



CITY OF RIVERBANK  
**APPEALS BOARD MEETING**  
City Hall North • Council Chambers  
6707 Third Street • Suite B • Riverbank • CA • 95367



## AGENDA

**TUESDAY, JULY 19, 2016 – 6:30P.M.**

(THE AGENDA PACKET IS POSTED AT THE CITY CLERK'S OFFICE AND AT [WWW.RIVERBANK.ORG](http://WWW.RIVERBANK.ORG))

**CALL TO ORDER:** Chair Carlos Villapudua

**ROLL CALL:** Chair Carlos Villapudua  
Vice Chair Anthony McKinney  
Appeals Board Member Larry King  
Appeals Board Member Joan Stewart  
Appeals Board Member Edward Tabacco

### **1. CONFLICT OF INTEREST**

Any Appeals Board Member or Staff who has a direct Conflict of Interest on any scheduled agenda item to be considered is to declare their conflict at this time.

### **2. PUBLIC COMMENTS (No Action Can Be Taken)**

At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the Appeals Board. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the Appeals Board.

### **3. CONSENT CALENDAR**

All items listed on the Consent Calendar are to be acted upon by a single action of the Appeals Board unless otherwise requested by a Board Member for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

**Item 3.1:** **Approval of the June 21, 2016, Appeals Board Meeting Minutes** – It is recommended that the Appeals Board approve the Meeting Minutes as presented.

**4. BUSINESS**

- Item 4.1**      **Administrative Citation Appeal Hearings for Water Use Violations** – It is recommended that the Appeals Board uphold Administrative Citation fines for water use violations issued in accordance with Chapter 52: Water, Section 52.34 Restricted Water Use, and City Council Resolution No. 2015-096 covering the period from December 1, 2015 through May 1, 2016.

**ADJOURNMENT**

**AFFIDAVIT OF POSTING**

*I, Annabelle Aguilar, do hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted 72 hours prior to the meeting in accordance to the Brown Act.*

*Posted this 14<sup>th</sup> day of July, 2016  
Annabelle Aguilar, CMC, City Clerk*

**Notice Regarding Americans with Disabilities Act:** In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk’s Office at (209) 863-7122 or cityclerk@riverbank.org. Notification 72-hours before the meeting will enable the City to make reasonable arrangements to ensure any special needs are met. [28 CFR 35.102-35.104 ADA Title II].

**Notice Regarding Non-English Speakers:** Pursuant to California Constitution Article III, Section IV, establishing English as the official language for the State of California, and in accordance with California Code of Civil Procedures Section 185, which requires proceedings before any State Court to be in English, notice is hereby given that all proceedings before the City of Riverbank Appeals Board shall be in English and anyone wishing to address the Council is required to have a translator present who will take an oath to make an accurate translation from any language not English into the English language.

**GENERAL INFORMATION**

<b>Meeting Schedule</b>	<u>Appeals Board:</u> Meets on an “as needed” basis.  The Appeals Board is a 5-member Board appointed by the Riverbank City Council and who also serve as the Riverbank Planning Commission.
<b>Appeals Board Agenda &amp; Reports</b>	The Appeals Board agenda is posted pursuant to the California Brown Act, which only requires agenda title pages to be posted near the entrance of the location where the meeting is to be held and, when technologically able, on the City’s website. Additional documents may be provided by the City in its efforts of transparency to keep the public well informed. The agenda packet (agenda plus supporting documents) are posted for public review at the City Clerk’s Office, 6707 Third Street, Riverbank, CA and at <a href="http://www.riverbank.org">www.riverbank.org</a> upon distribution to a majority of the Appeals Board. A subscription to receive the agenda can be purchased for a nominal fee through the City Clerk’s Office.
<b>Public Hearings</b>	In general, a public hearing is an open consideration within a meeting of the Appeals Board, for which special notice has been given and may be required. During a specified portion of the hearing, any resident or concerned individual is invited to present protests or offer support for the subject under consideration.
<b>Televised / Video of Meetings (Meetings are not currently televised)</b>	<ul style="list-style-type: none"> <li>· Charter – Channel 2</li> <li>· AT&amp;T Uverse – Channel 99</li> </ul> Visit <a href="http://www.riverbank.org">www.riverbank.org</a> to connect to meeting videos. (Note: Technical difficulty occurs on occasion preventing the televising or recording of the meeting.)
<b>City Hall Hours</b>	City Hall is open Monday – Thursday; 7:30 am – 5:30 pm and Fridays: 8:00 am – 5:00 pm; CLOSED alternating Fridays
<b>Questions</b>	Contact the City Clerk at (209) 863-7122 or cityclerk@riverbank.org

## **RIVERBANK APPEALS BOARD AGENDA ITEM NO. 3.1**

### **SECTION 3: CONSENT CALENDAR**

<b>Meeting Date:</b>	July 19, 2016
<b>Subject:</b>	Approval of the June 21, 2016, Appeals Board Meeting Minutes
<b>From:</b>	Jill Anderson, City Manager
<b>Submitted by:</b>	Luanne Bain, Administrative Assistant / Confidential

#### **RECOMMENDATION**

It is recommended that the Appeals Board approve the Meeting Minutes as presented.

#### **SUMMARY**

The draft minutes of the June 21, 2016, Appeals Board meeting have been prepared for review and approval.

#### **FINANCIAL IMPACT**

There is no financial impact to this item.

#### **ATTACHMENT**

1. June 21, 2016 Appeals Board Meeting Minutes



City of Riverbank  
**APPEALS BOARD MEETING**  
(The Planning Commission also serves as the Appeals Board)  
**MINUTES OF**  
**TUESDAY, JUNE 21, 2016**

**CALL TO ORDER**

The Appeals Board of the City of Riverbank met at 6:02 p.m. on this date at the Riverbank City Council Chambers, 6707 Third Street, Suite B, Riverbank, California, with Vice Chair Anthony McKinney presiding.

The meeting was adjourned at 6:08 p.m. when it was brought to the attention of the board that the hearing was set for 6:30 p.m. The Meeting resumed at 6:30 p.m.

**ROLL CALL**

Absent: Chair Carlos Villapudua  
Present: Vice Chair Anthony McKinney  
Appeals Board Member Larry King  
Appeals Board Member Joan Stewart  
Appeals Board Member Edward Tabacco

**CONFLICT OF INTEREST**

Any Appeals Board Member or Staff who has a direct Conflict of Interest on any scheduled agenda item to be considered is to declare their conflict at this time.

No one declared a conflict.

**2. PUBLIC COMMENTS (No Action Can Be Taken)**

At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the Appeals Board. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the Appeals Board.

There were no public comments.

**3. CONSENT CALENDAR**

**Item 3.1:** Approval of the May Appeals Board Minutes – It is recommended that the Appeals Board approve the draft meeting minutes as presented.

**Action:** *By motion moved and seconded (Tabacco / King / passed 3-0) to approve the Minutes of the May 17, 2016, Appeals Board Meeting, as presented.*

#### **4. BUSINESS**

Vice Chair Anthony McKinney explained the appeals process.

City Manager, Jill Anderson provided background for the Water Ordinance stemming from Governor Brown's 2015 Executive Order to impose restrictions to achieve a statewide reduction in potable urban water use in response to the continuing drought conditions. The City did not meet water conservation as mandated. This resulted in receiving a consent order/legal directive from the State of California to reduce water conservation. The directive laid out a number of steps the City needs to take including enforcement activities and making sure the City is enforcing the Water Ordinance. While the drought was helped by the rain of 2016 and some restrictions have been lifted in most of California, the City of Riverbank remains under the legal directive. Currently working with Water Board to demonstrate water conservation activities. This creates a challenge because although it is commended and appreciated that the Appellants are trying to maintain their property the City will be subject to enforcement action by the State of California if the Water Ordinance is not enforced.

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Public Works Superintendent Michael Riddell presented the staff report. Water Coordinator Sherry Fenn was also present.

**Item 4.1** **Administrative Citation Appeal Hearings for Water Use Violations** - It is recommended that the Appeals Board uphold Administrative Citation fines for water use violations issued in accordance with Chapter 52: Water, Section 52.34 Restricted Water Use, and City Council Resolution No. 2015-096.

Each appellant presented his/her oral or document testimony and thereafter responded to questions from the Board. City staff Superintendent Riddell and Coordinator Fenn presented their oral and documented testimony for each citation (a copy of the documents were provided to each appellant who appeared), and thereafter responded to questions from the Board. A brief rebuttal period occurred and after consideration, the Appeals Board made its final decision to uphold, modify, or dismiss the citation fines as follows:

*See attached Final Decisions.*

**ADJOURNMENT**

There being no further business, Vice Chair Anthony McKinney adjourned the meetings at 8:21 p.m.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**Luanne Bain**  
Administrative Assistant/Confidential

\_\_\_\_\_  
**Anthony McKinney**  
Vice Chair

DRAFT

**Appeals Board Hearings - June 21, 2016 - 6:30 PM  
Final Decisions**

	<b>Citation No.</b>	<b>Name</b>	<b>Citation Amount</b>	<b>Water Violation</b>	<b>Motion 1st/2nd Roll Call Votes</b>	<b>Final Action</b>
1	2166	Sue Marisko	\$100.00	Irrigating while raining; Using sprinklers.	McKinney/Tabacco Ayes: McKinney/King/Tabacco Nays: 0 Absent: Villapudua/Stewart Passed: 3-0	Appellant failed to appear; Upheld fine \$100
2	2181	Dan Wahl	\$100.00	Watering outdoors on unscheduled day.	McKinney/King Ayes: McKinney/King/Tabacco Nays: 0 Absent: Villapudua/Stewart Passed: 3-0	Appellant failed to appear; Upheld fine \$100
3	2188	Richard Meyer	\$100.00	Water running or spraying off property; watering outdoors on unscheduled day; using sprinklers; water running down gutter.	McKinney/Tabacco Ayes: McKinney/King/Tabacco Nays: 0 Absent: Villapudua/Stewart Passed: 3-0	Appellant failed to appear; Upheld fine \$100
4	2215	Marlene Kuffel	\$100.00	Water running or spraying off property; water running down gutter; using sprinklers.	McKinney/Tabacco Ayes: McKinney/King/Tabacco Nays: 0 Absent: Villapudua/Stewart Passed: 3-0	Appellant failed to appear; Upheld fine \$100
5	2218	Ken Hoyt	\$200.00	Water running or spraying off property; watering outdoors on unscheduled day; using sprinklers.	King/Tabacco Ayes: King/Tabacco Nays: McKinney Absent: Villapudua/Stewart Passed: 2-1	Dismissed and credit \$25 processing fee
6	1026	Daniel Gaurilos	\$200.00	Water running or spraying off property; watering outdoors on unscheduled day; water running down gutter.	McKinney/Tabacco Ayes: McKinney/King/Tabacco Nays: 0 Absent: Villapudua/Stewart Passed: 3-0	Modified fine to \$100 and upheld \$25 processing fee
7	1002	Daniel Gaurilos	\$35.00	Water running or spraying off property; water running down gutter for one block. Note: Appeals \$25 Processing Fee Due.	Tabacco/King Ayes: McKinney/King/Tabacco Nays: 0 Absent: Villapudua/Stewart Passed: 3-0	Dismissed and waive \$25 processing fee.
8	1018	Matias N. Alvarez *	\$35.00	Water running or spraying off property; watering outdoors on unscheduled day; using sprinklers.	Tabacco/King Ayes: McKinney/King/Tabacco Nays: 0 Absent: Villapudua/Stewart Passed: 3-0	Upheld fine \$35
9	1022	Matias N. Alvarez *	\$200.00	Watering outdoors at incorrect times.	Tabacco/King Ayes: McKinney/King/Tabacco Nays: 0 Absent: Villapudua/Stewart Passed: 3-0	Dismissed and credit \$25 processing fee
10	1063	Zoila Saenz	\$35.00	Water running or spraying off property; watering outdoors on unscheduled day; water running off property down gutter.	King/Tabacco Ayes: McKinney/King/Tabacco Nays: 0 Absent: Villapudua/Stewart Passed: 3-0	Dismissed and credit \$25 processing fee

\* Mrs. Alvarez appeared on behalf of her husband, Mr. Matias N. Alvarez.

# RIVERBANK APPEALS BOARD AGENDA ITEM NO. 4.1

## SECTION 4: BUSINESS

<b>Meeting Date:</b>	July 19, 2016
<b>Subject:</b>	Administrative Citation Appeal Hearings for Water Use Violations
<b>From:</b>	Jill Anderson, City Manager
<b>Submitted by:</b>	Michael Riddell, Public Works Superintendent Annabelle Aguilar, CMC, City Clerk/Sr. Management Analyst

### **RECOMMENDATION**

It is recommended that the Appeals Board uphold Administrative Citation fines for water use violations issued in accordance with Chapter 52: Water, Section 52.34 Restricted Water Use. and City Council Resolution No. 2015-096 covering the period from December 1, 2015 through May 1, 2016.

### **INTRODUCTION**

The culmination of Governor Brown's Proclamation and Executive Orders calling for a state of emergency due to severe drought conditions, and the State Water Resources Control Board ("Water Board") imposing restrictions to achieve a statewide 25% reduction in potable urban water use through February 28, 2016; along with the Water Board's directives requiring the City of Riverbank ("City") to achieve conservation standards that reduced water use by 32%, demanded action by the City to implement strong and supportive water use restriction policies that would achieve the requirements of all orders issued, and provide the City with the enforcement mechanisms to comply.

### ***Administrative Citations***

Administrative citations for violation of the City's water use policy covering the period from December 1, 2015 through April 30, 2016 (Resolution No. 2015-095) were issued to the following list of individuals. City policy provides for the opportunity to contest an issued citation before an Appeals Board by submitting a completed Citation Appeals Request Form to the City Clerk. The listed individuals have submitted a request form and are scheduled to have their hearing this evening during a public forum of the Appeals Board.

## **Notice of Scheduled Hearings**

In accordance to policy, public notices of the hearings were mailed prior to the scheduled date, to each individual listed via email and also via U.S. Postal Service.

<b>CIT. #</b>	<b>NAME</b>	<b>DATE OF CITATION</b>	<b>WATER USE VIOLATION</b>
2199	George Collier	04/21/2016	Water running/spraying; water on unscheduled day; using sprinklers (This occurred during the no sprinklers use period which ended May 1, 2016)
2186	Cornelia Farcas	04/18/2016	Water running/spraying; water on unscheduled day; using sprinklers (This occurred during the no sprinklers use period which ended May 1, 2016)
2195	Cornelia Farcas	04/19/16	Water running/spraying; water on unscheduled day; using sprinklers; water running down gutter (This occurred during the no sprinklers use period which ended May 1, 2016)
2209	John Azevedo	04/24/16	Watering on unscheduled day.

## **BACKGROUND**

On January 17, 2014, Governor Brown issued a Proclamation declaring a State of Emergency due to severe drought conditions calling for the reduction of water use by 20%. On April 25, 2014, Governor Brown issued a proclamation extending the State of Emergency due to the ongoing drought conditions in California, and to strengthen the measures the state may take to manage water effectively. On April 1, 2015, Governor Brown, issued Executive Order B-29-15, mandating that the State Water Resources Control Board ("Water Board") impose restrictions to achieve a statewide 25% reduction in potable urban water use through February 28, 2016 in response to the continuing drought conditions.

The Water Board adopted regulations under the Executive Order B-29-15 mandate on May 5, 2015, requiring local urban water suppliers such as the City of Riverbank to achieve conservation standards based on conservation tiers. The City's assigned tier requires it to reduce water use by 32% as compared to the same month's water production in the year 2013.

Water use in the City was reduced by 21% in June 2015, and 20% in July 2015; however, water use increased by 17% in August 2015, and then again reduced by 27.3% in September 2015 and 6.2% in October 2015. Unable to meet the required 32% water use reduction, the Water Board issued a Notice of Violation and Information Order

on August 7, 2015, to the City in order to determine what actions the City had taken to comply with the mandated water conservation standard. On October 21, 2015, City staff met with the Water Board to further discuss the City's water conservation program and areas of potential water use savings.

### ***Current Water Restrictions***

Due to the difficulty in meeting the required 32% water use reduction, the City was obligated to make stronger modifications to its policies on outdoor water use, including penalties for noncompliance of those regulations. In accordance with the City's adopted Urban Water Management Plan the City Council adopted Resolution No. 2015-096 on November 24, 2015, implementing the following outdoor water use restrictions:

- 1) Use of Landscape Irrigation Systems (Sprinklers) would be prohibited from **December 1, 2015 to May 1, 2016**. Only hand watering will be allowed and a person must be present to control the use of water.
- 2) Dwellings or establishments with ***even-numbered*** street addresses shall water only on ***Tuesdays***. Only hand watering is allowed and a person must be present to control the use of water.
- 3) Dwellings or establishments with ***odd-numbered*** street addresses shall water only on ***Fridays***. Only hand watering is allowed and a person must be present to control the use of water.
- 4) No outdoor watering is allowed on days other than when it is expressly allowed.
- 5) No watering may occur for forty eight (48) hours after a rain event ends.
- 6) All fines are due 30 days from date of issuance of violation. If no payment is received, the fine will be added to the next utility bill.
  - (a) First violation – Change from a “warning” to a \$100 fine.
  - (b) Second violation – Change from a \$20 fine to a \$200 fine.
  - (c) Third violation – Change from a \$50 fine to a \$300 fine.
  - (d) Fourth violation – Change from a \$100 fine to \$400 fine.
  - (e) Fifth violation and each violation thereafter – Change from a \$200 fine to a \$500 fine.
- 7) No outdoor water use will be allowed between 9:00 a.m. and 9:00 p.m.

Although these measures were immediately implemented, on December 17, 2015, the Water Board's Office of Enforcement issued a Conservation Order directing the City of Riverbank to immediately take further action to meet the mandated water conservation target of 32% or be subject to a civil liability of up to \$500 per day for each day the violation continued.

**Adopted Ordinance No. 2016-004**

There are several factors that constitute the declaration of a water drought or water shortage that requires the City to implement water conservation regulations as expeditiously as changes occur. On March 8, 2016, City Council adopted Ordinance 2016-004 amending several Sections of the Riverbank Municipal Code, Chapter 52, Water, to update and establish water restrictions for outdoor water use, seasonal landscape irrigation schedules, prevent water waste, establish penalties for noncompliance of the regulations, and the ability to request an appeal hearing to settle administrative citations issued to violators. In addition, the Ordinance also provides the City Council with the flexibility to set water use restrictions by adoption of a resolution; thereby, promptly adapting the City's regulations to the changing water conservation measures and mandates. The current Ordinance reads as follows:

**The RMC, Title V: Public Works, Chapter 52: Water, Section 52.34 reads as follows:**

**§ 52.34 RESTRICTED WATER USE.**

In addition to all other provisions and requirements of this chapter, the following additional rules and regulations for the use of water are hereby established. These provisions shall apply to all persons using water in the city regardless of whether any person using water shall have a contract for water service with the city.

(A) *Vehicle Washing.* The washing of commercial and noncommercial privately owned automobiles, trucks, trailers, motor homes, boats, buses, and other types of vehicles is restricted to the use of a hand-held bucket and quick rinses using a hose with a quick-acting positive shut-off nozzle.

(B) *Washing Exterior Surfaces.* There shall be no washing of building exteriors, mobile home exteriors, sidewalks, patios, driveways, gutters or other exterior surfaces, unless permitted by the Public Works Director, or Superintendent, or his/her designee, and done with the use of a quick-acting positive shut-off nozzle on the hose.

(C) *Outdoor Water Use.* A drought, water shortage, or waste of water may require the city to implement regulations as expeditiously as such findings occur. The City Council by resolution shall establish water conservation regulations to address such findings, which may include but are not limited to water conservation regulations that are mandated by the state or federal government.

(D) *Violations.* It shall be unlawful for any customer or person to fail to comply with any of the provisions set forth by this section or by City Council resolution. The Enforcement Officer or designee may issue an administrative citation for failure to comply.

(E) *Penalties.* Failure to comply with any provision, requirement, rules or regulations under this chapter shall be unlawful and punishable as an infraction.

(1) In addition to the stated penalties, the city may pursue any available civil remedies and criminal penalties together with any and all costs incurred by the city as a result of violation of this section or any City Council resolution adopted pursuant to this section.

(2) At the discretion of the Enforcement Officer with the approval of the City Manager, an issued administrative citation for noncompliance of this section may be reduced to a formal written warning and the related citation fines waived or the citation may be cancelled after review of the findings. All results of a citation issued shall be entered into the record. Any further violation of the water conservation regulations provided in this section or adopted pursuant to this section shall result in the imposition of an administrative citation and its related penalties as set forth herein.

(3) Penalties for noncompliance with water conservation regulations provided in this section or adopted pursuant to this section shall be as follows and may be amended from time to time by City Council resolution:

(a) The fine for the first violation is one hundred dollars (\$100).

(b) The fine for the second violation is two hundred dollars (\$200).

(c) The fine for the third violation is three hundred dollars (\$300).

(d) The fine for the fourth violation is four hundred dollars (\$400).

(e) The fine for the fifth violation and each subsequent violation thereafter is five hundred dollars (\$500).

(F) *Payment of Fines.* Fines shall be placed on the customer's water bill and paid in accordance with Section 52.64 of this chapter.

(G) *Citation Appeal Hearing.* Any customer or person receiving an administrative citation for noncompliance of this section may request an appeal hearing pursuant to the administrative remedies provided in Chapter 99 of the Riverbank Municipal Code. Any customer or person seeking an appeal hearing of an issued administrative citation for noncompliance of this section shall file an appeals request form within fifteen (15) days of the citation. Failure to timely file a request form shall waive the right to appeal the violation. At the end of the fifteen (15) day period, all fines incurred for noncompliance with this section shall be placed on the customer's water bill for payment.

The emphasis of the amendments made to the Riverbank Municipal Code were to clarify the aforementioned policies, implement conservation measures to meet state orders, and incorporate the ability to appeal an administrative citation.

## **RECOMMENDED ACTION**

In support of Governor Brown's Proclamations and City Council's adopted Urban Water Management Plan, adopted Resolution No. 2015-096, and the Riverbank Municipal Code establishing the City's water use policy in response to the State Water Board's Conservation Orders, it is recommended:

1. that a public hearing be conducted to consider each individual Administrative Citation issued as listed; and
2. by a majority vote of the Board, find that each Administrative Citation issued were in accordance to policies and therefore are upheld.

## **ATTACHMENTS**

There is no attachment to this report.