



AGENDA ITEM NO.

L-1

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
Alex Poulos
31 Heather Court, Whitethorn, California
AP# 109-251-009

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 31 Heather Court, Whitethorn.
2. Close the Public Hearing for the Cost Recovery Accounting for 31 Heather Court, Whitethorn.
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 the entire sum of nine hundred fifty-one dollars and seven cents (\$951.07) into the County Counsel's Office revenue account number 1100-121-603-040 to recoup Code Enforcement staff time, mileage and office expenses incurred enforcing the Humboldt County Code in this matter.

Prepared by Jeff Conner

CAO Approval *C. Hagg*

REVIEW:

Auditor *MSM*

County Counsel *BA*

Personnel

Risk Manager

Other

TYPE OF ITEM:

- Consent
 Departmental
 Public Hearing
 Other

PREVIOUS ACTION/REFERRAL:

Board Order No. L-5

Meeting of: 07/28/2016

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

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 ordered by your Board on July 28, 2015, for the property known as 31 Heather Court, Whitethorn, California; AP# 109-251-009 (“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.

The Clerk of the Board brought this matter before your Board on July 28, 2015, as an appeal of the CEU’s determination of a violation of the County’s small parcel, personal use, medical marijuana ordinance and an order to abate unlawful marijuana cultivation occurring on the Premises. After receiving written and oral testimony, your Board found that the conditions on the property were a public nuisance and ordered the owner to abate the violations within fourteen (14) days. The owner and the occupants did not notify the Code Enforcement Unit that the abatement had been completed. On August 22, 2015, the CEU served an abatement warrant at the Premises and determined that the abatement of the nuisance had been completed by the property owner. 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 nine hundred fifty-one dollars and seven cents (\$951.07). 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 costs for driving time and mileage were reduced by a factor of four as the enforcing officer was inspecting numerous other parcels in the Whitethorn/Shelter Cove area during each of the inspections of the Premises.

The total proposed accounting and assessment is nine hundred fifty-one dollars and seven cents (\$951.07). 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 \$951.07. 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:

None.

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: Resolution to Declare an Unpaid Cost Recovery Accounting a Special Assessment Against the Real Property Owned by Alex Poulos (APN 109-251-009) Pursuant to HCC 314-55.2.8.10.4

Cost Recovery Accounting Hearing
Alex Poulos
31 Heather Court, Whitethorn, California
AP# 109-251-009

Attachment 1

Cost Recovery Accounting

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

COST RECOVERY ACCOUNTING

Name: **Alex Poulos**
 Address: 10238 Boca Circle
 Naples, Florida 34109
 A.P.# 109-251-009
 File # 15CEU-30
 Location: **31 Heather Court**
 Whitethorn, California

| Date | Staff/ Vendor | Staff Time Description | Hours/10ths | Cost |
|------------------------|--------------------------|---------------------------------------|--------------------|-----------------|
| 6/17/2015 | JC | Initial Inspection | 1.25 | \$86.25 |
| 6/23/2015 | JC | Obtain Inspection Warrant | 2.00 | \$138.00 |
| 7/8/2015 | JC | Serve Inspection Warrant/Serve Notice | 1.25 | \$86.25 |
| 7/17/2015 | TG | Process Appeal Request | 0.10 | \$5.30 |
| 7/27/2015 | AN | Prepare for Appeal Hearing | 2.00 | \$258.00 |
| 7/27/2015 | TG | Prepare Declaration for Hearing | 0.25 | \$17.25 |
| 7/28/2015 | AN | Appeal Hearing | 1.00 | \$129.00 |
| 8/7/2015 | JC | Obtain Abatement Warrant | 1.00 | \$69.00 |
| 8/12/2015 | JC | Serve Abatement Warrant | 1.25 | \$86.25 |
| SUB-TOTAL - Staff Time | | | | \$875.30 |

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 |
|---------------------|--------------|-----------------------------|-------------|----------------|
| 6/17/2015 | JC | 43 | \$0.540 | \$23.22 |
| 7/8/2015 | JC | 43 | \$0.540 | \$23.22 |
| 8/12/2015 | JC | 43 | \$0.540 | \$23.22 |
| SUB-TOTAL - Mileage | | | | \$69.66 |

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

Contractors and Other Agencies

Contractors and Other Agencies

None

SUB-TOTAL - Contractors and Other Agencies **\$0.00**

Date **Office Costs** **Amount**
Description

7/9/2015 Certified Mail for Notice of Marijuana Violation \$6.11

SUB-TOTAL - Office Cost **\$6.11**

TOTAL **\$951.07**

Cost Recovery Accounting Hearing
Alex Poulos
31 Heather Court, Whitethorn, California
AP# 109-251-009

Attachment 2

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. 16-68

RESOLUTION TO DECLARE AN UNPAID COST RECOVERY ACCOUNTING A SPECIAL ASSESSMENT AGAINST THE REAL PROPERTY OWNED BY ALEX POULOS (APN 109-251-009) PURSUANT TO HCC SECTION 314-55.2.8.10.4

WHEREAS, Government Code Section 25845 authorizes the County of Humboldt ("County") to enact an 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 the costs associated with such abatements; and

WHEREAS, on July 8, 2015, the Humboldt County Code Enforcement Unit ("Code Enforcement Unit") served an inspection warrant on the property located at 31 Heather Court in Whitethorn, California ("Premises"); and

WHEREAS, during the inspection of the Premises the Code Enforcement Unit found numerous marijuana plants being cultivated in the area served by the Shelter Cove Resort Improvement District in violation of Humboldt County Code Section 314-55.2.7.3; and

WHEREAS, pursuant to Humboldt County Code Section 314-55.2.8.3, the Code Enforcement Unit served the owner of the property, Alex Poulos ("Owner"), with a Notice and Order to Abate Unlawful Marijuana Cultivation on July 9, 2015, by sending the Owner a copy of the notice via certified mail 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 requested a hearing on July 22, 2015, and the Clerk of the Humboldt County Board of Supervisors scheduled said hearing for July 28, 2015; and

WHEREAS, after considering all of the evidence presented at said hearing, the Humboldt County Board of Supervisors ("Board") upheld the Code Enforcement Unit's determination and ordered that the nuisance be abated within fourteen (14) days of their ruling; and

WHEREAS, the Code Enforcement Unit did not receive any evidence, either visual or verbal, from the Owner that the nuisance had been abated and consequently applied for and obtained an abatement warrant per 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. 16-68

WHEREAS, on August 12, 2015, the Code Enforcement Unit served the abatement warrant at the Premises and determined that the nuisance had been abated by the Owner; 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 \$951.07; and

WHEREAS, Humboldt County Code Section 314-55.2.8.9 requires the Clerk of the 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 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 of Supervisors 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.

NOW THEREFORE BE IT RESOLVED:

1. The unpaid cost recovery accounting, in the amount of Nine Hundred Fifty-One Dollars and Seven Cents (\$951.07), shall be assessed as a special assessment against the following parcel number: 109-251-009.

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RESOLUTION NO. 16-68

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 Sundberg, seconded by Supervisor Fennell, 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