

CITY COUNCIL / LRA BOARD

Mayor/Chair
Richard D. O'Brien
Council/Authority Members:
District 1 -Luis Uribe
District 2- Rachel Hernandez
District 3- Leanne Jones Cruz
District 4 -Darlene Barber-Martinez



CITY OF RIVERBANK

**Regular City Council and
Local Redevelopment Authority
Board Meetings**
Council Chambers, 6707 Third St
Suite B
Riverbank, CA 95367



TUESDAY, AUGUST 27, 2024 – 6:00 P.M.
(THE AGENDA PACKET IS ONLINE AT [HTTP://WWW.RIVERBANK.ORG/AGENDACENTER](http://www.riverbank.org/agendacenter))

1. **CALL TO ORDER** - Mayor / Chair O'Brien called the meeting to order at 6:00 P.M.
2. **FLAG SALUTE** – Mayor/Chair O'Brien led the pledge of allegiance.
3. **INVOCATION** – Reverend Charlie E. Neal provided the invocation.
4. **ROLL CALL** – Asst. City Manager Alcantor conducted Roll Call.

Members of the City Council / Local Redevelopment Authority Board present:
Council Member / Authority Member District 1 Luis Uribe
Council Member / Authority Member District 2 Rachel Hernandez
Council Member / Authority Member District 4 Darlene Barber-Martinez
Vice Mayor / Vice Chair District 3 Leanne Jones Cruz
Mayor / Chair Richard D. O'Brien

5. AGENDA CHANGES

No Agenda Changes.

- 6. CONFLICT OF INTEREST:** Any Council/Authority 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.

None Declared

7. PRESENTATIONS (Informational only)

- Item 7.1** **Proclamation and Presentation on Overdose Awareness Day-** It is recommended that the City Council present a proclamation to Jennifer Marsh and Sofia Vivo and receive a presentation on Overdose Awareness Day from Sofia Vivo.

Mayor O'Brien read and presented the proclamation for Overdose Awareness Day to Jennifer Marsh and Sofia Vivo.

City Council received a presentation on Overdose Awareness from Jennifer Marsh and Sofia Vivo.

Item 7.2 **Presentation – Riverbank Regional Recycled Water Project Status Update – 30% Design Progress-** It is recommended that the City Council receive a presentation from Neal Colwell, Principal Engineer for Kjeldsen, Sinnock, and Neudeck Inc. (KSN) regarding the Riverbank Regional Recycled Water Project and the status of the 30% design.

Neal Colwell, Principal Engineer with KSN gave status update presentation on the 30% Design Progress of the Riverbank Regional Recycled Water Project.

8. 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 City Council/LRA Board. Individual comments will be limited to a **maximum of 3 minutes (or as stated by the presiding Officer)** and time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon.*

Mayor O'Brien Opened Public Comment at 6:54 P.M.

Olivia Arambula, Riverbank Chamber of Commerce to provide an update of upcoming events.

Jami Aggers, Modesto resident to express her concerns regarding the lack of public meetings and advertising for the housing element process.

There being no further public comments, Mayor O'Brien closed the Public Comment period 6:59 P.M.

9. CONSENT CALENDAR

All items listed on the Consent Calendar are to be acted upon by a single action of the City Council/LRA Board unless requested by an individual Council/Authority Member or member of the public for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by motion of the City Council/LRA Board.

Item 9.1 **Waive Readings.** All Readings of ordinances and resolutions, except by title, are waived.

Item 9.2 **Approval** of the City Council and Local Redevelopment Authority Board Minutes for July 23, 2024.

Item 9.3 **Acceptance** of the 7th Street Outfall Project and Authorization to File a Notice of Completion.

Item 9.4 **Acceptance** of the Claribel Road Overlay Project and Authorization to File a Notice of Completion.

- Item 9.5** **Resolution 2024-074** to Award a Contract for Investment Advisory Services and Authorize the City Manager to Enter into a Consultant Services Agreement with Meeder Public Funds, Inc.
- Item 9.6** **Resolution 2024-075** to Award a Contract to 110%, Inc. to Perform the Financial Sustainability Study for the City of Riverbank Parks and Recreation Department.
- Item 9.7** **Resolution 2024-076** to Approve the Use of the Community Center Pavilion for St. Frances of Rome Catholic Church to Provide Food on Sundays to Those Experiencing Homelessness.
- Item 9.8** **Second Reading by Title Only** and Introduction of **Proposed Ordinance 2024-003** Amending Sections 120.60 and 120.62 and Adding Section 120.63 to Chapter 120, Cannabis Regulations of Title XI, Business Regulations, of the Riverbank Code of Ordinances Related to the Appeal of Administrative Penalties for Cannabis Regulations

There being no public comments, Mayor O'Brien brought the item back to City Council.

ACTION: *By motion moved and seconded (Uribe / Jones-Cruz 5/0) to approve the **consent calendar** as presented.*

*Motion carried by unanimous City Council and LRA Board roll call vote:
AYES: Uribe, Hernandez, Barber-Martinez, Jones Cruz and Mayor O'Brien
NAYS: None / ABSENT: None/ ABSTAINED: None*

10. PUBLIC HEARING

The Public Notice for item 10.1 was published on August 14th, 2024 in the Riverbank Newspaper.

- Item 10.1** **First Reading by Title Only and Introduction of a Proposed Amendment to Title XI, Business Regulations, Amending Chapter 119 Massage/Bodywork Establishments-** It is recommended that the City Council conduct the public hearing for the first reading of the proposed amendments to consider its approval; if approved, the second reading of the amendments by title only will be scheduled for the next regular City Council meeting on September 10, 2024, for consideration of its adoption

David Niskanen with JB Anderson, gave a comprehensive staff report and power point presentation on the First Reading by Title Only and Introduction of a Proposed Amendment to Title XI, Business Regulations, Amending Chapter 119 Massage/Bodywork Establishments.

City Council discussed the item with staff.

Mayor O'Brien Opened the Public Hearing at 7:10 P.M.

Mayor O'Brien Closed the Public Hearing at 7:10 P.M.

There being no further public comments, Mayor O'Brien brought the item back to the City Council.

ACTION: By motion moved and seconded (Jones-Cruz / Barber-Martinez 5/0) to **approve the First Reading** by Title and Introduction of Proposed Amendment to Title XI, Business Regulations, Amending Chapter 119 Massage/Bodywork Establishments.

Motion carried by unanimous City Council and LRA Board roll call vote:
AYES: Uribe, Hernandez, Barber-Martinez, Jones Cruz, and Mayor O'Brien
NAYS: None / ABSENT: None / ABSTAINED: None

11. NEW BUSINESS

Item 11.1 A Resolution of the City Council of the City of Riverbank, California, to Approve the First Amendment to the Subdivision Improvement Agreement for Countryside III with McRoy-Wilbur Communities and Authorizing the City Manager to Execute the Agreement- It is recommended that the City Council consider the attached resolution approving the First Amendment to the Subdivision Improvement Agreement with McRoy Wilbur Communities for Countryside III and directing the City Manager to execute the agreement.

Director of Community Development, Josh Mann gave a comprehensive staff report and PowerPoint Presentation for City Council to consider approving the First Amendment to the Subdivision Improvement Agreement for Countryside III with McRoy-Wilbur Communities and authorizing the City Manager to execute the agreement.

City Council Discussed item with City Staff

Ian Wilbur, Developer spoke to confirm the amendment included changing from a sub-surface mount transformer to a pad mount as it is a requirement of PG&E.

There being no further public comment, Mayor O'Brien brought the item back to City Council.

ACTION: By motion moved and seconded (Jones-Cruz / Uribe 5/0) to approve to approve **Resolution 2024-077** approving the First Amendment to the Subdivision Improvement Agreement for Countryside III with McRoy-Wilbur Communities.

Motion carried by unanimous City Council and LRA Board roll call vote:
AYES: Uribe, Hernandez, Barber-Martinez, Jones Cruz, and Mayor O'Brien
NAYS: None / ABSENT: None / ABSTAINED: None

Item 11.2 **Resolution Amending the Permanent Local Housing Allocation (PLHA) Formula Allocation Plan-** It is recommended that the City Council consider adopting a Resolution to amend the Permanent Local Housing Allocation (PLHA) Formula Allocation Plan originally approved in July 2020.

City Manager Garcia gave a comprehensive report and PowerPoint presentation for City Council to consider adopting a resolution to amend the Permanent Local housing Allocation Plan (PHLA) Formula Allocation Plan.

City Council Discussed item with City Staff.

Olivia Arambula, Timeless Real Estate made suggestions of potentially the City investing in fixer up homes to allow low income to get into a home.

There being no further public comment, Mayor O'Brien brought the item back to City Council.

ACTION: *By motion moved and seconded (Uribe / Hernandez 5/0) to approve **Resolution 2024-078** Amending the Permanent Local Housing Allocation (PHLA) formula Allocation Plan.*

*Motion carried by unanimous City Council and LRA Board roll call vote:
AYES: Uribe, Hernandez, Barber-Martinez, Jones Cruz, and Mayor O'Brien
NAYS: None / ABSENT: None / ABSTAINED: None*

12. COMMENTS/REPORTS

A brief report on notable attendance of a meeting or conference or other notable topics of City business shall be made. The Brown Act does not allow for discussion or action of items by the City Council/LRA Board during this time.

Item 12.1 Staff

City Manager Garcia reported on the following:

- *City offices are closed on Monday, September 2nd, for the Labor Day holiday.*
- *As mentioned earlier and shared by Olivia, we are working on an interested party group to hold a workshop on the housing element for developers, real estate agents, etc. to be able to continue our efforts, with regards to the housing element in the draft document that will be presented to the City Council. We hope that will come forward within the next month or so for review.*

Item 12.2 Council/Authority Member

Councilmember Hernandez reported on the following:

- *No comments.*

Councilmember Uribe reported on the following:

- So tonight, I'd like to make a request for an item to be placed on the strategic plan. I've given a copy to the Council, and the Mayor (as attached). I also have copies if anybody from the public would like to see it. For us to consider becoming a Charter City. I would like the Council and the Mayor to give feedback to staff, if that's something that would be of interest. This information that I've been gathering I'd like to have a full discussion on strategic planning in 2025. Whether or not we should become a Charter City. A little bit of background we are a General Law City. There's 121 Charter Cities. The California Constitution empowers us as cities under article 11, section 5, which gives the option to adopt a Charter based on the principle that a City rather than the State is in the best position to know what it needs. According to the League California Cities, and I'll quote them "the benefit of becoming a Charter City is that they have supreme authority over municipal affairs". What does that mean? We have supreme authority over regulation of our police. So, our contract with the sheriff's department will not be affected, should continue, as is. How we conduct city elections? We will have that flexibility for special elections. The manner in which municipal officers are elected, we would have that option. Supreme authority over local taxes, not saying we're raising them, but we would have that option. Subgovernment keeps in place our subcommittees, right? So, like our Parks and Rec committee, all of that stays in place. Sister City committee, all of that stays in place. Preserves prevailing wages, but then it also gives us opportunities to save money on projects that where we could add that, you know, added infrastructures to certain projects, whether it's 10% or not. So, some of the main advantages that I can see. So, the city no longer has to rely on the State legislators to side solve these local issues. We'll have the ability to adopt a level of government that we, you know, we see fit. and we're all pushing for local control. Local control is vital. This plan it would cost monies, and it would go out to the voter, and my goal would be to get this to the voters by 2026. But of course, love to have this discussion and place this on strategic plans, so we can have a full discussion of it. Thank you.

Councilmember Barber-Martinez reported on the following:

- I wanted to give an update about the Stanislaus Homeless Alliance, also known as SHA. Our unhoused neighbors that need housing, and they are in the Care Court. They are a Care Court client will have housing, which is expected to be completed by 12/24. The housing project will be located at 9th and E street, there will be 42 units, and it's called the Bridge Project.
- ECM or Enhanced Care Management is a different approach to care for the whole person. It will address the medical, housing and family support. The medical services are being provided for anyone who has Medi-Cal, it is Health Plan of San Joaquin, there's two more. Kaiser just actually joined also. I can't remember what the other medical plan was. But anyway, so this is supposed to be a good thing, because you're looking at addressing the whole person instead of just having their services split up and then eventually getting services.

- *There's an update for our point in time count, that we had. So far there were 28 individuals who were included that were sheltered and unsheltered. There was no designation as to which one was which, and I asked for some kind of detail, more of a detailed point, so we know how to address and to help our folks that live here in Riverbank.*
- *In our Restart Program, which is at the Sierra House. Currently right now, we have 6 who have started the program, and they are doing well. They are getting ready to get into a program that is being offered by the Volt. So, they will graduate, being Maintenance Mechanics, and they'll be on their way to be more successful.*
- *I went to the Riverbank night at the Modesto Nuts. I had a great time, and I understand that they're in negotiation talks, so maybe they will be able to stay in town. But anyway, it was a lot of fun. So hopefully, maybe we can do that again next year and have a Riverbank night. But it was great. Thank you.*

Vice Mayor Jones Cruz reported on the following:

- *No comments.*

Item 12.3 Mayor/Chair

Mayor O'Brien reported on the following:

- *I was a little surprised. I thought we had a housing element update in March in February of this year. That is not only that, but we had public comments on that. But I must be mistaken. Can I be enlightened about that? Because we've had it at the at the City Council meeting, Public Hearing? And then we're having another one before it comes back to us. That housing element is not being shied away from, but we'll be tackling it head on so I'd be surprised if we did not have it in February and March. My memory is fading, but not that fast.*
- *I want to commend the staff. Excellent work on the wastewater treatment plant. I know there's a long way to go, and as long as we keep getting the funding that we can get and the grant funding that's available. This project will be completely doable with minimal cost to the rate payer which is our goal. And I want to thank you Neal, and your staff on the job well done.*
- *And on this the housing, I think we should go visit HCD. I did talk to Senator Gil, and she's all on board. So, we need to arrange and move forward on that.*

13. CLOSED SESSION

The public will have a limit of **3 minutes** to comment on Closed Session item(s) as set forth on the agenda prior to the City Council/LRA Board recessing to Closed Session.

Item 13.1 **LIABILITY CLAIMS**

(Pursuant to Government Code §54961)

Claimants: Jose Luis Loaiza Michel

Agency Claimed Against: City of Riverbank

Item 13.2 **LIABILITY CLAIMS**
(Pursuant to Government Code §54961)
Claimants: Abel Castano
Agency Claimed Against: City of Riverbank

Item 13.3 **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**
Property: APN 074-014-016
Agency negotiator: Marisela H. Garcia, City Manager
Negotiating parties: Randy High
Under negotiation: Price, terms of payment, or both

Item 13.4 **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
(Pursuant to Government Code §54956.9(d)(4))
Initiation of Litigation: 1 potential case

There being no public comment, Mayor O'Brien moved to Closed Session at 7:41 P.M.

Reconvened from Closed Session at 8:01 P.M.

14. REPORT FOR CLOSED SESSION

Item 14.1 Report from Closed Session **Item 13.1**
LIABILITY CLAIMS
(Pursuant to Government Code §54961)
Claimants: Jose Luis Loaiza Michel
Agency Claimed Against: City of Riverbank

ACTION: *Claim has been denied by unanimous vote.*

Item 14.2 Report from Closed Session **Item 13.2**
LIABILITY CLAIMS
(Pursuant to Government Code §54961)
Claimants: Abel Castano
Agency Claimed Against: City of Riverbank

ACTION: *Claim has been denied by unanimous vote.*

Item 14.3 Report from Closed Session **Item 13.3**
CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property: APN 074-014-016
Agency negotiator: Marisela H. Garcia, City Manager
Negotiating parties: Randy High
Under negotiation: Price, terms of payment, or both

ACTION: *Direction has been provided to staff.*

Item 14.4 Report from Closed Session **Item 13.4**
CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
(Pursuant to Government Code §54956.9(d)(4))
Initiation of Litigation: 1 potential case

ACTION: *Direction has been provided to staff.*

15. ADJOURNMENT OF THE REGULAR MEETING

There being no further business, Mayor / Chair O'Brien adjourned the regular meeting at 8:02 P.M. to the next regular scheduled City Council / LRA Meeting of September 10, 2024 at 6:00P.M.

ATTEST: (Adopted 09/10/2024)

APPROVED:


Gabriela Hernandez, CMC
City Clerk / LRA Recorder


Richard D. O'Brien
Mayor/ Chair

ATTACHMENT 1

Charter Cities: A Quick Summary for the Press and Researchers

The following summary was drafted by the League of California Cities' legal staff, in an attempt to give the press and research communities a primer on some frequently asked questions regarding charter cities.

Charter Cities vs. General Law Cities – The Basics

The California Constitution gives cities the power to become charter cities.¹ The benefit of becoming a charter city is that charter cities have supreme authority over "municipal affairs."² In other words, a charter city's law concerning a municipal affair will trump a state law governing the same topic.³

Cities that have not adopted a charter are general law cities. General law cities are bound by the state's general law, even with respect to municipal affairs. Of California's 478 cities, 108 of them are charter cities.

The charter city provision of the State Constitution, commonly referred to as the "home-rule" provision, is based on the principle that a city, rather than the state, is in the best position to know what it needs and how to satisfy those needs.⁴ The home-rule provision allows charter cities to conduct their own business and control their own affairs.⁵ A charter maximizes local control.

A city charter, in effect a city's constitution, need not set out every municipal affair the city would like to govern. So long as the charter contains a declaration that the city intends to avail itself of the full power provided by the California Constitution, any city ordinance that regulates a municipal affair will govern over a general law of the state.⁶

Defining 'Municipal Affairs'

Determining what is and is not a "municipal affair" is not always straightforward. The California Constitution does not define "municipal affair." It does, however, set out a nonexclusive list of four "core" categories that are, by definition, municipal affairs.⁷

These categories are 1) regulation of the "city police force"; 2) "subgovernment in all or part of a city"; 3) "conduct of city elections"; and 4) "the manner in which . . . municipal officers [are] elected."⁸ Beyond this list, it is up to the courts to determine what is and is not a municipal affair.

To determine if a matter is a municipal affair, a court will ask whether there are good reasons, grounded on statewide interests, for the state law to preempt a local law.⁹ In other words, courts

¹ Cal. Const. art. XI, § 3(a).

² Cal. Const. art. XI, § 5(a).

³ *Johnson v. Bradley*, 4 Cal. 4th 389, 399 (1992).

⁴ *Fragley v. Phelan*, 126 Cal. 383, 387 (1899).

⁵ *Id.*

⁶ There are some exceptions to this rule. For example, a charter city is bound by the Public Contract Code unless the city's charter expressly exempts the city from the Code's provisions or a city ordinance conflicts with a provision in the Code. See Cal. Pub. Cont. Code § 1100.7.

⁷ Cal. Const. art. XI, § 5(b); *Johnson*, 4 Cal. 4th at 398.

⁸ Cal. Const. art. XI, § 5(b).

⁹ *Johnson*, 4 Cal. 4th at 405.

will ask whether there is a need for "paramount state control" in the particular area of law.¹⁰ The Legislature's intent when enacting a specific law is not determinative.¹¹

The concept of "municipal affairs" is fluid and may change over time.¹² Issues that are municipal affairs today could become areas of statewide concern in the future.¹³ Nonetheless, there are some areas that courts have consistently classified as municipal affairs. These include:

- Municipal election matters¹⁴
- Land use and zoning decisions (with some exceptions)¹⁵
- How a city spends its tax dollars¹⁶
- Municipal contracts, provided the charter or a city ordinance exempts the city from the Public Contract Code, and the subject matter of the bid constitutes a municipal affair.¹⁷ Thus, a charter may exempt a city from the State's competitive bidding statutes.

Likewise, there are some areas that courts have consistently classified as areas of statewide concern, including:

- Traffic and vehicle regulation¹⁸
- Tort claims against a governmental entity¹⁹
- Regulation of school systems²⁰

How to Become a Charter City

To become a charter city, a city must adopt a charter. There are two ways to adopt a charter:

- The city's voters elect a charter commission.²¹ The commission has the responsibility of drafting and debating the charter.
- The governing board of the city, on its own motion, drafts the charter.²²

In either case, the charter is not adopted by the city until it is ratified by a majority vote of the city's voters.²³

For more information about charter cities, please visit the "Charter Cities" section of the League's Web site at <http://www.cacities.org/chartercities>.

¹⁰ *Id.* at 400.

¹¹ *Id.* at 405.

¹² *Cal. Fed. Savings & Loan Ass'n v. City of Los Angeles*, 54 Cal. 3d 1, 16 (1991); *Isaac v. City of Los Angeles*, 66 Cal. App. 4th 586, 599 (1998).

¹³ *Isaac*, 66 Cal. App. 4th at 599.

¹⁴ *Mackey v. Thiel*, 262 Cal. App. 2d 362, 365 (1968).

¹⁵ *See Brougher v. Bd. of Pub. Works*, 205 Cal. 426, 440 (1928).

¹⁶ *Johnson*, 4 Cal. 4th at 407.

¹⁷ Pub. Cont. Code § 1100.7; *R & A Vending Services, Inc. v. City of Los Angeles*, 172 Cal. App. 3d 1188, 1191 (1985); *Howard Contracting, Inc. v. G.A. MacDonald Constr. Co.*, 71 Cal. App. 4th 38, 51 (1998).

¹⁸ Cal. Veh. Code § 21.

¹⁹ *Helbach v. City of Long Beach*, 50 Cal. App. 2d 242, 247 (1942).

²⁰ *Whisman v. San Francisco Unified Sch. Dist.*, 86 Cal. App. 3d 782, 789 (1978).

²¹ Cal. Gov't Code § 34451.

²² Cal. Gov't Code § 34458.

²³ Cal. Gov't Code §§ 34457, 34462.