I. PLEDGE OF ALLEGIANCE: Led by Supervisor Abe

II. ROLL CALL: Supervisors Vasquez, Nicoletti, Griego, Abe, Fletcher – Supervisor Griego absent

III. CONSENT AGENDA: All matters listed under the Consent Agenda are considered to be routine and can be enacted in one motion.

MOTION: Move to approve Consent Agenda MOVED: Randy Fletcher SECOND: Andrew Vasquez
AYES: Andrew Vasquez, John Nicoletti, Roger Abe, Randy Fletcher
NOES: None ABSENT: Mary Jane Griego ABSTAIN: None

A. Administrative Services

1. (458-1016) Approve 1st amendment to agreement with Wallace-Kuhl and Associates extending the term to January 30, 2017 for specialized testing services on the Yuba County Sheriff Project and authorize Chair to execute. Approved.

B. Clerk of the Board of Supervisors

1. (459-1016) Reappoint Paul Tupaz to Child Care Planning Council as a Consumer Representative with a term to end September 30, 2019. Approved.

2. (460-1016) Appoint Cassandra Rivera to Child Care Planning Council as a Community Representative with a term to end September 30, 2019. Approved.

C. Community Development and Services

1. (461-1016) Award contract to R&R Horn, Inc., apparent low bidder, for Ella Elementary Safe Routes to School ATP Project 7th Avenue from Olivehurst Avenue to Powerline Road and authorize Chair to execute upon review and approval of County Counsel. Approved.

2. (435-1016) Award contract to R & R Horn, Inc., apparent low bidder, for North Beale Road Complete Streets Phase 1 and authorize Chair to execute agreement upon review and approval of County Counsel and Caltrans. Approved.

D. Emergency Services

1. (462-1016) Approve renewed Memorandum of Understanding for the Mobile Incident Command Vehicle (MICV) and authorize Chair to execute. Approved.

2. (463-1016) Adopt resolution proclaiming the existence of ongoing local drought emergency in Yuba County pursuant to Government Code §8630. Adopted Resolution No. 2016-109, which is on file in Yuba County Resolution Book No. 47.
E. Health and Human Services

1. (464-1016) Approve Memorandum of Understanding with Sutter-Yuba Behavioral Health for mental health assessment and treatment services to youth, authorize Chair to execute, including any amendments upon approval of County Counsel. Approved.

F. Probation


G. Sheriff-Coroner


2. (467-1016) Approve Third Party Administration Agreement with CorrectCare-Integrated Health, Inc. (CCIH) for Claims Administration Services for Yuba County Jail and authorize Chair to execute. Approved.

3. (468-1016) Approve Memorandum of Understanding with Yuba County Office of Education for Vocational Educational Programs for female inmates at Yuba County Jail for Fiscal Year 2016-2017 and authorize Chair to execute. Approved.

H. Treasurer and Tax Collector

1. (469-1016) Adopt resolution delegating investment authority to Yuba County Treasurer for 2017. Adopted Resolution No. 2016-110, which is on file in Yuba County Resolution Book No. 47.

2. (470-1016) Approve to sell at public auction properties that are tax defaulted subject to the power of sale via internet, and disburse any excess proceeds to all eligible parties of interest who submitted claims in accordance to California Revenue and Taxation Code. Approved.

IV. SPECIAL PRESENTATION

A. (471-1016) Receive presentation regarding ATT deploying and offering internet access and voice service in Yuba County. (Alice Perez AT&T External Affairs) (Ten minute estimate) AT&T External Affairs Ms. Alice Perez presented a PowerPoint presentation recapping Connect America Fund Phase II (CAP) and how funds would be utilized to offer Internet access to more than 141,500 homes and small businesses in the FCC identified census blocks. Ms. Perez responded to Board inquiries.

The following individual spoke: Mr. Edward Madera

B. (472-1016) Receive presentation on activities from Yuba County Historic Resource Commission. (Fifteen minute estimate) Commissioners Sue Cejner-Moyers and Pat Camarena recapped activities of the commission including:
   - Participation in various local events
   - Preservation of historical Assessment records from 1850's
   - Partnering with Marysville Planning Commission and Yuba Sutter Chamber of Commerce
   - Black Bart historical research
   - Exploring possibility for a Yuba County Museum

V. PUBLIC COMMUNICATIONS:

- Mr. Edward Madera - assembly laws
- Mr. Charles Nott - supports restarting the Fish and Game Advisory Commission
- Mr. John Osbourn - supports restarting the Fish and Game Advisory Commission
VI. COUNTY DEPARTMENTS

A. Library

1. (473-1016) Adopt resolution amending policy of Standards of Behavior for Yuba County Library. (Ten minute estimate) Director Kevin Mallen and Mrs. Sandeep Sidhu recapped new policies and responded to Board inquiries.

MOTION: Move to adopt       MOVED: Andrew Vasquez       SECOND: Randy Fletcher
AYES: Andrew Vasquez, John Nicoletti, Roger Abe, Randy Fletcher
NOES: None       ABSENT: Mary Jane Griego       ABSTAIN: None

Adopted Resolution No. 2016-111, which is on file in Yuba County Resolution Book No. 47.

2. (474-1016) Adopt resolution changing days and hours of operation the Library is open to the public effective January 3, 2017. (Ten minute estimate) Director Kevin Mallen and Mrs. Sandeep Sidhu recapped amending the library schedule to include open hours on Saturdays and expand services.

The following individual spoke: Ms. Sue Cejner-Moyers

MOTION: Move to adopt       MOVED: Andrew Vasquez       SECOND: Randy Fletcher
AYES: Andrew Vasquez, John Nicoletti, Roger Abe, Randy Fletcher
NOES: None       ABSENT: Mary Jane Griego       ABSTAIN: None

Adopted Resolution No. 2016-112, which is on file in Yuba County Resolution Book No. 47.

VII. CORRESPONDENCE: The Board may direct any item of informational correspondence to a department head for appropriate action.

A. (475-1015) Notice from California Fish and Game Commission on proposed 90-day extension of emergency Closure of Recreational Razor Clam Fishery. Received.

B. (476-1016) Letter from Soha and Bhupinder Sahota regarding property along Highway 70. Received.

C. (477-1016) Letter from Committee to Restart the Yuba County Fish and Game Advisory Committee enclosing request to restart the commission and providing a list of interested volunteers. Received.

VIII. BOARD AND STAFF MEMBERS REPORTS: This time is provided to allow Board and staff members to report on activities or to raise issues for placement on future agendas.

Supervisor Vasquez: Board consideration to revisit Noise Ordinance to address loud parties

Supervisor Nicoletti: Memorial Adjournment - Mr. Fred Hayes

Supervisor Fletcher:
- Administration Hearing Officer for Marijuana cases
- Yuba County Water Agency Workshop on October 18
- Camptonville Bio Mass evaluation on October 20
- Yuba Sutter Transit Authority meeting October 20
- Wheatland Town Hall meeting October 20
Supervisor Abe:
  - Wheatland Town Hall meeting October 20
  - Plumas Lakes Town Hall meeting October 24
  - Memorial Adjournment - Ms. Mildred Skagg and Mrs. Janice Dolbow

County Counsel Angil Morris-Jones: Naturalization Ceremony at Sutter County Veterans Hall, October 28 at 9:30 a.m.

IX. CLOSED SESSION The Board retired into closed session at 10:52 a.m. and returned at 11:21 a.m.

A. 10:30 A.M. Record Appeal Hearing pursuant to Welfare and Institutions Code 10850 - One Case By unanimous vote the Board upheld the decision of the Health and Human Services Director to deny benefits, and denied the appeal.

X. RECESS TO 3:30 P.M. The Board reconvened at 3:32 p.m. with all members present as indicated above with the exception of Supervisor Vasquez.

XI. ADMINISTRATIVE APPEAL HEARING: The clerk administered the oath to the following parties testifying: Code Enforcement Manager Jeremy Strang, Code Enforcement Officers John Jacenich and Chris Monaco, Building Inspector Dan Burns, and Attorney Mr. Phillip Decker.

A. (457-1016) Administrative Appeal Hearing - Hold appeal hearing to determine public nuisance regarding property located at 9019 Marysville Road, Oregon House, CA 95962, APN 048-080-035, owner Jeavaughn Bennett, in the amount of $419,581.02. (Roll call vote) (Thirty minute estimate) Code Enforcement Manager Jeremy Strang entered the following into the record: An 8 page Public Nuisance Hearing report with 8 attachments, a PowerPoint presentation outlining timeline of events, images depicting various violations including outdoor grow consisting of 137 plants, hazards, and unpermitted buildings, and an audio phone message and video from Ms. Heidi Grossman.

Supervisor Vasquez joined the meeting at 3:37 p.m.

Mr. Strang played and submitted an audio phone message and video from Ms. Heidi Grossman. Supervisor Abe questioned the relevance of the messages, and inquired if Ms. Grossman was the owner of the property, tenant or grower. Chief Deputy County Counsel Courtney Abril replied the recordings were relevant as they occurred during the service of the inspection warrant.

Attorney Philip Decker on behalf of Mr. Jeavaughn Bennett acknowledged there was a nuisance on the property and provided current images depicting the removal of plants only. He indicated he felt the fees were cruel and unusual. Mr. Decker requested additional time to clean up the property.

Following Board discussion, Supervisor Nicoletti inquired on the status of the cleanup. Mr. Strang indicated that he could not comment as to the status of the nuisance conditions until an inspection could be performed. Mr. Strang did state that he ordered the summary removal of PG&E electrical service due to the immediate nature of the electrical violations.

The clerk administered the oath to Mr. Jeavaughn Bennett. Mr. Bennett acknowledged the existence of a nuisance and felt it was a priority was to clean up the plants and requested three additional days to address the remaining violations.

Supervisor Abe confirmed with Mr. Bennett that between September 21 and October 25 he only had time to address the plants and none of the other hazards or violations.

Ms. Abril advised staff was served a Temporary Restraining Order (TRO) on October 18, the date of the initial administrative hearing, by the Law Office of Charnel James and had to appear in the Superior Court on October 21 and 25.

In response to questions from Supervisor Vasquez, Mr. Strang advised additional costs for staff time of $2,352 related to the TRO were incurred as well as 7 additional days of administrative penalties in the amount of $14,800.00 per day.
Mr. Decker requested additional time to complete the cleanup, indicated he was aware penalties would continue to accrue, and requested time to confer with Mr. Bennet.

Following a short break, Mr. Decker advised Code Enforcement could inspect the property on Wednesday, October 26, 2016.

MOTION: Move to find the existence of a public nuisance; Find administrative penalty in the amount of $14,800 per day is accurate. Find additional penalties of $14,800.00 per day for seven days, additional staff costs of $2,352; Order re-inspection Wednesday, October 26, 2016 at 2:00 p.m.; Find the modified enforcement costs of $525,533.02; Order enforcement costs be paid within 30 days of the date of order; Order a special tax assessment when fees go unpaid and a lien be recorded with the Yuba County Recorder’s Office
MOVED: Andrew Vasquez SECOND: Randy Fletcher
AYES: Andrew Vasquez, John Nicoletti, Roger Abe, Randy Fletcher
NOES: None ABSENT: Mary Jane Grieso ABSTAIN: None

A copy of the Written Decision is hereby incorporated into the minutes as fully set forth therein as Exhibit A.

XII. ADJOURN: 4:32 p.m. in memory of Ms. Mildred Skaggs, Ms. Janice Dolbow, and Mr. Fred Hayes.

Chair

ATTEST: DONNA STOTTLEMEYER
CLERK OF THE BOARD OF SUPERVISORS

By Rachel Ferris, Deputy Clerk

Approved: ____________________________
BEFORE THE BOARD OF SUPERVISORS
COUNTY OF YUBA
STATE OF CALIFORNIA

In the Matter of: )
JEVAUGHN BENNETT )
Parcel Location: )
9019 Marysville Road )
Oregon House, CA 95962 )
APN: 048-080-035 )
Respondent. )

CASE NO. MMJ16-0131

DECISION

1. The Yuba County Board of Supervisors heard this matter on October 25, 2016, in Marysville, California.
2. Complainant Jeremy Strang, Code Enforcement Manager, represented the Code Enforcement Division, Yuba County Community Development and Services Agency, along with Code Enforcement Officers Christopher Monaco and John Jacenich, and Chief Deputy County Counsel Courtney Abril.
3. Respondent, Jevaughn Bennett, was represented by the Law Office of Charnel James; attorney Phillip Decker appeared on behalf of Charnel James.
4. Complainant submitted an 8 page report along with eight attachments and a PowerPoint presentation. Complainant introduced a voicemail message recording from a woman who identified herself as Heidi Grossman and a video recording of video Facebook post from Sugarleaf Professional Services.
5. Complainant testified that a request for Temporary Restraining Order was filed with the Superior Court of the County of Yuba on October 18, 2016, by attorney Charnel James, and the matter was heard on October 25, 2016.
6. Complainant testified that the evidence and testimony presented was true and accurate.
7. Respondent testified that he knew that the conditions on his property, as cited in the Notice and Order to Abate Public Nuisance, constituted a public nuisance.
8. Respondent testified that he removed the marijuana nuisance on or about the morning of October 25, 2016, because he believed the marijuana to be the most important issue cited in the Notice and Order to Abate Public Nuisance. Respondent submitted two pictures depicting two areas of the property that were being used for the marijuana cultivation showing marijuana grow bags that no longer contained marijuana plants. Respondent testified that the pictures were taken on the morning of October 25, 2016.

9. Testimony and evidence were received, the record was closed, and the matter was submitted for decision on October 25, 2016.

FINDINGS OF FACT

1. Respondent is the owner of record of the property located in the unincorporated area of Yuba County identified as Assessor’s Parcel Numbers 048-080-035 and commonly referred to as 9019 Marysville Road, Oregon House, California [“the Property”].

2. The Property is zoned RR-5, Rural Residential, is 14.75 acres in area, and is located amongst other rural residential properties.

3. On July 22, 2016, Officer Christopher Monaco accompanied the Yuba County Sheriff’s Office in the execution of a criminal search warrant at the Property. Based on his observations, Officer Christopher Monaco properly issued a Notice and Order to Abate Public Nuisance for the cultivation of 249 marijuana plants, the illegal emplacement and occupancy of a recreational vehicle and a mobilehome, the illicit discharge of sewage, and the accumulation of junk, trash and debris. The Sheriff’s Department did not seize the marijuana plants; the Notice and Order to Abate Public Nuisance ordered the removal of the nuisances on or before July 23, 2016.

4. On September 21, 2016, an inspection, pursuant to an Inspection Warrant signed by the Honorable Debra L. Givens, Judge of the Superior Court, was performed at the Property to verify compliance with the Notice and Order to Abate, dated July 22, 2016. Code Enforcement Officers Christopher Monaco and John Jacenich found that violations of the Yuba County Ordinance Code continue to exist. Officer Monaco observed that the number of marijuana plants present had been reduced to 137.

5. On September 21, 2016, pursuant to his observations, Officer Monaco issued a second Notice and Order to Abate Public Nuisance. The new Notice and Order to Abate Public Nuisance [“Order”] was issued to the property owner and cultivator Je Vaughn Bennett as well as other identified cultivators: Mena Saefong, Dexton Blackstock, Delroy Roden, and Shaun Hendricks. The Order was personally served to Mena Saefong, and posted on the property. A copy of the Order was also mailed to Je Vaughn Bennett by U.S. Mail, both Certified Mail with Return Receipt and First Class; a proof of Service for each was completed. The Order alleges the following Yuba County Ordinance Code violations:
   A. 7.40.300A Outdoor cultivation of 137 marijuana plants
B. 7.40.300C Cultivation of more than 12 plants  
C. 7.40.300D Water source and water discharge  
D. 7.40.300E Cultivation affecting environment  
E. 7.40.310 Lack of a dwelling  
F. 7.40.320A3 Use of extension cords in lieu of permanent wiring  
G. 7.40.340 Failure to register marijuana cultivation prior to cultivating  
H. 7.40.400A Cultivation of marijuana in violation of any of the provisions of Chapter 7.40 of the Yuba County Ordinance Code.  
I. 7.40.400B Cultivation of marijuana on a parcel that does not have an occupied, legally established dwelling  
J. 7.40.400E The cultivation of marijuana in a manner that exceeds 12 plants  
K. 7.40.400G Any violation of any local, state, or federal law:  
   a. Chapter 7.35 Accumulation and storage of inoperable vehicles  
   b. Chapter 7.36 Maintaining an environment for the propagation and harborage of vector and vermin  
   c. Chapter 10.05 Construction without first obtaining a building permit  
   d. Chapter 10.20 Emplacement and occupancy of a recreational vehicle as a place of human habitation  

6. On September 23, 2016, Respondent, through his attorney Charnel James, filed a timely request, along with the fee deposit of $4,116.00, for hearing to appeal the determination of a Public Nuisance. The hearing was conducted under Yuba County Ordinance Code, Chapter 7.40, Article 6.  

7. The following conditions were present on the Property on September 21, 2016:  
   A. Cultivation of an excessive amount marijuana – 137 marijuana plants  
   B. Cultivation of marijuana outdoors – not within a qualifying accessory structure  
   C. Cultivation of marijuana without first registering with the County  
   D. Cultivating marijuana on a property that does not have a legally established dwelling  
   E. Illegal emplacement and occupancy of a modular home  
   F. Hazardous electrical conditions  
   G. Illegal occupancy of a recreational vehicle  
   H. Discharge of sewage to the ground surface  
   I. Construction of two greenhouses without required building permits  
   J. Accumulation of junk, trash and debris  
   K. Accumulation and storage of inoperable vehicles  

8. On October 18, 2016, Charnel James filed a Temporary Restraining Order ("TRO") with the Superior Court of the County of Yuba. The request for TRO was denied by the Honorable Superior Court Judge Benjamin Z. Wirtschaftler on October 25, 2016.  

9. The Enforcement Costs and Administrative Penalties incurred to date regarding the Property total: $525,533.02.
CONCLUSIONS OF LAW

1. Respondent was properly notified to appear before the Board of Supervisors on October 25, 2016, at 3:30pm to show cause, if any, why a public nuisance for the property located at 9019 Marysville Road, Oregon House, CA 95962, APN 048-080-035, pursuant to the Notice and Order to Abate Public Nuisance, should not be found.

2. Respondent failed to discredit the evidence and testimony presented in order to persuade the Board of Supervisors that a public nuisance did not exist on the property. In fact, Respondent and his attorney admitted that a public nuisance, as cited in the Notice and Order to Abate Public Nuisance issued on September 21, 2016, did exist on the property.

3. Based on the evidence and testimony submitted, the Yuba County Board of Supervisors finds the Respondent’s property to be a public nuisance.

4. Based on the evidence and testimony submitted, the Yuba County Board of Supervisors finds that the Administrative Penalty for $14,800.00 per day regarding the Property is accurate and is hereby confirmed.

5. Based on the evidence and testimony submitted, the Enforcement Costs and Administrative Penalties incurred to date totaling $525,533.02 were properly incurred and the Property and its owner bear the costs of same.

ORDERS

1. It is hereby found and ordered that the Enforcement Costs and Administrative Penalties in the amount of $525,533.02, assessed to date, are hereby imposed and are due and payable.

2. It is hereby ordered that the Respondent shall allow an inspection of the property located at 9019 Marysville Road, Oregon House, CA, APN 048-080-035, by Yuba County Code Enforcement staff on October 26, 2016 at 2:00pm

3. Respondent shall forfeit the $4,116.00 deposit paid to the County and that amount shall be deducted from the total amount of Enforcement Costs and Administrative Penalties of $525,533.02 leaving a remaining balance of $521,417.02.

4. Respondent shall pay the remaining $521,417.02 within 30 days of the date of this Order. Payment pursuant to these orders shall be made to the Code Enforcement Division.

5. If respondent fails to pay the $521,417.02 in full within the 30 days as ordered, Yuba County Code Enforcement shall submit the amount to the Yuba County Tax Collector’s Office and the amount shall be placed as a special tax assessment. In addition, a Notice of Abatement Lien shall be filed with the Yuba County Recorder’s Office.

6. Where no payment is made or received by the Code Enforcement Division and Notice of Abatement Lien is recorded and a special Tax Assessment is placed, monies recovered shall have 90% of the total amount paid deposited into Trust Account 254-3500-371-98-99 and 10% of the total amount deposited into Trust Account 256-3500-371-98-99.
7. These Orders may be recorded by the Director of Yuba County Community Development & Services Agency.

8. Notice of these Orders shall be mailed with a Proof of Service to the owner of the property.

9. This decision is final. The time within which judicial review of this decision may be sought is governed by California Code of Civil Procedure, Section 1094.6 and the Yuba County Ordinance Code Chapter 1.16. Any petition seeking judicial review must be filed in the appropriate court not later than the 90th day following the date on which this decision was made; however, if within ten (10) days after the decision was made, a request for the record of the proceedings is filed and the required deposit in an amount sufficient to cover the estimated cost of preparation of such record is timely deposited, the time within which such petition may be filed in court is extended to not later than the 30th day following the date on which the record is either personally delivered or mailed to you or your attorney of record.

PASSED AND ADOPTED at the regular meeting of the Board of Supervisors of the County of Yuba held on the 25th day of October, 2016, by the following vote:

AYES: Supervisors Vasquez, Nicoletti, Abe, Fletcher

NOES: None

ABSENT: Supervisor Griego

ABSTAIN: None

Chairperson of the Board of Supervisors County of Yuba, State of California

Chairperson of the Board of Supervisors County of Yuba, State of California

ATTEST: Donna Stottlemeyer
Clerk of the Board of Supervisors

Rachel Jones, Deputy

APPROVED AS TO FORM: Angil Morris-Jones
County Counsel