



COUNTY OF HUMBOLDT

For the meeting of: **February 21, 2017**

Date: February 2, 2017

To: Board of Supervisors

From: County Counsel's Office, Code Enforcement Unit *Sm*
Scott Miles, Senior Deputy County CounselSubject: Special Assessment for Unpaid Administrative Penalty for Margaret Belli *Ldeta* ~~Fortuna~~, APN 309-041-016RECOMMENDATION(S):

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

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

SOURCE OF FUNDING:

General Fund

DISCUSSION:

Pursuant to California Government Code Section 53069.4 and Humboldt County Code Sections 2131-1, *et seq.*, the Humboldt County Code Enforcement Unit ("CEU") is authorized to issue administrative penalties against parties who have violated the Humboldt County Code and/or other ordinances adopted by the County as well as parties who have failed to comply with an order issued by the Humboldt County Board of Supervisors ("Board") or a hearing officer.

The purpose of administrative penalties is to provide the County of Humboldt ("County") with additional remedies to correct violations and, where necessary, to penalize violators for their failure to comply with the County's codes and ordinances.

Prepared by Scott Miles/Teri GridleyCAO Approval *Eebha Hag*

REVIEW:

Auditor *WBM* County Counsel *Sm* 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 *Fennell* Seconded by Supervisor *Sundberg*Ayes *Fennell, Sundberg, Bohm, Bass*

Nays _____

Abstain _____

Absent *Wilson*

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

Dated: *February 21, 2017*By: *Bade Ebers*
Kathy Hayes, Clerk of the Board

The issuance of an administrative penalty may be appealed by the responsible party in a hearing before an impartial administrative 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 Administrative Penalty becomes final, and the administrative penalty must be paid within twenty-five (25) days after service of the final order. If the penalty remains unpaid after twenty-five (25) days, the CEU may collect the penalty plus costs and interest. One method of collecting the penalty is through the adoption of a resolution declaring the unpaid penalty, including 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 shall be 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 Humboldt 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) Margaret Belli, ^{Wolfe}Fortuna, A.P. No. 309-041-016.

On September 2, 2015, the CEU received a referral from the Humboldt County Planning and Building Department concerning the above-referenced property. The report that accompanied the referral indicated that there were violations of grading/fill and timber harvest on the property, and that a Stop Work Order was posted on August 26, 2015.

CEU confirmed some of the violations on September 3, 2015, and coordinated with the California Department of Fish and Wildlife which is also assigned to the case in order to obtain an inspection warrant. Once on the property, it was determined that there were further violations. A Notice of Nuisance was issued, and then served on the owner of the subject property, Margaret Belli, on December 14, 2015.

On March 1, 2016, an administrative penalty in the amount of Three Thousand Seven Hundred Fifty Dollars (\$3,750.00) was issued to Ms. Belli. On or about March 11, 2016, Ms. Belli submitted an Affidavit of Sovereignty Status which was determined to constitute an appeal of the administrative penalty. As a result, an administrative penalty hearing was then scheduled for April 5, 2016, and continued to June 6, 2016, for Ms. Belli to complete certain steps.

On June 6, 2016, the continued administrative penalty hearing was held. After reading a statement opposing the imposition of the administrative penalty, Ms. Belli asked if she was free to leave, and left the hearing. The hearing officer, Lynnette Chen, issued a final Order Imposing Administrative Penalty in the amount of Three Thousand Seven Hundred Fifty Dollars (\$3,750.00), as the violations had not been cleared. Ms. Belli did not pay the administrative penalty within twenty-five days after service of the final Order Imposing Administrative Penalty as required by Humboldt County Code Sections 2131-1, *et seq.*

Accordingly, the administrative penalty, including interest and any other costs, imposed on Ms. Belli may be declared a special assessment against the above-referenced property upon the adoption of a resolution declaring a special assessment by the Humboldt County Board of Supervisors.

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FINANCIAL IMPACT:

The outstanding administrative penalty and costs are Three Thousand Seven Hundred Sixty-Three Dollars and Forty-Four Cents (\$3,763.44), plus interest of 10% per annum as set by statute. When paid, the administrative penalty and interest will be deposited into the Code Enforcement Revenue Account # 603-040.

The collection of administrative penalty imposed in this case 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. However, this option is not recommended since the administrative penalty in question is past due and a special assessment provides a way for the County to collect such unpaid penalty in a timely manner.

ATTACHMENTS:

Attachment A – Resolution Regarding Margaret Belli, ^{Loleta}~~Fortuna~~, A.P. 309-041-016

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings, Meeting of February 21, 2017

RESOLUTION NO. 17-18

RESOLUTION TO DECLARE AN UNPAID ADMINISTRATIVE PENALTY A SPECIAL ASSESSMENT AGAINST THE REAL PROPERTY OWNED BY MARGARET BELLI (APN 309-041-016) PURSUANT TO HUMBOLDT COUNTY CODE SECTION 2131-8(e)

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

WHEREAS, pursuant to this authority the County enacted Sections 2131-1, et seq., of the Humboldt County Code establishing certain administrative penalty and collection procedures; and

WHEREAS, on November 30, 2015, a Notice of Nuisance was issued by the County of Humboldt County Code Enforcement Unit to Margaret Belli (herein after referred to as "Owner") regarding the property located at 3029 Eel River Drive in Loleta (herein after referred to as "Property") for the following violations of the Humboldt County Code: Section 312-3 - development within coastal zone without permit(s); Section 314-81.1 - use of mobile home or trailer as place of habitation; Section 331-14 - grading without permits; Section 371-2 - maintaining a junkyard; and Section 521-4 - storage & removal of solid waste; and

WHEREAS, on March 1, 2016, the Humboldt County Code Enforcement Unit served Owner with an initial Order Imposing Administrative Penalty regarding the Property in the amount of Three Thousand Seven Hundred Fifty Dollars (\$3,750.00) pursuant to Humboldt County Code Sections 2131-1, et seq.; and

WHEREAS, the initial Order Imposing Administrative Penalty advised Owner that if an appeal of the administrative penalty was not filed within thirty (30) days after service thereof, the initial Order Imposing Administrative Penalty would become final; and

WHEREAS, on or about March 11, 2016, Owner appealed the Order Imposing Administrative Penalty by filing an Affidavit of Sovereignty Status; and

WHEREAS, on April 5, 2016, an administrative penalty hearing regarding the Order Imposing Administrative Penalty pertaining to the Property was held; and

WHEREAS, on April 5, 2016, the administrative hearing officer, Lynnette Chen, issued an Order Continuing Administrative Penalty Hearing which ordered Ms. Belli to complete certain steps and continued the matter to June 6, 2016; and

WHEREAS, on June 6, 2016, a subsequent administrative penalty hearing was held and the hearing officer issued a final Order Imposing Administrative Penalty which upheld the administrative penalty in full; and

WHEREAS, the final Order Imposing Administrative Penalty advised Owner that if she wished to dispute the findings of the administrative hearing officer, a request for judicial review of the final Order Imposing Administrative Penalty must be filed within twenty (20) days after service thereof pursuant to California Government Code Section 53069.4; and

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WHEREAS, the final Order Imposing Administrative Penalty also advised Owner that if the administrative penalty was not paid within twenty-five (25) days after service thereof, the administrative penalty may be made a lien against the Property or collected by special assessment; and

WHEREAS, on June 22, 2016, Owner submitted a copy of a "Violation Warning – Denial of Rights Under Color of Law" to the Humboldt County Code Enforcement Unit, but did not seek judicial review of the final Order Imposing Administrative Penalty within twenty (20) days after service thereof; and

WHEREAS, Owner did not pay the administrative penalty within twenty-five (25) days after service of the final Order Imposing Administrative Penalty; and

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

WHEREAS, pursuant to Humboldt County Code Sections 2131-1, et seq., the amount of the unpaid administrative penalty pertaining to the Property, including interest and any other costs, may be declared a special assessment against any real property within the unincorporated area of Humboldt County upon the adoption of a resolution declaring a special assessment by the Humboldt County Board of Supervisors; and

WHEREAS, upon the adoption of a resolution declaring such special assessment, a Notice of Special Assessment Lien shall be served on the owner of the affected property and recorded with the Humboldt County Clerk-Recorder's Office; and

WHEREAS, the Special 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 procedures 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 Three Thousand Seven Hundred Sixty-Three Dollars and Forty-Four Cents (\$3,763.44), plus interest of 10% per annum from July 20, 2016 as set by statute, shall be assessed as a special assessment against the Property.
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 procedures and sale in the case of delinquency as are provided for ordinary property taxes.
3. A Notice of Special Assessment Lien shall be served on Owner and recorded with the Humboldt County Clerk-Recorder's Office.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

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RESOLUTION NO. 17-18

Dated: February 21, 2017



VIRGINIA BASS, Chair
Humboldt County Board of Supervisors

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

AYES: Supervisors Sundberg, Fennell, Bass, Bohn

NAYS: Supervisors --

ABSENT: Supervisors Wilson

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 Brooke Eberhardt
Deputy Clerk of the Board of Supervisors of the
County of Humboldt, State of California