

AGENDA ITEM SUMMARY

October 5, 2021

City Council

STAFF

Wendy Serour, Utilities Customer Accounts
 Gretchen Stanford, Interim Deputy Director
 Eric Potyondy, Legal

SUBJECT

Mountain Ridge Farms HOA Appeal of Excess Water Use Surcharge.

EXECUTIVE SUMMARY

The purpose of this item is to consider the “on the record” appeal of the Mountain Ridge Farm Homeowners Association (HOA), brought by the HOA’s property manager Touchstone Property Management (Touchstone), regarding Fort Collins Utilities’ (Utilities) decision (final decision, dated July 9, 2021), upholding the application of the Excess Water Use Surcharge (surcharge) to one of the HOA’s sprinkler accounts, located at 1103 Wabash Street for water use in 2020. The appeal was filed on July 23, 2021.

BACKGROUND / DISCUSSION

This item is an appeal of a final decision of Utilities. The appeal is under the procedures of Chapter 2, Division 3 of City Code and is “on the record” that was before Utilities when the decision was made. See City Code Section 2-51. The entire administrative record is attached to this Agenda Item Summary (AIS) as Attachments 1 through 9 (Record). The purpose of this AIS is to summarize information from the administrative record in order to explain the nature of the appeal and the decision being appealed. See City Code Section 2-54(a)(1).

The HOA is a Utilities water customer. Two of the taps on site are “looped” and connected via an irrigation system. See, e.g., Record (Hearing Packet – Attachment 2). Each tap has a separate water service permit and a separate annual allotment pursuant to City Code Section [26-149\(d\)](#). See Record (Water Permits – Attachment 6) Pursuant to City Code Section [26-149\(d\)](#), water use above the annual allotment incurs a surcharge. In 2020, water use under one of the taps exceeded its annual allotment. Utilities thus applied a surcharge, totaling \$7,745.97. See Record (Hearing Packet – Attachment 2).

The HOA objected to the surcharge and a hearing for reconsideration was held on June 24, 2021, where Utilities upheld the application of the surcharge. See Record (Correspondence – Attachment 3). As grounds for the appeal, the HOA’s appeal alleges that Utilities failed to properly interpret and apply City Code Section [26-721\(a\)\(4\)](#). See Record (Notice of Appeal – Attachment 1).

Because of a delay in Utilities’ billing system, the bill for the surcharge was sent in December 2020, instead of September 2020. See, e.g., Record (Verbatim Transcript of Hearing – Attachment 9).

Overview: Utilities Customer Hearing and Council Request

- **Original Request:** The HOA requested Utilities to waive their surcharges incurred in 2020. See Record (Correspondence – Attachment 3).
- **Outcome with the Utilities Hearing Officer:** Hearing held on June 23, 2021. Waiver request was denied, July 9, 2021. See Record (Hearing Officer Decisions – Attachment 4).

- **Why Utilities Denied Waiver Request:** Code does not allow waivers for non-residential customers who exceed their annual allotments and receive surcharges. See Record (Hearing Officer Decisions – Attachment 4).
- **Appeal Request for City Council:** Did the Utilities Hearing Officer fail to properly interpret and apply the provisions of City Code Section [26-721, \(4\)](#) entitled Meter Failure? See Record (Notice of Appeal – Attachment 1).

Key Terms and Definitions

Developers must meet a Water Supply Requirement. *NOTE: These are not the focus of this item. They are, however, provided to help explain the nature of the appeal and the decision being appealed. See City Code Section 2-54(a)(1).*

- **Water Supply Requirements (WSR):** A requirement for water service from Utilities. See Chapter 26, Article II, Division 5 of City Code. A WSR accounts for the additional water demand, defined in gallons or acre-feet of water, brought into the Utilities water service area by a new development or redevelopment. The developer satisfies a WSR by paying a cash-in-lieu of water rights fee to Utilities or using existing credits and water certificates. The WSR has historically also been met by conveying water rights to Utilities.

Post-Development: Utilities Non-Residential Water Annual Allotment

Non-residential customers have an annual allotment of water and may face Excess Water Use surcharges. The following are related definitions:

- **Annual Allotments:** All non-residential taps (e.g., commercial businesses and irrigation taps) installed after March 1, 1984 have an annual allotment (volume of water in gallons) that is based upon the WSR that was satisfied at the time of development or redevelopment. See City Code Section 26-149(d). Customers can pay an additional CIL fee to increase their annual allotments at any time. See City Code Section 26-149(g).
- **Excess Water Use Surcharge:** Non-residential taps with annual allotments face this surcharge if their annual water use exceeds their annual allotment. See City Code Section 26-149(d). This charge is in addition to the standard water use rates. The surcharge provides revenue to purchase additional water rights and/or infrastructure to account for the additional water demand over the annual allotment and, therefore, over the WSR satisfied for the property. The surcharge is based on the cash-in-lieu fee. The surcharge is currently \$10.39 per 1,000 gallons over the annual allotment and is updated every two years. See City Code Section 26-129(c)(2).

Customer Information

Customer: Mountain Ridge Farms HOA

Appellant: Touchstone Property Management (property manager)

Location: 1103 Wabash Street, Fort Collins, CO

Utilities Service Type: Non-residential sprinkler account

Customer Account Summary

The HOA is located on the southwest corner of S. Shields and Wabash streets. The property's water taps were installed in 1997 and the water supply requirements were obtained in 1997. See Record (Water Permits – Attachment 6).

The taps are part of a looped irrigation system. Looped irrigation systems connect two taps to mitigate pressure issues in irrigation design. See Record (Verbatim Transcript of Hearing – Attachment 9). Both of these taps have annual allotments, based on the WSR satisfied in 1997, and receive surcharges if they use more than their annual allotment. See Record (Water Permits – Attachment 6).

Table 1 - 1103 Wabash Street (338337-25407) – Annual Allotment: 1,955,112 gallons			
	2020	2019	2018
Annual Water Use	2,722,800	1,501,400	1,462,300
Excess Water Use Surcharge	\$7,745.97	\$0	\$0

Table 2 – 4014 Wabash Street (338339-25408) – Annual Allotment: 1,955,112 gallons			
	2020	2019	2018
Annual Water Use	160,600	1,621,100	1,605,200
Excess Water Use Surcharge	\$0	\$0	\$0

See Record (Water Use Notifications and Analysis – Attachment 7)

TIMELINE OF EVENTS

Utilities and Customer Communications Timeline

See Record (Hearing Packet – Attachment 2) (Correspondence – Attachment 3) (Water Use notifications and Analysis – Attachment 7)

2020

- May 1 – Letters were sent to non-residential customers who exceeded their annual allotment at least once in the past two years. Because the HOA did not have a history of exceeding its annual allotment, they did not receive this letter.
- Sept. 17 – Reminder sent to apply to the Allotment Management Program (AMP). AMP provides up to a three-year waiver for surcharges provided the applicant implement a project that reduces outdoor water use.
- Oct. 13 – Utilities identified billing delay in Utilities billing system.
- Oct. 29 – Water report emailed to customer indicating 1103 Wabash sprinkler account average daily water use had increased by over 53% (~9,000 gallons a day) compared to the same time previous year. This report links to the online water monitoring portal where customers can via use compared to allotment.
- Nov. 4 – Memo was sent to Mayor and City Council regarding billing delay.
- Dec. 8 – Utilities staff spoke with Touchstone and emailed with additional information about surcharges for the HOA’s sprinkler located at 1103 Wabash Street, #338337-25407. Also provided the following:
 - ✓ Letter overview with contact information
 - ✓ Payment arrangement option - 6-months
 - ✓ Opportunity to meet with Water Conservation and Energy Services teams to explore efficiency opportunities to help reduce operational costs for property.
 - ✓ MyWater online monitoring tool instructions
- Dec. 21 – Touchstone emailed the City Manager expressing concern regarding their surcharge and stated if they had known they were going over their allotment, they would have turned off the water in Aug. 2020. They did not receive a response.
- Dec. 29 – Notification that the Allotment Management Program deadlines had been extended to accommodate those impacted by the billing error.

2021

- March 23 – Touchstone requested a 6-month payment arrangement for 1103 Wabash Street account. Customer made several payments and currently owes, \$4,910.82 of the \$7,745.97.
- April 13 – Touchstone requested a Landscape Water Budget. Water Conservation team created and shared with the customer.
- April 16 – Pyramid Landscaping called Interim Water Conservation Manager inquiring about the surcharge and asked if there were any opportunities to mitigate the fees.
- May 22 – Customer Account Manager contacted Touchstone regarding scheduled turn-offs for delinquent accounts. Touchstone shared their email they sent to the City Manager and Council in December 2020.
- May 24 – Staff called Touchstone and discussed looped irrigation system issue and followed up with Water Conservation team to schedule a time for everyone to meet, discuss and work together to help reduce water use for this account. The appellant did not follow up to schedule a time to discuss.
- May 24 – Touchstone requested an appeal to waive the account charges with Utilities Customer Accounts Manager, waiver request denied.
- June 10 – Appellant met with Utilities Customer Connections Interim Deputy Director; waiver request denied.
- June 23 – Formal appeal hearing held with Utilities Hearing Officer; waiver request denied.
- July 23 – Appeal to City Council filed by Touchstone to the City Clerk's office.

Appeal Hearing

On June 24, 2021, an appeal hearing was held with the appellant, Touchstone, on behalf of the HOA, and City staff to consider a request to waive surcharges of \$7,745.97 incurred for a Utilities sprinkler account located at 1103 Wabash Street, owned by Mountain Ridge Farms HOA. See Record (Verbatim Transcript of Hearing – Attachment 9). The request was denied on July 9, 2021, based on the account's annual allotment, 1,955,112 gallons, and the amount of water exceeded, 2,722,800 gallons. See Record (Hearing Officer Decisions – Attachment 4). The customer was given an option of an additional six-month payment plan to pay the remaining balance on the account which is \$5,910.82.

Customer Appeal

"Failure to properly interpret and apply relevant provisions of City Code Section [26-721](#)." See Record (Notice of Appeal – Attachment 1).

"There was an undercharge due to City of Fort Collins billing error. The total of two taps was under the allocated amount. Section (4) entitled Meter Failure states as follows in (b):
Customers who have been under billed for services received, will be rebilled, at no interest, for the actual or estimated services based on utility service records or other information acceptable to the utility that verify previous billing statements do not appropriately reflect actual consumption."

Total use for the looped meters was under allocated amount:

*"Mountain Ridge had two taps and one of the backflows was turned off due to vandalism that we were not aware of at the time. If you add together the total for the two taps, the water consumption is lower than the regularly allotted total amount. **This does not appropriately reflect actual consumption.**"*

Appeal Question for Council:

Did the Appeal Hearing Officer fail to properly interpret and apply relevant provisions to the City Code [26-721](#) by denying the waiver of the incurred water use for the HOA?

Attachment of the staff report discusses the water used by the appellant's Utilities sprinkler account.

ATTACHMENTS

1. Notice of Appeal (PDF)
2. Hearing Packet (PDF)
3. Correspondence (PDF)
4. Hearing Officer Decisions (PDF)
5. Post Hearing Information (PDF)
6. Water Permits (PDF)
7. Water Use Notifications and Analysis (PDF)
8. Hearing Video (PDF)
9. Verbatim Transcript of Hearing (PDF)
10. Powerpoint Presentation (PDF)

Notice of Appeal

Filed by
Brian Ball and Kathy Louderback
Touchstone Property Management
on behalf of
Mountain Ridge Farm HOA

NOTICE OF APPEAL

Action Being Appealed: Decision - Excess Water Use Fee (Account #338337-25407, 1103 Wabash St)

Date of Action: 07/09/2021 Decision Maker: Lance Smith

FOR CITY CLERK'S
USE ONLY:

DATE FILED: 7/23/21

INITIALS: *llw*

Appellant/Appellant Representative (if more than one appellant):

Name: Brian Ball, Kathy Louderback

Phone #: (970) 223-5000

Address: 2850 McClelland Drive, Suite 1000, Fort Collins,
CO 80525-2576

Email: bball@touchstone-property.com

INSTRUCTIONS

For each allegation marked below, attach a separate summary of the facts contained in the record which support the allegation of no more than two pages, Times New Roman 12-point font. Please restate allegation at top of first page of each summary.

GROUND FOR APPEAL

The Decision Maker committed one (1) or more of the following errors (check all that apply):



Failure to properly interpret and apply relevant provisions of the City Code, the Land Use Code, and Charter. List relevant Code and/or Charter provision(s) here, by specific Section and subsection/subparagraph:

See attached

Failure to conduct a fair hearing in that:



(a) The Board, Commission, or other Decision Maker exceeded its authority or jurisdiction as contained in the Code or Charter. [New evidence not allowed]



(b) The Board, Commission or other Decision Maker substantially ignored its previously established rules of procedure. [New evidence not allowed]



(c) The Board, Commission or other Decision Maker considered evidence relevant to its findings which was substantially false or grossly misleading. [New evidence allowed]



(d) The Board, Commission or other Decision Maker improperly failed to receive all relevant evidence offered by the appellant. [New evidence allowed]



(e) The Board, Commission or other Decision Maker was biased against the appellant by reason of a conflict of interest or other close business, personal or social relationship that interfered with the Decision Maker's independence of judgment. [New evidence allowed]

NEW EVIDENCE


All new evidence the appellant wishes Council to consider at the hearing on the appeal must be submitted to the City Clerk within seven (7) calendar days after the deadline for filing a Notice of Appeal and must be clearly marked as new evidence. No new evidence will be received at the hearing in support of these allegations unless it is submitted to the City Clerk by the deadline (7 days after the deadline to file appeal) or offered in response to questions posed by Councilmembers at the hearing.


APPELLANTS

Parties-in-interest have the right to file an appeal.

A party-in-interest is a person who, or organization which, has standing to appeal the final decision of a board, commission or other decision maker. Such standing to appeal is limited to the following:

- The applicant.
- Anyone who owns or occupies the property which was the subject of the decision made by the board, commission or other decision maker.
- Anyone who received the mailed notice of, or spoke at, the hearing of the board, commission or other decision maker.
- Anyone who provided written comments to the appropriate City staff for delivery to the board, commission or other decision maker prior to or at the hearing on the matter that is being appealed.
- A City Councilmember.

Signature: 	Date: 07/23/2021
Name: Brian Ball	Email: bball@touchstone-property.com
Address: 2850 McClelland Drive, Suite 1000, Fort Collins, CO 80525-2576	Phone #: (970) 223-5000
Describe how you qualify as a party-in-interest: Mountain Ridge Farm Community Association Manager, Touchstone Property Management	

Signature: 	Date: 07/23/2021
Name: Kathy Louderback	Email: klouderback@touchstone-property.com
Address: 2850 McClelland Drive, Suite 1000, Fort Collins, CO 80525-2576	Phone #: (970) 282-2089
Describe how you qualify as a party-in-interest: Managing Agent, Touchstone Property Management	

Signature:	Date:
Name:	Email:
Address:	Phone #:
Describe how you qualify as a party-in-interest:	

ATTACH ADDITIONAL SIGNATURE SHEETS AS NECESSARY



PROPERTY MANAGEMENT LLC

2850 McClelland Drive, Suite 1000 Fort Collins, Colorado 80525-2576
Phone 970-223-5000 Fax 970-223-5282 www.touchstone-property.com

July 23, 2021

**RE: Protest to Water Billing Decision – Excess Water Use Fee
(Account #338337, 25407, 1103 Wabash Street)**

Mountain Ridge Farm is filing a protest in regard to City Code Section 26-721

There was an undercharge due to a City of Fort Collins billing error. The total of two taps was under the allocated amount.

Section (4) of this section entitled Meter Failure states as follows in (b)

“Customers who have been under billed for services received, will be re-billed, at no interest, for the actual or estimated services delivered based on utility service records or other information acceptable to the utility that verify previous billing statements **do not appropriately reflect action consumption.**”

Mountain Ridge had two taps and one of the backflows was turned off due to vandalism that we were not aware of at the time. If you add together the total for the two taps, the water consumption is lower than the regularly allotted total amount. **This does not appropriately reflect actual consumption.**

The staff at the City of Fort Collins has been very courteous and respectful during this entire process. We feel that they are bound by restrictive language that do not allow them to make a reasonable decision. Mountain Ridge has worked very hard over the years to be attentive to water conservation efforts and should not be penalized for this billing error. We would have shut off the water if the taps had higher than allocated numbers.

The association has two taps and this billing “does not appropriately reflect the actual consumption that they are entitled to have.

Your assistance and consideration are appreciated.

Sincerely,

A handwritten signature in blue ink that reads "Kathy Louderback".

Kathy Louderback
Managing Agent
Mountain Ridge Farm Homeowners Association

**Hearing Packet
presented to the
Hearing Officer
June 24, 2021**



Utilities

electric · stormwater · wastewater · water
222 Laporte Ave.
PO Box 580
Fort Collins, CO 80522-0580

970.212.2900

V/TDD: 711

utilities@fcgov.com

fcgov.com/utilities

12/1/2020

Re: Excess Water Use Surcharge Correction

Dear Fort Collins Utilities Customer:

Your account has a water allotment (see definitions on back), and our meter readings indicate the account exceeded its 2020 water allotment. Due to a system error, the Excess Water Use line item was not included on your previous 2020 bills. **This error has been corrected, and the Excess Water Use surcharge is included on your December utility bill as a one-time adjustment.** We sincerely apologize for this inconvenience.

Allotments are determined at the time of development based on the water rights or cash-in-lieu that were turned in and represent the annual volume of water the account can use in a calendar year without receiving Excess Water Use surcharges. The surcharge is collected when an account uses more than its annual water allotment, charged at a rate of \$10.09 per 1,000 gallons over the allotment in 2020.

To reduce impacts:

1. **Participate in the Allotment Management Program (AMP):** Customers implementing a water conservation project may be eligible to receive up to a **three-year waiver from their Excess Water Use surcharges**. Customers interested in a 2021 waiver should start the application process **as soon as possible**. For more information and to determine if your property qualifies, visit fcgov.com/AMP.
2. **Apply for double toilet rebates:** Double toilet rebates are available for projects submitted between Nov. 16 and Dec. 31 (or until funds run out). Learn more at fcgov.com/water-efficiency.
3. **Monitor your use with MyWater (formerly known as WaterSmart):** Sign up, view your use and receive leak/high use notifications with our free online tool at fcgov.com/MyWater.
4. **Reduce water use through efficiency and conservation projects:** Receive up to \$50,000 in rebates for any indoor project that saves water. Visit fcgov.com/water-efficiency.

Please contact us at 970-212-2900 if you would like to discuss payment options. You also may call 970-416-4268 or email UtilitiesCustomerAccounts@fcgov.com with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Cassalia".

Mark Cassalia
Customer Accounts Manager
Fort Collins Utilities

DEFINITIONS:

Non-residential Water Supply Requirement (WSR): Developers must provide water supplies to meet the demands of a new development and ensure a reliable source of supply in dry years. The WSR methodology is generally reviewed every five to seven years. Customers can meet the requirement through water rights or cash. The cash rate is based on the cost to develop additional water resources and is reviewed every two years.

Non-residential: All commercial, industrial, public entity, group housing, nursing homes, fraternities, hotels, motels, commonly owned areas, club houses, and pools, including HOA common spaces and irrigation accounts.

Allotment: The volume of water a given tap can use per year before incurring Excess Water Use surcharges (only non-residential taps installed after 1984). The allotment volume is based on the amount of WSR satisfied at the time of development plus any increases to the allotment paid for after development. A customer may increase their allotment at any time by paying cash or providing additional water rights. The current cost is approximately \$41,187 per 325,851-gallon increase.

Excess Water Use (EWU) surcharge: A volumetric charge assessed on all water used through the remainder of the calendar year once a customer has exceeded their annual allotment. The EWU is applied in addition to the regular utility rates. This surcharge is tied to the cash rate for the WSR and is evaluated every two years. Revenue from the EWU surcharge goes toward acquiring, developing and improving Utilities' water supplies to address the impact of customers exceeding their planned allotment. The current EWU surcharge is \$10.09 per 1,000 gallons over the allotment.



02WILD c90

**Fort Collins Utilities
Customer Service**

222 Laporte Ave.
Hours: 8 a.m. to 5 p.m., Mon., Tue., Thur., & Fri.
10 a.m. to 5 p.m. Wed.

Phone: 970-212-2900
W/TDD: Dial 711 for Relay Colorado
E-mail: utilities@fcgov.com
Web: fcgov.com/utilities
Se habla Español



Account Number	Customer Name	Service Address	Bill Date	Date Due	Amount Due
338337-25407	MOUNTAIN RIDGE FARM HOA	1103 WABASH ST SPKR	07-06-20	07-26-20	\$2,238.04

See reverse side for customer information and explanation of terms.

Billing and Payment Summary

Payment due last billing period	\$	634.94
Payment received since last billing	\$	634.94
Charges for this billing period due 07-26-20	\$	2,238.04
Total amount due	\$	2,238.04

Service	Rate Code	Service Date		Days	Meter Readings		Multiplier	Usage	Charge
		From	To		Previous	Present			
Water	W522	06-01-20	07-01-20	30	122895	130102	100	720700 GAL	\$2,238.04
Sub-total									\$2,238.04
Total charges this billing period									\$2,238.04

Water History

Read Date	Days	Use in Gals	Gal/Day
07-01-20	30	720700	24023
06-01-20	32	185100	5784
04-30-20	30		
03-31-20	31		
02-29-20	29		
01-31-20	31		
12-31-19	31		
11-30-19	30		
10-31-19	30		
10-01-19	31	258400	8335
08-31-19	31	511800	16509
07-31-19	30	381700	12723
07-01-19	31	342300	11041

02WILD c90



Make checks payable to Fort Collins Utilities. Return this portion with payment to ensure proper credit. Thank you!

Account Number	Service Address	Bill Date	Date Due	Amount Due
338337-25407	1103 WABASH ST SPKR	07-06-20	07-26-20	\$2,238.04

MOUNTAIN RIDGE FARM HOA

FORT COLLINS UTILITIES
PO BOX 1580



02c90

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Phone: 970-212-2900

VTDD: Dial 711 for Relay Colorado

E-mail: utilities@focgov.com

Web: focgov.com/utilities

Se habla Español



Account Number	Customer Name	Service Address	Bill Date	Date Due	Amount Due
338337-25407	MOUNTAIN RIDGE FARM HOA		Past Due -	Pay Now	\$2,238.04
		1103 WABASH ST SPKR	08-03-20	08-23-20	\$2,599.22
See reverse side for customer information and explanation of terms.					\$4,837.26

Billing and Payment Summary

Payment due last billing period	\$	2,238.04
Previous balance; please pay now	\$	2,238.04
Charges for this billing period due 08-23-20	\$	2,599.22
Total amount due	\$	4,837.26

This bill has a previous balance that must be paid to avoid service interruption. Questions? Call 970-212-2900.

Service	Rate Code	Service Date		Days	Meter Readings		Multiplier	Usage	Charge
		From	To		Previous	Present			
Water	W522	07-01-20	08-01-20	31	130102	138214	100	811200 GAL	\$2,599.22
Sub-total									\$2,599.22
Total charges this billing period									\$2,599.22

Water History

Read Date	Days	Use in Gals	Gal/Day
08-01-20	31	811200	26167
07-01-20	30	720700	24023
06-01-20	32	185100	5784
04-30-20	30		
03-31-20	31		
02-29-20	29		
01-31-20	31		
12-31-19	31		
11-30-19	30		
10-31-19	30		
10-01-19	31	258400	8335
08-31-19	31	511800	16509
07-31-19	30	381700	12723

02c90



Make checks payable to Fort Collins Utilities. Return this portion with payment to ensure proper credit. Thank you!

Account Number	Service Address	Bill Date	Date Due	Amount Due
338337-25407	1103 WABASH ST SPKR	Past Due -	Pay Now	\$2,238.04
		08-03-20	08-23-20	\$2,599.22
				\$4,837.26

MOUNTAIN RIDGE FARM HOA

FORT COLLINS UTILITIES
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02c90

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Account Number	Customer Name	Service Address	Bill Date	Date Due	Amount Due
338337-25407	MOUNTAIN RIDGE FARM HOA	1103 WABASH ST SPKR	09-02-20	09-22-20	\$2,375.73

See reverse side for customer information and explanation of terms.

Billing and Payment Summary

Payment due last billing period	\$	4,837.26
Payment received since last billing	\$	4,837.26
Charges for this billing period due 09-22-20	\$	2,375.73
Total amount due	\$	2,375.73

Service	Rate Code	Service Date		Days	Meter Readings		Multiplier	Usage	Charge
		From	To		Previous	Present			
Water	W522	08-01-20	08-31-20	30	138214	145766	100	755200 GAL	\$2,375.73
Sub-total									\$2,375.73
Total charges this billing period									\$2,375.73

Water History

Read Date	Days	Use in Gals	Gal/Day
08-31-20	30	755200	25173
08-01-20	31	811200	26167
07-01-20	30	720700	24023
06-01-20	32	185100	5784
04-30-20	30		
03-31-20	31		
02-29-20	29		
01-31-20	31		
12-31-19	31		
11-30-19	30		
10-31-19	30		
10-01-19	31	258400	8335
08-31-19	31	511800	16509

02c90



Make checks payable to Fort Collins Utilities. Return this portion with payment to ensure proper credit. Thank you!

Account Number	Service Address	Bill Date	Date Due	Amount Due
338337-25407	1103 WABASH ST SPKR	09-02-20	09-22-20	\$2,375.73

MOUNTAIN RIDGE FARM HOA

FORT COLLINS UTILITIES
PO BOX 1580



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Account Number	Customer Name	Service Address	Bill Date	Date Due	Amount Due
338337-25407	MOUNTAIN RIDGE FARM HOA	1103 WABASH ST SPKR	10-05-20	10-25-20	\$816.77

See reverse side for customer information and explanation of terms.

Billing and Payment Summary

Payment due last billing period	\$	2,375.73
Payment received since last billing	\$	2,375.73
Charges for this billing period due 10-25-20	\$	816.77
Total amount due	\$	816.77

Service	Rate Code	Service Date		Days	Meter Readings		Multiplier	Usage	Charge
		From	To		Previous	Present			
Water	W522	08-31-20	09-30-20	30	145766	148272	100	250600 GAL	\$816.77
Sub-total									\$816.77
Total charges this billing period									\$816.77

Water History

Read Date	Days	Use in Gals	Gal/Day
09-30-20	30	250600	8353
08-31-20	30	755200	25173
08-01-20	31	811200	26167
07-01-20	30	720700	24023
06-01-20	32	185100	5784
04-30-20	30		
03-31-20	31		
02-29-20	29		
01-31-20	31		
12-31-19	31		
11-30-19	30		
10-31-19	30		
10-01-19	31	258400	8335

02c90



Make checks payable to Fort Collins Utilities. Return this portion with payment to ensure proper credit. Thank you!

Account Number	Service Address	Bill Date	Date Due	Amount Due
338337-25407	1103 WABASH ST SPKR	10-05-20	10-25-20	\$816.77

MOUNTAIN RIDGE FARM HOA

FORT COLLINS UTILITIES
PO BOX 1580



ERR_02.c90

**Fort Collins Utilities
Customer Service**

222 Laporte Ave.
Hours: 8 a.m. to 5 p.m., Mon., Tue., Thur., & Fri.
10 a.m. to 5 p.m. Wed.

Phone: 970-212-2900
W/TDD: Dial 711 for Relay Colorado
E-mail: utilities@focgov.com
Web: focgov.com/utilities
Se habla Español



Account Number	Customer Name	Service Address	Bill Date	Date Due	Amount Due
338337-25407	MOUNTAIN RIDGE FARM HOA	1103 WABASH ST SPKR	11-02-20	11-22-20	\$121.10

See reverse side for customer information and explanation of terms.

Billing and Payment Summary

Payment due last billing period	\$	816.77
Payment received since last billing	\$	816.77
Charges for this billing period due 11-22-20	\$	121.10
Total amount due	\$	121.10

Service	Rate Code	Service Date		Days	Meter Readings		Multiplier	Usage	Charge
		From	To		Previous	Present			
Water	W522	09-30-20	10-31-20	31	148272	148272	100		\$121.10
Sub-total									\$121.10
Total charges this billing period									\$121.10

Water History

Read Date	Days	Use in Gals	Gal/Day
10-31-20	31		
09-30-20	30	250600	8353
08-31-20	30	755200	25173
08-01-20	31	811200	26167
07-01-20	30	720700	24023
06-01-20	32	185100	5784
04-30-20	30		
03-31-20	31		
02-29-20	29		
01-31-20	31		
12-31-19	31		
11-30-19	30		
10-31-19	30		

ERR_02.c90



Make checks payable to Fort Collins Utilities. Return this portion with payment to ensure proper credit. Thank you!

Account Number	Service Address	Bill Date	Date Due	Amount Due
338337-25407	1103 WABASH ST SPKR	11-02-20	11-22-20	\$121.10

MOUNTAIN RIDGE FARM HOA

FORT COLLINS UTILITIES
PO BOX 1580



ERR_02MGcTLB

Fort Collins Utilities

Customer Service

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Phone: 970-212-2900

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Se habla Español



Account Number	Customer Name	Service Address	Bill Date	Date Due	Amount Due
338337-25407	MOUNTAIN RIDGE FARM HOA	1103 WABASH ST SPKR	Past Due -	Pay Now	\$7,867.07
			12-04-20	12-24-20	

See reverse side for customer information and explanation of terms.

Billing and Payment Summary

Payment due last billing period	\$	121.10
Payment received since last billing	\$	121.10
Charges for this billing period due 12-24-20	\$	7,867.07
Total amount due	\$	7,867.07

Service	Rate Code	Service Date		Days	Meter Readings		Multiplier	Usage	Charge
		From	To		Previous	Present			
Water	W522	10-31-20	11-30-20	30	148272	148272	100		\$121.10
Excess Water Use	W820			30				767688 GAL	\$7,745.97
Sub-total									\$7,867.07
Total charges this billing period									\$7,867.07

Water History

Read Date	Days	Use in Gals	Gal/Day
11-30-20	30		
10-31-20	31		
09-30-20	30	250600	8353
08-31-20	30	755200	25173
08-01-20	31	811200	26167
07-01-20	30	720700	24023
06-01-20	32	185100	5784
04-30-20	30		
03-31-20	31		
02-29-20	29		
01-31-20	31		
12-31-19	31		
11-30-19	30		

Electric History

Read Date	Days	Use in kWh	kWh/Day
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ERR_02MGcTLB



Make checks payable to Fort Collins Utilities. Return this portion with payment to ensure proper credit. Thank you!

Account Number	Service Address	Bill Date	Date Due	Amount Due
338337-25407	1103 WABASH ST SPKR	Past Due -	Pay Now	\$7,867.07
		12-04-20	12-24-20	

MOUNTAIN RIDGE FARM HOA

FORT COLLINS UTILITIES
PO BOX 1580



Utilities

electric · stormwater · wastewater · water
222 Laporte Ave.
PO Box 580
Fort Collins, CO 80522-0580

970.212.2900

V/TDD: 711

utilities@fcgov.com

fcgov.com/utilities

June 10, 2021

Touchstone Property Management, LLC
Attn: Kathy Louderback and Brian Ball
Mountain Ridge Farms HOA
2850 McClelland Drive
Fort Collins, CO 80525

Decision – Excess Water Use Fee (Account #338337-25407, 1103 Wabash Street)

Dear Ms. Louderback and Mr. Ball,

It was a pleasure to meet with you last week and I appreciate you taking the time to discuss your concerns. Again, I want to apologize for our delayed billing of these charges which should have appeared on your bill in September 2020. Our system delay caused the accumulation of excess water use (EWU) charges on Mountain Ridge Farms HOA's December bill. I realize receiving these charges at the end of the year was not welcomed news, especially after learning the backflow for the sprinkler looped with this account located at 4014 Wabash (account #338339-25408) was turned off resulting in increased water use on this account.

Due to the unfortunate series of events, this has not been an easy decision. For three principal reasons, Fort Collins Utilities is unable to waive the EWU charges:

- (1) EWU back charges are a condition of receiving City water service, as adopted by City Council ordinance and codified at Municipal code sections [26-129](#) and [26-149](#); and
- (2) the City's water utility is a cost-of-service enterprise fund allowing up to six years for managing over and under charges associated with billing errors. Fort Collins Municipal Code section 26-721(a)(3) requires Fort Collins Utilities to bill the customer for undercharges, without interest.
- (3) Utilities documentation verifies the property water permit had an allotment with recognition of an excess water use charge should the property exceed the water allotment.

Although I cannot waive these fees, I would like to offer to extend your current interest free, 6-month payment arrangement to 12 months. If you would like to increase your payment arrangement to 12 months, please advise Wendy Serour and she will coordinate this extension.

If you choose to appeal this decision per Fort Collins Municipal Code sections [26-53](#) and [26-351](#). Please note to successfully appeal this decision, you will need to provide information that is contrary to that provided, e.g. demonstrate an error in water meter reading, and provide evidence that City Code has not been applied correctly. The following are the steps to appeal this decision:

- Within 10 working days of this decision, provide written request for reconsideration of this decision to the Fort Collins Utilities Finance Director, Lance Smith, lasmith@fcgov.com, setting forth in detail the facts supporting the request.



- Within 10 working days of receipt of your letter, the Finance Director will hold a hearing.
- Within 10 working days of the hearing, the DCM will act upon the request and hearing.
- If you are not satisfied with the final decision, you may [appeal to Fort Collins City Council](#) by filing a written Notice of Appeal with the City Clerk within 14 calendar days of the final decision.

Thank you for partnering with our Water Conservation Team and signing up for MyWater to monitor water use. They are available to help you further explore the water-saving options listed below.

- **Participate in the Allotment Management Program (AMP).** Qualified participants can receive up to a three-year waiver from the EWU surcharges provided implementation of project that reduces outdoor water use. Visit fcgov.com/amp.
- **Reduce water use through efficiency and conservation projects.** Receive up to \$50,000 in rebates for any indoor project that saves water. Visit fcgov.com/water-efficiency.
- **Participate in the Xeriscape Incentive Program.** Receive up to \$15,000 in rebates for conversation to a water wise landscape. Visit fcgov.com/xipxl.

If you would like to appeal this decision, Wendy Serour and/or Mark Cassalia will support you through this process.

Sincerely,

Gretchen Stanford

Gretchen Stanford

Interim Deputy Director, Utilities Customer Connections

gstanford@fcgov.com

CC: Wendy Serour, Public Engagement Specialist, Utilities Customer Connections
Mark Cassalia, Customer Accounts Manager, Utilities Customer Connections
Lance Smith, Utilities Finance Director

Communications Timeline with Touchstone Properties and Fort Collins Utilities:

Mountain Ridge Farms HOA, Sprinkler Account 2020 EWU Surcharge

Account overview: 1103 Wabash Street, Fort Collins, CO

Customer Name	Address	Ind.	Cust/ Prem	Meter Class	Allotment	9	10	11	Total	2018 Use	2019 Use	2020 YTD Use (Through Sept. Use)
MOUNTAIN RIDGE FARM HOA	1103 WABASH ST SPKR	MDU	338337-25407	Irrigation-Only	1,955,112	\$ 5,217.42	\$ 2,528.55	\$0	\$ 7,745.97	1,462,300	1,501,400	2,722,800

Irrigation account looped with 1103 Wabash Street: *4014 Wabash Street (338339-25408)*

- Annual allotment = *1,955,112 gallons*

- 2020 total use = *160,600 gallons*

5/1/20 – Letters were sent to customers who historically exceed their allotments (based on two years). This account historically didn't exceed.

9/17/20 – Reminder sent to apply to the Allotment Management Program

10/27/20 – Water report emailed to customer. **Note emails were sent to email of previous property manager.**

10/29/20 – Water report emailed to customer. **Note emails were sent to email of previous property manager.** Shows that average daily water use has increased by over 53% (~9,000 gallons a day) compared to the same time last year.

12/8/20 – Utilities staff spoke with Brian Ball with Touchstone Properties and emailed with additional information about EWU surcharges for Mountain Ridge Farms HOA sprinkler located at 1103 Wabash Street, #338337-25407. Also provided following:

- ✓ Letter overview with contact information
- ✓ Payment arrangement - 6-months
- ✓ Opportunity to meet with Water Conservation and Energy Services
- ✓ MyWater online tool instructions

12/29/20 – Notification that the Allotment Management Program deadlines had been extended to accommodate those impacted by the billing error.

3/23/21 – Brian Ball coordinated with Utilities Customer Accounts staff to set-up a 6-month payment arrangement for account.

4/13/21 – Landscape Water Budget requested, created and shared with the customer.

4/16/21 – Landscaper (Kris Walsh) called Abbye Neel asking inquiring about the surcharge and if there were any opportunities to mitigate the fees.

5/22/21 – Mark Cassalia contacted Brian re. scheduled turn-offs for delinquent accounts. Brian shared update re. Kathy's outreach to City Manager and Council.

5/24/21 – Wendy Serour called Brian and discussed looped irrigation issue. Wendy followed up with Water Conservation schedule a time for everyone to meet, discuss and work together to help reduce water use for this account.

**City of Fort Collins, Colorado
Water Utilities**

PERMIT FOR WATER UTILITY SERVICE

Permit No. **20844**

Building Application No.

Name of Applicant: Miramont Associates LLC c/o Nordic Construction

Address of Applicant: 309 W Harmony Road FTC 80526

Description of Property: Meter pit in tract at SW corner of Wabash and Shields Streets
Mountain Ridge Farm P.U.D. 1st Filing

Address of Property: 1103 Wabash Street

Use: Commercial - irrigation only

Water: SqFt: _____ Rate: W/ 522 Sewer Cat: _____ Date: 9/10/1997

Stormwater: SqFt: _____ Rate: _____ Calc Fac: _____

	Account	Fees
Stormwater Fee	5040.473510	
Water PIF 1 1/2 inch metered	5020.473120	\$12,700.00
CREDIT FOR 1 1/2 INCH WATER COP		(\$235.00)
Water Meter Charge	5020.473370	
Construction Water Charge (one time)	5020.452040	
6% LOT (Payment in Lieu of Taxes)	5020.452110	
Water Tap	5020.475230	
Sewer PIF	5030.473120	
Sewer Tap	5030.475320	
Water Right 6. Ac-Ft	5020.473310	
Sanitation District	503.211690	
Sewer Repay	503.211690	
Water Repay	502.211690	
Water Development Review Fee:	5020.473130	
Sewer Development Review Fee:	5030.473130	
Stormwater Development Review Fee:	5040.473130	
Allotment: 1,955,112 Gal/Yr Surcharge: Yes	Total	\$12,465.00

The maximum water pressure at this site may exceed 80 p.s.i.

Included with the water meter charge is one trip for inspection and delivery of the water meter.

Permit is revocable. If applicant does not connect to the permitted utility within six (6) months of payment date, the permit will expire.

APPROVED:

Kevin R. Gertig
Utilities Executive Director

Applicant

Date

by Mary Young

Validation Date

PAID
9/10/1997

**City of Fort Collins, Colorado
Water Utilities**

PERMIT FOR WATER UTILITY SERVICE

Permit No. **20845**

Building Application No.

Name of Applicant: Miramont Associates LLC c/o Nordic Construction

Address of Applicant: 309 W Harmony Road FTC 80526

Description of Property: Meter pit E. side of Wabash St. in large tract N. of Lakecrest Ct.
Mountain Ridge Farm P.U.D. 1st Filing

Address of Property: 4014 Wabash Street

Use: Commercial - irrigation only

Water: SqFt: _____ Rate: W/ 522 Sewer Cat: _____ Date: 9/10/1997

Stormwater: SqFt: _____ Rate: _____ Calc Fac: _____

	Account	Fees
Stormwater Fee	5040.473510	
Water PIF 1 1/2 inch metered	5020.473120	\$12,700.00
CREDIT FOR 1 1/2 IN. WATER COP. METER		(\$235.00)
Water Meter Charge	5020.473370	
Construction Water Charge (one time)	5020.452040	
6% LOT (Payment in Lieu of Taxes)	5020.452110	
Water Tap	5020.475230	
Sewer PIF	5030.473120	
Sewer Tap	5030.475320	
Water Right 6. Ac-Ft	5020.473310	
Sanitation District	503.211690	
Sewer Repay	503.211690	
Water Repay	502.211690	
Water Development Review Fee:	5020.473130	
Sewer Development Review Fee:	5030.473130	
Stormwater Development Review Fee:	5040.473130	
Allotment: 1,955,112 Gal/Yr Surcharge: Yes	Total	\$12,465.00

The maximum water pressure at this site may exceed 80 p.s.i.

Included with the water meter charge is one trip for inspection and delivery of the water meter.

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APPROVED:

Kevin R. Gertig
Utilities Executive Director

Applicant

Date

by Mary Young

Validation Date

PAID
9/10/1997

CONFLICT OF INTEREST DISCLOSURE STATEMENT

CITY OF FORT COLLINS, COLORADO

<p>The following disclosure statement is submitted to the Clerk of the City of Fort Collins pursuant to the requirements of Article IV, Section 9 of the City Charter and, to the extent applicable, Section 24-18-109(3)(a), C.R.S. or pursuant to City of Fort Collins Personnel Policy 5.7.2.F.</p>	
<p>Name: Theresa Connor</p>	
<p>Title: Interim Utilities Director</p>	
<p>Decision(s) or contract affected (give description of item to be addressed by Council, Board, Service Area Director, etc.):</p> <p>The potential appeal of an Excess Water Use fee by Mountain Ridge Farms HOA.</p>	
<p>Brief statement of interest:</p> <p>I am a resident within the Mountain Ridge Farms HOA, so I would be financially impacted by this decision.</p>	
<p>Date: 06/09/21</p>	<p>Signature: <i>Theresa Connor</i></p>
<p>REMOVAL OF CONFLICT OF INTEREST</p>	
<p>I affirm that the above-stated conflict of interest no longer exists.</p>	
<p>Date:</p>	<p>Signature:</p>

cc (if Councilmember or Board or Commission member): City Attorney and City Manager
cc (if City employee): HR Director

Correspondence



Utilities
electric • stormwater • wastewater • water
222 Laporte Ave.
PO Box 580
Fort Collins, CO 80522-0580
970.212.2900
V/TDD: 711
utilities@fcgov.com
fcgov.com/utilities

MEMORANDUM

DATE: December 17, 2020

TO: Mayor Troxell and Councilmembers

FROM: Lisa Rosintoski, Deputy Director, Utilities Customer Connections

THRU: Darin Atteberry, City Manager
Theresa Connor, Interim Utilities Executive Director

RE: Update - Excess Water Usage Surcharge Billing Error

On November 4, City Council received a memo titled “Excess Water Usage Surcharge Billing Error.” The memo provided awareness of a billing error discovered on October 20 that determined the Excess Water Use (EWU) surcharge was not being billed to 198 commercial accounts that impacted 161 customers.

Utilities Customer Accounts and Water Conservation staff contacted impacted customers by phone to provide awareness on the billing error and options for payment arrangements. Below is a summary of the feedback staff heard from customers.

- Customers appreciated the individualized outreach.
- There were many customers who have become familiar with EWU charges since the increase in charges in 2017 and had budgeted for these costs.
- Customers who were not familiar with EWU charges said receiving a bill earlier in the year with these charges would have helped them to address it sooner and reduce their costs. These customers were encouraged to sign up for the MyWater tool to monitor their future water use on a daily or monthly basis.

The following is a summary of the actions taken to address the situation with the impacted customers:

- Staff called 116 customers with EWU charges of \$2,000 or more prior to receiving their December bill.
- Total EWU charges from January through November 2020 were applied to customers’ December 2020 Utilities bill(s). December bills were sent on December 7 accompanied by an individualized letter explaining the error and offering payment arrangements as well as programs and tools to reduce future costs.



- Accounts with water consumption in December may also see additional EWU charges on their January bill. Approximately 90 of these are sprinkler accounts and will not receive an EWU charge in January; there should not be water use on these accounts in December.
- Currently 4 customers have requested and been granted a payment arrangement.
- Customers can take advantage of Water Conservation programs to help with overages, including the Allotment Management Program (AMP). AMP provides a temporary waiver from the EWU surcharges for qualified customers provided implementation of a water efficiency project. Currently there are 12 AMP participants and five additional applications have been submitted for 2021.

CC: Lori Clements, Senior Manager, Customer Connections
SeonAh Kendall, City Recovery Manager, Economic Health
Lance Smith, Director, Utilities Strategic Finance
Mark Cassalia, Manager, Customer Connections

From: Wendy Serour
Sent: Tuesday, December 8, 2020 11:04 AM
To: bball@touchstone-property.com
Subject: Follow-up: Mountain Ridge Farm HOA - water account billing error
Attachments: EWU Fee Billing Error 2020_Final.pdf

Hi Brian,

Thanks for taking the time to speak with me last week about the water account at Mountain Ridge Farm HOA (listed below) and the [Excess Water Use](#) fees on the December bill. Attached is the letter that I mentioned will be included with the December bill - it explains the billing error in our system and highlights some steps you can take to reduce water use to avoid future charges (check out the **MyWater tool** – it’s really helpful!).

The **estimated** charges of excess water use surcharges are highlighted below in **green**. The Dec. bill will indicate the **final amount due** including Nov. charges. Also highlighted in the chart is the **annual water allotment** (indicated in yellow), which is the amount of water the account can use annually. The right side of the chart highlights the last 2 years of use as well as the **estimated water consumption for 2020** is highlighted in blue.

Customer Name	Address	Industry	Cust/Prem	Meter Class	Allotment	9	10	11	Total	2018
MOUNTAIN RIDGE FARM HOA	1103 WABASH ST SPKR	Multi Family	338337-25407	Irrigation-Only	1,955,112	\$ 5,217.42	\$ 2,528.55	\$ -	\$ 7,745.97	1,462

Per your request, below is the other water account that serves this property – this includes the account number and address along with the annual allotment.

Account Number	Account Premise	Account Name	Address	Address	Annual Allotment
338337	79851	MOUNTAIN RIDGE FARM	1576 WESTFIELD DR SPKR	FORT CO 80526	293,266 gallons

If you have any questions about this charge or would like to schedule a meeting to review and learn more about our programs, please let me know. Thanks again for your time – have a great day!

Best,

.....
WENDY SEROUR
 Utilities Customer Accounts
 City of Fort Collins
 (970) 416-2311 | Office
 (970) 420-5081 | Cell



Utilities

electric · stormwater · wastewater · water
222 Laporte Ave.
PO Box 580
Fort Collins, CO 80522-0580

970.212.2900

V/TDD: 711

utilities@fcgov.com

fcgov.com/utilities

12/1/2020

Re: Excess Water Use Surcharge Correction

Dear Fort Collins Utilities Customer:

Your account has a water allotment (see definitions on back), and our meter readings indicate the account exceeded its 2020 water allotment. Due to a system error, the Excess Water Use line item was not included on your previous 2020 bills. **This error has been corrected, and the Excess Water Use surcharge is included on your December utility bill as a one-time adjustment.** We sincerely apologize for this inconvenience.

Allotments are determined at the time of development based on the water rights or cash-in-lieu that were turned in and represent the annual volume of water the account can use in a calendar year without receiving Excess Water Use surcharges. The surcharge is collected when an account uses more than its annual water allotment, charged at a rate of \$10.09 per 1,000 gallons over the allotment in 2020.

To reduce impacts:

1. **Participate in the Allotment Management Program (AMP):** Customers implementing a water conservation project may be eligible to receive up to a **three-year waiver from their Excess Water Use surcharges**. Customers interested in a 2021 waiver should start the application process **as soon as possible**. For more information and to determine if your property qualifies, visit fcgov.com/AMP.
2. **Apply for double toilet rebates:** Double toilet rebates are available for projects submitted between Nov. 16 and Dec. 31 (or until funds run out). Learn more at fcgov.com/water-efficiency.
3. **Monitor your use with MyWater (formerly known as WaterSmart):** Sign up, view your use and receive leak/high use notifications with our free online tool at fcgov.com/MyWater.
4. **Reduce water use through efficiency and conservation projects:** Receive up to \$50,000 in rebates for any indoor project that saves water. Visit fcgov.com/water-efficiency.

Please contact us at 970-212-2900 if you would like to discuss payment options. You also may call 970-416-4268 or email UtilitiesCustomerAccounts@fcgov.com with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Cassalia".

Mark Cassalia
Customer Accounts Manager
Fort Collins Utilities

DEFINITIONS:

Non-residential Water Supply Requirement (WSR): Developers must provide water supplies to meet the demands of a new development and ensure a reliable source of supply in dry years. The WSR methodology is generally reviewed every five to seven years. Customers can meet the requirement through water rights or cash. The cash rate is based on the cost to develop additional water resources and is reviewed every two years.

Non-residential: All commercial, industrial, public entity, group housing, nursing homes, fraternities, hotels, motels, commonly owned areas, club houses, and pools, including HOA common spaces and irrigation accounts.

Allotment: The volume of water a given tap can use per year before incurring Excess Water Use surcharges (only non-residential taps installed after 1984). The allotment volume is based on the amount of WSR satisfied at the time of development plus any increases to the allotment paid for after development. A customer may increase their allotment at any time by paying cash or providing additional water rights. The current cost is approximately \$41,187 per 325,851-gallon increase.

Excess Water Use (EWU) surcharge: A volumetric charge assessed on all water used through the remainder of the calendar year once a customer has exceeded their annual allotment. The EWU is applied in addition to the regular utility rates. This surcharge is tied to the cash rate for the WSR and is evaluated every two years. Revenue from the EWU surcharge goes toward acquiring, developing and improving Utilities' water supplies to address the impact of customers exceeding their planned allotment. The current EWU surcharge is \$10.09 per 1,000 gallons over the allotment.

From: Eric Olson
Sent: Thursday, April 15, 2021 4:29 PM
To: Abbye Neel
Subject: FW: Message from KRISTEN WALSH (9709883246)
Attachments: VoiceMessage.wav

Abbye,

I just spoke with Kris from Pyramid and he's in a situation at one of his HOA's where a looped tap was shut down early last season and the water was used by the other tap and you know where this is going...

I know this doesn't happen all the time but is there a chance you could call Kris or point him in the right direction? Kris is a great landscape contractor and of course he's a CLP.

I'd be interested in the City's position on this and the outcome; If you "Teams" it I'd like to join.

Let me know and thanks!

Eric

Eric Olson CID, CLIA
Irrigation Specialist
Water Conservation
Fort Collins Utilities
eolson@fcgov.com
970-221-6704 Office
970-222-1702 Cell

COVID19 Resources

For all residents: <https://www.fcgov.com/eps/coronavirus>

For businesses: <https://www.fcgov.com/business/>

Want to help: <https://www.fcgov.com/volunteer/>

From: Cisco Unity Connection Messaging System <unityconnection@netcomm-chw-cuc1.fcgov.com>
Sent: Thursday, April 15, 2021 3:11 PM
To: eolson@netcomm-chw-cuc1.fcgov.com
Subject: Message from KRISTEN WALSH (9709883246)

From: Wendy Serour
Sent: Wednesday, May 26, 2021 11:20 AM
To: Water Conservation Staff
Cc: Brian Ball; Mark Cassalia
Subject: FW: Mountain Ridge Farm - tap data
Attachments: MTRF water usage.xlsx

Hi Water Conservation Team,

I'm including Brian Ball on this from Touchstone Properties. It sounds like your team has worked with him in the past. Brian contacted Mark and I the other day to see if there was a way the City could waive the fees for the back billed 2020 EWU charges for account ending 25407 since this is a looped system and they had a backflow issue in 2020 that caused this account to use a lot more water. Unfortunately, we shared that we cannot waive these charges.

I was thinking it would be helpful to schedule some time to meet with Brian and possibly the landscaper for this property, to review their Water Budget report and any additional data/resources that could help decrease water use in 2021.

Brian – anything else you'd like to add, please let us know. I would be happy to coordinate a meeting either online or in person. Thanks all!

.....
WENDY SEROUR
Utilities Customer Accounts
City of Fort Collins
(970) 416-2311 | Office
(970) 420-5081 | Cell

COVID-19 Resources
For all residents: fcgov.com/eps/coronavirus
For businesses: fcgov.com/business/
Want to help: fcgov.com/volunteer/
United Way: uwaylc.org/

From: Brian Ball <bball@touchstone-property.com>
Sent: Monday, May 24, 2021 4:54 PM
To: Wendy Serour <WSerour@fcgov.com>
Subject: [EXTERNAL] Mountain Ridge Farm - tap data

Hi Wend,
Here is the spreadsheet I was referring to about historical data (2020 & 2019) for mountain ridge farm.
Thanks,

Brian Ball, CMCA
Community Association Manager
Touchstone Property Management LLC
2850 McClelland Drive, Suite 1000
Fort Collins, CO 80525
Bball@touchstone-property.com
(970) 282-2096 Phone
(970) 223-5282 Fax

MTRF water usage (in gallons)

2019 actual usage

4014 Wabash st sprk	1103 Wabash st sprk	1576 Westfield dr sprk
4800	6900	300
370400	300	25450
410600	342300	31750
554800	381700	36750
280500	511800	34950
1621100	258400	129200
	1501400	

4024 Seneca st sprk

1040	3953 Woodview ct sprk
205350	50
285230	63000
350520	89350
263550	103800
4770	73200
1110460	329400

Total 2019 Water Usage
4691560

2020 YTD Water Usage-11/3
4586810

2020 YTD usage

4014 Wabash st sprk	1103 Wabash st sprk	1576 Westfield dr sprk
23600	185100	10780
137000	720700	42350
160600	811200	60090
	755200	48780
	250600	26010
	2722800	188010

4024 Seneca st sprk

69020	3953 Woodview ct sprk
306320	21040
369080	92320
364900	102480
121380	39890
1230700	28970
	284700

From: Mark Cassalia
Sent: Thursday, May 27, 2021 9:30 AM
To: Gretchen Stanford; Wendy Serour
Subject: RE: Utilities ~ Mountain Ridge Farm

Hi Gretchen,

Wendy and I have both spoken to this customer. Wendy is working on this with Abbye, but as I understand it currently we can't waive these past due fees. Wendy, please know what support you need.

Following the same procedure as the ones Lisa was involved with we should do the following.

- Gretchen and I should meet with the customer to understand their perspective
- CA can draft a letter of decision for Gretchen to approve and send to the customer – in this letter is info about escalating this to the UED
- There would then be a hearing a decision from Theresa-ability to escalate to City Council (as Code stands now).

Wendy, can you setup the following?

- Setup an internal meeting with Gretchen, myself, you and Abbye as optional (30 min)
- Setup a meeting time with the customer for Gretchen and I to meet with the customer (30 min)

Thanks Wendy, appreciate you working on all of the escalations this year!

From: Kathy Louderback <klouderback@touchstone-property.com>
Sent: Wednesday, May 26, 2021 4:35 PM
To: Gretchen Stanford <GStanford@fcgov.com>; Mark Cassalia <mcassalia@fcgov.com>
Subject: [EXTERNAL] FW: Utilities ~ Mountain Ridge Farm

Hi Gretchen and Mark,

We protested this billing in December 2020. We did not receive a response to our inquiry.

Can you please check into this for us.

Thanks -

***Kathy Louderback, CMCA, AMS, PCAM
Managing Agent
Touchstone Property Management LLC
2850 McClelland Drive, Suite 1000
Fort Collins, CO 80525
(970) 223-5000 Phone
(970) 223-5282 Fax***

From: Kathy Louderback
Sent: Wednesday, May 26, 2021 4:33 PM

To: Pyramid Landscape <pyramidlandscape@comcast.net>

Cc: Brian Ball <bball@touchstone-property.com>

Subject: FW: Utilities ~ Mountain Ridge Farm

FYI

We are going to contact our new mayor and new city council person.

Thanks -

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Sent: Monday, December 21, 2020 10:53 AM

To: Darin Atteberry <datterberry@fcgov.com>

Subject: Utilities ~ Mountain Ridge Farm

Hi Darin,

Mountain Ridge Farm Homeowners Association received a billing in the amount of \$7,867.07 months after the fact.

If we had known that the water was going over the allotment, we would have turned off the water in August 2020 or whenever the overage was created.

This is very unfair and damaging financially to our associations.

Can you please assist us with this problem

This form was sent to us by Wendy Serour.

From: [Brian Ball](#)
To: [Mark Cassalia](#); [Kathy Louderback](#)
Cc: [Wendy Serour](#); [Gretchen Stanford](#)
Subject: [EXTERNAL] RE: Mountain Ridge Farm Excess Water Use Surcharge
Date: Thursday, May 27, 2021 12:41:57 PM

Hi Mark, all,
Thanks for setting this up.

Something that I've apparently missed in all this is that the water usage for the two taps in question (1103 & 4014 Wabash st) in 2020 was lower than the combined annual allotments. (the tap at 1103 Wabash received the EWU charge and the two are on a loop).

Combined usage – 2,883,400 gallons (1103 Wabash – 2,722,800 gallons and 4014 Wabash – 160,600 gallons)

Combined allotment – 3,910,244 gallons (1,955,112 each)

Since the combined usage was 1,026,844 under the combined allotment, can this be taken into consideration?

Thanks

Brian Ball, CMCA
Community Association Manager
Touchstone Property Management LLC
2850 McClelland Drive, Suite 1000
Fort Collins, CO 80525
Bball@touchstone-property.com
(970) 282-2096 Phone
(970) 223-5282 Fax
www.touchstone-property.com

From: Mark Cassalia <mcassalia@fcgov.com>
Sent: Thursday, May 27, 2021 10:30 AM
To: Kathy Louderback <klouderback@touchstone-property.com>
Cc: Brian Ball <bball@touchstone-property.com>; Wendy Serour <WSerour@fcgov.com>; Gretchen Stanford <GStanford@fcgov.com>
Subject: Mountain Ridge Farm Excess Water Use Surcharge

Good Morning Kathy and Brian,

I apologize that this issue has not been resolved. When I spoke with Brian last week we discussed moving this issue to the Utilities formal escalation process as soon as possible, as City Code doesn't permit staff to waive these fees. Specifically, the excess water use surcharges are a condition of receiving City water service, as adopted by City Council ordinance and codified in City Code Sections

26-129 and 26-149. The next step to escalate your concerns are to meet with Gretchen Stanford, the Interim Director of Customer Connections and myself. Gretchen and I want to ensure we fully understand the situation and your position. Following this meeting Gretchen will send you a letter of decision and outline next steps if you remain unsatisfied with that decision.

Here are available times to discuss:

6/1 12:00, 12:30, 3:30

6/2 12:00, 12:30, 3:30

6/7 9:30, 10:00

Please let me know what date/time you prefer, and should none of these work for you let me know and I'll send additional dates/times. Also please let me know if you prefer Microsoft Teams, Zoom or in-person as well as folks I should include from your end – please send emails or you are welcome to forward the invite.

Thank you,

Mark Cassalia
Fort Collins Utilities
Customer Accounts Manager
mcassalia@fcgov.com
970.224.6123

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From: Mark Cassalia
Sent: Thursday, May 27, 2021 9:44 AM
To: Wendy Serour
Subject: FW: Utilities ~ Mountain Ridge Farm
Attachments: EWU Fee Billing Error 2020_Final.pdf; MTRF December 2020 bill.pdf

FYI for Mountain Ridge Farm

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(970) 223-5282 Fax***

From: Abbye Neel
Sent: Friday, May 28, 2021 2:37 PM
To: Gretchen Stanford; Mark Cassalia; Wendy Serour
Subject: FW: Excess Water Use Surcharge Concern Follow-Up
Attachments: VoiceMessage.wav

FYI – this is the same landscaper that is working with Mountain Ridge Farms HOA. Eric originally received the call but I was the one that followed up with Kris.

Abbye

From: Abbye Neel
Sent: Thursday, April 29, 2021 12:54 PM
To: Gretchen Stanford <GStanford@fcgov.com>; Mark Cassalia <mcassalia@fcgov.com>
Cc: pyramidlandscapes@comcast.net; Wendy Serour <WSerour@fcgov.com>; Eric Olson <EOlson@fcgov.com>
Subject: Excess Water Use Surcharge Concern Follow-Up

Dear Gretchen and Mark,

I wanted to pass along feedback from a conversation I had earlier today with Kris Walsh, from Pyramid Landscaping, who is also copied on this email.

One of the HOAs he manages received a \$7,000 surcharge bill in December. It was the first time the account had exceeded in over 15 years and he, nor the HOA, were aware of their allotment. The system is looped. One of the backflows was accidentally turned off, resulting in the high overage on the other tap without anyone being aware until they received the bill. Because the surcharges didn't appear until December a problem, that could have easily been corrected earlier in the year if it had been billed correctly, resulted in a \$7,000 surcharge fee and deep distrust of Kris and his ability to properly manage the property.

Over the course of his time with the HOA, Kris has reduced their water use by over 20%. He and the HOA have participated in our rebate programs and have replaced irrigation clocks, heads, and have flow sensors throughout the property. Pyramid Landscaping is an active participant in the Certified Landscape Program and does his best to get the word out about Water Restriction and other City Programs. Kris expressed frustration about the City's lack of flexibility and willingness to partner with customers and landscapers who are trying to do the right thing. Landscapers face particular challenges, because they are often unjustly blamed for the high surcharge bills in scenarios when surcharges are being applied due to inadequate allotments or errors. He requested we work with customers and property managers to get the word out so burdens do not fall solely on those who manage the water.

I want to thank Kris for taking the time to talk to me this morning and reiterate that we understand what a difficult situation the error put him in. I did my best to capture his concerns here but I invite Kris to chime in if he wants to add to the conversation or correct anything I have misrepresented.

Thank you for taking the time to read through this concern. Please let me know if you have any questions.

Best,

Abbye Neel (*she, her, hers* – [what's this?](#))
Interim Water Conservation Manager

From: Wendy Serour
Sent: Friday, May 28, 2021 10:29 AM
To: Theresa Connor
Cc: Dawn Kennedy; Robin Pierce; Mark Cassalia; Gretchen Stanford
Subject: FW: Assistance with customer escalation: Utilities ~ Mountain Ridge Farm
Attachments: EWU Fee Billing Error 2020_Final.pdf; MTRF December 2020 bill.pdf
Importance: High

Hi Theresa – Looks like you’re out of office today but wanted to send this in case you have any knowledge of this customer escalation from Dec. 21 to Darin. I spoke with Dawn this morning and Darin is in interviews today but she and Kyle were thinking the email might have been forwarded to you? I don’t have a record of seeing this email on my end – any thoughts you have, please let us know. See below for background info – thanks in advance and have a safe and fun holiday weekend!

Background: EWU fees and 2020 billing error

- **Customer:** Touchstone Property Management, Kathy Louderback
- **Service Address:** 1103 Wabash Street, Sprinkler
- **Excess Water Use 2020 charges:** \$7,867.07
- **Water Use History:** Account is looped irrigation and typically exceeds its allotment. In 2020 there was a backflow issue and so it caused water use to just come from the one tap and not both, increasing the water use and charges.
- **Outreach:** I contacted Brian Ball from Touchstone in December about the EWU charges and our team and Water Conservation has worked with them on and off since then. They requested a payment arrangement which they’ve been paying monthly. This account is on a looped irrigation system and typically exceeds its allotment – looped irrigation systems are on staff’s radar to explore aggregation but this work has not moved forward based on other priorities.
- **Escalation:** Kathy and Brian with Touchstone have since reached out to Mark saying they requested that Utilities consider waiving these charges and upset that staff has not responded. Mark and Gretchen will be meeting with them next week. Gretchen, Mark, Abbye and I are meeting today to gather the facts and prep for the meeting.

.....
WENDY SEROUR
Utilities Customer Accounts
City of Fort Collins
(970) 416-2311 | Office
(970) 420-5081 | Cell

COVID-19 Resources
For all residents: fcgov.com/eps/coronavirus
For businesses: fcgov.com/business/
Want to help: fcgov.com/volunteer/
United Way: uwaylc.org/

From: Wendy Serour
Sent: Thursday, May 27, 2021 10:50 AM
To: Dawn Kennedy <dkennedy@fcgov.com>
Cc: Mark Cassalia <mcassalia@fcgov.com>
Subject: Assistance with customer escalation: Utilities ~ Mountain Ridge Farm
Importance: High

Hey Dawn – I hope you’re doing well! We have a customer escalation we’re working on and there’s been some missing pieces we’re trying to resolve in preparation for a meeting Gretchen and Mark are scheduling with Touchstone Properties. See the email below that was sent by Kathy with Touchstone to Darin back on December 21. I’ve been working with one of their property managers on these fees with the understanding that we aren’t able to waive these fees. This might be a miscommunication within their team – my initial thought is Kathy with Touchstone may be thinking because she emailed Darin in Dec. that this would be addressed however Brian, the property manager I’ve been speaking with, was well aware we couldn’t waive the fees and worked with us on a payment arrangement. Mark and Gretchen are hoping to get on the same page with Kathy and Brian once they’re able to schedule a meeting.

Darin and Council were aware of our billing system error for Excess Water (EWU) Fees last year – essentially it delayed billing until the end of the year on EWU fees and some, like this account, were very high. Let us know your thoughts on best approach – maybe just asking Darin if he actually spoke with her or emailed her would be a start as that’s what we’re missing. Any questions, let us know – thanks!

.....
WENDY SEROUR

Utilities Customer Accounts
City of Fort Collins
(970) 416-2311 | Office
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COVID-19 Resources

For all residents: fcgov.com/eps/coronavirus
For businesses: fcgov.com/business/
Want to help: fcgov.com/volunteer/
United Way: uwaylc.org/

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Fort Collins Utilities
Customer Service
 222 Laporte Ave.
 Hours: 7 a.m. to 7 p.m., Monday-Friday
 8 a.m. to noon, Saturday

Phone: 970-212-2900
 V/TDD: Dial 711 for Relay Colorado
 E-mail: utilities@fcgov.com
 Web: fcgov.com/utilities
 Se habla Español



Account Number	Customer Name	Service Address	Bill Date	Date Due	Amount Due
338337-25407	MOUNTAIN RIDGE FARM HOA	1103 WABASH ST SPKR	12-04-20	12-24-20	\$7,867.07

See reverse side for customer information and explanation of terms.

Billing and Payment Summary

Payment due last billing period	\$	121.10
Payments received since last billing	\$	121.10
Charges for this billing period due 12-24-20	\$	7,867.07
Total amount due	\$	7,867.07

Service	Rate Code	Service Date		Days	Meter Readings		Multiplier	Usage		Charge
		From	To		Previous	Present				
Water	W522	10-31-20	11-30-20	30	148272	148272	100			\$121.10
Excess Water Use	W820			30				767688	GAL	\$7,745.97
Sub-total										\$7,867.07
Total charges this billing period										\$7,867.07

Read Date	Days	Use in Gals	Gal/Day
11-30-20	30		
10-31-20	31		
09-30-20	30	250600	8353
08-31-20	30	755200	25173
08-01-20	31	811200	26167
07-01-20	30	720700	24023
06-01-20	32	185100	5784
04-30-20	30		
03-31-20	31		
02-29-20	29		
01-31-20	31		
12-31-19	31		
11-30-19	30		

Read Date	Days	Use in kWh	kWh/Day
-----------	------	------------	---------

ERR_02MG cTLB



Make checks payable to Fort Collins Utilities. Return this portion with payment to ensure proper credit. Thank you!

Account Number	Service Address	Bill Date	Date Due	Amount Due
338337-25407	1103 WABASH ST SPKR	12-04-20	12-24-20	\$7,867.07



MOUNTAIN RIDGE FARM HOA
 %TOUCHSTONE PROPERTY MGMT
 2850 MCCLELLAND DR SUITE 1000
 FORT COLLINS, CO 80525-2576

FORT COLLINS UTILITIES
 PO BOX 1580
 FORT COLLINS CO 80522-1580

A5004D9988A338337254071CB0000786707B

From: Gretchen Stanford
Sent: Saturday, June 19, 2021 7:39 PM
To: Mark Cassalia; Utilities Customer Accounts
Subject: RE: FCLWD Updates from the Board Meeting on 6/15

Follow Up Flag: Follow up
Flag Status: Flagged

Nice, thanks for the update Mark!

.....
GRETCHEN STANFORD

Interim Deputy Director, Customer Connections
Fort Collins Utilities - [fcgov.com/utilities/](https://www.fcgov.com/utilities/)
(970) 744-1835 (cell)

I recognize we may be working different schedules and there is no expectation for an immediate response.

From: Mark Cassalia <mcassalia@fcgov.com>
Sent: Wednesday, June 16, 2021 9:17 AM
To: Utilities Customer Accounts <UtilitiesCustomerAccounts@fcgov.com>
Cc: Gretchen Stanford <GStanford@fcgov.com>
Subject: FW: FCLWD Updates from the Board Meeting on 6/15

FYI

From: Mark Cassalia
Sent: Wednesday, June 16, 2021 9:17 AM
To: Phil Ladd <PLadd@fcgov.com>; Mark Kempton <mkempton@fcgov.com>; Abbye Neel <aneel@fcgov.com>
Cc: Lance Smith <lasmith@fcgov.com>; Theresa Connor <TConnor@fcgov.com>; Randy Reuscher <rreuscher@fcgov.com>; Meagan Smith <mesmith@fcgov.com>; Joni McCown <jmccown@fcgov.com>; Annetta Maestas <AMAESTAS@fcgov.com>; Susan Smolnik <SSMOLNIK@fcgov.com>; Jill Oropeza <JOropeza@fcgov.com>; Donnie Dustin <DDUSTIN@fcgov.com>; Liesel Hans <lhans@fcgov.com>; Eric Potyondy <epotyondy@fcgov.com>; Jason Graham <jgraham@fcgov.com>; Jill Oropeza <JOropeza@fcgov.com>
Subject: FCLWD Updates from the Board Meeting on 6/15

Hi all,

First, a quick note of thanks to Randy and Meagan (and Amy Volckens) for presenting at the FCLWD Board meeting last night. FCLWD staff has been helpful in getting these items to their Board and the Board was very receptive and interested in continuing to collaborate with Utilities and the City.

Billing Error – There was an error in the calculation and Utilities underbilled FCLWD per the Water Capacity Agreement. The FCLWD Board made the decision to pay the \$260,155 in a lump sum this year. The Board was satisfied with the additional review process and coordination with FCLWD staff. **ACTION: Annetta can you develop an invoice for this amount?**

Water Matters – Although only slated for 15 mins the FCLWD Board took 30+ minutes to provide input for this study. They were well engaged and recommended a number of actions that would improve water coordination efforts

in Northern Colorado. There was lots of discussion about the zoning and development process as well as NISP. I will follow up with FCLWD on Donnie's idea to have a conversation with FCLWD on the City's concerns and what items would need to be resolved to either support or not oppose the project.

Thank you,

Mark Cassalia
Fort Collins Utilities
Customer Accounts Manager
mcassalia@fcgov.com
970.224.6123

From: Mark Cassalia
Sent: Wednesday, June 23, 2021 1:39 PM
To: Brian Ball; Kathy Louderback
Cc: Eric Potyondy; Lance Smith; Wendy Serour
Subject: Reconsideration Hearing Information
Attachments: Mountain Ridge Farm HOA_hearing packet 6-24-21.pdf

Hi Brian and Kathy,

We will be holding the Reconsideration Hearing tomorrow at 3:00 p.m for the Excess Water Use charges applied to Mountain Ridge Farm HOA. I sent you a calendar invite with a Zoom link – **PLEASE FORWARD THIS TO KRIS WALSH.**

Lance Smith, the Utilities Director of Finance, will hold the hearing as Theresa Connor, the Interim Utilities Director, has filed a Conflict of Interest Disclosure Statement-she is a resident of Mountain Ridge Farm HOA.

The hearing follows steps:

- Introduction
- Parties present
- Procedural overview
- Official Record – here any documents are disclosed (see attached documents)
- Evidence may be presented – appellant may provide any evidence relevant to the issue
- Objections or concerns regarding the hearing process
- Staff presentation ~10 min (Mark Cassalia)
- Appellant presentation ~10 minutes (Brian Ball, Kathy Louderback and Kris Walsh)
- Director of Finance questions and clarifications (Lance Smith)
- Closure or the hearing

The Official Record contains the following documents:

- Letter – Excess Water Use Surcharge Correction
- Copies of utility bills for 1103 Wabash St July – December of 2020
- Letter – Letter of Decision from Gretchen Stanford, Interim Deputy Director of Utilities Customer Connections
- Communication Timeline
- Water Service Permits for 1103 Wabash St. and 4014 Wabash St.
- Conflict of Interest Disclosure Statement

If you have any questions please reach out to me prior to the hearing.

Thank you,

Mark Cassalia
Fort Collins Utilities
Customer Accounts Manager
mcassalia@fcgov.com
970.224.6123

From: [Lance Smith](#)
To: klouderback@touchstone-property.com; bball@touchstone-property.com
Cc: [Wendy Serour](#); [Mark Cassalia](#); [Gretchen Stanford](#)
Subject: Decision Letter to Mountain Ridge Farm HOA 7_8_21.docx
Date: Friday, July 9, 2021 12:57:57 PM
Attachments: [Mountain Ridge Farms Water Usage Analysis.xlsx](#)
[Decision Letter to Mountain Ridge Farm HOA 7_8_21.docx](#)

Kathy and Brian –

Thank you for meeting with me in the appeal hearing on June 24th. I am sorry that the circumstances were around resolving a billing issue but appreciated your professionalism and willingness to answer my questions as I worked to understand the issue. Given the various issues which contributed to the allotment exceedance, ultimately my decision was to not change the excess water use surcharge.

I am attaching the formal decision letter on your appeal of the 2020 excess water use surcharges as well as a spreadsheet that I used for a few graphs in the letter. The spreadsheet provides a little table that can be updated each month with water consumption to track how close each tap is to the allotment.

Sincerely,
Lance

From: [Kathy Louderback](#)
To: [Abbye Neel](#)
Cc: [Brian Ball](#)
Subject: [EXTERNAL] RE: Allotment Meeting Follow-Up
Date: Tuesday, August 3, 2021 6:32:36 PM
Attachments: [image002.png](#)

Hi Abbye,

Thanks -

***Kathy Louderback, CMCA, AMS, PCAM
Managing Agent
Touchstone Property Management LLC
2850 McClelland Drive, Suite 1000
Fort Collins, CO 80525
(970) 223-5000 Phone
(970) 223-5282 Fax***

From: Abbye Neel <aneel@fcgov.com>
Sent: Tuesday, August 3, 2021 1:45 PM
To: Kathy Louderback <klouderback@touchstone-property.com>
Subject: RE: Allotment Meeting Follow-Up

Hi Kathy,

The account was reset on March 31, 2021. Prior to Brian Pyramid landscaping was the contact in the system.

Best,

Abbye Neel (*she, her, hers* – [what's this?](#))

Interim Water Conservation Manager

aneel@fcgov.com

Office: 970-416-4371

Cell: 303-246-5520

The City of Fort Collins is an organization that supports equity for all, leading with race. We acknowledge the role of local government in helping create systems of oppression and racism and are committed to dismantling those same systems in pursuit of racial justice. [Learn more.](#)

Icon? ? Description automatically generated with medium confidence

[Fcgov.com/water-status](https://fcgov.com/water-status) | [Fcgov.com/water-restrictions](https://fcgov.com/water-restrictions)

From: Kathy Louderback <klouderback@touchstone-property.com>

Sent: Thursday, July 29, 2021 5:26 PM

To: Abbye Neel <aneel@fcgov.com>

Subject: [EXTERNAL] RE: Allotment Meeting Follow-Up

Hi Abbye,

Who were you sending the water notifications for Mountain Ridge Farm prior to Brian Ball?

Thanks -

***Kathy Louderback, CMCA, AMS, PCAM
Managing Agent
Touchstone Property Management LLC
2850 McClelland Drive, Suite 1000
Fort Collins, CO 80525
(970) 223-5000 Phone
(970) 223-5282 Fax***

From: Abbye Neel <aneel@fcgov.com>

Sent: Monday, April 23, 2018 1:30 PM

To: Kathy Louderback <klouderback@touchstone-property.com>

Subject: Allotment Meeting Follow-Up

Hi Kathy -

I hope all has been well! I know it has been a few weeks but I wanted to follow-up from the March 30th "Know Your Allotment" Event.

Below is information regarding the Landscape Budget Program and the WaterSmart Portal. At the meeting we discussed the fact that your managers are not technically primary account holders. If you, or someone from your accounting team, can give me a list of your accounts and the okay to share information with them directly we can remove you from having to be the middle man. Additionally, I know it is a busy time of year for everyone but we are hosting an additional event on

May 22nd for those who could not attend the March event. Registration can be found at fcgov.com/water-fee. If you have any additional questions or if I can help with anything else please let me know!

WaterSmart Monitoring Tool

At the event you expressed interest in the WaterSmart Monitoring Tool. Through this tool you will be able to combine multiple accounts, receive high use and leak alerts, and monitor water use before you get the bill. To activate your account:

1. Visit fcgov.watersmart.com
2. Enter your **account number** and **zip-code**
3. Begin monitoring your use today!

If you do not have the account number you will have to coordinate with the primary account holder to gain access. If you have multiple accounts, and you don't want to enter them individually, please email a list of your accounts and I can upload them in a batch with a follow-up email with log-in information. Attached is a PDF manual with information on how to utilize the tool.

Landscape Budget Program

At the event you expressed an interest in participating in the Landscape Budget Program. Only Fort Collins Utilities commercial water customers can participate. By signing up for this program you agree to:

1. Receive initial report outlining recommended water use compared to current water use.
2. Participate in a one-hour site visit to review budget and basic opportunities. We ask that the community manager/property manager, landscaper, facility manager, and a HOA member (if applicable) attend to increase communication between groups and encourage common goals.
3. Receive subsequent reports through the 2018 irrigation season outlining recommended water use and current water use. Subsequent reports serve as "check-ins" to see how the site is performing.

Sign up [here](#) once you have read the 2018 participation guidelines (see attached).

Best,

Abbye Neel
Water Conservation Specialist
Fort Collins Utilities
aneel@fcgov.com
Office: 970-416-4371

Voice message to Eric Olson, Water Conservation from Kris Walsh with Pyramid Landscape, verbatim, 4-15-21

Hey Eric it's Kris, Pyramid Landscape, hey, I have a unique situation that I've never run into uh, with an HOA, um, they have – um, it's Mountain Ridge Farms, um, it's the water tap that's the issue is 1103 Wabash, um and they got, they just informed me that in 2020 they had a massive excess usage of \$7000 worth of overage charges that they weren't made aware of until after the water season was over, I think it was in, there was a glitch in the system and they were made aware of it in December. The thing is with this is there's two backflows that are looped, one backflow looks like it must have been shut off by somebody, um, we don't think it was us, we think it might have just been a kid turned the handle or something like that. So one tap got all the usage – they were actually under their 2019 water usage when it all gets added up but they had, uh, a couple million gallons of overage here, um, so this is a legitimate issue and you're the only one I could think of I could explain this to, um, so I'm hoping you can point me in the right direction or help me sort this out for them um and so we use less water on the area but one of the taps got shut off mid season and it put a bunch of overages on the other – sorry for the long message but I really want to get somebody on this so if you could give me a call back at 970-988-3246 I'd appreciate it, thanks, bye.

Decision Letters



Utilities

electric · stormwater · wastewater · water
222 Laporte Ave.
PO Box 580
Fort Collins, CO 80522-0580

970.212.2900

V/TDD: 711

utilities@fcgov.com

fcgov.com/utilities

June 10, 2021

Touchstone Property Management, LLC
Attn: Kathy Louderback and Brian Ball
Mountain Ridge Farms HOA
2850 McClelland Drive
Fort Collins, CO 80525

Decision – Excess Water Use Fee (Account #338337-25407, 1103 Wabash Street)

Dear Ms. Louderback and Mr. Ball,

It was a pleasure to meet with you last week and I appreciate you taking the time to discuss your concerns. Again, I want to apologize for our delayed billing of these charges which should have appeared on your bill in September 2020. Our system delay caused the accumulation of excess water use (EWU) charges on Mountain Ridge Farms HOA's December bill. I realize receiving these charges at the end of the year was not welcomed news, especially after learning the backflow for the sprinkler looped with this account located at 4014 Wabash (account #338339-25408) was turned off resulting in increased water use on this account.

Due to the unfortunate series of events, this has not been an easy decision. For three principal reasons, Fort Collins Utilities is unable to waive the EWU charges:

- (1) EWU back charges are a condition of receiving City water service, as adopted by City Council ordinance and codified at Municipal code sections [26-129](#) and [26-149](#); and
- (2) the City's water utility is a cost-of-service enterprise fund allowing up to six years for managing over and under charges associated with billing errors. Fort Collins Municipal Code section 26-721(a)(3) requires Fort Collins Utilities to bill the customer for undercharges, without interest.
- (3) Utilities documentation verifies the property water permit had an allotment with recognition of an excess water use charge should the property exceed the water allotment.

Although I cannot waive these fees, I would like to offer to extend your current interest free, 6-month payment arrangement to 12 months. If you would like to increase your payment arrangement to 12 months, please advise Wendy Serour and she will coordinate this extension.

If you choose to appeal this decision per Fort Collins Municipal Code sections [26-53](#) and [26-351](#). Please note to successfully appeal this decision, you will need to provide information that is contrary to that provided, e.g. demonstrate an error in water meter reading, and provide evidence that City Code has not been applied correctly. The following are the steps to appeal this decision:

- Within 10 working days of this decision, provide written request for reconsideration of this decision to the Fort Collins Utilities Finance Director, Lance Smith, lasmith@fcgov.com, setting forth in detail the facts supporting the request.



- Within 10 working days of receipt of your letter, the Finance Director will hold a hearing.
- Within 10 working days of the hearing, the DCM will act upon the request and hearing.
- If you are not satisfied with the final decision, you may [appeal to Fort Collins City Council](#) by filing a written Notice of Appeal with the City Clerk within 14 calendar days of the final decision.

Thank you for partnering with our Water Conservation Team and signing up for MyWater to monitor water use. They are available to help you further explore the water-saving options listed below.

- **Participate in the Allotment Management Program (AMP).** Qualified participants can receive up to a three-year waiver from the EWU surcharges provided implementation of project that reduces outdoor water use. Visit fcgov.com/amp.
- **Reduce water use through efficiency and conservation projects.** Receive up to \$50,000 in rebates for any indoor project that saves water. Visit fcgov.com/water-efficiency.
- **Participate in the Xeriscape Incentive Program.** Receive up to \$15,000 in rebates for conversation to a water wise landscape. Visit fcgov.com/xipxl.

If you would like to appeal this decision, Wendy Serour and/or Mark Cassalia will support you through this process.

Sincerely,

Gretchen Stanford
Interim Deputy Director, Utilities Customer Connections
gstanford@fcgov.com

CC: Wendy Serour, Public Engagement Specialist, Utilities Customer Connections
Mark Cassalia, Customer Accounts Manager, Utilities Customer Connections
Lance Smith, Utilities Finance Director



Utilities

electric · stormwater · wastewater · water
222 Laporte Ave.
PO Box 580
Fort Collins, CO 80522-0580

970.212.2900

V/TDD: 711

utilities@fcgov.com

fcgov.com/utilities

July 9, 2021

Touchstone Property Management, LLC
Attn: Kathy Louderback and Brian Ball
Mountain Ridge Farms HOA
2850 McClelland Dr.
Fort Collins, CO 80525

Re: Decision – Excess Water Use Fee (Account #338337-25407, 1103 Wabash St.)

Dear Ms. Louderback and Mr. Ball:

Pursuant to City Code Sections 26-53, 26-351 and 26-721, this letter represents my final findings of fact and decision based on my review of Mountain Ridge Farms HOA (accounts #338337-25407 and #338339-25408). It also includes the relevant evidence in response to your letter dated June 16, 2021, disputing excess water use surcharges applied to one of these accounts in 2020. A hearing on this matter was held remotely via Zoom on June 24 at 3:00 p.m.

Following the hearing, I reviewed the history, data and customer service responses as well as City Code. My final decision is to uphold the decision to apply the excess water use surcharges for the water consumed by the tap under account #338337-25407 at 1103 Wabash St., Fort Collins, CO in the amount of \$7,745.97.

This decision is based on the findings and competent evidence below:

Mr. Ball's letter dated June 16, 2021, indicated that these charges are the result of Touchstone Property Management, LLC not being able to monitor the excess water use surcharges due to the City's billing error not showing the application of excess water use surcharges to account #338337-25407 until December 2020. However,

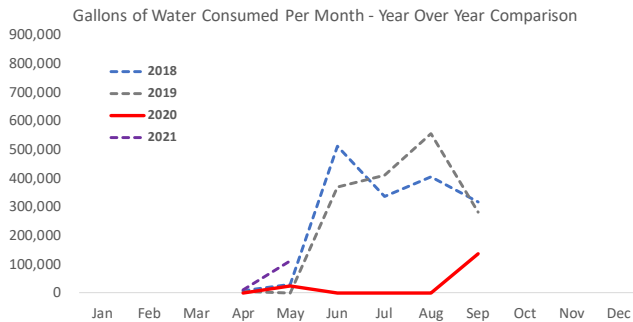
- The billing error did not affect the accuracy of the consumption being shown each month on the bills for the two irrigation accounts.
- Monitoring for the surcharges means identifying the exceedance only after it has occurred; had the billing error not occurred, the first excess water use surcharge would have been on the bill issued in September after the exceedance had already occurred.
- Per City Code Section 26-721(c) "Each utility customer is responsible for using reasonable diligence to review billing statements and for immediately notifying the utility of a billing error."

Mr. Ball's letter and testimony given in the hearing by Ms. Louderback indicated that Touchstone Property Management monitors annual water consumption monthly to avoid excess water use surcharges. However,

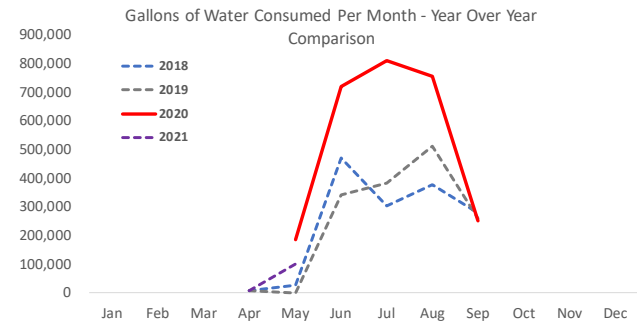
- In 2020, account #338337-25407 consumed a total of 2,722,800 gallons of water, which exceeded the annual allotment of 1,955,122 gallons.

- In 2020, account #338339-25408 showed zero consumption for June, July and August with those monthly bills only reflecting the base charge of \$121.10 each month.
- The 2020 water use patterns for these two accounts were significantly different than the previous two years with one account having no consumption and the other having twice the expected consumption. Based on previous years, consumption patterns indicated monthly consumption was not being monitored closely when the excess water use occurred.

Account: 338339-25408



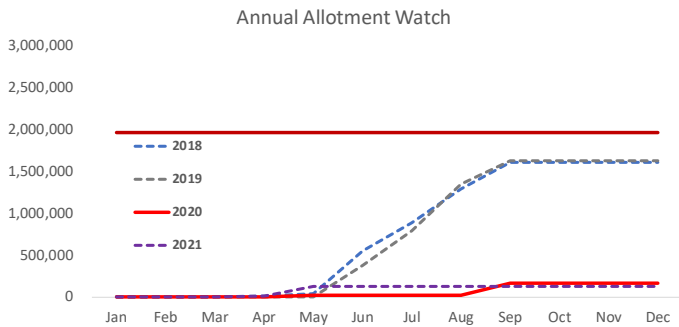
Account: 338337-25407



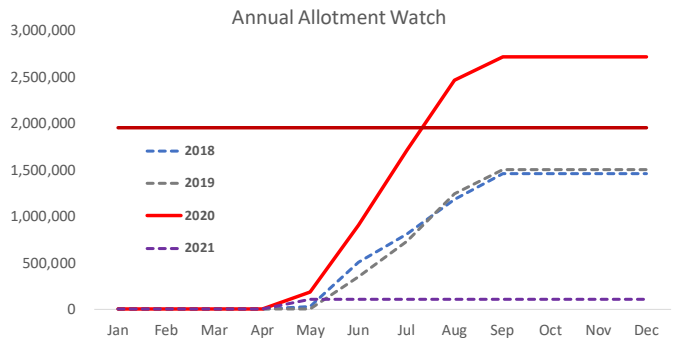
- Touchstone Property Management, LLC transitioned internally from one property manager to another in the summer of 2020 which resulted in a disruption in the oversight of the utility bills by a property manager.
 - My Water email notifications showing year-to-date consumption for each tap were being sent to the previous property manager’s account along with all other electronic communications.
 - Mr. Ball indicated in testimony that no emails were forwarded to him from the previous property manager’s account.
 - Neither of these account’s June bills were paid in July indicating that the disruption was not limited just to email communications (both accounts past due balance were paid Aug. 8, 2020).
- The irrigation tap associated with account #338339-25408 was turned on and then back off in May 2020 due to a backflow issue, which resulted in all irrigation water coming through account #338337-25407.
 - Meter data taken from the monthly bills suggests the backflow issue was not addressed for over three months as this tap remained turned off until sometime in late August.
 - A dual tap system is designed to provide a consistent use of water through both taps.
 - Historical water use shows the water allotment for each tap is not sufficient for the total irrigation use.



Account: 338339-25408



Account: 338337-25407



Based on the evidence, it is my conclusion a confluence of the personnel change by Touchstone Property Management, LLC, the backflow issue on one of the two irrigation taps, and the systemic challenge of having one person handling the bills and another person from a landscaping company determining the water consumption, resulted in the exceedance of the allotment on account #338337-25407.

In addition to the evidence above, the City is subject to Municipal Code, which requires:

- The annual allotment and excess water use surcharges are a condition of receiving City water service, as adopted by City Council ordinance and codified in City Code Sections 26-129 and 26-149.
- The City's water utility is a cost-of-service based municipal utility allowing up to six years of managing overcharges and undercharges associated with billing errors, which per City Code 26-271(a)(3) requires such billing errors to be billed to customers without interest.
- Utilities documentation verifies the property water permit had an allotment with recognition of an excess water use charge should the property exceed the water allotment.

Administration Determination

To recover the unpaid excess water use surcharges for water services consumed by the property at 1103 Wabash St, Fort Collins, CO in 2020 in the amount of \$7,745.97 (including taxes) recognizing that a six month payment plan has been established and the total outstanding amount remaining is currently \$5,910.82

Dated this ninth day of July 2021.

If you are not satisfied with the final decision, you may appeal to Fort Collins City Council by filing a written Notice of Appeal with the City Clerk within 14 calendar days of the final decision, pursuant to City Code Section 2-541. If you would like to appeal this decision, Wendy Serour and/or Mark Cassalia will support you through this process.

Sincerely,

Lance Smith
Utilities Strategic Finance Director
lasmith@fcgov.com

CC: Wendy Serour, Public Engagement Specialist, Utilities Customer Connections
Mark Cassalia, Customer Accounts Manager, Utilities Customer Connections
Gretchen Stanford, Interim Utilities Deputy Director, Utilities Customer Connections

Post Hearing Information



July 30, 2021

2850 McClelland Drive, Suite 1000 Fort Collins, Colorado 80525-2576
Phone 970-223-5000 Fax 970-223-5282 www.touchstone-property.com


**RE: Protest to Water Billing Decision – Excess Water Use Fee
(Account #338337, 25407, 1103 Wabash Street**

Mountain Ridge Farm is filing a protest in regard to City Code Section 26-721

Over the years Mountain Ridge Farm has been very attentive to the use of water at the Homeowners Association. In previous years at 1103 Wabash Street the following amounts of water have been used. You will note that the water usage has been reduced over the years. This was a billing error on the part of the City of Fort Collins and the Association should not be to blame. The Association owns the water shares and should be able to utilize the water that they have purchased. The system was on a loop system and there was no way to know that one backflow had been turned off due to vandalism. The system still was functioning correctly. We did not receive usage alerts and the charges did not appear on the bills. We still used less than the combined allotment for both taps. Please review the historical data and consider what actually occurred.

Year	Total Amount Used
2005	3084500
2006	3138400
2007	1599800
2008	1609500
2009	1379900
2010	2056800
2011	1700000
2012	2100000
2013	1400000
2014	830000
2015	1400000
2016	1900000
2017	1100000
2018	1400000
2019	1500000
2020	2700000
2021	545500

Your assistance and consideration are appreciated. We appreciate your review of the data.

Sincerely,

Kathy Louderback
Managing Agent
Mountain Ridge Farm Homeowners Association

Water Permits

**City of Fort Collins, Colorado
Water Utilities**

PERMIT FOR WATER UTILITY SERVICE

Permit No. **20844**

Building Application No.

Name of Applicant: Miramont Associates LLC c/o Nordic Construction

Address of Applicant: 309 W Harmony Road FTC 80526

Description of Property: Meter pit in tract at SW corner of Wabash and Shields Streets
Mountain Ridge Farm P.U.D. 1st Filing

Address of Property: 1103 Wabash Street

Use: Commercial - irrigation only

Water: SqFt: _____ Rate: W/ 522 Sewer Cat: _____ Date: 9/10/1997

Stormwater: SqFt: _____ Rate: _____ Calc Fac: _____

	Account	Fees
Stormwater Fee	5040.473510	
Water PIF 1 1/2 inch metered	5020.473120	\$12,700.00
CREDIT FOR 1 1/2 INCH WATER COP		(\$235.00)
Water Meter Charge	5020.473370	
Construction Water Charge (one time)	5020.452040	
6% LOT (Payment in Lieu of Taxes)	5020.452110	
Water Tap	5020.475230	
Sewer PIF	5030.473120	
Sewer Tap	5030.475320	
Water Right 6. Ac-Ft	5020.473310	
Sanitation District	503.211690	
Sewer Repay	503.211690	
Water Repay	502.211690	
Water Development Review Fee:	5020.473130	
Sewer Development Review Fee:	5030.473130	
Stormwater Development Review Fee:	5040.473130	
Allotment: 1,955,112 Gal/Yr Surcharge: Yes	Total	\$12,465.00

The maximum water pressure at this site may exceed 80 p.s.i.

Included with the water meter charge is one trip for inspection and delivery of the water meter.

Permit is revocable. If applicant does not connect to the permitted utility within six (6) months of payment date, the permit will expire.

APPROVED:

Kevin R. Gertig
Utilities Executive Director

Applicant

Date

by Mary Young

Validation Date

PAID
9/10/1997

**City of Fort Collins, Colorado
Water Utilities**

PERMIT FOR WATER UTILITY SERVICE

Permit No. **20845**

Building Application No.

Name of Applicant: Miramont Associates LLC c/o Nordic Construction

Address of Applicant: 309 W Harmony Road FTC 80526

Description of Property: Meter pit E. side of Wabash St. in large tract N. of Lakecrest Ct.
Mountain Ridge Farm P.U.D. 1st Filing

Address of Property: 4014 Wabash Street

Use: Commercial - irrigation only

Water: SqFt: _____ Rate: W/ 522 Sewer Cat: _____ Date: 9/10/1997

Stormwater: SqFt: _____ Rate: _____ Calc Fac: _____

	Account	Fees
Stormwater Fee	5040.473510	
Water PIF 1 1/2 inch metered	5020.473120	\$12,700.00
CREDIT FOR 1 1/2 IN. WATER COP. METER		(\$235.00)
Water Meter Charge	5020.473370	
Construction Water Charge (one time)	5020.452040	
6% LOT (Payment in Lieu of Taxes)	5020.452110	
Water Tap	5020.475230	
Sewer PIF	5030.473120	
Sewer Tap	5030.475320	
Water Right 6. Ac-Ft	5020.473310	
Sanitation District	503.211690	
Sewer Repay	503.211690	
Water Repay	502.211690	
Water Development Review Fee:	5020.473130	
Sewer Development Review Fee:	5030.473130	
Stormwater Development Review Fee:	5040.473130	
Allotment: 1,955,112 Gal/Yr Surcharge: Yes	Total	\$12,465.00

The maximum water pressure at this site may exceed 80 p.s.i.

Included with the water meter charge is one trip for inspection and delivery of the water meter.

Permit is revocable. If applicant does not connect to the permitted utility within six (6) months of payment date, the permit will expire.

APPROVED:

Kevin R. Gertig
Utilities Executive Director

Applicant

Date

by Mary Young

Validation Date

PAID
9/10/1997

Water Use Notifications and Analysis

Mountain Ridge Farm Hoa

Account Number: 338337-79851

Irrigation-Only

THIS WEEK

LAST 30 DAYS

- Water Report
- Jul 22, 2021

LAST 6 MONTHS

- Water Report
- Jul 1, 2021
- Email Use Notification - 2.9x higher than normal
- Jun 30, 2021
- Email Use Notification - 2.7x higher than normal
- Jun 26, 2021
- Email Use Notification - 2.7x higher than normal
- Jun 24, 2021
- Email Use Notification - 2.1x higher than normal
- Jun 22, 2021
- Email Use Notification - 2.7x higher than normal
- Jun 20, 2021
- Email Use Notification - 2.7x higher than normal
- Jun 18, 2021
- Email Use Notification - 2.8x higher than normal
- Jun 16, 2021
- Email Use Notification - 2.9x higher than normal
- Jun 15, 2021
- Email Use Notification - 2.8x higher than normal
- Jun 13, 2021
- Email Use Notification - 2.7x higher than normal
- Jun 11, 2021
- Email Use Notification - 2.8x higher than normal

- Jun 10, 2021
- Email Use Notification - 2.8x higher than normal
- Jun 9, 2021
- Email Use Notification - 2.8x higher than normal
- Jun 8, 2021
- Email Use Notification - 2.8x higher than normal
- Jun 6, 2021
- Email Use Notification - 2.6x higher than normal
- Jun 4, 2021
- Email Use Notification - 5.1x higher than normal
- May 29, 2021
- Email Use Notification - 5.2x higher than normal
- May 27, 2021
- Email Use Notification - 5.2x higher than normal
- May 26, 2021
- Email Use Notification - 3.6x higher than normal
- May 22, 2021
- Email Use Notification - 5.3x higher than normal
- May 16, 2021
- Subscribed to email Bill Forecast Notifications
- Apr 13, 2021
- Subscribed to email My Use Notifications
- Apr 13, 2021
- Registered
- Mar 31, 2021
- Link to Customer Portal
- Mar 31, 2021
- Account reset
- Mar 31, 2021

LAST 2 YEARS

- Water Report

- Oct 20, 2020
- Water Report
- Sep 22, 2020
- Email Use Notification - 3.1x higher than normal
- Aug 9, 2019
- Email Use Notification - 3.1x higher than normal
- Aug 6, 2019
- Email Use Notification - 3.1x higher than normal
- Aug 4, 2019
- Email Use Notification - 3.1x higher than normal
- Jun 29, 2019
- Email Use Notification - 3.1x higher than normal
- Jun 28, 2019
- Email Use Notification - 3x higher than normal
- Jun 25, 2019
- Email Use Notification - 3x higher than normal
- Jun 21, 2019
- Email Use Notification - 3x higher than normal
- Jun 19, 2019
- Email Use Notification - 3x higher than normal
- Jun 16, 2019
- Email Use Notification - 2.1x higher than normal
- Jun 13, 2019
- Email Use Notification - 3x higher than normal
- Jun 9, 2019

Mountain Ridge Farm Hoa

Account Number: 338339-25408

Irrigation-Only

Email Use Notification - 3.1x higher than normal

- Aug 4, 2021
- RESEND
- Email Use Notification - 2.2x higher than normal
- Jul 30, 2021

LAST 30 DAYS

- Email Use Notification - 2.2x higher than normal
- Jul 28, 2021
- Email Use Notification - 2.2x higher than normal
- Jul 25, 2021
- Email Use Notification - 2.1x higher than normal
- Jul 23, 2021
- Water Report
- Jul 22, 2021
- Email Use Notification - 2.2x higher than normal
- Jul 21, 2021
- Email Use Notification - 2.2x higher than normal
- Jul 18, 2021
- Email Use Notification - 3.1x higher than normal
- Jul 14, 2021
- Email Use Notification - 3.1x higher than normal
- Jul 11, 2021
- Email Use Notification - 3.1x higher than normal
- Jul 9, 2021
- Email Use Notification - 3.1x higher than normal
- Jul 7, 2021

LAST 6 MONTHS

- Email Use Notification - 3.1x higher than normal

- Jul 4, 2021
- Email Use Notification - 3.1x higher than normal
- Jul 2, 2021
- Water Report
- Jul 1, 2021
- Email Use Notification - 2.2x higher than normal
- Jun 30, 2021
- Email Use Notification - 9.9x higher than normal
- Jun 29, 2021
- Email Use Notification - 2.2x higher than normal
- Jun 26, 2021
- Email Use Notification - 11x higher than normal
- Jun 24, 2021
- Email Use Notification - 6.7x higher than normal
- Jun 22, 2021
- Email Use Notification - 11.1x higher than normal
- Jun 21, 2021
- Email Use Notification - 24.9x higher than normal
- Jun 20, 2021
- Email Use Notification - 27.1x higher than normal
- Jun 18, 2021
- Email Use Notification - 28.4x higher than normal
- Jun 16, 2021
- Email Use Notification - 9.7x higher than normal
- Jun 14, 2021
- Email Use Notification - 2.4x higher than normal
- Jun 12, 2021
- Email Use Notification - 28.4x higher than normal
- Jun 11, 2021
- Email Use Notification - 11.3x higher than normal
- Jun 10, 2021

- Email Use Notification - 28.7x higher than normal
- Jun 9, 2021
- Email Use Notification - 10.9x higher than normal
- Jun 8, 2021
- Email Use Notification - 28.7x higher than normal
- Jun 6, 2021
- Email Use Notification - 8.5x higher than normal
- Jun 4, 2021
- Email Use Notification - 6.6x higher than normal
- Jun 3, 2021
- Email Use Notification - 18.6x higher than normal
- May 30, 2021
- Email Use Notification - 26.6x higher than normal
- May 28, 2021
- Email Use Notification - 38.8x higher than normal
- May 27, 2021
- Email Use Notification - 39.1x higher than normal
- May 25, 2021
- Email Use Notification - 26.6x higher than normal
- May 24, 2021
- Email Bill Forecast Notification - 7.1x higher than normal
- May 23, 2021
- Email Use Notification - 10.3x higher than normal
- May 22, 2021
- Email Use Notification - 3.2x higher than normal
- May 20, 2021
- Water Report
- May 18, 2021
- Email Use Notification - 3.5x higher than normal
- May 18, 2021
- Email Use Notification - 26.6x higher than normal

- May 16, 2021
- Subscribed to email Bill Forecast Notifications
- Apr 13, 2021
- Subscribed to email My Use Notifications
- Apr 13, 2021
- Logged in
- Apr 13, 2021
- Registered
- Mar 31, 2021
- Link to Customer Portal
- Mar 31, 2021
- Account reset
- Mar 31, 2021

LAST 2 YEARS

- Water Report
- Oct 20, 2020
- Email Use Notification - 2.1x higher than normal
- Aug 7, 2019
- Email Use Notification - 2.1x higher than normal
- Aug 4, 2019
- Text Use Notification - 2.1x higher than normal
- Aug 2, 2019
- Email Use Notification - 2.1x higher than normal
- Aug 2, 2019
- Text Use Notification - 2.1x higher than normal
- Jul 17, 2019
- Email Use Notification - 2.1x higher than normal
- Jul 17, 2019
- Text Use Notification - 2.1x higher than normal
- Jul 14, 2019
- Email Use Notification - 2.1x higher than normal

- Jul 14, 2019
- Text Use Notification - 2.1x higher than normal
- Jul 12, 2019
- Email Use Notification - 2.1x higher than normal
- Jul 12, 2019
- Text Use Notification - 2.1x higher than normal
- Jul 10, 2019
- Email Use Notification - 2.1x higher than normal
- Jul 10, 2019
- Email Use Notification - 2.1x higher than normal
- Jul 5, 2019
- Email Use Notification - 7.5x higher than normal
- Jun 29, 2019
- Email Use Notification - 21.8x higher than normal
- Jun 27, 2019
- Email Use Notification - 7.5x higher than normal
- Jun 25, 2019
- Email Use Notification - 7.7x higher than normal
- Jun 18, 2019
- Email Use Notification - 22x higher than normal
- Jun 13, 2019
- Email Use Notification - 41.4x higher than normal
- Jun 12, 2019
- Email Use Notification - 40.8x higher than normal
- Jun 10, 2019
- Email Use Notification - 21.4x higher than normal
- Jun 8, 2019
- Email Use Notification - 3.3x higher than normal
- Jun 6, 2019
- Email Use Notification - 21.4x higher than normal
- Jun 4, 2019

LESS

Mountain Ridge Farm Hoa

Account Number: 338337-25407

THIS WEEK

Email Use Notification - 3.4x higher than normal

Aug 4, 2021

Logged in

Jul 30, 2021

LAST 30 DAYS

Water Report

Jul 22, 2021

LAST 6 MONTHS

Water Report

Jul 1, 2021

Email Use Notification - 4.8x higher than normal

Jun 30, 2021

Email Use Notification - 4.8x higher than normal

Jun 25, 2021

Email Use Notification - 4.8x higher than normal

Jun 23, 2021

Email Use Notification - 4.8x higher than normal

Jun 20, 2021

Email Use Notification - 4.8x higher than normal

Jun 18, 2021

Email Use Notification - 4.8x higher than normal

Jun 16, 2021

Email Use Notification - 4.9x higher than normal

Jun 14, 2021

Email Use Notification - 4.8x higher than normal

Jun 12, 2021

Landscape Water Budget form status change

Jun 10, 2021

Logged in

May 26, 2021

Reminder: Your water allotment

May 26, 2021

Email Use Notification - 6.7x higher than normal

May 21, 2021

Water Report

May 18, 2021

Email Use Notification - 5.8x higher than normal

May 18, 2021

Email Use Notification - 34.2x higher than normal

May 17, 2021

Landscape Water Budget - In...

Apr 27, 2021

Note added to Landscape Water Budget

Apr 21, 2021

RE: Landscape Water Budget

Apr 19, 2021

Landscape Water Budget

Apr 16, 2021

Unsubscribed from all Unplanned Use Notification

Apr 13, 2021

Subscribed to email Unplanned Use Notification

Apr 13, 2021

Subscribed to email Bill Forecast Notifications

Apr 13, 2021

Subscribed to email My Use Notifications

Apr 13, 2021

Landscape Water Budget subm...

Apr 13, 2021

Landscape Water Budget Form Submitted

Apr 13, 2021

Registered

Mar 31, 2021

Link to Customer Portal

Mar 31, 2021

Account reset

Mar 31, 2021

LAST 2 YEARS

Water Report

Oct 27, 2020

Water Report

Sep 29, 2020

Text Use Notification - 2.9x higher than normal

Jul 31, 2019

Email Use Notification - 2.9x higher than normal

Jul 31, 2019

Text Use Notification - 2.8x higher than normal

Jul 28, 2019

Email Use Notification - 2.8x higher than normal

Jul 28, 2019

Text Use Notification - 2.8x higher than normal

Jul 24, 2019

Email Use Notification - 2.8x higher than normal

Jul 24, 2019

Text Use Notification - 2.8x higher than normal

Jul 21, 2019

Email Use Notification - 2.8x higher than normal

Jul 21, 2019

Text Use Notification - 2.8x higher than normal

Jul 19, 2019

Email Use Notification - 2.8x higher than normal

Jul 19, 2019

Text Use Notification - 3.1x higher than normal

Jul 17, 2019

Email Use Notification - 3.1x higher than normal

Jul 17, 2019

Text Use Notification - 3x higher than normal

Jul 14, 2019

Email Use Notification - 3x higher than normal

Jul 14, 2019

Text Use Notification - 3.1x higher than normal

Jul 12, 2019

Email Use Notification - 3.1x higher than normal

Jul 12, 2019

Text Use Notification - 3.1x higher than normal

Jul 10, 2019

Email Use Notification - 3.1x higher than normal

Jul 10, 2019

Email Use Notification - 3x higher than normal

Jul 5, 2019

Email Use Notification - 3.2x higher than normal

Jun 30, 2019

Email Use Notification - 3.2x higher than normal

Jun 28, 2019

Email Use Notification - 3.2x higher than normal

Jun 26, 2019

Email Use Notification - 3.2x higher than normal

Jun 21, 2019

Email Use Notification - 3x higher than normal

Jun 19, 2019

Email Use Notification - 3.2x higher than normal

Jun 16, 2019

Email Use Notification - 3.1x higher than normal

Jun 14, 2019

Email Use Notification - 2.2x higher than normal

Jun 12, 2019

Email Use Notification - 2.2x higher than normal

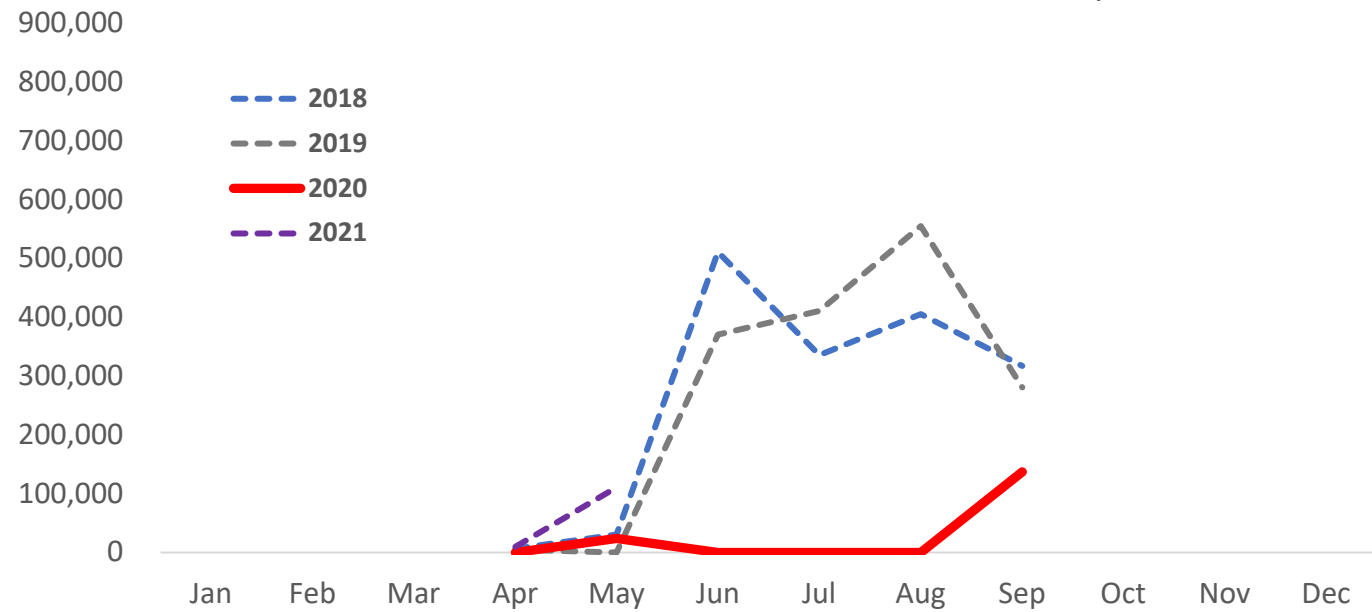
Jun 9, 2019

Email Use Notification - 2.2x higher than normal

Jun 5, 2019

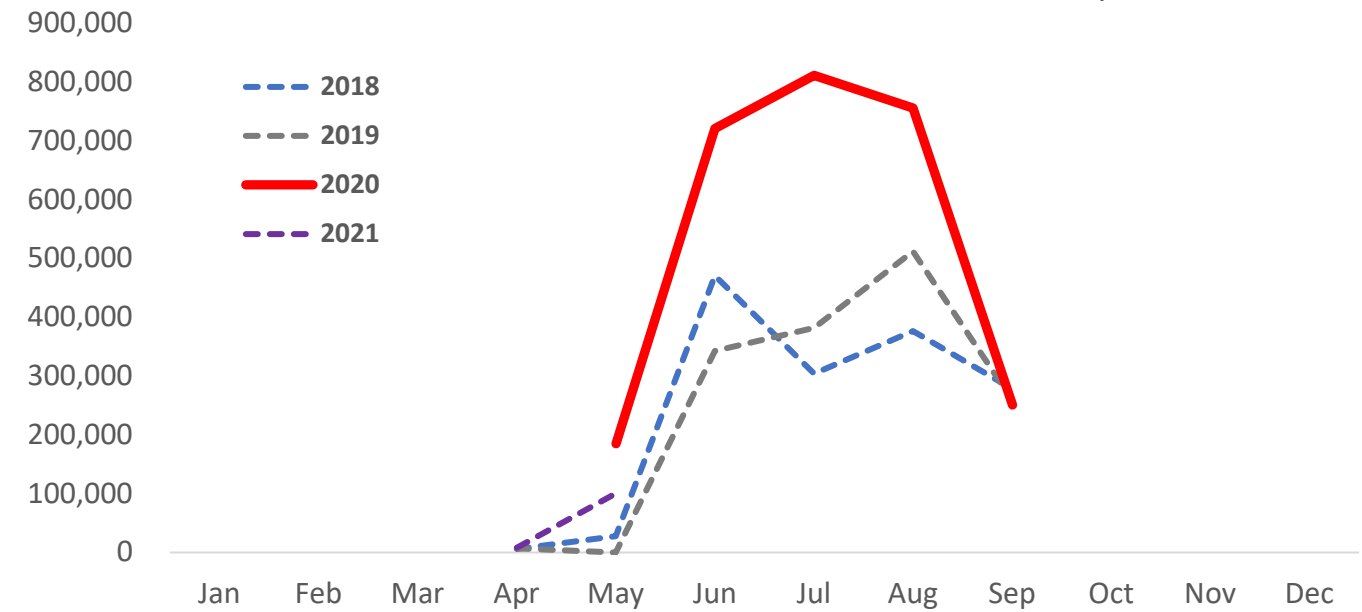
Account: 338339-25408

Gallons of Water Consumed Per Month - Year Over Year Comparison



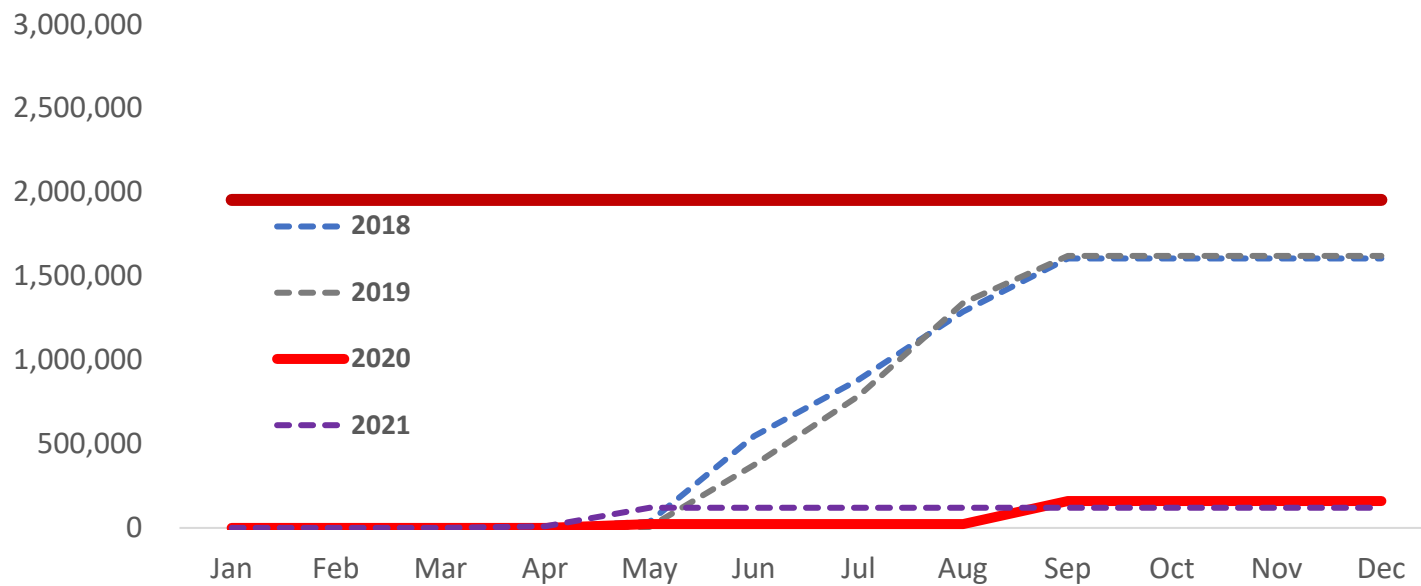
Account: 338337-25407

Gallons of Water Consumed Per Month - Year Over Year Comparison



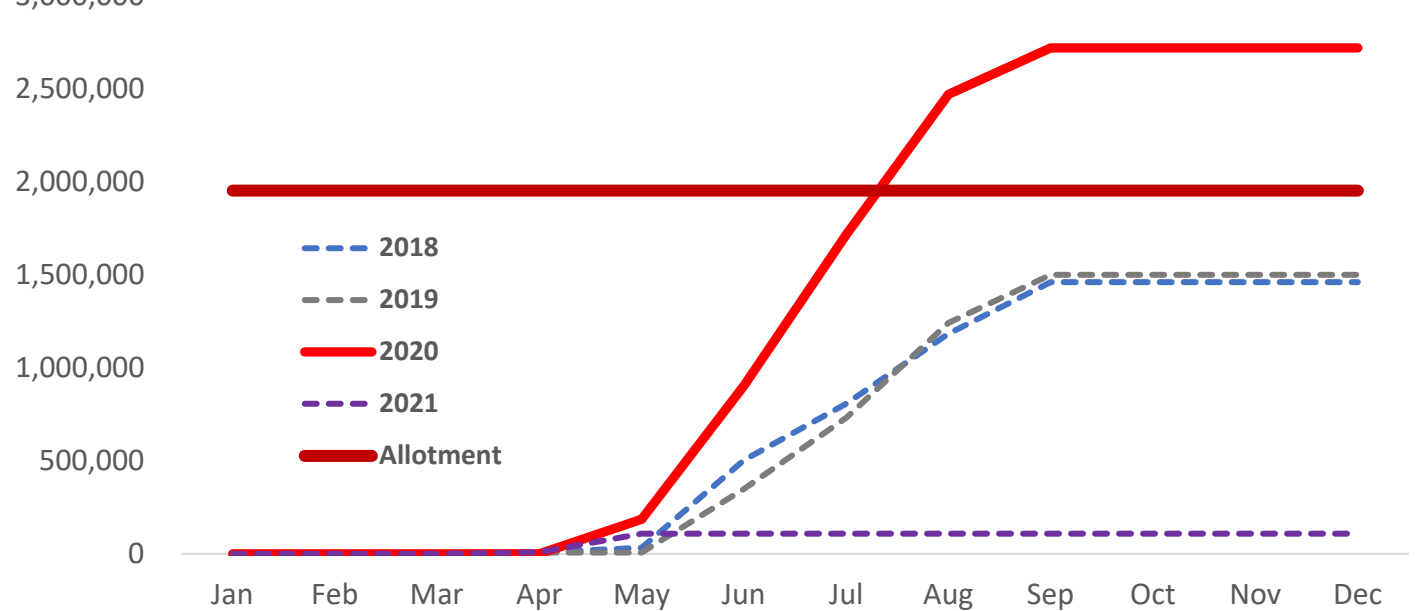
Account: 338339-25408

Annual Allotment Watch



Account: 338337-25407

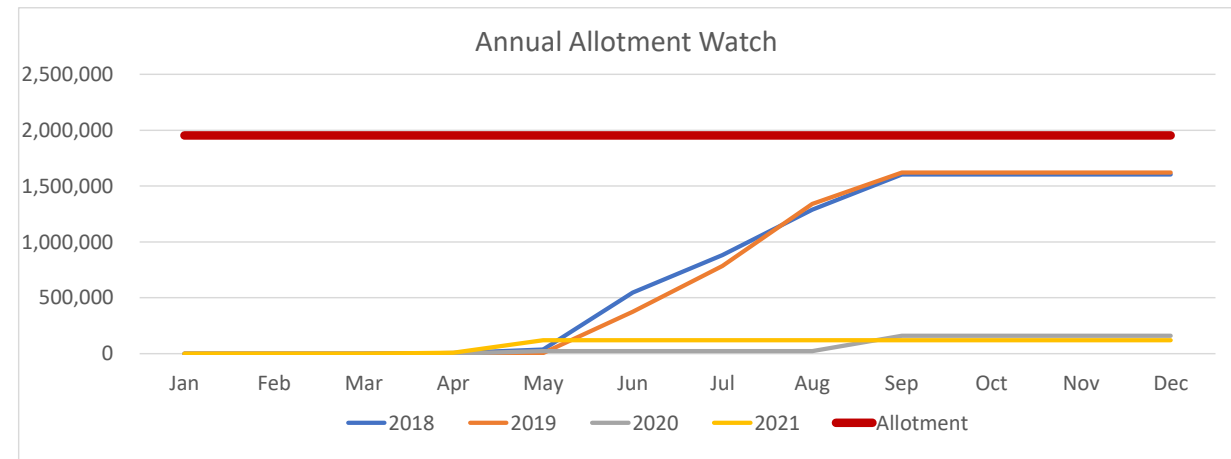
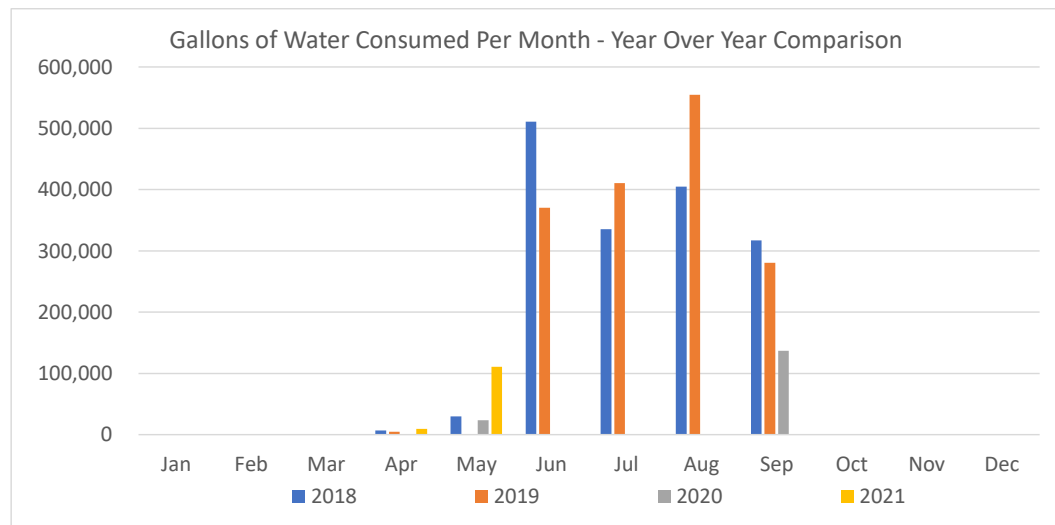
Annual Allotment Watch



Address **4014 Wabash St**
 Premise **25408**

	Allotment	YTD	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2018	1,955,112	1,605,200				6,800	30,100	510,900	335,600	404,900	316,900			
2019	1,955,112	1,621,100				4,800	0	370,400	410,600	554,800	280,500			
2020	1,955,112	160,600				0	23,600	0	0	0	137,000			
2021	1,955,112	120,700				9,700	111,000							
2022	1,955,112	0												
2023	1,955,112	0												

YTD Data												
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
0	0	0	0	6,800	36,900	547,800	883,400	1,288,300	1,605,200	1,605,200	1,605,200	1,605,200
0	0	0	0	4,800	4,800	375,200	785,800	1,340,600	1,621,100	1,621,100	1,621,100	1,621,100
0	0	0	0	0	23,600	23,600	23,600	23,600	160,600	160,600	160,600	160,600
0	0	0	0	9,700	120,700	120,700	120,700	120,700	120,700	120,700	120,700	120,700
0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0
Annual Allotment	1955112	1955112	1955112	1955112	1955112	1955112	1955112	1955112	1955112	1955112	1955112	1955112



1.5 inch meter			1.5 inch meter			Total
Allotment	1,955,112		Allotment	1,955,112		
Address	1103 Wabash St		Address	4014 Wabash St		
Premise	25407	YTD	Premise	25408	YTD	
May-21	100,900	109,400	May-21	111,000	120,700	230,100
Apr-21	8,500		Apr-21	9,700		
Mar-21	-		Mar-21	-		
Feb-21	-		Feb-21	-		
Jan-21	-		Jan-21	-		
Dec-20	-	2,722,800	Dec-20	-	160,600	2,883,400
Nov-20	-		Nov-20	-		
Oct-20	-		Oct-20	-		
Sep-20	250,600		Sep-20	137,000		
Aug-20	755,200		Aug-20	-		
Jul-20	811,200		Jul-20	-		
Jun-20	720,700		Jun-20	-		
May-20	185,100		May-20	23,600		
Apr-20	-		Apr-20	-		
Mar-20	-		Mar-20	-		
Feb-20	-		Feb-20	-		
Jan-20	-		Jan-20	-		
Dec-19	-	1,501,400	Dec-19	-	1,621,100	3,122,500
Nov-19	-		Nov-19	-		
Oct-19	-		Oct-19	-		
Sep-19	258,400		Sep-19	280,500		
Aug-19	511,800		Aug-19	554,800		
Jul-19	381,700		Jul-19	410,600		
Jun-19	342,300		Jun-19	370,400		
May-19	300		May-19	-		
Apr-19	6,900		Apr-19	4,800		
Mar-19	-		Mar-19	-		
Feb-19	-		Feb-19	-		
Jan-19	-		Jan-19	-		
Dec-18	-	1,462,300	Dec-18	-	1,605,200	3,067,500
Nov-18	-		Nov-18	-		
Oct-18	-		Oct-18	-		
Sep-18	277,900		Sep-18	316,900		
Aug-18	376,300		Aug-18	404,900		
Jul-18	304,000		Jul-18	335,600		
Jun-18	470,600		Jun-18	510,900		
May-18	27,400		May-18	30,100		
Apr-18	6,100		Apr-18	6,800		
Mar-18	-		Mar-18	-		
Feb-18	-		Feb-18	-		
Jan-18	-		Jan-18	-		

767,688 Gallons over allotment
768 kgals over allotment
\$ 10.09 \$/kgal
7,745.97 backbill

Customer Hearing Video

June 24, 2021

[https://www.youtube.com/watch?v=Ua6l
dB0uxbY](https://www.youtube.com/watch?v=Ua6l
dB0uxbY)

**Verbatim Transcript
Customer Hearing
June 24, 2021**

UTILITIES CUSTOMER HEARING

Held June 24, 2021

Remote Meeting

In the Matter of:

Mountain Ridge Farm HOA Customer Hearing

Meeting Time: 3:00 PM, June 24, 2021

Hearing Officer:
Lance Smith

Other City Staff Present:
Eric Potyondy
Mark Cassalia
Wendy Serour

Appellants:
Brian Ball
Kris Walsh
Kathy Louderback

1 MR. MARK CASSALIA: Alright, so we're going to do...I'll just do a quick
2 introduction. So, this hearing is to consider a request for the reconsideration...this is based on
3 the letter that we received from Brian Ball on June 16th, 2021, pursuant to City Code Sections
4 26-53 and 26-351 regarding excess water use surcharges. This hearing will be held remotely
5 today, at 3:00 PM, and of course, we're recording this. So, with that, we're going to have Eric
6 Potyondy, who is the Assistant City Attorney, give us a quick overview of the hearing process,
7 and then we will go into introductions.

8 MR. ERIC POTYONDY: Alright, hello everyone...just going to give a brief overview
9 here. First, I just would mention that this is the type of hearing that's normally heard by the
10 Utilities Executive Director. The current Interim Executive Director is Theresa Connor; she filed
11 a conflict of interest form and has delegated her authority to Lance Smith who is the Utilities
12 Director of Finance, so Lance will be hearing this hearing as the presiding officer. In general,
13 the outline is there's going to be a phase where everyone introduces themselves and then Lance,
14 as the Hearing Officer, will kind of walk through the procedures. Generally it's basically there
15 will be a staff presentation with the chance for questions by Lance and the appellants, and then
16 the appellant will have a chance to make a presentation with time for questions, and then there
17 will be some time for questions and some answers from Lance's questions.

18 Just a quick moment on next steps after this hearing. Under City Code Section 26-
19 351(A), the appeal shall be acted upon by the Utilities Executive Director within ten working
20 days from the date of the hearing, so that's, you know, basically two weeks from today, and
21 under City Code Section 26-351(B), and appeal can be made to City Council of that decision.
22 The appeal would need to be filed within fourteen days of the decision from this hearing, so you
23 know, that gives you ten working days for Lance to make his final decision here, and then the
24 appellant could have a chance to appeal to City Council if they want to.

25 MR. CASSALIA: And one thing that we always do is provide in a letter of decision...
26 obviously Lance has the opportunity to go either way on this one...but instructions just like we
27 did in the last one to say, here's how you would appeal to City Council. So we'll make sure
28 we're very clear on that, and Wendy and I are here to support you guys through that process and
29 happy to do that as well.

30 MR. LANCE SMITH: Okay.

31 MS. KATHY LOUDERBACK: Is that fourteen days from the decision?

32 MR. CASSALIA: That's correct Kathy.

33 MS. LOUDERBACK: Thank you.

34 MR. SMITH: Okay, so I think this is...I'm going to...Eric's done and I'll start kind of
35 the procedure here. As he said, I'm Lance Smith, the Utilities Strategic Finance Director there.
36 So, there will be a staff presentation, evidence can be presented...and of course it's got to be
37 relevant to the excess water use surcharge here. The parties are expected to object if they have a
38 concern about the admission of evidence rather than relying upon me, the Hearing Officer, to
39 object to new evidence. So, be aware that if something is being presented and you're not okay

1 with that, then raise an objection as it happens. Do the parties have any objections or concerns
2 regarding the procedures themselves before we get to the presentations?

3 MR. BRIAN BALL: No.

4 MR. CASSALIA: Let's make sure we do introductions of who is here as well.

5 MR. SMITH: Okay, yeah, so I introduced myself, Lance Smith as Utilities Strategic
6 Finance Director. How about if we introduce staff and then we can get to the parties. So, Mark?

7 MR. CASSALIA: Sure, I'm Mark Cassalia; I'm the Utilities Customer Accounts
8 Manager.

9 MR. SMITH: Wendy?

10 MS. WENDY SEROUR: Hi everyone; I'm Wendy Serour with Utilities Customer
11 Accounts and I'm one of the Strategic Accounts Reps.

12 MR. SMITH: And Eric?

13 MR. POTYONDY: And I'm Eric Potyondy; I'm with the City Attorney's Office.

14 MR. SMITH: Okay, and Brian?

15 MR. BALL: I'm the Community Association Manager for Mountain Ridge Farms with
16 Touchstone Property Management.

17 MR. SMITH: Okay, and then Chris.

18 MR. KRIS WALSH: I'm Kris Walsh with Pyramid Landscape and we oversee the water
19 usage and the landscape maintenance for Mountain Ridge Farms.

20 MR. SMITH: And then Kathy?

21 MS. LOUDERBACK: I'm Kathy Louderback, also with Touchstone Property
22 Management. I work with Brian.

23 MR. SMITH: Okay, nice to meet everyone. Okay, so we've gotten through
24 introductions, and then we will start with a staff presentation and then the appellant presentation.
25 So...

26 MS. SEROUR: Lance, could I just say something really quick? I needed to just let
27 everyone know, I need to sign off at 3:30, so anyway...like Mark said, we're here to support this
28 team, and yeah, I don't want to be rude, but I'll have to cut out at about 3:30.

29 MR. CASSALIA: There's always a chance, if you guys need clarification from Wendy,
30 especially as one of the Strategic Account Reps who works with this account most in depth than
31 any of us, that we could always get feedback from her on the side and make sure that gets
32 evidence...or opinion gets to Lance as well, or any other information that you guys would like.

33 MR. SMITH: Okay, so with that, Mark is going to give the staff presentation.

1 MR. CASSALIA: Yeah, so this is mainly for Lance's benefit, but Brian, Kris, and Kathy,
2 please correct me if I'm wrong, object to anything I say...I'm really trying to paint the picture so
3 Lance kind of understands the concerns that you all have, and what the outline of kind of what
4 has happened.

5 So, real quick, Mountain Ridge Farm HOA was impacted by the 2020 billing error. This
6 error made our system, our billing system, not charge excess water use fees until December of
7 2020. Therefore, excess water fees that should have been accrued in the September bill as well
8 as the October bill...they were not notified of excess water use charges on their bill until
9 December. On or around December 1st, Mountain Ridge Farm HOA was notified via letter, and
10 was contacted by customer accounts via phone on December 8th, of the error, and you all
11 received a bill for the excess water use fees in the sum of \$7,745.97 when you received your bill
12 shortly after that time. On December 21st, Kathy, you emailed Darin Atteberry, City Manager,
13 protesting these charges. Kathy, it's my understanding that you never heard back from Darin nor
14 the City Manager's Office. On March 3rd, Brian Ball contacted Customer Accounts to set up a
15 six month payment arrangement...this is something that was offered in the initial conversation
16 when we found out about this error, that, you know, we want to give an opportunity for people to
17 have a payment arrangement knowing that these were large sums of money.

18 On June 2nd, Brian, Kathy, Kris and myself met with Gretchen Stanford, she is currently
19 the Interim Deputy Director of Utilities Customer Connections, to appeal...to contest the fees
20 and appeal the charges that were being assessed to Mountain Ridge Farm HOA. On June 10th,
21 Gretchen shared her decision, which was a denial for the request for consideration. At that time,
22 she did offer a twelve-month payment arrangement. She cited three reasons for her decision, one
23 is that excess water use fees, back charges, are a condition of receiving City water service,
24 adopted by Council and codified in Municipal Code Section 26-129, as well as 26-149. Number
25 two, the City's water utility is a cost of service enterprise, and by Code is permitted up to six
26 years for either, let's say, charging for undercharges, or providing that money in the case where
27 the utility overcharged. And then, number three, let's see...so we are required to bill customers
28 for undercharges without interest, and she believed that there was verification and
29 documentation, including the water service permit, for...getting my...so 1103 Wabash Street.

30 On June 14th, Brian, we received an email from you asking us to reconsider that and
31 requesting an appeal, and that's why we're here today. Brian cited two main reasons: that the
32 City's billing error did not allow them to take action, timely action, to reduce water usage or to
33 correct the issue, including turning on the tap that had been turned off inadvertently, that's
34 attached to this irrigation system. Brian contended that without accurate billing, they were
35 unable to identify the over usage, and in the past they have gone to great extents to make sure
36 that they shut down the irrigation system to avoid any excess water use fees and overages beyond
37 the allotment. He also said that the account operates on a loop system, so the tap at 4014
38 Wabash Street had an issue with the backflow, and therefore resulted in much more flow through
39 the 1103 Wabash Street. He also mentioned that the combined water usage for those two taps, in
40 that looped irrigation system, was less than the total aggregated allotment between those two
41 taps.

1 And then just a little bit more information about the property, Lance, for you, from what
2 I've...the conversations I've had with Brian and Kris and Kathy. So, Mountain Ridge Farms
3 does not historically exceed their allotment on either 1103 Wabash nor 4014 Wabash. They have
4 a looped irrigation system, which according to the irrigation association is a best practice. It
5 does help with pressure adjustments, long runs, and pressure differentials. That being said,
6 knowing that that loop system is there, there is no way for really a landscaper or an irrigation
7 contractor to figure out...to control how much water comes from either tap. Of course in this
8 scenario, one of those taps was fully turned off, but generally pressure differentials can result in
9 more or less water coming from one tap. The backflow on 4014 was caged, but I don't believe
10 was locked. It was turned off somehow, unknowingly, in early summer. The other things that
11 I've gathered from these conversations is Touchstone, although they have been the property
12 manager for the most recent years, they did have a changeover of the property manager
13 associated with this property, so Brian took over...Brian, if I'm not mistaken, in August or
14 September of this last year is when he took over. And the other thing is, Brian, because there
15 was a turnover, they were not receiving the My Water updates that were going to the email of the
16 previous property manager. Brian has since corrected that information and updated that
17 information on the My Water account so that he does receive that information moving forward.

18 So, in terms of documentation, you guys received a few things from me yesterday, just as
19 kind of, you know, the documentation that we have on this. So, that is the original letter from
20 me in December noting that there was the error and that you will receive that charge on your bill.
21 Wendy was gracious enough to gather a couple of the bills...we kind of looked at it from that
22 time when you started exceeding that allotment through the end of the year on 1103 Wabash.
23 The other thing is Gretchen's decision letter, the communications timeline that we agreed
24 upon...and I do have to apologize, when Gretchen sent her letter of decision, it did not include
25 that nuance that Brian was not receiving those emails from My Water because of the change in
26 the property manager, so that's been corrected in that information that you received yesterday.
27 The other things that are in there are permits for water service, so your water service permits for
28 both of those taps, and then finally the conflict of interest and why we're meeting with Lance
29 Smith today instead of Theresa Connor, the Interim Director of Utilities.

30 MS. SEROUR: Mark, I have a question.

31 MR. CASSALIA: Yes, Wendy?

32 MS. SEROUR: The information in the packet...it doesn't seem like the timeline that is in
33 there is the same as what you just read.

34 MR. CASSALIA: So, in other words, just the last couple of things, Wendy...in other
35 words, Gretchen's decision letter and those types of things? That could be amended if you guys
36 would like for me to include those last few things, I'd be happy to do that. So, Lance, just as a
37 clarification, Wendy is saying that timeline that we provided was the one that Gretchen
38 reviewed, and was not updated to include the fact that Gretchen...that Brian, Kris, and Kathy
39 met with...Touchstone as well as Pyramid Landscaping, on June 2nd, the letter of decision, and

1 the email from Brian...so that should be added to that timeline. Is that what you're referring to
2 Wendy?

3 MS. SEROUR: Yes.

4 MR. CASSALIA: Okay, great, thanks for the clarification.

5 MR. SMITH: Okay...I do have a couple of questions, but I think I want to kind of let the
6 appellant give the presentation, if you've got one, first. But...do Brian or Kathy, Kris...do any
7 of you have any questions around what Mark has said?

8 MR. BALL: No; I think that was a pretty good run down of what's gone on so far.

9 MS. LOUDERBACK: As a point of clarification...for many years, what we do is we
10 look at the bills when they come in, and we watch the bill overages, regardless of the My Water.
11 So, we've done that for years, and in other years, we have actually turned off the water early so
12 that we did not exceed an allocation. So we've monitored the water and there have been times
13 when we've turned water off at the end of August, you know, September...I mean, so that we
14 didn't, you know, miss anything. The My Water system, you know, it's fairly new...it isn't
15 really what we look for in terms of...we look at the bills when they come in.

16 MR. SMITH: Okay, so, Kathy, I'm not sure if you are going to...if you have a
17 presentation to make, or Brian is going to do that, or...?

18 MS. LOUDERBACK: Brian, do you want to kind of go through things?

19 MR. BALL: A lot of it is the same as Mark had talked about, but, you know, we...I had
20 no idea that there was really, the whole Water Smart program or anything going on when I first
21 started here, so I was relying on the system that was in place here with the monitoring the
22 charges with the billing, and as soon as I had found out about this issue and went and changed
23 over the Water Smart notifications to myself instead of the previous manager, I've been
24 forwarding those along to Kris ever since to make sure we're still in communication about that
25 and taking a look at things. I went through the historical usage...well, for 2020, for all of 2020,
26 and then the historical from 2019, and see a great disparity in how the water was used between
27 the two different taps that were going on here, and then determined...looked at the allocations
28 and that, even though there is the two different taps here, they're in a loop, so the water is
29 apparently coming from the same source, and you know, we still did not exceed the combined
30 allotments for 2020. So, you know, would like to have that taken into greater consideration on
31 this, because even though the water was coming out of one place than the other, it's originating
32 from one. So, that was my main concern there.

33 MR. SMITH: Okay. Kathy, is there anything you would like to add?

34 MS. LOUDERBACK: Well, I'd like to give Kris an opportunity to kind of talk about the
35 system, and you know, kind of share his thoughts about the whole looped system.

36 MR. WALSH: Thanks Kathy. I think the critical thing here is that this system can
37 function quite well just on one water tap, and the developer included two water taps to use so

1 that we didn't go over our allotments, which is fantastic, but in that, we actually do not...there
2 was no way to really notice that we were only using one tap. So, in our programming, in our
3 monitoring of the system, we were actually under the usage of the previous year, so you know,
4 this isn't a case of us using more water than we should have, or more water than we did the
5 previous year or anything like that, it's...inadvertently, somehow, one of the irrigation taps was
6 shut off, nobody knew about it. The water bill would have been the obvious way to catch that if
7 we would've gotten those surcharges in that water bill. I'm sure Kathy, Brian, you know,
8 everybody would have seen the skyrocketing water bill and would have called me immediately.
9 And, in that case, we could've shut off that tap and just used the other tap for the remainder of
10 the season. You know, we've never had this happen...I think we've been there since 2008, and
11 we've never had a situation where we've had overages like this. We've always had both taps
12 running simultaneously. It was never really an issue in the past. You know, just the fact that it
13 was months and months after we had the ability to do anything about it...that's where this, you
14 know, this issue really comes up, and it becomes, you know, a huge expense to the HOA as well
15 as the HOA has, you know, contributed to all of the programs that the City has put out there over
16 the years for water conservation, with high efficient heads and, you know, smart controllers, kind
17 of everything that Eric Olson pushes. They've been kind of the...one of the test pilots for a lot
18 of that stuff over the last ten or fifteen years. So, I think that they are, you know, a really
19 responsible customer of the City utilities, and it, you know, that's where I think that some
20 understanding of what the situation actually is for these two taps would be critical to look at.

21 MR. BALL: One other thing...I think I had heard that the actual issue that caused the
22 billing error happened much earlier in the year and not at the same time that we started using the
23 allotments. Is that correct?

24 MR. CASSALIA: Correct, Brian, it seems as though your irrigation tap on the 4...I'm
25 going to get this wrong, but...

26 MR. BALL: 1103?

27 MR. CASSALIA: 4014 Wabash Street...seems like that backflow was turned off pretty
28 early in the season. So, of course you started aggregating a lot of use out of that 1103. That
29 being said, 1103 did not exceed until August, which would have showed up on the
30 September...that consumption showed up on the September bill, but being transparent, you guys
31 did not receive the excess water use charge on your September bill because of the billing error.

32 MR. BALL: Yeah...I was kind of referring to, like, when the actual problem happened
33 within your system, much earlier in the year, so that there was several months where the City
34 either didn't know about it, or you know, would have had the time to correct it before these kind
35 of billing, you know...when we found out, so.

36 MR. CASSALIA: So, Brian, I mean you're correct on that as this error happened early in
37 the year when the checks that kind of say, yes, this customer should be...could be charged excess
38 water use fees. So, that being said, some customers who go over their excess water use fee...or
39 excess water use and their allotment as early as March, received a bill in December for their

1 March through December bill. Mountain Ridge Farms HOA started going over in August, which
2 is the first time you guys would have noticed any error of the glitch that we had.

3 MR. BALL: So, at like what point did the City know that they had a problem with the
4 billing?

5 MR. CASSALIA: Yeah, sure, so that happened in...I can't necessarily say the day, but it
6 was the end of October.

7 MR. BALL: Okay.

8 MR. CASSALIA: When we found out about the error.

9 MR. BALL: Okay, thank you.

10 MS. LOUDERBACK: This particular association, fifteen years ago, had decided to
11 do...to make water conservation very important, and they actually at the time were considering
12 buying additional water, but they didn't. They decided to go with conservation, and they enacted
13 all the different things that the association, you know, it was recommended for them to do. And
14 it was monitored very carefully. So, monitoring it very carefully, saving water, we actually
15 didn't have to buy additional water because of conservation efforts...it just seems like, you
16 know, you're...of all the responsible associations that we have in terms of water, it just seems
17 that, you know, there should be some consideration that they have worked very, very hard and
18 they have significantly reduced their water from when, you know, from years ago. But, it's been
19 a long-term process, so...I'd hope that that could be taken into consideration too.

20 MR. SMITH: Okay, so I do have a few questions. So, Kathy, Mark had said that you'd
21 initially communicated with the City Manager, Darin Atteberry, and you didn't receive a
22 response. Is that correct?

23 MS. LOUDERBACK: Yeah, that's correct. And it seems like there might have been
24 somebody else on that email as well. I didn't hear back from anybody. We had actually called
25 the City Water department to discuss the overage at that time, and they pretty much said there
26 was nothing they could do, and that's the bill, and we had to pay. And then we had a payment
27 plan. So, I just thought that, you know, I needed to reach out to somebody else to try and, you
28 know, get some kind of resolution, because I felt that, you know, trying to...we're trying to
29 protect the associations, work with them as best we can, encourage conservation...we are
30 conserving, you know, there was no way we really could have known about the whole water
31 issue with the two taps. Who knows who turned off that tap? It could have been a mailman that
32 got sprinkled, I mean, you know, it could have been anything. But, there was no way we could
33 tell from the performance of the system that that was turned off. And we really watch water, you
34 know, for overages. So, we just felt like there was no way to get that handled. And then, you
35 know, in the beginning, I thought, well, you know, he's busy, he'll get back to us, because our
36 experience has been in the past that he's always been very responsive, so...I understand he has a
37 lot on his plate, but still, yeah.

1 MR. SMITH: Okay. So then, Brian was mentioning that he'd taken over, I think in
2 September, but the previous manager...things were going to the previous manager's email
3 address. Is that a Touchstone company email address, or private email addresses?

4 MR. BALL: So it's a, like, to one person at Touchstone. So, it's not monitored by
5 anybody else. It would have been...the way it's set up now, it can only go to one is what I've
6 been told, so it goes to me, bball@touchstone. So, it is a company email address, but it goes
7 directed to one person.

8 MS. LOUDERBACK: When somebody leaves, the email is forwarded to the next person
9 that is responsible for that association, so you know, whoever that was before, that would have
10 been forwarded to Brian, so, you know, I would be curious to see if those emails actually arrived,
11 you know.

12 MR. SMITH: So, was there a period of vacancy though?

13 MS. LOUDERBACK: No, there wasn't a period of vacancy.

14 MR. SMITH: And so that person stopped working on Friday, and Brian started on
15 Monday, and nobody was looking at the email for that previous manager?

16 MS. LOUDERBACK: I'd have to look at the dates, but usually what happens is, Brian, I
17 think, was already in place, and an association was assigned to him from someone else, and those
18 emails were forwarded to him. But, I just wondered if those emails really came out, mainly
19 because I've signed up for a My Water notification on one association for one particular condo,
20 and when those come out, you know, it all seems to be geared toward making you receive
21 your...your water bill via email. So, we didn't want our water bill via email, and in that
22 particular situation with another association, we had to call and call and call to get them to still
23 allow us to receive the emails for water issues, but that we still wanted to receive a paper bill,
24 because that was how we do our processing. So, I don't think that those are always maybe as
25 effective as we would like, and you would like, so...

26 MR. BALL: So, Kathy, I took over for David, and he did not have Mountain Ridge
27 Farms in any of his folders here, and he had a couple...or he had a couple associations that I do
28 not manage, so I think that's what happened.

29 MR. SMITH: Okay, so, and I also...I thought I understood Mark to say that the tap on
30 1104 was closed due to a backflow issue, but then I heard that we don't know why it was closed,
31 so do we know why that was closed? Does anyone know?

32 MR. WALSH: I don't think we do know why it was closed, and it...I think somebody, or
33 somehow, it was shut off it sounded like in June. So, that would have been very early on in the
34 season. That tap is right next to the mailboxes that service, I don't know, probably forty or fifty
35 homes, so that's really the only thing I could think of, of why it would have been shut off, is
36 either it happened...somebody just trying to shut off the sprinklers because it was, you know, a
37 rainy day, or something like that. Somebody, you know, just shut it off and nobody was aware

1 of it, and nobody would have been aware of it because the system can function just as adequate
2 without that tap running.

3 MR. CASSALIA: Lance, just to clarify, that was the one at 4014 Wabash, that's not the
4 one in question, that's the one that had under, well under, average consumption on it.

5 MR. SMITH: Right, and so, so I understand the irrigation association saying that that's
6 best practice to have a loop system, but I think what you're saying, Kris, is that you weren't
7 seeing any kind of pressure differential, you weren't seeing any difference in terms of the
8 landscape itself?

9 MR. WALSH: Yeah, not at all. We didn't have any dry spots, really no issues at all. I
10 didn't realize it would function so well just on one irrigation tap, because we never would run it
11 like that because we're very aware of the monthly overages and the annual surcharges and stuff
12 like that, so you never want to do that because you put yourself at risk for these overages. So,
13 we would never run it like that, there would be no reason to, and we haven't for the last, you
14 know, I think it's been since 2008 since we've been there. You know, if we had an issue, we
15 would shut them both off, fix the issue, you know...there would be no reason to run one tap.

16 MR. CASSALIA: Lance, on that too, the high pressure...or sorry, the low-pressure heads
17 that they put on there as part of probably their conservation efforts, had an impact on the ability,
18 probably, to run that system with only one tap. I imagine, Kris, and you know, correct me if I'm
19 wrong, but your heads that you've replaced over time were much higher flow, and that probably
20 required those two taps potentially? And obviously, with system modifications, you may not see
21 those performance issues with higher efficiency heads.

22 MR. WALSH: Actually, it's kind of opposite of that. It may have performed better with
23 one tap because we would have been at lower pressure, and a lot of what the issue is with non-
24 efficient water usage is too high of pressure. So, you know, the City is always trying to get
25 everybody to regulate their water pressure at the heads themselves, which is 30 p.s.i., which is a
26 lot lower than we're probably getting out of those two taps. But, we are using those pressure-
27 regulated heads on that system as well. So, they were probably functioning...you know, they
28 regulate right at the head, so you really don't know the difference between one tap or two taps.

29 MR. CASSALIA: Okay, thanks.

30 MR. WALSH: Yeah.

31 MR. SMITH: Okay, and so, let's see...does staff, I guess, does staff have any questions
32 they want to ask? That would be Mark now, Wendy is gone. Alright, do the appellants have any
33 other questions they want to ask? Okay...

34 MR. BALL: I don't think so.

35 MR. SMITH: Okay.

1 MS. LOUDERBACK: I'd just like to mention that this is financial hardship on this
2 association. For someone that's worked so hard in terms of water conservation...it just seems
3 like they're being penalized for trying to do all the right stuff.

4 MR. SMITH: Okay, yeah, I do appreciate that. It does sound like this HOA is doing a
5 good job with conserving the water. I don't think I have any more questions, so if nobody else
6 has any questions, then we would close this hearing and then I will have ten days to respond, and
7 then...can we just quickly go over what the last part of the appeal process...so, you've made an
8 appeal of the initial decision. If you're not happy with my decision, then you have one more
9 opportunity to appeal, and I think Eric talked about that initially, but I just wanted to make sure
10 Kathy is clear on the timelines...she was asking about fourteen days. So, can we just make sure
11 that's communicated there? Eric, kind of what is the next step and what are the timelines?

12 MR. POTYONDY: Yeah, so the immediate next step is that Lance has ten working days
13 to act on the appeal, and because of the July 4th holiday, that means Lance has until up to and
14 including July 9th, which is a Friday, to issue his ruling, or his decision here. And then, I believe
15 that in the past...it has been put into like a letter of some sort, and then if the appellants want to
16 appeal that further, they can appeal it to City Council, and that would need to be within fourteen
17 calendar days, which is basically two weeks from that. And I can, as a follow-up to this hearing,
18 I can go ahead and email Kathy, Brian, and Kris that portion of City Code, just so you have the
19 important language there.

20 MR. SMITH: Okay. So, any other questions here before we close? Okay. Alright, so I
21 want to thank you for your participation there. I'll take what we've talked about here into
22 consideration and render a decision by July 9th, communicate that in writing, and that will be the
23 next step. So, thank you everyone.

24 MR. BALL: Thank you.

25 MR. WALSH: Thank you.

26 MR. CASSALIA: Thank you guys...really appreciate it...good seeing everybody again.

27 MR. WALSH: You too.

28 MR. CASSALIA: Alright, thanks guys. Have a great night.

29 MR. BALL: You too.

Staff Presentation to Council October 5, 2021



10-5-2021

Mountain Ridge Farms
HOA, City Council Appeal

Wendy Serour

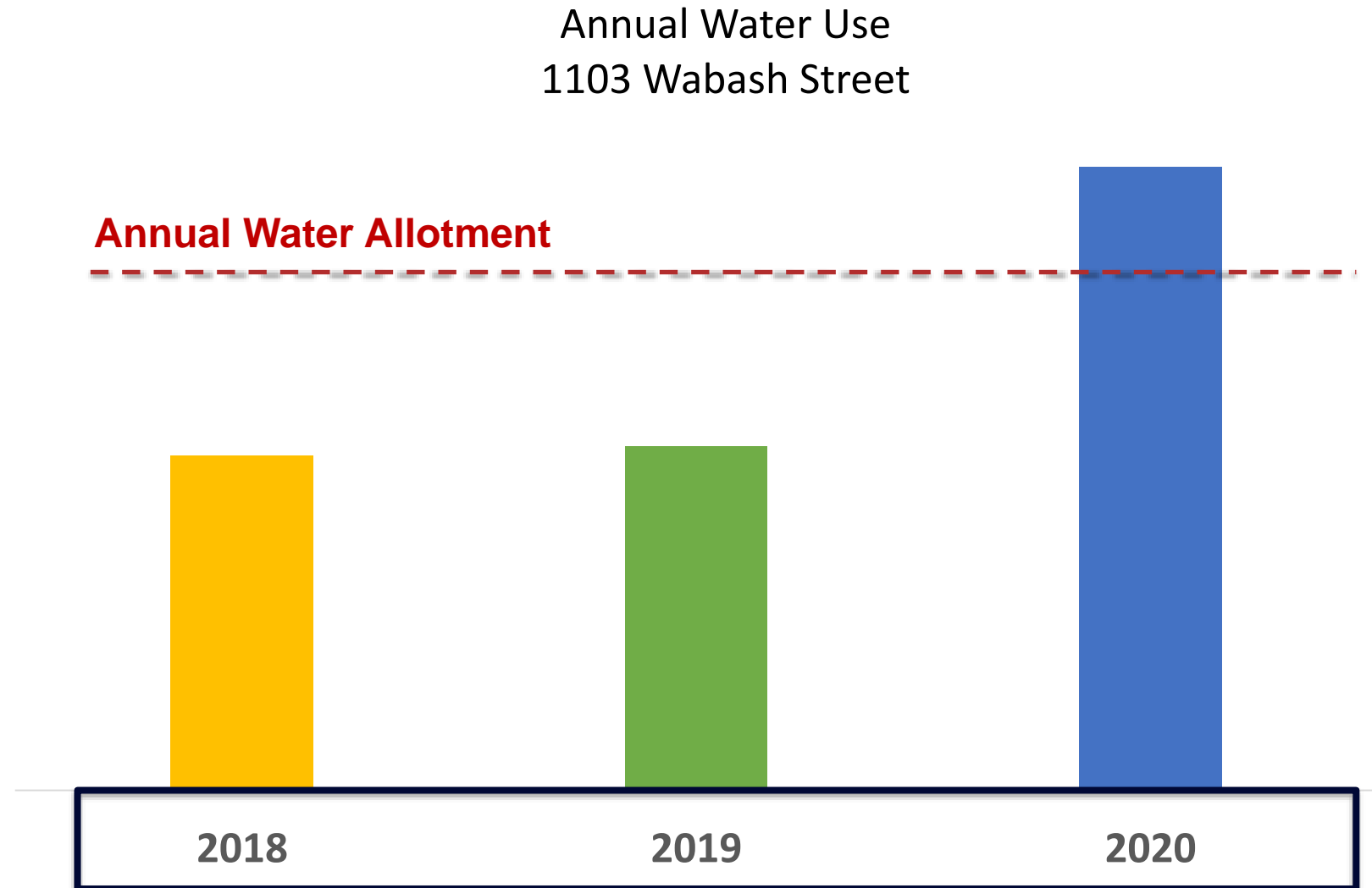
Utilities Strategic Accounts Specialist



Definitions

Water Allotment: Volume of water a non-residential tap can use annually without receiving Excess Water Use surcharges, based on the Water Supply Requirement satisfied during development or redevelopment.

Excess Water Use (EWU) Surcharge: Charge for additional water used over the tap's annual allotment.



Overview: Utilities Customer Hearing and Council Request

Original Request: Mountain Ridge Farms HOA requested Fort Collins Utilities to waive their Excess Water Use (EWU) surcharges incurred in 2020.

Outcome with the Utilities Hearing Officer:

- Hearing held: June 23, 2021
- Waiver request, denied: July 13, 2021

Why Utilities Denied Waiver Request:

- Code does not allow waivers for customers who exceed their water allotments and are billed Excess Water Use surcharges.

Appeal Request for City Council: Did the Utilities Hearing Officer fail to properly interpret and apply the provisions of City Code Section 26-721, (4) entitled Meter Failure?

Appellant Background

Customer: Mountain Ridge Farms HOA

Appellant: Touchstone Property Management (property manager)

Location: 1103 Wabash Street

Utilities Service Type: Non-residential sprinkler account



Customer Account Summary

Looped irrigation system: irrigation systems run off two connected taps to mitigate pressure issues.



Meter 1: 1103 Wabash St
Allotment: 1,955,112 gal
2020 Water Use: 2,722,800 gal
2020 EWU Surcharges: \$7,745.97

Meter 2: 4014 Wabash St
Allotment: 1,955,112 gal
2020 Water Use: 160,066 gal
2020 EWU Surcharges: \$0

Appellant/Customer Action

Staff Action

2020

- **May 1:** Letter sent to customers with allotments
- **Sept. 17:** Reminder sent to apply for Water Conservation Program
- **Oct 13:** Utilities identified billing delay
- **Oct. 29:** Water report emailed to appellant
- **Nov. 4:** Memo sent to Mayor and City Council regarding billing delay
- **Dec. 1:** Communication to customers regarding billing delay
- **Dec. 8:** Received Utilities billing delay letter and call

2021

- **March 23:** Requested a six-month payment arrangement and started payments
- **May 24:** Requested waiver of EWU surcharges to Customer Accounts Manager, waiver denied
- **June 10:** Met with Customer Connections Interim Deputy Director, waiver denied
- **June 23:** Formal appeal held with Utilities Hearing Officer, waiver denied
- **July 23:** Appeal to City Council filed to City Clerk's office

Grounds for Appeal to City Council Filed

“Failure to properly interpret and apply relevant provisions of City Code Section 26-721.”

“There was an undercharge due to City of Fort Collins billing error. The total of two taps was under the allocated amount. Section (4) entitled Meter Failure states as follows in (b):

*Customers who have been under billed for services received, will be re-billed, at no interest, for the actual or estimated services based on utility service records or other information acceptable to the utility that verify previous billing statements **do not appropriately reflect action (actual) consumption**”.*

Total use for the looped meters was under allocated amount:

“Mountain Ridge had two taps and one of the backflows was turned off due to vandalism that we were not aware of at the time. If you add together the total for the two taps, the water consumption is lower than the regularly allotted total amount.”

Why Request Was Denied

- EWU surcharges are a condition of receiving City water service, as adopted by City Council ordinance and codified at Municipal code sections [26-129](#) and [26-149](#)
- Fort Collins Municipal Code section [26-721\(a\)\(3\)](#) requires Fort Collins Utilities to bill the customer for undercharges, without interest.
- **Final decision** to deny waiving the customer's EWU surcharge was based on these sections in municipal code.
 - There is no provision in code to provide a waiver and customers who exceed their allotment are responsible for paying this charge.



Request for City Council

The question before City Council is whether the Utilities Hearing Officer failed to properly interpret and apply the provisions of City Code Section 26-721

