



## 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. Inscoc  
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 Behavior<sup>1</sup> and Transparency in Governance<sup>2</sup>. 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.

---

<sup>1</sup> **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.

<sup>2</sup> **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.<sup>3</sup>

**VII. NEW BUSINESS**

- a) Discussion concerning Water and Security Deposit Policy.

**ADJOURNMENT**



## Office of the City Manager

134 Rose Avenue, P. O. Box 1434, Henderson, NC 27536

Phone 252.430.5701 : Fax 252.492.7935 : E-mail [rgriffin@ci.henderson.nc.us](mailto:rgriffin@ci.henderson.nc.us)

[www.ci.henderson.nc.us](http://www.ci.henderson.nc.us)

---

17 February 2012

TO: Mayor O'Geary and Members of City Council

FR: Ray Griffin, City Manager

RE: CAF: 12—34:

**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.**

### Council Goals Addressed By This Item:

- Core Value 2, *Citizen/Customer Friendly*, and Core Value 3, *Fairness*
- KSO 8: Provide Financial Resourcing—*The purpose of this KSO is to recognize that Resourcing of municipal and capital Resourcing is difficult during these economic times and to focus on ways that improves the City's financial position and ability to fund services.*

### Recommendation

- Approval of Ordinance 12-20 Amending Section 15.33 of the Henderson City Code Establishing Utility Account Security Deposits; *and*
- Resolution 12-15, 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.

### Executive Summary

The current frustration with some of our utility customers has sparked debate about the efficacy of the City's new security deposit policy. I certainly understand our customers' frustrations and I regret there has been so much consternation about it this week. In order to better "wrap our arms" around this situation, I have worked with Finance Director Brafford and Billing & Collections Supervisor Bennett to review the data and share same with you.

## Background

In August, 2011, Council approved new policies concerning re-establishing a security deposit system and reverting to a monthly billing and collections cycle that would not permit customers constantly having arrears on their accounts. The new policies were staged as follows:

1. Phase 1: Security deposits were to be required for new accounts that could not provide a letter of good credit reference and existing customers whose service was terminated for non-payment, effective 1 November 2011<sup>1</sup>; and
2. Phase 2: Customers would no longer be able to pay one month's bill and carry one month's bill for bills due after 1 February 2012<sup>2</sup>.

## Phase 1 Implementation

Phase 1 implementation of requiring customers to establish security deposits went relatively well. For the period 1 November 2011 through 10 February 2012 a total of 363 existing customers and 260 new customers were required to establish security deposits. The existing customer group for this period of time were for accounts terminated for non—payment of two months' billing in arrears. *See chart, below:*

SECURITY DEPOSIT INFORMATION														
Master Summary														
Month	For Accounts Cut Off for Non-Payment								For New Accounts Not Providing Credit				Totals	
	Residential				Business				Residential		Business			
	# of Customers	Arrears inc fees	Security Deposit	total collected	# of Customers	Arrears inc fees	Security Deposit	total collected	# of Customers	Security Deposit	# of Customers	Security Deposit	Total Customers	Total Collected
Nov 11	101	\$ 21,149	\$ 11,400	\$ 32,549	5	\$ 2,262	\$ 1,050	\$ 3,312	62	\$ 7,725	\$ 3	\$ 460	171	\$ 44,046
Dec 11	86	\$ 16,576	\$ 15,265	\$ 31,841	9	\$ 1,382	\$ 1,320	\$ 2,702	64	\$ 8,775	\$ 1	\$ 200	160	\$ 43,519
Jan 12	113	\$ 21,856	\$ 13,680	\$ 35,536	6	\$ 1,206	\$ 975	\$ 2,181	55	\$ 7,200	\$ 2	\$ 400	176	\$ 45,317
Feb 12	41	\$ 11,203	\$ 4,725	\$ 15,928	2	\$ 377	\$ 300	\$ 677	73	\$ 9,875	\$ -	\$ -	116	\$ 26,480
Mar 12	0	\$ -	\$ -	\$ -	0	\$ -	\$ -	\$ -	0	\$ -	\$ -	\$ -	0	\$ -
Apr 12	0	\$ -	\$ -	\$ -	0	\$ -	\$ -	\$ -	0	\$ -	\$ -	\$ -	0	\$ -
May 12	0	\$ -	\$ -	\$ -	0	\$ -	\$ -	\$ -	0	\$ -	\$ -	\$ -	0	\$ -
Jun 12	0	\$ -	\$ -	\$ -	0	\$ -	\$ -	\$ -	0	\$ -	\$ -	\$ -	0	\$ -
Jul 12	0	\$ -	\$ -	\$ -	0	\$ -	\$ -	\$ -	0	\$ -	\$ -	\$ -	0	\$ -
Aug 12	0	\$ -	\$ -	\$ -	0	\$ -	\$ -	\$ -	0	\$ -	\$ -	\$ -	0	\$ -
Sep 12	0	\$ -	\$ -	\$ -	0	\$ -	\$ -	\$ -	0	\$ -	\$ -	\$ -	0	\$ -
Oct 12	0	\$ -	\$ -	\$ -	0	\$ -	\$ -	\$ -	0	\$ -	\$ -	\$ -	0	\$ -
Nov 12	0	\$ -	\$ -	\$ -	0	\$ -	\$ -	\$ -	0	\$ -	\$ -	\$ -	0	\$ -
Dec 12	0	\$ -	\$ -	\$ -	0	\$ -	\$ -	\$ -	0	\$ -	\$ -	\$ -	0	\$ -
<b>Total</b>	<b>341</b>	<b>\$ 70,784</b>	<b>\$ 45,070</b>	<b>\$ 115,854</b>	<b>22</b>	<b>\$ 5,228</b>	<b>\$ 3,645</b>	<b>\$ 8,873</b>	<b>254</b>	<b>\$ 33,575</b>	<b>6</b>	<b>\$ 1,060</b>	<b>623</b>	<b>\$ 150,362</b>
<i>Last Updated: 10 Nov 11 rg</i>														

## Phase 2 Implementation

Phase 2 implementation began the week of 13 February. It has been during this week's implementation when we've received the loudest outcry about the new policy. Members of City Council, City Administration, Customer Service Division and media have received very vocal complaints from customers upset about their service being disrupted for nonpayment and/or having to pay a security deposit. Not all of the 375 accounts service was terminated due to payment being received prior to meter readers reaching their homes/places of business.

The 20<sup>th</sup> Billing District, which is the one whose payments were past due on Monday, 13 February and cut off date on 14 February is the largest of the City's three utility billing districts.

<sup>1</sup> Ordinance 11-08

<sup>2</sup> Resolutions 11-70 and 11-A-70



4,174 bills were mailed to customers. The cut-off list was prepared after the close of business on Monday the 13<sup>th</sup> and showed 375 accounts listed for non-payment, or 9% of the bills rendered. Of this amount, 36 were businesses and 339 were residences. Of this amount, 106, or 28.5%, were for bills that had two months in arrears and the balance was for bills with one month in arrears. The total arrears for this billing cycle, after 5 p.m. on the 13<sup>th</sup> was \$54,118. Additionally, of the 375 accounts being placed on the cut off list for non-payment, 195 had not been cut off during the previous 12 months while 180 had been cut off at least one time during the previous 12 months.

Questions have arisen from many customers as to why they couldn't be granted an exception for the security deposit. They expressed frustration since they had paid their bills each month. The current ordinance and policy does not provide for a waiver of security deposit if the account is disconnected for non-payment.

It appears there are perhaps several reasons why so many one month customers found themselves in the cut-off situation. I based the following on conversations my staff and I have had with customers this week.

- The inserts and information printed on the bills regarding the policy changes were not read
- Some customers were busy with other things and forgot to pay prior to the cut-off date
- Some customers stated they did not understand the how to read the bill and its messages

#### *Basis for the Policy Changes*

The basis for the policy changes are the result of a multi-year effort to reduce bad debt, accounts written off, and to reduce the risk of the City for future losses due to unpaid accounts. The unpaid accounts are represented in two basic forms. First, customers not paying their bills and moving out of the City's water district. Second, customers not paying their bills and moving to another part of town and attempting to set up a new account in a different name have been reasons for bad debt exposure. Having a security deposit on-record for problematic accounts (those that have been terminated for non-payment) has the effect of reducing the City's exposure to bad debt.

#### *Recommendations*

1. Maintain the current ordinance and resolution setting forth the new policies concerning security deposit requirements and paying bills-in-full once-a-month; however, tweak these to provide for the following:
  - a. One-Time courtesy waiver of security deposit requirement: For customers that have otherwise had a good pay history, i.e., not being cut off for non-payment within the past twelve (12) months, a one-time courtesy waiver of security deposit will be permitted. (See Ordinance 12-20)

- b. One-time crediting of security deposit for good-pay customers caught up in the transition: For customers that have otherwise have had a good pay history, i.e., not being cut off for non-payment within the past twelve (12) months and were placed on the cut-off list during the week of 13 February 2012, will have their security deposits credited to their accounts. *(See Resolution 12-15)*
  - c. Grace Period Provided: A two business-day grace period will be provided to all accounts before the cut-off list is prepared, effective immediately. *(See Resolution 12-15)*
2. The Revenue Collections staff will continue to work with customers having trouble “bridging the gap” transitioning from the pay-one-bill—leave-one-bill to once a month billing and payment of account via payment agreements.

## ORDINANCE 12—20

(Note: Underscored portions include both new language and reorganization of existing language)

### AN ORDINANCE AMENDING SECTION 15.33 OF THE HENDERSON CITY CODE ESTABLISHING UTILITY ACCOUNT SECURITY DEPOSITS

The City Council of the City of Henderson, North Carolina doth ordain:

Section 1. That Section 15-33 of the City Code be amended to read as follows:

#### Section 15-33 Account Set-Up Fee and Security Deposits

##### A. Account Set-Up Fee

No City utilities shall be initially furnished at any premises nor shall the person or entity responsible for payment of the utility bill of the City be changed nor shall the city read the meter relative to a new account until an account set-up fee as established in the *City's Fee Schedule* relative to the new premises, the new payor, or the new account has been paid to the collector of revenue. This fee shall be nontransferable to any other location, payor, or account, and shall be in addition to all other fees or charges relative to said utilities.

##### B. Security Deposits Required

1. **New Customers:** All new customers opening a utility account for the first time must pay a security deposit as established in the *City's Fee Schedule* or provide an original letter of good credit reference from his/her most recent water/sewer utility provider that demonstrates a good payment history for at least the most recent rolling 12-month period of time.
2. **Account in Good Standing—Definition:** An account in good standing is defined as one in which the customer's service has not been disconnected, or turned off, for non-payment during the most recent rolling 12-month period of time. An account is determined to be not in good standing when a customer's account has been disconnected, or turned off, for non-payment during a rolling 12-month period of time.
3. **Existing Customers—Deposit Not Required:** Customers that exist at the time of the adoption of this ordinance shall not be required to pay a security deposit unless his/her account ceases to be an account in good standing.
4. **Existing Customers in Good Standing—One Time Courtesy Deposit Waiver:** An existing customer whose account has been an account in good standing for the

preceding twelve months and whose service is then being terminated or disconnected for non-payment shall be granted a one-time courtesy waiver of security deposit.

5. **Existing Customers Not in Good Standing—Deposit Required:** An existing customers whose account has not been an *account in good standing* for the preceding twelve (12) months and whose service ~~has been~~ is then being terminated, or disconnected, for non-payment shall be required to establish a security deposit as stated in Section 15-33-B (1) of this Chapter prior to service being reestablished. ~~except as provided below, in Section 15-33-B(4).~~
  
6. **Deposit Returned to Customer Security Deposit—When Returned to Customer:** If a customer has to pay a security deposit his/her security deposit will be kept by the City Finance Department for a minimum 12-month period of time. Once the account has met the definition of being an account in good standing, the security deposit will be credited to his/her utility account. The City shall not pay interest on security deposits. Medium and large commercial/industrial customers that cannot provide a good credit letter of reference as described in paragraph 1 above may utilize a Letter of Credit in lieu of a cash deposit provided; however, said Letter of Credit is approved by the Finance Director and the City Attorney.

*(Ord. of 5-3-94; Ordinance 11-08, 8 August 2011))*

Section 2. That the foregoing Ordinance shall be effective on 20 February 2012.

The foregoing Ordinance, having been submitted to a roll call vote, received the following votes:

The foregoing Ordinance 12—20, upon motion of Council Member \*\* and seconded by Council Member \*\* and having been submitted to a roll call vote and received the following votes and was \*\* on this the 20<sup>th</sup> day of February 2012: YES: . NO:. ABSENT: .

---

James D. O'Geary, Mayor

**ATTEST:**

---

Esther J. McCrackin, City Clerk

Approved to Legal Form:

---

John H. Zollicoffer, Jr., City Attorney

*Reference: Minute Book 42, p.  
Ordinance 11-08*



(Note: This is the ordinance as approved 8 August 2011)

## ORDINANCE 11—08

Council Member Inscoe introduced the following Ordinance which was seconded by Council Member Rainey and read:

### AN ORDINANCE AMENDING SECTION 15.33 OF THE HENDERSON CITY CODE ESTABLISHING UTILITY ACCOUNT SECURITY DEPOSITS

The City Council of the City of Henderson, North Carolina doth ordain:

Section 1. That Section 15-33 of the City Code be amended to read as follows:

#### Section 15-33 Account Set-Up Fee and Security Deposits

##### A. Account Set-Up Fee

No City utilities shall be initially furnished at any premises nor shall the person or entity responsible for payment of the utility bill of the City be changed nor shall the city read the meter relative to a new account until a \$20.00 account set-up fee as established in the *City's Fee Schedule* relative to the new premises, the new payor, or the new account has been paid to the collector of revenue. This fee shall be nontransferable to any other location, payor, or account, and shall be in addition to all other fees or charges relative to said utilities.

##### B. Security Deposits Required

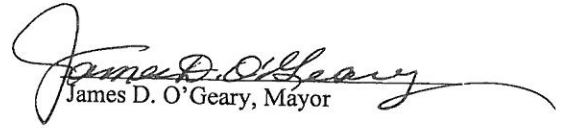
1. All new customers opening a utility account for the first time must pay a security deposit as established in the *City's Fee Schedule* or provide an original letter of good credit reference from his/her most recent water/sewer utility provider that demonstrates a good payment history for at least the most recent rolling 12-month period of time.
2. Customers that exist at the time of the adoption of this ordinance shall not be required to pay a security deposit unless his/her account ceases to be *an account in good standing*. An *account in good standing* is defined as one in which the customer's service has not been disconnected, or turned off, for non-payment during the most recent rolling 12-month period of time. An account is determined to be *not in good standing* when a customer's account has been disconnected, or turned off, for non-payment during a rolling 12-month period of time. Existing customers whose service has been terminated, or disconnected, for non-payment shall be required to establish a security deposit as stated in Section 15-33-B (1) of this Chapter prior to service being reestablished.
3. If a customer has to pay a security deposit, his/her security deposit will be kept by the City Finance Department for a minimum 12-month period of time. Once the account has met the definition of being an account in good standing, the security deposit will be credited to his/her utility account. The City shall not pay interest on security deposits. Medium and large commercial/industrial customers that cannot provide a good credit letter of reference as described in paragraph 1 above may utilize a Letter of Credit in lieu of a cash deposit provided; however, said Letter of Credit is approved by the Finance Director and the City Attorney.

(Ord. of 5-3-94)

Section 2. That the foregoing Ordinance shall be effective on 1 November 2011.

The foregoing Ordinance, having been submitted to a roll call vote, received the following votes:

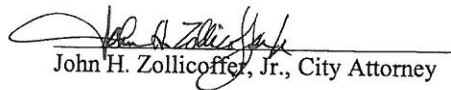
The foregoing Ordinance 11—08, upon motion of Council Member Inscoe and seconded by Council Member Rainey and having been submitted to a roll call vote and received the following votes and was APPROVED on this the 8<sup>th</sup> day of August 2011: YES: Kearney, Coffey, Inscoe, Rainey, Peace-Jenkins, Daeke and Daye. NO: None. ABSENT: Davis.

  
James D. O'Geary, Mayor

**ATTEST:**

  
Esther J. McCrackin, City Clerk

Approved to Legal Form:

  
John H. Zollicoffer, Jr., City Attorney

*Reference: Minute Book 42, p. 243-244.*

## RESOLUTION 12—15

### A RESOLUTION AMENDING THE IMPLEMENTATION 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

**WHEREAS**, the Henderson City Council (Council) conducted its Annual Planning Retreat in January 2012, and during said Retreat identified eight Key Strategic Objectives (KSO) and Goals; *and*

**WHEREAS**, this Resolution addresses one of the Key Strategic Objectives as follows: KSO 8: To Provide Sufficient Funds for Municipal Operations and Capital Outlay Necessary to Meet the Needs of Citizens, Customers and Mandates of Regulatory Authorities; *and*

**WHEREAS**, the Council unanimously enacted Resolution 11—70 at its 8 August 2011 meeting, said Resolution providing a change in service discontinuation policy that has allowed customers to pay one bill and carry one bill, or constantly remain in arrears, said policy change to be effective on 1 November 2011; *and*

**WHEREAS**, the Council also unanimously enacted Ordinance 11—08 which provides for the re-establishment of Security Deposits, said Ordinance to be effective 1 November 2011; *and*

**WHEREAS**, the Council amended Resolution 11-70 with Resolution 11-A-70 on 26 October 2011 in order to provide customers more time to prepare for the phasing out allowing them to pay-one-bill and leave-one-bill, said amendment extending the effective date from 1 November 2011 to 1 February 2012; *and*

**WHEREAS**, the Council is concerned about the impacts on customers due to the transition to the new policy set forth in Resolution 11-A-70; *and*

**WHEREAS**, it is felt it is in the best interest of the City and its utility customers to amend its current policy regarding security deposit implementation and formalizing a grace period for payment of utility bills.

**NOW, THEREFORE BE IT RESOLVED BY THE HENDERSON CITY COUNCIL THAT IT DOES HEREBY AFFIRM** its policy positions as articulated in Resolutions 11—70 (with the exception of the implementation date of 1 November 2011); Ordinance 11—08 and Resolution 11-A-70; *and*

**BE IT FURTHER RESOLVED BY THE HENDERSON CITY COUNCIL THAT IT DOES HEREBY APPROVE** an amendment to the implementation schedule of the City's water termination (cut-off) policy as articulated in Resolution 11—A—70 by adding the following new sections:

5. **Grace Period:** A grace period of two business days will be provided between the date the late payment fee is applied and before the billing cycle's cut-off list is prepared.
6. **One-Time Security Deposits Credited:** Given the concerns expressed during the week of 13 February 2012, Customers who were required to pay a security deposit and otherwise have had an account in good standing for the previous twelve (12) month period will have their security deposits credited to their accounts.

The foregoing Resolution 12-15, upon motion of Council Member \*\* and second by Council Member \*\* and having been submitted to a roll call vote received the following votes and was \*\* on this the 20<sup>th</sup> day of February 2012: YES: \*\*. NO: \*\*. ABSTAIN: \*\*. ABSENT: \*\*.

---

James D. O'Geary, Mayor

**ATTEST:**

---

Esther J. McCrackin, City Clerk

Approved to Legal Form:

---

John H. Zollicoffer, Jr., City Attorney

Reference: Minute Book 42, pp.  
Resolutions 11-70 and 11-A-70 and Ordinance 11-08