



COUNTY OF HUMBOLDT

For the meeting of: 12/3/2024

File #: 24-1434

To: Board of Supervisors

From: Planning and Building Department

Agenda Section: Consent

Vote Requirement: Majority

SUBJECT:

Summarily Approve Nuisance Abatement Assessment on the Property Located at 2225 Walker Ave, McKinleyville, CA 95519

RECOMMENDATION(S):

That the Board of Supervisors:

1. Summarily approve the proposed Nuisance Abatement Assessment for 12CEU-110 on the property located at 2225 Walker Ave, McKinleyville, CA 95519 (APN 510-281-002-000) which was in violation of various Humboldt County Codes in the amount of \$180,756.90 in accordance with Title III, Division 5, Chapter 2, section 351-21 Summary Approval of Proposed Nuisance Abatement Assessment; and
2. Summarily approve the proposed Administrative Civil Penalty Assessment on the property located at 2225 Walker Ave, McKinleyville, CA 95519 (APN 510-281-002-000) which was in violation of various Humboldt County Codes in the amount of \$33,086.96 in accordance with Title III, Division 5, Chapter 2, section 352-20 Summary Approval of Proposed Administrative Civil Penalty Assessments.

STRATEGIC PLAN:

This action supports the following areas of your Board's Strategic Plan.

Area of Focus: Safe & Healthy Communities

Strategic Plan Category: 1001 -Support and sustain partnerships between public safety and partner agencies to enhance public safety in our communities

DISCUSSION:

Executive Summary

The Board is being asked to summarily approve one proposed nuisance abatement assessment and one administrative civil penalty assessment at 2225 Walker Ave, McKinleyville, CA 95519. The amount of the proposed nuisance abatement assessment equals the actual costs of abatement and staff time. Administrative civil penalty equals the civil penalty assessed because of the notice of violation appeal hearing and staff time. The approval of the proposed nuisance abatement assessment will repay the county for the actual costs of abating the public nuisance and correcting the code violations on this property. At this point, there is not a rationale for a reduction or elimination of the proposed nuisance abatement assessment because it is based on expenses already paid.

HCC section 351-21 states "if an objection to the proposed assessment is not filed by any Owner, Beneficial Owner, Occupier or any

other person in charge or control of the affected property within ten (10) calendar days after service of the Notice of Nuisance Abatement Assessment, the Humboldt County Board of Supervisors shall summarily approve the proposed assessment without holding a Cost Recovery Hearing.”

HCC section 352-20 states “If an objection to the proposed assessment is not filed by a Responsible Party within ten (10) calendar days after service of the Notice of Administrative Civil Penalty Assessment, the Humboldt County Board of Supervisors shall summarily approve the proposed assessment without holding an Administrative Civil Penalty Assessment Appeal Hearing.”

Based upon these factors, staff recommends that the Board of Supervisors confirm both the proposed nuisance abatement assessment and the administrative civil penalty assessment.

Upon summary approval of the administrative civil penalty assessment, a notice of administrative civil penalty assessment lien will be served on the property. This notice will provide 45 calendar days for the assessment to be paid before the recording of the administrative civil penalty assessment lien.

Upon summary approval of the nuisance abatement assessment, a notice of nuisance abatement assessment lien will be served on the property. This notice will provide 45 calendar days for the assessment to be paid before the recording of the notice of nuisance abatement assessment lien.

Pursuant to HCC section 351-24 after the notice of nuisance abatement assessment lien is recorded “the Humboldt County Auditor-Controller shall enter each Nuisance Abatement Assessment upon the affected Property on the Humboldt County Secured Tax Roll. The Nuisance Abatement Assessment shall continue until it is paid, together with interest at the legal maximum rate computed from the Imposition date until payment is received. The Nuisance Abatement Assessment may be collected at the same time and in the same manner as ordinary property taxes are collected and shall be subject to the same penalties and the same procedures and sale in case of delinquency as provided for ordinary property taxes...”. The nuisance abatement assessment shall also have the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure sections 697.310 et seq.

Pursuant to HCC section 352-23 after the notice of administrative civil penalty lien is recorded “the Administrative Civil Penalty Lien shall have the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure Sections 697.310, et seq., and may be extended as provided in California Code of Civil Procedure Sections 683.110, et seq. The Administrative Civil Penalty Lien shall have no force or effect until recorded by the Humboldt County Clerk-Recorder’s Office. Interest shall accrue on the principal amount of the Administrative Civil Penalty Lien remaining unsatisfied pursuant to the law applicable to civil money judgments. The Administrative Civil Penalty Lien may be foreclosed and the real property subject to such lien sold, by the filing of a complaint for foreclosure in a court of competent jurisdiction, and the issuance of a judgment to foreclose.

Case Refresh

The property owner was unable to abate the public nuisances occurring on the property, and a county abatement was necessary to address all the public nuisances. On March 25, 2011, the Code Enforcement Unit (CEU) received a complaint from the public regarding nuisance conditions on a property located at 2225 Walker Ave, McKinleyville, CA 95519, APN: 510-281-002-000. The complaint alleged that junk vehicles were being stored on the property and trash/solid waste was being stored on the property improperly.

A grant deed for the property was obtained from the Humboldt County Recorder’s Office which identifies the owner as Glenda Rasella. See Attachment A.

On July 10, 2011, a fire occurred at the property which was determined to be a “rubbish, trash and waste fire that had extended to a residence, chicken coop, and trees.” It was noted in the fire report that extensive labor was needed to get through the debris of the residence which was overloaded with combustibles and referred to as a “hoarder house.” The primary residence on the property was destroyed because of the fire. See Attachment B.

In 2012, CEU case number 12CEU-I 10 was opened in response to ongoing complaints received about the property concerning issues of maintaining a junkyard, solid waste, use of a mobile home or RV as a residence, junk vehicles, animal keeping, and construction of a building/structure in violation of building, plumbing and/or electrical codes. The case was seen through to an administrative hearing and the adoption of a resolution by the Humboldt County Board of Supervisors declaring a penalty be assessed as a special

assessment lien against the property on Feb. 23, 2016.

In June of 2012, a large barn-type structure was placed on the property without permits, as shown in Google Earth aerial imagery. See Attachment C.

Humboldt County Code Section 314-43.1.1 states: accessory uses as defined in this Code shall be permitted as appurtenant to any permitted use without the necessity of securing a Special Permit or Use Permit, unless particularly provided in this chapter, on any property in any Unclassified (U) Zone where the General Plan designates the area for residential development or in any Residential (RS, R-1, R-2, R-3, R-4) Zone, unless and until the main building is erected and occupied, or until a special permit is secured. Because there is no principally permitted use in effect on the property, accessory uses such as storage is not appropriate, incidental, and subordinate to and is a violation of Humboldt County Code Section 314-43.1 and constitutes a public nuisance. The primary residential structure was destroyed in a fire and the barn structure was placed on the property afterwards with no permits.

From 2011 through 2019, CEU attempted to gain compliance on the property through inspections, the noticing process, administrative penalties, and hearings. The nuisances continued to exist on the property and therefore, the case remained open. For some time, the case sat dormant due to CEU staffing issues, though complaints continued.

On or about Sept. 7, 2020, CEU again began receiving complaints about the property concerning issues of junk vehicles, solid waste, and vector issues, which if confirmed, would be violations of the Humboldt County Code.

On or about Nov. 23, 2020, CEU Code Enforcement Officer drove by the property and took photos for documentation of its current state. See attachment D.

On or about Feb. 17, 2021, CEU again received a complaint about the Property alleging solid waste, junk vehicles, animal keeping, and vector issues. On or about April 7, 2021, Code Enforcement Officer again drove by the property and took photos for documentation of its current state. See attachment E.

On or about April 7, 2021, Code Enforcement Officer sent a consent to inspect letter, mailed via U.S. Mail, to the owner requesting consent to inspect the property due to complaints of violations of Humboldt County Code occurring on the property. The owner contacted Code Enforcement Officer and scheduled a consent inspection to take place on April 19, 2021. However, on or about April 14, 2021, the owner emailed Code Enforcement Officer and requested a delay of the scheduled inspection until a public records request could be completed. Code Enforcement Officer responded via email to the owner on April 15, 2021, advising her the request to reschedule the inspection would be honored and directed her to schedule the inspection within 7 days of receiving the information from her public records request. On or about April 23, 2021, the owner emailed Code Enforcement Officer and stated she was refusing consent to inspect the property. On or about April 26, 2021, Code Enforcement Officer responded to the owner advising her that due to the refusal for a request for inspection, an inspection warrant would be sought. See attachment F.

On or about Sept. 15, 2021, North Coast Unified Air Quality Management District staff contacted CEU staff regarding a complaint they received regarding burning activity at the property. Their attempts to work with the owner were futile as she refused them access to the property. They again received a complaint on or about Oct. 28, 2021. See Attachment G.

On or about Oct. 5, 2021, the owner came into the Planning and Building Department to inquire about obtaining a permit on a separate property she owns. Code Enforcement Investigator spoke with the owner and requested she consent to an inspection of the Property on Oct. 13, 2021. The owner said she would consider an inspection taking place at the end of October. Follow-up attempts to schedule said inspection with the Owner were futile.

In order to determine the extent of the continued and remaining violations of Humboldt County Code existing on the property, an inspection warrant was needed. Code Enforcement obtained an Inspection Warrant number SW2200054, dated January 31, 2022, which was signed by the Honorable Judge Killoran of the Humboldt County Superior Court. See attachment H.

On Feb. 3, 2022, Code Enforcement posted the notice of intent to serve inspection warrant at the property, took a photo of the posting, and mailed a copy of the notice to the owner via U.S. Certified and First-Class Mail. A proof of service was completed for the posting and mailings. See Attachment I.

On Feb. 9, 2022, Code Enforcement served the inspection warrant upon the property. Code Enforcement was accompanied by Humboldt County Sheriff's Office Deputies, Animal Control, and a North Coast Unified Air Quality Management District Air Pollution Inspector. An inspection report was completed based on observations during the Inspection Warrant Service and photographs were taken. See attachment J.

On Feb. 10, 2022, Inspection Warrant number SW2200054 was returned to the Humboldt County Superior Court. See Attachment K.

The inspection confirmed the following HCC violations continued to occur on the property: 371-2 - Maintaining a Junkyard; 521-4 - Improper Storage and Removal of Solid Waste; 331-28 - Construction of Building/Structure in Violation of Building, Plumbing, and/or Electrical Codes; 354-1 - Junk and/or Inoperable Vehicles; and 314-43.3 - Animal Keeping.

Following the inspection, the owner did not offer evidence of any cooperation or progress toward abating the conditions constituting a public nuisance. It was determined another inspection warrant would be needed to allow for representatives of Wahlund Construction Incorporated, which performs Code Enforcement Abatement Services through a professional services agreement with the county, to enter the Property to assess the site to determine the scope of work needed to successfully prepare for a county abatement of the public nuisance. Code Enforcement obtained an Inspection Warrant number SW2200167, dated March 16, 2022, which was signed by the Honorable Judge Canning of the Humboldt County Superior Court. See Attachment L.

On March 18, 2022, Code Compliance Officer posted notice of Intent to Serve Inspection Warrant at the Property and took photos of the posting. Code Enforcement mailed a copy of the notice to the Owner via U.S. Certified and First-Class Mail. A proof of service was completed for the posting and mailings. See Attachment M.

On March 24, 2022, Code Enforcement served the Inspection Warrant upon the Property. Code Enforcement was accompanied by Humboldt County Sheriff's Office Animal Control, and representatives of Wahlund Construction Inc. The inspection confirmed the following HCC violations continued to occur on the property: 371-2- Maintaining a Junkyard; 521-4 - Improper Storage and Removal of Solid Waste; 331-28 - Construction of Building/Structure in Violation of Building, Plumbing, and/or Electrical Codes; 354-1 - Junk and/or Inoperable Vehicles; and 314-3 -Animal Keeping. Photos were taken of the property to document the current conditions. See Attachment N.

On March 25, 2022, Inspection Warrant number SW2200167 was returned to the Humboldt County Superior Court. See Attachment O.

Through the inspections, it became known to Code Enforcement staff that on Dec. 2, 2021, that another fire had occurred on the property. Arcata Fire Protection District responded to the Property for a fire involving a travel trailer. The burnt trailer remained on the Property at the time of the last inspection. See Attachment P.

Pursuant to HCC Section 351-13-(a), "upon expiration of the time limits set forth in the Notice to Abate Nuisance... , the Code Enforcement Unit shall acquire jurisdiction to correct or abate the condition or conditions causing the Nuisance on the affected Property." This case had gone on now for over 10 years. The owner has been noticed and afforded numerous opportunities to abate the nuisance conditions on the property and has been less than cooperative. The inspections showed the conditions continue to exist and worsen on the property.

On June 10, 2022, Code Enforcement served a formal letter to the owner informing her of the county's intent to conduct public nuisance abatement (to be referred to as Letter of Intent to Abate hereinafter). The letter was sent to the owner via U.S. Certified and First-Class Mail. A proof of service was completed for the mailings. See Attachment Q.

The Letter of Intent to Abate requested the owner's consent for the county to conduct the abatement in lieu of an inspection warrant and order of abatement and stated if Code Enforcement did not receive any contact or communication by June 20, 2022, that we would assume the request for consent was denied. While email communication was received from the owner, said communication did not indicate consent.

On June 17, 2022, Code Enforcement completed a formal letter to the Owner and the registered owners of the vehicles which were located on the property and tagged for removal during the inspections. The notice of intent to Abate and Remove Junk Vehicle per Humboldt County Code Sections 354-1 et seq. included notice that a public hearing may be requested regarding the matter. See

Attachment R.

On June 22 and 23, 2022, Code Enforcement communicated via email with Humboldt County Planning and Building Department Planning Technician regarding clarification of the correct address for the property. The county property tax system known as Megabyte listed both 2225 and 2227 Walker Avenue, McKinleyville, as addresses for the APN of 510-281-002, and the case contained documents listing one or the other as the address. Planning Technician confirmed the correct address to be 2225 Walker Avenue, McKinleyville, and sent an address update request to the Assessor's Office. See Attachment S.

On June 27, 2022, the CEU received a written request from the Owner requesting a hearing regarding the vehicles. See Attachment T.

On August 15, 2022, Code Enforcement Staff met with former CEU Manager to discuss the appeal hearing request for the vehicles. After reviewing the case, it was determined the best course of action was to issue new notices to the property for all violations. This would afford the Owner the chance to respond to all violations at once.

On Sept. 23, 2022, a Notice to Abate Nuisance and Notice of Violation and Proposed Administrative Civil Penalty were posted to the property and mailed to the Owner via U.S. Certified and First-Class Mail. A proof of service was completed for the posting and mailings. The notices cited violations of Humboldt County Code Sections 521-1, 521-4, and 521-12-3, Improper Storage and Removal of Solid Waste, 354-1 - Junk and/or Inoperable Vehicles, 3331-28 Construction of Building/Structure in Violation of Building, Plumbing and/or Electrical Codes, and 311-10.1, 314-43.1.1, 312-2.5, 314-43.3 - Property/Building Use in Violation Zoning Codes, and Animal Keeping. See Attachment U.

On September 30, 2022, the Owner submitted a Code Enforcement Appeal Hearing Request Form and an Administrative Civil Penalty Appeal Hearing Request Form. See Attachment V.

On October 18, 2023, Code Enforcement posted the Notice of Code-Enforcement Appeal Hearing and Notice of Administrative Civil Penalty Appeal Hearing to the property. Legal Office Assistant mailed the notices to the Owner via U.S. First Class and Certified Mail. A proof of service was completed for each the posting and the mailing. See Attachment W.

On December 8, 2023, the Code Enforcement Appeal Hearing and Administrative Civil Penalty Hearing was held by the California Hearing Officers, LLP. The Owner was present for the hearings.

On January 26, 2024, a Finding of Nuisance and Order of Abatement and a Finding of Violation and Order Imposing Administrative Penalty was issued by the California Hearing Officers, LLP. See Attachment X.

On January 30, 2024, Code Enforcement posted the property with the Finding of Nuisance and Order of Abatement and Finding of Violation and Order Imposing Administrative Civil Penalty. Also on January 30, 2024, Legal Office Assistant mailed the orders to the Owner via U.S. First Class and Certified Mail. A proof of service was completed for both the posting and the mailings. See Attachment Y.

In summary, the findings from the hearings upheld the Notice to Abate Nuisance and Notice of Violation and Proposed Administrative Civil Penalty dated September 22, 2022, and ordered the Owner to abate the nuisances within 90 days from service of the findings, along with imposing an administrative civil penalty.

As the service of the findings was January 30, 2024, ninety (90) days from the date of service was April 29, 2024. On April 30, 2024, Code Enforcement attempted to contact the Owner by telephone however, her number was out of service. Additionally, on said date, Code Enforcement sent an email to the Owner at both of her known email addresses requesting she contact Code Enforcement at her earliest convenience if she wished to provide any information supporting that she had complied with the hearing orders.

On May 1, 2024, Code Enforcement went to the property to observe its current condition and see if the nuisances had been abated. The front gate was partially open, Code Enforcement was able to see into the property. Additionally, a neighbor gave permission to look from their property. Observations included large amounts of solid waste scattered about the ground, including the remnants of the trailer which had previously caught fire. There were other trailers visible through the trees, a junk/inoperable vehicle parked

outside the gate to the property, and the barn structure remained in place. Several dogs could be heard barking from the property. See attachment Z.

The findings of the Nuisance and Order of Abatement states "Pursuant to HCC Section 351-13, if the Property Owner fails to abate the nuisance conditions as ordered and within the timelines ordered herein, the CEU shall acquire jurisdiction to abate the nuisance conditions". The nuisance conditions of violations of Humboldt County Code Sections 521-1, 521-4, and 521-12 - Improper Storage and Removal of Solid Waste, 354-1 - Junk and/or Inoperable Vehicles, 331-28 - Construction of Building/Structure in Violation of Building, Plumbing and/or Electrical Codes, and 311-10.1, 314-43.1.1, 312-2.5,314-43.3,Property/Building Use in Violation of Zoning Codes, and Animal Keeping still existed on the property.

On January 27, 2021, a Professional Services Agreement was entered into with Wahlund Construction, Inc. to conduct public nuisance abatement work for the County. See attachment AA.

On June 5, 2024, a Task Order was executed with Wahlund Construction, Inc. to complete the abatement work for \$96,45.00 on the Property. After the abatement was complete a change order was submitted by Wahlund Construction and subsequently a new Task order was fully executed on August 9,2024. in the amount of \$145,644.52. It had been over 2 years since Wahlund had been onsite prior to starting the abatement and property conditions had changed. Attachment BB.

The county abatement was started on June 10, 2024, and completed on July 22, 2024. Photos see Attachment CC.

On September 19, 2024, Code Enforcement served a Notice of Nuisance Abatement Assessment (Attachment DD) and Notice of Administrative Civil Penalty Assessment (Attachment EE) on the Property. No request for a Cost Recovery Hearing was received.

Pursuant to HCC section 351-16 a Notice of Nuisance Abatement Assessment was served for \$180,756.90 which included \$145,644.52 in costs paid to Wahlund Construction to perform the abatement, \$32,280.38 for administrative costs and \$2,832.00 for attorney's fees incurred on this enforcement action. See Attachment DD.

Pursuant to HCC section 352-16 a Notice of Administrative Civil Penalty Assessment was served for \$33,086.96 which included \$6,086.96 of administrative costs incurred on this enforcement action. See Attachment EE.

SOURCE OF FUNDING:

General Fund, Code Enforcement (1100269) Nuisance Abatement (631130)

FINANCIAL IMPACT:

The cost of preparing the cases and serving the notices has been included as administrative costs in accordance with established policies and code sections. Administrative staff costs associated with this assessment have been budgeted in the salaries and expenses of budget unit 1100-269 (Code Enforcement). The cost of the abatement was paid out of monies set aside for County abatements in the General Fund and transferred to budget unit 1100-269. With staff recommendation, there is minimal impact to the General Fund with this Board item.

OTHER AGENCY INVOLVEMENT:

County Counsel

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to approve the Nuisance Abatement Assessment or the Notice of Administrative Civil Penalty Assessment. However, this is not recommended because staff recommendations align with Title III, Division 5 of Humboldt County Code. By choosing this option there will be no reimbursement for the public funds spent to clean up and abate the public nuisance

ATTACHMENTS:

Attachment A - Grant Deed

Attachment B - Arcata Fire Report

Attachment C - Google Earth Imagery

Attachment D - Photo Documentation 11.23.2020

Attachment E - Photo Documentation 02.17.2021

Attachment F - Request for Inspection Consent

Attachment G - North Coast Unified Air Quality Management District Complaint

Attachment H - Inspection Warrant

Attachment I - Letter of Intent to Serve Inspection Warrant

Attachment J - Inspection Report and Photo Documentation

Attachment K - Declaration of Execution of Inspection Warrant and Return of Inspection Warrant

Attachment L - Inspection Warrant

Attachment M - Letter of Intent to Serve Inspection Warrant

Attachment N - Inspection Photo Documentation 03.24.2022

Attachment O - Declaration of Execution of Inspection Warrant and Return of Inspection Warrant

Attachment P - ARF Fire Report

Attachment Q - Letter of Intent to Conduct Public Nuisance Abatement

Attachment R - Notice of Intent to Abate and Remove Junk Vehicles

Attachment S - Address Correction

Attachment T - Junk Vehicle Hearing Request

Attachment U - Notice to Abate Nuisance and Notice of Violation and Proposed Administrative Civil Penalty

Attachment V - NTA/NOV Appeal Hearing Request Form

Attachment W - Notice of Code Enforcement Appeal Hearing and Notice of Administrative Civil Penalty Appeal Hearing

Attachment X - Finding of Nuisance and Order of Abatement and a Finding of Violation and Order Imposing Administrative Penalty

Attachment Y - Posting and Proof of Service for Finding of Nuisance and Order of Abatement and a Finding of Violation and Order Imposing Administrative Penalty

Attachment Z - Photo Documentation 05.01.2024

Attachment AA - Professional Services Agreement

Attachment BB - Task Order

Attachment CC - Post Abatement Photos

Attachment DD - Notice of Nuisance Abatement Assessment

Attachment EE - Notice of Administrative Civil Penalty Assessment

PREVIOUS ACTION/REFERRAL:

Meeting of: February 23, 2016

File No.: 16-0229