



AGENDA

Henderson City Council Special Called Meeting
Monday, 20 February, 6:00 p.m.
R. G. (Chick) Young, Jr. Council Chambers, Municipal Building
134 Rose Avenue
Henderson, North Carolina

Mayor and City Council Members

Mayor James D. O'Geary, Presiding
Councilmember James C. Kearney, Sr.
Councilmember Sara M. Coffey
Councilmember Michael C. Inscoe
Councilmember D. Michael Rainey

Councilmember Brenda G. Peace—Jenkins
Councilmember Garry D. Daeke
Councilmember Lonnie Davis, Jr.
Councilmember George M. Daye

City Officials

A. Ray Griffin, Jr., City Manager
John H. Zollicoffer, Jr., City Attorney
Esther J. McCrackin, City Clerk

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. INVOCATION AND PLEDGE OF ALLEGIANCE**
- IV. OPENING REMARKS**

In order to provide for the highest standards of ethical behavior and Transparency in Governance as well as provide for good and open government, the City Council has approved Core Values regarding Ethical Behavior¹ and Transparency in Governance². The Mayor now inquires as to whether any Council Member knows of any conflict of interest, or appearance of conflict, with respect to matters before the City Council. If any Council Members knows of a conflict of interest, or appearance of conflict, please state so at this time.

¹ **Core Value 4: Ethical Behavior:** We value the public trust and will perform our duties and responsibilities with the highest levels of integrity, honesty, trustworthiness and professionalism.

² **Core Value 10: Transparency in Governance:** We value transparency in the governance and operations of the City.

V. ADJUSTMENTS TO AND/OR APPROVAL OF THE AGENDA

VI. PUBLIC COMMENTS RELATING TO AGENDA ITEMS

Citizens may speak on Agenda items only at this time. *Citizens wishing to address the Council must sign-in on a form provided by the City Clerk prior to the beginning of the meeting. The sign-in form is located on the podium.* When recognized by the Mayor, come forward to the podium, state your name, address and if you are a city resident, and identify the Agenda Item about which you wish to speak on the sign-up sheet. Please review the Citizen Comment Guidelines that are provided on the last page of this Agenda.³

VII. NEW BUSINESS

- a) **Consideration of Approval of Ordinance 12-20, Amending Section 15.33 of the Henderson City Code Establishing Utility Account Security Deposits and Resolution 12-15, A Resolution Amending the Implementation of Timetable for Amending the Current Practice of Turning Off Water Service for Delinquent Utility Accounts as Articulates in Resolutions 11-70 and 11-A-70.**

ADJOURNMENT

City Council Minutes
Special Called Meeting
20 February 2012

PRESENT

Mayor James D. O'Geary, Presiding; and Council Members James C. Kearney, Sr., Sara M. Coffey, Michael C. Inscoe, D. Michael Rainey, Brenda G. Peace-Jenkins, Garry D. Daeke, Lonnie Davis Jr., and George M. Daye.

ABSENT

None.

STAFF PRESENT

City Manager Ray Griffin, City Attorney John Zollicoffer, Jr., City Clerk Esther J. McCrackin, Finance Assistant City Manager, Frank Frazier, Director Katherine Brafford, Billing and Collections Supervisor Sharon Bennett, Accounting Supervisor Judith Woods, Jean Sams, Patricia Jackson, Fire Chief Danny Wilkerson and Human Resources Director Cathy Brown.

CALL TO ORDER

The 20 February 2012 Special Called Meeting of the Henderson City Council was called to order by Mayor James D. O'Geary at 6:00 p.m. in the R. G. "Chick" Young, Jr. Council Chambers, Municipal Building, 134 Rose Avenue, Henderson, NC.

ROLL CALL

The City Clerk called the roll and advised Mayor O'Geary that a quorum was present.

(Clerk's Note: Council Member Daye and Davis arrived at 6:03 p.m.)

Mayor O'Geary said he was glad to see so many citizens in attendance this evening and said they are welcome at any time.

INVOCATION AND PLEDGE OF ALLEGIANCE

Council Member Peace-Jenkins led those in attendance in a prayer and the Pledge of allegiance.

ADJUSTMENTS TO/APPROVAL OF AGENDA

Mayor O'Geary asked if there were any adjustments to the Agenda. Council Member Rainey moved to accept the Agenda. Motion seconded by Council Member Peace-Jenkins and unanimously approved.

PUBLIC COMMENT PERIOD

(Clerk's Note: The Public Comment Period revolved around the changes in policy regarding security deposits and fees for water)

Mayor O'Geary explained that because of the number of individuals wishing to speak, their time would be strictly limited to three (3) minutes and that he would have to interrupt if they ran over their allotted time.

1. William Burnette, 150 Country Club Drive, Henderson. Mr. Burnette was clearly upset about the new policy. He said he was one day late in making his payment and was disappointed his water was cutoff without notice. Mr. Burnette said he has had service for 15 years and has never had his water cut off. He requested that the security deposit be refunded.

Mayor O'Geary thanked Mr. Burnette

2. JoAnn Allen, 159 Waterfall Road (County but has City water). Ms. Allen stated she was one day late in paying her bill. She said she understood there was a deficit and asked Council to find another way.

Mayor O'Geary and Council Member Rainey said thank you.

3. Elissa P. Yount, 216 Chavasse Avenue, Henderson. Ms. Yount said her water had not been cutoff. She then stated the jobs of the Council, Mayor and staff according to the adopted budget. Ms. Yount felt some customers received preferential treatment and wondered why credits were being offered instead of refunds.

Mayor O'Geary thanked Ms. Yount.

4. Geraldine Champion, 747 Hillside Avenue, Henderson. Ms. Champion said she did not believe the City Manager or the Council intended to cause this epidemic. However, she felt the issue needed to be revamped and a grace period included in the restructuring. She said everyone should pay their bills but disconnecting water because the customer is one or two days late was unrealistic and ridiculous.

Mayor O'Geary said thank you very much.

5. Vincent Ragland, 210 Tall Pines Drive (County but has City water). Mr. Ragland said he read that foreclosures do not go into effect until the fourth (4th) year and felt if people could be

behind four years regarding foreclosures why citizens having their water cut off after one day. He questioned how the City had the manpower to cut off so many and reminded Council that there are usually more than one person in a house so more people have been effected than just the number of accounts. He said the policy is unfair and it needed to be changed.

6. Rosa Bullock, 1725 Graham Avenue, Apt E, Henderson. Ms. Bullock said she had talked with the Manager and Supervisor in December regarding the policy and although she paid the fees, she was later told the Water Department had made an error. She said it was a sad thing that the City could make mistakes but citizens could not be a day late. She felt if the City had listened to her then, then perhaps there would not be this problem.

Mayor O'Geary thanked Ms. Bullock.

7. Frank Terry, 925 Lehman Street, Henderson. Mr. Terry was not caught in this situation but he was disturbed that so many people had their water turned off. He said he looks up to the City officials for doing a good job. He reminded Council that they depend on the vote of citizens and Council should have mercy just as God granted mercy to all. Mr. Terry said what has happened is a disgrace to the people of Henderson.

Mayor O'Geary said thank you.

8. Mary A. Jones, 653 Charles Street, Henderson. Ms. Jones stated she has lived in her home for over 40 years and has always paid her bills. She said she's retired and knows that sometime she's going to forget and asked for mercy as the policy changes are considered.

Mayor O'Geary said thank you.

9. Lucy Jefferys, 109 S. Clark Street, Henderson. Ms. Jefferys said there are a lot of people in Henderson who cannot pay their regular monthly bill and felt a late fee and reconnect fee was wrong. She reminded Council that people can slip up. Lastly, she said she thought the policy was terrible.

Mayor O'Geary said thank you ma'am.

10. Pamela Glover, 236 W. Waycliff Road, Henderson. Ms. Glover is a former employ6ee of the City. Since she has a background in government she felt she had a better understanding of policy but expressed how upsetting she found this policy. She had not been cut off but some of her neighbors had and she expressed concern for those living on a fixed income. She mentioned at one time the City did have a security deposit requirement and was unsure why it was removed. Ms. Glover asked for consideration in revising the policy. *(Mayor O'Geary interrupted and told Ms. Glover her time was up. The Mayor also thanked Ms. Glover for her input saying it was good to see her again.)*

11. Leo Kelly, Jr., 1214 Alpha Road, Henderson. Mr. Kelly was indirectly affected by a cut off. His son has had a problem with plumbing and in the process of sorting out that problem the son was cut off. Mr. Kelly had to pay the fees as his son did not have the funds and he requested a refund. He felt a calling process should be implemented.

Mayor O'Geary called time and said his comments were understood.

12. Willie Durham, 271 Lincoln St. Apartments, Henderson. Mr. Durham agreed with everything that had been said previously and stated although his water was not cut off, he felt for the ones that were cut off. He agreed that change should occur.

Mayor O'Geary said he and Council have all listened to the concerns of these citizens and said Council needs to address them. He then turned the meeting over to City Manager Griffin.

NEW BUSINESS

Consideration of Approval of Ordinance 12-20, Amending Section 15.33 of the Henderson City Code Establishing Utility Account Security Deposits and Resolution 12-15, A Resolution Amending the Implementation of Timetable for Amending the Current Practice of Turning Off Water Service for Delinquent Utility Accounts as Articulated in Resolutions 11-70 and 11-A-70.

City Manager Griffin said based on conversations with customers over the past week and conversations with Council, administration worked up several suggestions to amend and tweak these policies. Mr. Griffin said it was unfortunate and understands customer concerns regarding termination of service; especially those who have never had this happen before. About 70% of the customers were first time cut offs. About 305 have been cut off within the past 12 months. Some suggested tweaks were heard from customers and there may be others Council wishes to consider. Mr. Griffin suggested a basic change of establishing a one-time courtesy waiver of the security deposit if customer is in good standing for the last twelve (12) months. Also a one-time credit or refund of the security deposit for those cut off this past week for non-payment could be considered. This would affect about half of the customers and the other half, those who have been cut off at least once during the last twelve (12) months, will not receive a credit or refund of the security deposit.

(Clerk's Note: Mr Griffin sent a memo to Council on 21 February saying he misspoke regarding 70% of customers mentioned in the above paragraph. In the memo, Mr. Griffin states 71.5 % of accounts were one-month cut offs and 28.5% were cut off for having bills two months in arrears. 195 accounts, or 52% of the accounts on the cut off list had not been cut off during the previous 12 month period which 180 accounts, or 48% had been cut off at least once during the previous 12 months period.)

Another option would be to establish a grace period. Due to postal regulations and the people that are contracted to mail the bills, the effected billing cycle only had one day rather than the

normal three (3) days which created a problem that needs to be resolved. Mr. Griffin asked Council for guidance regarding the length of the grace period but until then it is set for two (2) days.

Council Member Rainey thanked the citizens for coming out and voicing their opinion. He said the ordinance was written to help delete the deficit and would have welcomed their comments while Council was considering this policy. He apologized to those affected and said it was done in good faith. He then expressed his desire for a grace period of ten (10) days and suggested the billing format be reviewed. He also suggested a refund for first time customers who had to pay a reconnect fee and a security deposit in the form of a check, cash or a credit. He stated "*we do not need this kind of feeling between the City and citizens.*" He said Council has strived over the last 4 years to try to make a better companionship between the Council and the City and do what citizens would like Council to do and that he understood times are tough not only for individuals but also the City. He said past due accounts, not only in taxes, but also in water effect the City. Water is important but unfortunately, the City cannot give it away for free.

Council Member Daeke agreed with Council Member Rainey. In good faith the Council was trying to balance the City's budget and receive the funds owed the City for services. This was not implemented as intended and he apologized for the problems. Mr. Daeke suggested that all those with a positive history of payment should have their down payment, fees and penalties refunded and the grace period needs to be changed. He suggested adding five (5) days to the grace period and said, as he remembered, the security deposit (down payment) was established on an average of a two month bill. Mr. Daeke suggested reducing the security deposit to \$100 or \$75 for anyone coming in to start a new account and anyone with a bad history should pay the security deposit also from this day forward.

Council Member Coffey also apologized to everyone. Ms. Coffey suggested a longer grace period of at least ten (10) days. She agreed with the \$75 security deposit as that should normally cover one month's water bill. Ms. Coffey did not agree that when there are two meters at a house, they should be charged a deposit on both meters to re-establish water. She also felt there should not be a late fee if water is going to be turned off and asked that this be considered for amendment. Ms. Coffey then restated her apology saying Council did not intend for citizens to be without water because it creates health hazards and said she and the rest of Council are willing to work this out the best way possible.

Council Member Inscoe stated times are difficult for individuals and businesses. He said Council made an error but that the error is correctable. Mr. Inscoe agreed with Ms. Coffey for a ten (1) day grace period which should give people enough time to respond. He also agreed with reducing the security deposit to \$75. The important thing is to correct the error and move forward in a positive way to continue to improve the City for its citizens. Lastly, Mr. Inscoe said he regretted any hardship caused.

Council Member Kearney also was terribly sorry for the problem but stated he was glad the citizens came to express their frustrations. He said the city should not be punitive with late fees. He felt if a late fee was charged there should not be other fees "piled on." Mr. Kearney favored a

onetime waiver for first time customers that got caught up in this dilemma. That instead of crediting their account, that the fees be refunded and that there be a ten (10) day grace period between the time the bill is considered late and the cut off time. He did not feel a late fee should be charged when water will be cut off anyway. Mr. Kearney was unsure if the deposit amount should be reduced. He said the deposit amount was based on the average two month bill. However, he felt if the security deposit remains as is, the reconnection fee should be eliminated. Mr. Kearney emphasized that whatever is done should be consistent and fair to the customers.

Council Member Peace-Jenkins said many pay their bills on the last day possible. When this policy change was first discussed, she emphasized it would be important to educate and inform the citizens in the best way possible which Council thought they had done by sending out information along with the bills, putting spots on the radio, etc. but it seems like individuals just have not read. Ms. Peace-Jenkins said some citizens have been treated unfairly in the process and she apologized. Ms. Peace-Jenkins agrees with a ten (10) day grace period and felt the security deposit should also be changed. She felt if the deposit remained the same, arrangements should be made for payments – not payment in full at one time. Ms. Peace-Jenkins agreed if the water is to be cut off there should not be a late fee. She again apologized saying Council wants the best for the citizens of Henderson ---sometimes we get it wrong just as we do in life. She also stated if there are extra leaflets in the water bill that are yellow – be sure to read it --- yellow means caution and if you have questions, reach out to your Council Member for clarification.

Council Member Davis said it is nice to see all the people here to voice their opinions for something you think is unjust. He emphasized how important it is for citizens to come to City Hall to hear opinions as issues occur rather than waiting until the last minute which causes heartache and then individuals lose their ability to listen to what can be done. Mr. Davis said Council is willing to listen to your concerns if it is done on equal terms. There is much to be done and the doors are open. He appreciated everyone who came out to voice their opinion.

Council Member Daye said he was also sorry. Mr. Daye said he was affected by this new policy but nevertheless the Council will take the wrong and make it right for everyone.

Council Member Coffey inquired about the security deposit funds. City Manager Griffin explained the deposit goes into an escrow fund in the name of the account holder where it is held for twelve (12) months. At that time, if the account holder shows a good pay history, the deposit is credited to his/her account and they are not required to pay another security deposit until they are terminated for non-payment and they wish to re-establish service. If a customer has an unacceptable payment history, the security deposit can be either applied to the account to cover the balance with any remaining dollars refunded if the account is to be closed or if the customer pays the bill the security deposit would remain in place for another twelve month period. When a customer is relocating, the security deposit is used to pay the monthly balance plus the amount from the final meter reading and any excess would be returned to the customer. Ms. Coffey asked if the deposit could be refunded. Mr. Griffin stated that would require an amendment to the existing ordinance if Council so desires. The escrow account does not draw interest.

(Clerk's Note: At this point several individuals indicated a desire to speak to Council. Mayor O'Geary asked Council if they were willing to allow others to address Council.)

One gentleman who did not identify himself asked if everyone's water had been turned back on.

City Manager Griffin responded that 98 accounts have not been turned back on because they have not yet come to City Hall. These are all accounts that have been cut off during the past twelve (12) months and it is his understanding from Billing and Collections Supervisor Sharon Bennett, that this is the norm. These accounts represent people who come in to settle their account, have moved without notifying the City, or houses that need code enforcement for living without utilities.

Council Member Kearney confirmed the security deposit ordinance became effective in November. City Manager Griffin stated this is correct. Mr. Kearney verified the implementation date was six months instead of the original 90 days and asked how many people have brought their accounts current. Mr. Griffin said even before the November 1 deadline, the customer service line began advising customers of the new policy and they continued to work with customers even when the implementation date was extended and many customers brought their accounts up to date. Even during this last week, they have offered to set up a payment plan to ease customers into the new policy restrictions.

Council Member Rainey asked if staff could implement the calling system mentioned by Mr. Burnette during the public comment period to place a courtesy call to remind accounts that have never been late that their bill is due.

Mayor O'Geary asked the City Manager for guidance on how the water department handles accounts being cut off.

City Manager Griffin said customers are notified in their bill that they only receive one notice and the date of cut off is clearly shown. Bills are due and payable upon receipt and on the bill it also clearly states the date the late penalty will be applied. Businesses are not summarily cut off. The City is aware of the impact on commerce and for the few businesses that find themselves in this situation, calls are placed. Segmenting and sorting through the 4,000 plus residential accounts for those who are elderly, those who have accounts in good standing would be time consuming. It could be done but only with software enhancements and perhaps more manpower.

Council Member Coffey expressed her desire to have a better way of notifying customers and again stated there should be a ten (10) day grace period.

(Clerk's Note: Citizen Ms. Sylvia Hayes interrupted at this point and it was Council's decision to allow her to address Council.)

Sylvia Hayes, 811 Nelson Street, Henderson. Ms. Hayes spoke on behalf of her mother saying since the change in policy they are receiving two bills a month. Since the bill says payable upon receipt, Ms. Hayes felt she was being billed twice a month.

Mayor O'Geary asked the City Manager to look into this. City Manager said he would have someone look into it and respond to Ms. Hayes. He also said the 10th was moved to the 13th for the late payment date because of the delay with the postal rate change and the account should be back on cycle for payment next month for the 10th

Council Member Daeke made a motion that all people who were caught for the very first time will have their money refunded and that includes the penalty as well as the reconnection fee and it would be their choice as to whether the fees be credited to their bill or refunded if they so choose and said I'll let the administration figure out how to do that.

City Manager asked for clarification as to whether the motion included only people with good pay history. Mr. Daeke said yes, the 70% that were caught in the change.

Council Member Daeke continued his motion by saying he would like to see the grace period changed to 10 business days. Reduce the down payment to one month (\$75) to see if it works for those starting a new account and those who have to make the payment to re-instate service for in City customers and \$100 for out-of-City customers. He left his motion open for amendment.

Council Member Rainey questioned the \$75 security deposit. He asked if the deposit was a one-time fee. Mr. Daeke said his understanding was the deposit would be used toward that account and the customer would then have to reestablish a new account with a \$75 fee.

Council Member Coffey restated the motion saying the City would refund the deposit, the late fee, the reconnect fee for customers that were caught up in this first time being late. Mr. Daeke said that exemption should exist any time it happens to a customer the first time.

City Manager Griffin asked for clarification before finalizing the motion as it could affect customers within this billing cycle. Customers that have heretofore been good customers without being cut off in the last twelve (12) months will have their late fee of \$12, the reconnect fee of \$25 and security deposit \$75 would all be returned as either a credit or a refund, depending on the customer's request. Customers that have been cut off within the past twelve (12) months for non-payment would still pay the \$12 and the \$25 --- do not want people to feel they are being treated differently.

Council Member Coffey stated the people who should receive the deposit, reconnect and late fee refund were the people who have paid their bills on time and caught up in the one day late issue. Ms. Coffey did not think people who are late should have to pay a late fee, a reconnect fee and a security deposit. Mr. Griffin asked if this would be retroactive for people with bad payment history till last Monday as well.

Council Member Kearney said he would like to see the final decision in writing so there is not another problem. He suggested a consensus be reached regarding the policy changes and announce them to the citizens present and then allow chance to review the changes prior to voting. City Manager said this was a good suggestion; however, the system keeps working so he felt some decisions should be determined for guidance to staff for work Tuesday morning.

After further discussion involving the grace period, Council Member Daeke reworded his motion as follows:

1. 70% of people cut off which were good customers (those that paid their bill with a positive history) should have their deposit returned or apply to their account (their choice) as well as the penalty as well as the reconnect fee.
2. The grace period should have ten business (10) days added to the due date.
3. The down payment (security deposit) should be reduced to \$75 and \$100 for those on City water outside the City limits.
4. Late fee would not be charged as the result of the cut off.

City Manager then asked Council to look at Resolution 12-15 before them and he directed them to point 5 and verified this statement is correct. He then referred them to point 6 which did not need major change but he read for public information, including the change of citizens being able to request a refund (not just a credit). Mr. Griffin then created point 7 to say: *For good customers with a good pay history they would have their late fee and disconnect fee refunded as well.* Mr. Griffin was asked to blend this comment into point 6. Mr. Griffin added a new point 7 to say: *A late fee will not be charged if an account is disconnected for non-payment.*

City Manager stated the \$12 fee is applicable if the payment is not made by the date on the bill and a \$25 fee if it is disconnected. If the \$12 applies to the account then the disconnect fee would be \$13, effectively removing the \$12 fee but it keeps the staff from having to credit \$12 and charge \$25.

City Attorney Zollicoffer confirmed there is a late fee anytime there is a reconnect fee. City Manager said there would be a late fee anyway. In essence the reconnect fee is reduced from \$25 to \$13.

Council Member Rainey asked if customers are offered draft payments and on-line payment. City Manager Griffin said drafts are available. On-line payments are being researched. Once the system is reconfigured, on-line payments will be accepted. Mr. Griffin reminded Council that debit and credit cards are accepted, in person or on the phone. Council Member Peace-Jenkins asked if drafts were acceptable. Mr. Griffin stated checking account drafts are acceptable.

Council Member Coffey asked if a security deposit needed to be charged if a customer used a bank draft. Mr. Griffin said there is no way to ensure checking account balances with drafts so he felt a security deposit was necessary.

City Manager Griffin asked Council to look at Ordinance 12-20 saying point 4 is new to the existing ordinance. He explained the security deposit is set up as an ordinance where the fees and implementation policy are resolutions. So one motion would be to approve Resolution 12-

15 as amended by Council, approve Ordinance 12-20 as stands and lastly authorizing the City Attorney to draft an amendment to the annual fee schedule ordinance showing these changes.

Council Member Daeke introduced Resolution 12-15 as amended, Ordinance 12-20 as recommended and ask attorney to amend the fee schedule for the security deposit from \$150 to \$75 for the in-city residents; from \$200 to \$100 for those receiving water outside the City as well as changing the cut off fee to \$13.

This motion had already been seconded by Council Member Rainey and Coffey.

Mayor O'Geary then asked for roll to be called and the motion passed unanimously.

ADJOURNMENT

Council Member Rainey moved for adjournment. Motion seconded by Council Member Daeke and unanimously approved. The meeting adjourned at 7:33 p.m.

James D. O'Geary, Mayor

ATTEST:

Esther J. McCrackin
City Clerk