

Minutes of the Work Session held June 20, 2011 at 6:30 p.m. in the Council Chambers.

MEMBERS PRESENT

Mayor Lopez Rogers and Council Members

Jim McDonald, Vice Mayor
Jim Buster
Stephanie Karlin
Frank Scott
Charles Vierhout
Ken Weise

ALSO PRESENT

Charlie McClendon, City Manager
David Fitzhugh, Assistant City Manager
Rogene Hill, Assistant City Manager
Kevin Artz, Finance and Budget Director
Andrew McGuire, City Attorney
Carmen Martinez, City Clerk

1) ROLL CALL BY THE CITY CLERK

2) DISCUSSION OF HOUSE BILL 2193

An update on House Bill 2193 adopted by the State Legislature in 2010 and will present proposed changes to Chapter 24, Water, Sewers and Sewage Disposal of the Municipal Code.

Kevin Artz, Finance and Budget Director, stated that with the State Legislature's passing of H.B. 2193, the City of Avondale no longer has the ability to collect on any delinquent water or sewer account if the investor or landlord does not reside at the service location. This has created a couple of loopholes that are cause for concern. Some of the language in the bill is confusing and seems to open up the possibility that anybody who wants to sign up for water service at a location can do so. The new law says the City has to allow people to sign up for water service even if they lack a lease agreement or the right to be on that property. If an individual has a valid lease at a rental property, and their friend who does not live there is signed up for water service, the City could not go after the friend for the delinquent bill, because they do not reside there.

Mr. Artz recommended that all new service applications be required to certify whether they will reside at the service location or not. If they do, the applicant would pay the existing deposit of \$175. If they state that they are not going to reside there, staff recommends that the City apply the higher risk deposit amount of \$250, which would help reduce any potential losses to the City.

Mr. Artz reviewed the ordinance that Council adopted in October. In the time since the City increased the deposit, 624 accounts were opened and subsequently closed. Of those 624, 27 accounts, or 4%, still had an outstanding balance after the deposit was applied. The dollar amount of those outstanding accounts was about \$3,000. In the eight months prior to the ordinance, 2,238 accounts were closed and 452 had delinquent balances, or 20% of the total. These delinquent accounts totaled almost \$70,000. The decision to increase deposit amounts decreased outstanding balances by over 84%.

Council Member Vierhout inquired about the foreclosure rate in the eight months prior to the ordinance. Mr. Artz estimated that the foreclosure rate was approximately the same for the eight months immediately before and after the ordinance. Council Member Vierhout stated that without knowing for certain, it would be hard to claim that the results were solely due to the increased deposit amount. Mr. Artz felt that the deposit accounted for the majority of the improvement because previously when delinquent accounts closed the City had no way to collect from them other than going through the collection process. Now the deposit can be applied immediately and the balance refunded. Council Member Vierhout noted that the Corporation Commission recommends that deposits must be returned within 12 months. Mr. Artz said staff determined that it was not just tenants who were responsible for the outstanding balances; some came from owners who left during foreclosures without paying their final bill. He said staff recommended refunding deposits when accounts close, while leaving open the possibility of revisiting the policy in the future. He still felt this would be the best policy at this point.

Council Member Vierhout noted that private water companies refund money after 12 months. Mr. Artz said refunding deposits after twelve months would create some additional work for the City, but nothing unmanageable. However, he felt that the data would continue to show that delinquencies decreased substantially even after 18 months. Council Member Vierhout felt that the policy penalizes people on the first day they move into Avondale against the off-chance that they might fail to pay in the future.

Mr. Artz reviewed the policies of other cities. Buckeye charges a \$230 deposit. If the user is a tenant, they hold the deposit until the final bill is paid. If the user is an owner, they refund it after one year of good history. Peoria charges \$225, and they refund it after the final bill for both categories. Goodyear charges \$200 and refunds at the final bill. Glendale charges \$200, holding onto the tenants' deposit, but refunding the owners' after six months. Other cities refund after one year. Council Member Vierhout said if private businesses can refund in 12 months, the City should too.

Mayor Lopez Rogers asked whether the City charges licensing fees for rentals on top of the deposits. Mr. Artz responded that landlords are required to get a business license but the annual fee is waived on the rental properties. Mayor Lopez Rogers suggested revisiting that policy to see whether some of the deposit can be accommodated through those fees.

Mr. Artz, in response to an inquiry from Council Member Scott, explained that the City would be able to collect from an owner who has resided at a service location but is no longer there, however, if someone bought a new property only as a rental investment, under the current language the City would not have the ability to collect from them. The City will still try to collect if the deposit does not cover the outstanding balance.

Council Member Scott suggested that the City reapply the deposit if a landlord fails to pay after the deposit has been returned. The difference in delinquency rates before and after adoption of the ordinance is substantial, and he doubted that foreclosures had much to do with it. He understands why people are unhappy with the deposit requirement, but sees it as a necessary evil. The citizens of Avondale should not have to pay other people's water bills. Deposits keep people responsible for their own bills. Had the delinquency rate continued at the pace prior to the ordinance, the City would have had to raise water rates

on everyone to cover the cost. Mayor Lopez Rogers noted that Council stated its intent to examine the impacts of the ordinance after one year.

Council Member Buster said that staff has the right idea, but the City should look into refunding the deposit after a year. The City is not regulated by the Corporation Commission, but their guidelines set a good benchmark. If a homeowner falls behind on their bill and has to reconnect, maybe they should not have the opportunity again.

In response to a question from Vice Mayor McDonald, Mr. Artz indicated he did not know what was the percentage of delinquencies caused by homeowners versus tenants or the percentage of delinquencies that had five or more years of good standing. Vice Mayor McDonald noted that not all foreclosures are due to the economy as some people are walking away from their homes because it is convenient to do so and wondered if people are just as likely to walk away from their bill as well. The legislature passed this bill with no thought as to its impact and it only serves business owners. He would favor continuing to hold the deposit. He commented that based on the data collected thus far, it appears as though the City protected the citizens of Avondale by charging the deposit. Home rentals are businesses, and delinquent tenants are a cost of doing business. He suggested reanalyzing the data after one year.

Council Member Weise said the City is not a private company. It is the Council's responsibility to protect the residents, and if charging a deposit is necessary to do that, he is in favor of it. Liberty Water is a private water company that refunds deposits after 12 months so long as there are not two delinquent bills on the account. In response to a comment from Council Member Weise, Andrew McGuire explained that the City is required to provide water service to an address, but that does not mean water has to be provided without collecting on delinquencies. He explained that the original ordinance was intended to ensure that accounts were brought current before new tenants come in. A few years ago, the Legislature enacted a related statute prohibiting residential rental licensing schemes. The City can only maintain the registrations required by the County. Council Member Weise indicated he is in support of the \$175 deposit and would support a refund policy similar to those of Liberty Water and SRP.

Council Member Vierhout requested that the one year review include detailed information on the number of delinquencies that came from foreclosures versus rentals, how late the delinquencies were, and how many came from homeowners who were not foreclosed upon. He asked if the \$1.2 million in outstanding delinquencies was an anomaly. Mr. Artz indicated that the large outstanding balance was caused by the City not collecting deposits for over ten years. The problem is many people left their properties before receiving the final bill, and without providing a forwarding address. The deposit gives them an incentive to get their water turned off and to provide a forwarding address for their final check. Council Member Vierhout expressed concern that the City could hold onto some people's deposit for years, potentially the rest of their lives, under the current plan. Either the City should return the deposit in reasonable time, or pay interest for holding onto it.

Council Member Buster noted that a renter could have a relative who lives at another address contract for water service, and so long as they do not reside at the service

property, the City would not be able to collect from them. This is a loophole that could be exploited. He suggested that deposits in those situations should be even higher.

Council Member Karlin noted that other cities charge more for the initial deposit than Avondale does. She concurred with Council Member Vierhout on the need for more data for the one year review, and to look into the possibility of refunding deposits.

Mayor Lopez Rogers noted that Jim Weirs wrote H.B. 2193, should citizens wish to comment on it. Legislators that live in Avondale's district also supported the bill. This is what happens when bills are passed with little knowledge of what happens in cities. Council Member Weise said the legislature overlooked Avondale's effort to take broad input when crafting a solution to the problem. Council has to take a more active role in countering misinformation.

3) ADJOURNMENT

With no further business before the Council, Vice Mayor McDonald moved to adjourn the work session. Council Member Weise seconded the motion. The motion carried unanimously.

Meeting adjourned at 7:11 p.m.


Mayor Lopez Rogers


Carmen Martinez, CMC
City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Work Session of the Council of the City of Avondale held on the 20th day of June 2011. I further certify that the meeting was duly called and held and that the quorum was present.


City Clerk