAMES (APN 522-351-003) PURSUANT TO HCC SECTION 314-55.2.8.10.4

WHEREAS, Government Code Section 25845 authorizes the County of Humboldt ("County") to enact procedures for the abatement of public nuisances; and

WHEREAS, pursuant to this authority the County enacted Sections 314-55.2, *et seq.*, of the Humboldt County Code which establish processes for the abatement of nuisances generated by the cultivation of medicinal marijuana on small parcels and the recovery of costs associated with such abatements; and

WHEREAS, on July 2, 2015, the Humboldt County Code Enforcement Unit ("Code Enforcement Unit"), accompanied by members of the Humboldt County Sheriff's Department ("Sheriff's Department"), served an inspection warrant on the property located at 520 Delaney Drive, in Willow Creek, California ("Premises"); and

WHEREAS, during the inspection of the Premises the Code Enforcement Unit found one hundred forty-seven (147) marijuana plants with a total canopy of approximately four hundred fifty-two (452) square feet being cultivated in violation of Humboldt County Code Section 314-55.2.7.2.1; and

WEHREAS, during the inspection of the Premises the Code Enforcement Unit also found that several of the marijuana plants were being grown within twenty (20) feet of the boundary of the adjacent parcel, also in violation of Humboldt County Code Section 314-55.2.7.2.1; and

WHEREAS, pursuant to Humboldt County Code Section 314-55.2.8.3, the Code Enforcement Unit served the owner of the property, Elmer Hames ("Owner"), with a Notice and Order to Abate Unlawful Marijuana Cultivation on July 2, 2015, by personally serving him a copy of the notice and by posting two additional copies on the Premises; and

WHEREAS, the Notice and Order to Abate Unlawful Marijuana Cultivation advised the Owner that an appeal of the Code Enforcement Unit's determination must be filed within ten (10) days of the date the notice was served and that if an appeal was not requested the nuisance must be abated within fourteen (14) days; and

WHEREAS, the Owner did not request a hearing; and

WHEREAS, the Code Enforcement Unit observed that the nuisance had not been abated within the time allotted and consequently applied for and obtained an abatement warrant pursuant to Humboldt County Code Section 314-55.2.8.7.1; and

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
Certified copy of portion of proceedings, Meeting of June 14, 2016

RESOLUTION NO. 16-69

WHEREAS, on August 31, 2015, the abatement warrant was served on the Premises, however, the accompanying members of the Sheriff's Department determined that there were insufficient resources present to safely and efficiently abate the marijuana plants; and

WHEREAS, on September 14, 2015, the Code Enforcement Unit assisted the Sheriff's Department in serving a search warrant on the Premises and all of the marijuana plants were abated; and

WHEREAS, Humboldt County Code Section 314-55.2.8.8 requires that the Enforcing Officer keep an account of the cost of each and every abatement of the nuisance created by the cultivation of medicinal marijuana on small parcels; and

WHEREAS, the Enforcing Officer conducted such an accounting and determined that the cost to abate the nuisance created by the cultivation of medicinal marijuana at the Premises was \$1,677.40; and

WHEREAS, Humboldt County Code Section 314-55.2.8.9 requires the Clerk of the Humboldt County Board of Supervisors to mail the Enforcing Officer's accounting of the cost of abatement to the Owner and to schedule a cost recovery hearing before the Board of Supervisors ("Board") no less than five (5) days after the date of mailing, to allow the Owner to contest the accounting unless the amount is paid prior to the hearing date; and

WHEREAS, a cost recovery hearing was held on June 14, 2016 and the Board confirmed the Code Enforcement Unit's cost recovery accounting; and

WHEREAS, the amount of the unpaid cost recovery accounting as provided by Humboldt County Code Section 314-55.2.8.10.4 may be declared a special assessment against any real property owned by Owner within the County of Humboldt upon the Board's adoption of a resolution to declare a special assessment; and

WHEREAS, upon the adoption of a resolution to declare a special assessment, a Notice of Special Assessment Lien shall be recorded with the Humboldt County Recorder's Office; and

WHEREAS, upon recordation of the Notice of Special Assessment Lien, such lien may 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.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

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RESOLUTION NO. 16-69

NOW THEREFORE BE IT RESOLVED:

1. The unpaid cost recovery accounting, in the amount of One Thousand Six Hundred Seventy-Seven Dollars and Forty Cents (\$1,677.40), shall be assessed as a special assessment against the following parcel number: 109-251-009.
2. The special assessment shall be a lien on the Premises 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.

Dated: June 14, 2016



MARK LOVELACE, Chair
Humboldt County Board of Supervisors

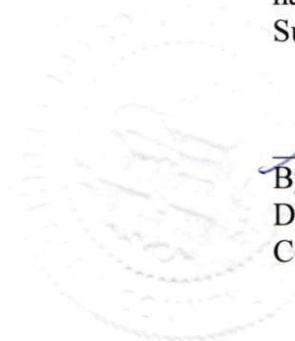
Adopted on motion by Supervisor Fennell, seconded by Supervisor Sundberg, and the following vote:

AYES:	Supervisors	Sundberg, Fennell, Lovelace, Bohn
NAYS:	Supervisors	--
ABSENT:	Supervisors	Bass
ABSTAIN:	Supervisors	--

STATE OF CALIFORNIA)
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 an original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.



By ANA HARTWELL
Deputy Clerk of the Board of Supervisors of the
County of Humboldt, State of California