



COUNTY OF HUMBOLDT

AGENDA ITEM NO.  
**D-6**

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 Arthur Tonkin  
Willow Creek Golf & Country Club, A.P. 522-381-014**

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 *Easha Hayes*

REVIEW:

Auditor *MSM*

County Counsel *BA*

Human Resources \_\_\_\_\_

Other \_\_\_\_\_

TYPE OF ITEM:

- Consent
- Departmental
- Public Hearing
- Other \_\_\_\_\_

PREVIOUS ACTION/REFERRAL:

Board Order No. \_\_\_\_\_

Meeting of: \_\_\_\_\_

*\*PULLED FROM  
AGENDA\**

**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**

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) Arthur Tonkin, Willow Creek Golf & Country Club, Willow Creek, A.P. No. 522-381-014.

On November 14, 2014, the Code Enforcement Unit (CEU) received a referral from the Department of Environmental Health concerning the property. The report that accompanied the referral indicated that there was a violation of the Uniform Housing Code and Health and Safety Code as to the swimming pool on the property.

CEU confirmed the violations and on April 20, 2015, a Notice of Nuisance was issued, and then served on the owner on April 22, 2015. The notice detailed violations of Health & Safety Code Section 116060.

On January 8, 2016, an administrative penalty in the amount of \$1,000 was issued to the owner. Mr. Tonkin requested a hearing which was heard on February 11, 2016. On February 17, 2016, the hearing officer issued an Order After Hearing Affirming Administrative Penalty Order No. 16-01 affirming the administrative penalty of \$1,000 to be paid within 25 days. The unpaid penalty and costs are One Thousand Thirteen Dollars and Forty-Four Cents. (\$1,013.44), plus interest of 10% per annum from March 14, 2016, as set by statute.

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FINANCIAL IMPACT:

The outstanding fine and costs are One Thousand Thirteen Dollars and Forty-Four Cents (\$1,013.44) 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.

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 Arthur Tonkin, Willow Creek Golf & Country, A.P. 522-381-014

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 ARTHUR TONKIN, WILLOW CREEK GOLF & COUNTRY CLUB (APN 522-381-014) 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 April 20, 2015, a Notice of Nuisance was issued by the County of Humboldt Code Enforcement Unit to Willow Creek Golf & Country Club (herein after referred to as Owner) regarding the property located at 423 Bigfoot Avenue in Willow Creek Lake (herein after referred to as Property) for the following violations: Health & Safety Code § 116060, Public swimming pool creating a nuisance; and

**WHEREAS**, pursuant to HCC " 2131-1 et seq, on January 8, 2016, the Humboldt County Code Enforcement Unit issued an order imposing administrative penalty to Owner, Arthur Tonkin, Willow Creek Golf & Country Club, in regards to the Property in the amount of One Thousand Dollars (\$1,000.00); and

**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 8, 2016; and

**WHEREAS**, Owner appealed the imposition of the administrative penalty on January 13, 2016, and on February 11, 2016, an administrative appeal hearing was held; and

**WHEREAS**, on February 17, 2016, the Hearing Officer Sarah Hauck issued an Order After Hearing Affirming Administrative Penalty Order No. 16-01 affirming the administrative penalty of One Thousand Dollars (\$1,000.00) to be paid within 25 calendar days; 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

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**Certified copy of portion of proceedings, Meeting on**

**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

**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; and

**NOW THEREFORE BE IT RESOLVED:**

1. The unpaid administrative penalty and costs, in the amount of One Thousand Thirteen Dollars and Forty-Four Cents (\$1,013.44), plus interest of 10% per annum from March 14, 2016, as set by statute, shall be assessed as a special assessment against the following parcel number 522-381-014.
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.

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA**

**Certified copy of portion of proceedings, Meeting on**

\_\_\_\_\_  
Mark Lovelace, Chair

Adopted on motion by Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_ and the following vote:

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