



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

C-11

For the meeting of: **January 3, 2017**

Date: **December 13, 2016**

To: **Board of Supervisors**

From: **County Counsel's Office, Code Enforcement Unit**
Scott Miles, Senior Deputy County Counsel

Subject: **Administrative Abatement Funding Transfer and Supplemental Budget (4/5th Vote)**
Tyrone Okane-Morgan and Bruce Okane
3863 D Street, Eureka, California; AP# 018-193-014

RECOMMENDATION(S):

- (1) Authorize the cost of abatement to be advanced by the County of Humboldt, pursuant to Humboldt County Code section 351-31, and if unpaid by the property owner, that a lien be placed against the parcel in the amount of the costs of abatement pursuant to Humboldt County Code sections 351-33 to 351-44;
- (2) Authorize a transfer from the Code Enforcement Trust Fund, account #3440000, in the amount of \$18,000 to the County Counsel's revenue account #1100-121-631-130 to cover the cost of the abatement, and to pay the expenses associated with the abatement out of account 1100-121-2-403; and
- (3) Authorize the Auditor-Controller to execute the supplemental budget shown in Attachment "A" for fiscal year 2016-2017. (4/5th Vote)

SOURCE OF FUNDING:

General funds were used to prepare this agenda item. The cost of the abatement will be funded by the Code Enforcement Trust Fund. The current balance is approximately \$75,000. Included in this balance is

Prepared by Jason Sheets and Jeff Conner

CAO Approval

REVIEW:

Auditor MBM

County Counsel Sm

Personnel _____

Risk Manager _____

Other _____

TYPE OF ITEM:

- ☒ Consent
☐ Departmental
☐ Public Hearing
☐ Other

PREVIOUS ACTION/REFERRAL:

Board Order No. K-1

Meeting of: August 9, 2016

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor Sundberg Seconded by Supervisor Fennell

Ayes Sundberg, Fennell, Bass, Bohn, Wilson
Nays _____
Abstain _____
Absent _____

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

Dated: Jan. 3, 2017

By:

Kathy Hayes, Clerk of the Board

\$40,000 in Measure Z funds, which were granted by your Board to use for legacy case clean ups.

DISCUSSION:

On August 9, 2016, your Board held a public hearing regarding the conditions on the property located at 3863 D Street, Eureka, California, AP# 018-193-014, which the Humboldt County Tax Collector's database shows is owned by Tyrone Okane-Morgan and Bruce Okane. The house on this property had been seriously damaged in an explosion caused by butane being used to extract concentrated marijuana. The violations listed on the Notice of Nuisance included construction without permits, maintaining a hazardous structure and a violation of the indoor medical marijuana for personal use ordinance. The structure was secured by a local contractor and the marijuana operation was abated by occupants of the property. At the time of the hearing, the only remaining violation was construction without permits. At the hearing, evidence was presented by the Code Enforcement Unit. The owners of the property were not present or represented at the hearing.

At the conclusion of the public hearing, your Board found that the conditions constituted a public nuisance, and ordered that the nuisance be abated within 30 days of the service of the Findings of Nuisance and Order of Abatement. Your Board further ordered that the Code Enforcement Unit return for abatement funds if the owner did not comply with the abatement order by the deadline imposed, and to seek a lien on the property if the owners failed to pay those costs. On August 15, 2016, a copy of the Corrected Findings of Nuisance and Order of Abatement from the hearing was sent to Tyrone Okane-Morgan and to Bruce Okane via certified mail pursuant to Humboldt County Code Sections 351-22 and 351-11. Furthermore, on August 15, 2016, another copy was posted on the premises, completing service.

On September 9, 2016, the Code Enforcement Unit was informed that a local contractor had been hired by Tyrone Okane-Morgan to clear the violations. However, there were complaints of wrong-doing by both the owner and the contractor and on October 11, 2016, the Code Enforcement Unit was informed that this arrangement had been terminated. An inspection on the same date showed no significant change in the conditions on the property since the hearing on August 9, 2016. On October 25, 2016, the Code Enforcement Unit was contacted by John Okane, Tyrone Okane-Morgan's brother. He claimed that he was taking responsibility for clearing the violations and the Code Enforcement Unit agreed to give him thirty days to do so. However, on November 29, 2016, a check found no change in the conditions on the property and there was no evidence that a demolition or building permit application had been submitted to the Building Division.

Despite the efforts made by the Code Enforcement Unit to obtain voluntary compliance, electrical wiring that was installed without the proper permits remains in the house. In addition, according to the Chief Building Official, the cost to repair the residence is greater than the value of the repaired house. Consequently, the Code Enforcement Unit is seeking funding to demolish the structure.

FINANCIAL IMPACT:

The costs of the abatement have been estimated at \$18,000 for the removal and disposal of the solid waste, generated by demolishing the structure. This is further broken down as follows:

General contractor crew for two days	\$7,500
<i>Including excavator and skid-steer loader</i>	
Seven 40 yard bins for disposal of solid waste	\$8,750
Contingency	\$1,750
Total	\$18,000

The balance of the Code Enforcement Trust Fund is currently approximately \$75,000.

Today's recommended action supports the Board's Strategic Framework by enforcing laws and regulations and creating opportunities for improved health and safety.

OTHER AGENCY INVOLVEMENT:

No other agency involvement is anticipated.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. Extend the timeline for voluntary compliance by the property owner. This alternative is not recommended as the property owner has had adequate time to abate the conditions constituting a nuisance on the parcel and appears to be unwilling and/or unable to do so.
2. Do not authorize abatement cleanup of the property by the Code Enforcement Unit. This alternative is not recommended as the conditions on the property remain violations of Humboldt County Code, are a public nuisance, and a detriment to the health, safety and welfare of the citizens of Humboldt County.
3. That the Code Enforcement Unit hire a contractor to remove the unpermitted electrical wiring rather than to remove the damaged structure. The cost for this option would be approximately \$3,000. This option is not recommended as it would leave a damaged structure on the property which the owners have shown no inclination to repair.

ATTACHMENTS:

Attachment A – Supplemental Budget for Abatement.

Attachment B – Findings of Nuisance and Order of Abatement from the Abatement Hearing before the Board of Supervisors on August 9, 2016.

Attachment C – Digital photographs to be submitted no later than December 23, 2016

Administrative Abatement Funding Transfer

In Re: Tyrone Okane-Morgan and Bruce Okane
3863 D Street, Eureka, California; AP# 018-193-014

ATTACHMENT “A”

Supplemental Budget for Abatement

Supplemental Budget for Abatement (4/5th Vote)

Revenue:

1100-121-631-130	\$18,000
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Expenditures:

1100-121-2-403	\$18,000
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Administrative Abatement Funding Transfer

In Re: Tyrone Okane-Morgan and Bruce Okane
3863 D Street, Eureka, California; AP# 018-193-014

ATTACHMENT “B”

Corrected Findings of Nuisance and Order of Abatement

**BOARD OF SUPERVISORS
COUNTY OF HUMBOLDT**
825 FIFTH STREET
EUREKA, CALIFORNIA 95501 PHONE (707) 445-7471

CORRECTED FINDINGS OF NUISANCE & ORDER OF ABATEMENT

In Re: Abatement Hearing

Tyrone Okane-Morgan and Bruce Okane
3863 D Street, Eureka, California, AP# 018-193-014

August 9, 2016

WHEREAS, Humboldt County Board of Supervisors (Board) considered the evidence concerning conditions on the subject property, including relevant documents, writings, codes, ordinances and oral testimony; and

WHEREAS, the Board declares that the conditions on the property are public nuisances in that the conditions are detrimental to the health, safety, comfort and general welfare of the public and persons residing in the neighborhood

Now therefore the Board Finds:

1. The property located at 3863 D Street, Eureka, California is located in a Residential: Single Family zone, in the unincorporated area of Eureka, Humboldt County, California, referred to as Assessor's Parcel No. 018-193-014; and

2. The staff of the Code Enforcement Unit for the County of Humboldt confirmed the existence of violations on the property; and

3. The property owners were served with a Notice of Nuisance pursuant to Humboldt County Code §351-12 & 13, describing the conditions constituting the violations and ordering abatement of those conditions and that the Notice of Nuisance was posted on the property pursuant to said County Code; and

4. The property owners have had significant and reasonable time to correct all violations but have refused and/or failed to meet the deadlines prescribed by the Notice; and

5. The property owners were served with a Notice to Abate Nuisance pursuant to Humboldt County Code §351-15; to wit, the Notice to Abate Nuisance was posted on the property pursuant to said County Code and the property owners were sent a certified letter containing the Notice to Abatement Nuisance with the date and time of the hearing; and

6. The property owners have the legal responsibility for maintenance of the property, including abatement of all violations and compliance with all orders of the County; and

7. The violation still exists at the property and the property remains in violation of Humboldt County Code Section 331-28 construction without permits; and

8. The conditions on the property are public nuisances in that the conditions are detrimental to the health, safety, comfort and general welfare of the public and persons residing in the neighborhood.

NOW, THEREFORE, IT IS HEREBY:

ORDERED:

1. The forgoing findings, including the findings of conditions constituting a public nuisance on the subject property, are incorporated herein by reference and made a part hereof;
2. That the property owner abate all violations of the Humboldt County Code as described above. The property owner shall take the following actions:

§331-28 Construction without permits:

Corrective Actions: a) apply for and obtain a building permit to correct the electrical wiring done without permits as well as to repair the damage from the explosion and then complete the requirements of the permit(s), or
b) Apply for and obtain a demolition permit and complete the demolition of the structure including the proper disposal of the generated waste.

3. That the abatement of all violations be completed within 30 days of the service of these Findings of Nuisance and Order of Abatement, including a final inspection by the Code Enforcement Unit;

Findings of Nuisance and
Order of Abatement
August 9, 2016
Page 3

4. That the Code Enforcement Unit is directed to take all necessary steps to assure the abatement is completed as ordered. If the property owner fails to comply with this order the Code Enforcement Unit shall be empowered and authorized to abate said nuisance and shall return to the Board for authorization for a transfer of funds to abate such nuisance, and that the costs of abatement shall become a lien on the subject property.

Dated: 8/9/16



Chair, Humboldt County Board of Supervisors

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF HUMBOLDT)

I, LACY MITCHELL, say:

I am a citizen of the United States, over 18 years of age, a resident of the County of Humboldt, State of California, and not a party to the within action; that my business address is Humboldt County Courthouse, Eureka, California; that on August 15, 2016, I served a true copy **CORRECTED FINDINGS OF NUISANCE & ORDER OF ABATEMENT:**

XX by placing a true copy of the aforementioned document in a sealed envelope individually addressed to each of the parties and caused each such envelope to be deposited with the U.S. Postal Service and/or picked up by an authorized representative, on that same day with fees fully prepaid at Eureka, California, in the ordinary course of business as set forth below: (First Class Mail)

Tyrone Okane- Morgan
P.O. Box 20223
Riverside, CA 92516-022

Bruce Okane
P.O. Box 8023
Lancaster, CA 93539

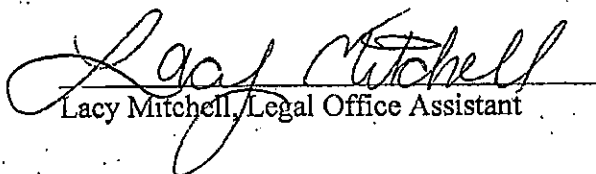
_____ by personally delivering a true copy thereof to the person as forth below.

_____ by placing a true copy thereof in the designated place at Court Operations to the attorney/parties named below.

_____ by fax

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 15th day of August, 2016, at the City of Eureka, County of Humboldt, State of California.


Lacy Mitchell, Legal Office Assistant

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): CODE ENFORCEMENT UNIT COUNTY OF HUMBOLDT 825 FIFTH STREET, ROOM 110 EUREKA, CA 95501 TELEPHONE NO.: (707) 476-2429 FAX NO. (Optional): (707) 445-6297 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF/PETITIONER: CODE ENFORCEMENT UNIT DEFENDANT/RESPONDENT: TYRONE OKANE - MORGAN & BRUCE OKANE		CASE NUMBER:
PROOF OF SERVICE OF SUMMONS		Ref. No. or File No.: 16CEU-5

(Separate proof of service is required for each party served.)

- At the time of service I was at least 18 years of age and not a party to this action.
- I served copies of:
 - ☐ summons
 - ☐ complaint
 - ☐ Alternative Dispute Resolution (ADR) package
 - ☐ Civil Case Cover Sheet (served in complex cases only)
 - ☐ cross-complaint
 - ☒ other (specify documents): **FINDINGS OF NUISANCE & ORDER OF ABATEMENT**
- Party served (specify name of party as shown on documents served):
TYRONE OKANE - MORGAN & BRUCE OKANE
 - Person served: ☒ party in item 3a ☐ other (specify name and relationship to the party named in item 3a):
- Address where the party was served:
3863 D STREET EUREKA
- I served the party (check proper box)
 - ☐ by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): (2) at (time):
 - ☐ by substituted service. On (date): at (time): I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3b):
 - ☐ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - ☐ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - ☐ (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): from (city): or ☐ a declaration of mailing is attached.
 - ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

PLAINTIFF/PETITIONER: CODE ENFORCEMENT UNIT	CASE NUMBER:
DEFENDANT/RESPONDENT: <u>OLANE ET AL</u>	

- c. ☐ by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in Item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the Notice and Acknowledgment of Receipt and a postage-paid return envelope addressed to me. (Attach completed Notice and Acknowledgment of Receipt.) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☒ by other means (specify means of service and authorizing code section):

POSTED PROPERTY 8/15/2016 1310 HOURS

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☒ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☐ On behalf of (specify):

under the following Code of Civil Procedure section:

- ☐ 416.10 (corporation)
- ☐ 416.20 (defunct corporation)
- ☐ 416.30 (joint stock company/association)
- ☐ 416.40 (association or partnership)
- ☐ 416.50 (public entity)

- ☐ 415.95 (business organization, form unknown)
- ☐ 416.60 (minor)
- ☐ 416.70 (ward or conservatee)
- ☐ 416.90 (authorized person)
- ☐ 415.46 (occupant)
- ☐ other:

7. Person who served papers

- a. Name: Jeff Conner
- b. Address: 825 Fifth Street
- c. Telephone number: 476-2429
- d. The fee for service was: \$ 0.00
- e. I am:

- (1) ☐ not a registered California process server.
- (2) ☒ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☐ registered California process server:
- (i) ☐ owner ☐ employee ☐ independent contractor.
- (ii) Registration No.:
- (iii) County:

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 8/15/2016

Jeff Conner

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

(SIGNATURE)

Administrative Abatement Funding Transfer

In Re: Tyrone Okane-Morgan and Bruce Okane
3863 D Street, Eureka, California; AP# 018-193-014

ATTACHMENT “C”

Digital photographs taken on December 22, 2016







