

Respondent Name

City of Newcastle Officials

Complainant Name

Kandy Schendel

Complaint Description

[Kandy](#) (Sat, 10 Oct 2020 at 3:09 PM)

Complaint Description

As a resident of Newcastle and a member of the "Con" Committee who provided the text for the November 2020 ballot measure, Referendum 2, seeking to impose a first-time general utility tax on utility users in Newcastle, *See, attachment 1*, I am alleging serious multiple and continuing violations by the city manager of Newcastle, Rob Wyman, of RCW 42.17A. 555, which states in part, "No local office or agency may authorize a use of public facilities for the purpose of...promoting or opposing a ballot proposition...."

Specific Violations

Under the direction of the city manager, two sets of FAQs were placed on the city's website and emailed to over 2000 residents of Newcastle. One set of FAQs was first posted on September 18, 2020, and a few days thereafter on September 20 was removed following a complaint by Robert Clark, a second member of the three-person "Con" committee appointed by the city council. *See, attachment 2*. Rob demanded that the FAQs be taken down from the city's website because they were false and misleading and contrary to the position of the "Con" committee's statement as it appears in the Voter's Pamphlet. *See, attachment 3*. These FAQs are also false and misleading as evidenced by council and citizen debate and comments on the utility tax and position papers by Newcastle Watchdog, a citizens' group standing for transparency and truth in city government. *See, attachments 4 and 5*.

After Mr. Wyman removed the first set of FAQs, he reposted them on October 1, 2020, with minor modifications and additional false or misleading statements.

Wrongful Use of Public Facilities

The city manager authorized the expenditure of reportedly several thousands of dollars to hire a consultant to create both sets of the FAQs, which were disseminated on the city's website. This is a use of public resources to promote the position of those seeking to retain the utility tax, which was enacted six months earlier by a narrow 4-3 margin by the Newcastle city council. Referendum 2 is subject to a vote to repeal the enacted utility tax by voters on November 3, 2020, and unless repealed by a vote on November 3 goes into effect on January 1, 2021.

Specific Violations: First Set of FAQ's, September 18, 2020

Website: "This utility tax would fairly distribute the burden between Newcastle businesses, homeowners and renters while generating enough revenue to maintain existing services....Additionally, the proposed rate of 3% is not set to increase."

Opposition position: The utility tax is a very unfair tax. It is a regressive tax that adversely affects low income and fixed income families, not to mention all those who have lost their employment because of the COVID-19 economic crisis. Most other cities are cutting their budgets and deferring any tax increases until the COVID-19 crisis abates.

Website: "...the proposed rate of 3% is not set to increase."

Opposition position: The website statement is misleading. The 3% rate can be increased to 6% without a vote of the people. The city in its published future economic plan shows the rate will rapidly go to 6% in the next few years.

Website: "Newcastle is one of only three municipalities in King County that does not already have this tax. Both Renton and Bellevue already have utility taxes."

Opposition position: This is highly misleading. Newcastle has several "utility taxes" that are disguised as franchise fees or services fees. One is a franchise fee from cable provider Comcast. Another is an 8.49% service fee from Waste Management negotiated in a contract extension last year by the city that will rise to 11.49% if the utility tax takes effect. These added costs that the city prefers to call "fees" are, in reality, hidden utility taxes and are passed on to users.

Website: ..."Renton's utility taxes are as high as 10%. What's more, even with the utility tax, Newcastle residents would remain among the lowest- taxed small cities in King County."

Opposition position: Unlike most cities, Newcastle is a contract city. It does not have its own police (King County), fire (Bellevue), or water and sewer utility (Coal Creek Utility). Beyond basic infrastructure, it offers very few other services. As a limited-services city, it *should have lower city taxes* than the larger contiguous full-service cities that surround Newcastle. But it does not. Unlike most cities, Newcastle does not have a B&O tax (business and occupation), however, Newcastle's property tax levy is 50% higher than Bellevue's, Issaquah's, and Renton's. With the passage of the utility tax and planned double-digit increases in surface water management fees, Newcastle's total city taxes will be higher than Bellevue's. **The statement on the website is very misleading.**

Website: "Simply put, if the utility tax fails to pass, our city will be forced to make drastic cuts to services, including police and fire protection, street and parks maintenance, etc."

Opposition position: This is an egregious misstatement. The city has ample reserves in its general fund to cover any shortfalls in public safety. The city recently raised reserve funds to 25% of the fund's balance, now at over \$5.2 million. The recognized best practice standard is 17%. The city is over reserved. More importantly, the city has failed to balance its budget by making cuts in areas other than basic services and infrastructure. Millions of dollars have been spent on consultant services for a failed downtown plan and for other unfunded capital projects. Paying a consultant thousands of dollars to craft these poorly drafted FAQs is another example.

Website: "City leaders commissioned a financial study by third party experts. After a careful review of the city budgets and projections, these experts suggested a 3% utility tax."

Opposition position: This statement is providing incomplete and misleading information. Yes, the city did pay a consultant, Management Partners, \$50,000 in 2019 to tell them what they should already have known: They couldn't continue their high rate of spending without making significant budget cuts and raising some selected taxes without going bankrupt in the mid to longer-term. The consultant reviewed various tax alternatives for the city and selected two taxes for easy implementation and a high degree of success. One, they recommended a golf course admissions tax like many other cities have and Newcastle had shortly after the golf course was built. Two, they recommended a Transportation Benefits District stating that these taxes "might not meet significant community resistance." On the other hand, they stated that a utility tax had "the potential for community pushback." A Management Partner consultant told Nola Coston, chairperson, Newcastle Watchdogs, that he recommended that the city explore consolidation with Bellevue...there was no follow-through on his suggestion by the city. In the 2020 budget, the city did not follow any of Management Partner's recommendations, except to enact the poorly recommended utility tax. Instead, they failed to make any

significant budget cuts and gave significant salary increases to the staff and city manager and authorized additional hiring. The city's approximate million-dollar general fund budget deficit in 2020 was covered by taking money from emergency reserves.

[Kandy](#) (Sat, 10 Oct 2020 at 6:04 PM)

To: "'PDC Support'" <pdcc@pdcc.wa.gov>

Please see the attached one-page section that has been corrected. I have a small but important correction to one section written in the formal complaint (original complaint was submitted earlier today, 10-10-2020 at 3:15 p.m.) against City Manager Robert Wyman, City of Newcastle.

Thank you in advance for replacing the section, "Specific Violations Second Set of FAQs, October 1, 2020" with the attached document.

Sincerely,

Kandy Schendel

kandy@schendelmedia.com

Specific Violations Second Set of FAQs, October 1, 2020.

Website: "After issues over sustainability were raised by the state auditor's office and the City Council Finance Committee, City leaders commissioned a financial study {Management Consultants}...these consultants recommended adoption of a utility tax."

Opposition position: For the past decade both the state auditor's office and the majority of the city's finance committee have urged the city to develop a long-range financial sustainability plan. Although it was considered a number one financial priority for the council for ten years, the city manager and majority council failed to act. Rather than follow Management Partner's best recommendations, in 2020 the city instead decided to enact a utility tax in March, knowing full well there could be great citizen opposition. Because COVID-19 would make signature-gathering difficult because of social distancing and masking requirements, and a reluctance of people to answer their doors it seemed like a good opportunity to sneak it through. Despite the COVID-19 virus, by a 4-3 majority the city council refused to place the Referendum 2 directly on the ballot, although it legally could. Nevertheless, over 1600 signatures were gathered by petitioners to place the measure directly on the ballot.

Note: The city enacted a utility tax and then repealed it to avoid an embarrassing defeat at the polls. Rather shamefully, the repeal only occurred after petitioners had gathered signatures and the measure was certified by the Washington Secretary of State for inclusion on the ballot, subverting the opportunity for a voters to express an opinion on the utility tax." *See Attachment #8.*

Additional objections to the second set of FAQs were sent to the PDC on October 2, 2020, by Robert Clark, in the form of a complaint alleging illegality:

To: Washington State Public Disclosure Commission

I am one of the members of the "Con" committee who provided the text for the ballot measure opposition. I demanded the first set of FAQs come down, which the city removed. However, a second set of FAQs recently appeared and are equally illegal and misleading to the voters; City Manager Wyman authorized these FAQs and appears to be misleading the citizens to create fear that basic services are in jeopardy when that is patently false information.

It is clear to me that the city and the city manager are illegally promoting Referendum 2 to the citizens of Newcastle. I am requesting that all such efforts be immediately suspended. These efforts should include all methods of communication, such as email, mailers, use of websites or any other means. My further request is

that the city manager be personally notified that he has violated the law regarding this matter. Appropriate legal ramifications should be identified and implemented.

Sincerely,

Robert Clark See, attachment 6.

City Manager Rob Wyman's Conduct

When determining the proper penalty for violations of RCW 42.17.130 the offender's intent to harm the public is relevant in assessing the severity of any infractions. There is no question that the city manager, Rob Wyman, knew he was skating on thin ice in publishing the questioned FAQs, but he clearly chose to place his thumb on the scale. On June 6, 2020, the city attorney, Dawn Reitan, gave a briefing on proper conduct by councilmembers and city employees regarding use of city facilities to promote or oppose Referendum 2, the utility tax. Her presentation, including relevant WAC's and PDC policy statements "Referendum Rules of the Road" is contained in the city council approved minutes of June 16, 2020. See attachment 7. At every council meeting to-date she has reiterated her caution to the council and other city employees, including the city manager, Rob Wyman, not to violate the statute. After the first set of FAQs were published on the city's website, Robert Clark, a member of the "Con" opposition, emailed the city attorney and demanded that they be removed because they violated RCW 42.17.130. The city attorney said she would review the complaint and forward it to the city for additional review. Although the city manager removed the FAQs for a few days, they were slightly revised and republished about a week later. The city manager did not consult with the city attorney before the first FAQs were published nor present them to the city council first for review and discussion. The second FAQs were reviewed by the city attorney, but not the city council. But the city attorney did not opine on the substantive content of the revised FAQs. On October 2, Robert Clark, complained again to the city attorney that the revised FAQs were equally objectional as the first set and the unlawful portions of the FAQs should be removed. The city attorney responded by email saying, she would review the material and send them to the city for review. As of today, October 10, 2020, the second set of FAQs remains on the city's website providing false, misleading, and highly biased information in hopes they can convince voters that they will lose essential fire and police services if they do not approve. I am requesting that the city manager is held accountable.

Number of Violations

Under the circumstances and the number of warnings given, each false or misleading answer should be considered a separate violation and each day of publication on the website should restart the clock and constitute repeated violations.

Consolidation of Complaints

Since they arise out of the same subject matter, Robert Clark's complaint and this complaint should be consolidated for review.

What impact does the alleged violation(s) have on the public?

Violations by the Newcastle city manager of RCW 42.17A.555, the use of city facilities to promote a local ballot measure, Referendum 2 favors the proponents of the utility tax and adversely affects the opponents of utility tax and, as a result of violating this RCW, may affect the election on the utility tax on November 3, 2020.

List of attached evidence or contact information where evidence may be found

Attachments provided in this complaint:

1. Pro and Con Statements in the November 2020, Voters Pamphlet
2. City Referendum 2 FAQs set #1 on September 18, 2020, and FAQs set #2 on October 1, 2020
3. Robert Clark correspondence with city attorney, Dawn Reitan, October 2, 2020

4. Citizen Flyer "Vote No On Unnecessary Taxes." Distributed widely
5. Newcastle Watchdog memorandum, "Just Say No to Yes," October 1, 2020
6. Robert Clark complaint filed with the PDC, October 5, 2020
7. City council approve minutes "Referendum rules of the road" June 16, 2020
8. Seattle Times article, "City Council Dumps 6% Utility Tax -- Increase in Property Taxes is Predicted," November 7, 1999

List of potential witnesses with contact information to reach them

Robert Clark, Member "Con" council committee.
Email: robkellyclark@yahoo.com

Nola Coston, chairperson, Newcastle Watchdogs.
Email: NewcastleWatchdogs@gmail.com

Certification (Complainant)

I certify (or declare) under penalty of perjury under the laws of the State of Washington that information provided with this complaint is true and correct to the best of my knowledge and belief.

Correction to Formal Complaint to Public Disclosure Commission – 10-10-2020

Please note I have a small but important correction within one section of the complaint against Robert Wyman (City of Newcastle). The original submission was completed today at 3:15 p.m. You can view the noted in **yellow highlight**, below.

Thank you,
Kandy Schendel
kandy@schendelmedia.com

SPECIFIC VIOLATIONS SECOND SET OF FAQs, OCTOBER 1, 2020.

Website: "After issues over sustainability were raised by the state auditor's office and the City Council Finance Committee, City leaders commissioned a financial study {Management Consultants}...these consultants recommended adoption of a utility tax."

Opposition position: For the past decade both the state auditor's office and the majority of the city's finance committee have urged the city to develop a long-range financial sustainability plan. Although it was considered a number one financial priority for the council for ten years, the city manager and majority council failed to act. Rather than follow Management Partner's best recommendations, in 2020 the city instead decided to enact a utility tax in March, knowing full well there could be great citizen opposition. Because COVID-19 would make signature-gathering difficult because of social distancing and masking requirements, and a reluctance of people to answer their doors it seemed like a good opportunity to sneak it through. Despite the COVID-19 virus, by a 4-3 majority the city council refused to place the Referendum 2 directly on the ballot, although it legally could. Nevertheless, over 1600 signatures were gathered by petitioners to place the measure directly on the ballot. **Note:** **Previously in 1999**, the city enacted a utility tax and then repealed it to avoid an embarrassing defeat at the polls. Rather shamefully, the repeal only occurred after petitioners had gathered signatures and the measure was certified by the Washington Secretary of State for inclusion on the ballot, subverting the opportunity for a voters to express an opinion on the utility tax." See *Attachment #8*.

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Sincerely,

Robert Clark See, attachment 6.

PDC Complaint Attachments

October 10, 2020

Please find the following evidence attachments:

1. Pro and Con Statements in the November 2020, Voters Pamphlet
2. City Referendum 2 FAQs set #1 on September 18, 2020, and FAQs set #2 on October 1, 2020
3. Robert Clark correspondence with city attorney, Dawn Reitan, October 2, 2020
4. Citizen Flyer "Vote No On Unnecessary Taxes." Distributed widely
5. Newcastle Watchdog memorandum, "Just Say No to Yes," October 1, 2020
6. Robert Clark complaint filed with the PDC, October 5, 2020
7. City Council Approved Minutes "Referendum rules of the road" June 16, 2020
8. Seattle Times article, "City Council Dumps 6% Utility Tax -- Increase in Property Taxes is Predicted," November 7, 1999

Referendum No. 2 Levy of Utility Taxes

The Newcastle City Council passed Ordinance 2020-609, which levies 3% utility taxes on the total gross income of utility businesses providing telephone, cellular phone, gas distribution, light and power, cable television, sewer, solid waste, and water in the City to fund public safety services (police, fire). Under the ordinance, the utility taxes would take effect January 1, 2021.

Should this ordinance be:

Approved

Rejected

The complete text of this measure is available at the Elections Office or online at kingcounty.gov/elections.

Statement in favor

Submitted by: Charlie Gadzik,
Diane Elaine Lewis, Nathan Stix,
friendsfornewcastle@gmail.com

Why raise taxes now of all times?

Because it's the only way we can maintain the police, fire, park and street services that make living in Newcastle so special.

For 26 years, the city has budgeted carefully and avoided collecting taxes, such as utility and B&O, that are levied by nearly every other city in King County. It was able to do this because it relied on fees from new development. But vacant land is nearly gone, and with it has gone the city's income from new development. Meanwhile, expenses have risen at the rate of inflation, while property taxes can increase only 1% each year. City staff headcount, excluding police, is the same as it was in 2009, even though population has grown 25%.

Residents say that public safety and traffic control are high priorities. Without new tax revenue, city services you desire cannot be maintained. The proposed utility tax is 3%, with no provision for increases. It will cost an average residence \$10 per month. Isn't that a reasonable price for our continued safety, a quick response to a 911 call, decent streets, and good parks?

Get the facts and estimate your utility tax at FriendsforNewcastle.org.

Rebuttal of statement in opposition

Good management and cost controls are what produced Newcastle's reserve. Salary increases over the past 10 years have simply matched the local economy. Newcastle has already reduced staff and is drawing on the reserve to pay regular operating expenses.

State auditors warn that a long-term solution is required. Our choice is to either raise taxes or face certain cuts. You can preserve services for about \$10 a month. If you love Newcastle, vote "yes."

Explanatory statement

The Newcastle City Council passed Ordinance 2020-609, which levies a 3% utility tax on the total gross income of utility businesses providing telephone, cellular phone, gas distribution, light and power, cable television, sewer, solid waste, and water in the City to fund public safety services (police, fire). Under the ordinance, the utility taxes would take effect January 1, 2021.

Referendum No. 2 is presented to the voters pursuant to state law, which provides a process for the voters to approve or reject the City's utility tax ordinance. If the measure is approved it will uphold the 3% utility tax. If the measure is rejected it will overturn the 3% utility tax.

If approved, it is estimated that the 3% utility tax will generate approximately \$880,000 in revenue per year based on both residential and commercial utility customers. Based on a total of approximately 5,500 residential dwelling units in the City, the average residential household would pay just over \$10 a month on utility taxes. A smaller home or apartment may pay less and a larger home may pay more. The City anticipates using the projected utility tax revenue to pay for public safety (fire and police) services, as the City's 2020 budget identified increased costs relating to police and fire contracts in the future.

For questions about this measure, contact:
Paul White, City Clerk,
(425) 649-4143 ext. 102,
cityclerk@newcastlewa.gov

Statement in opposition

Submitted by: Tamra J. Kammin,
Kandy K. Schendel, Robert Clark,
citizens4newcastle@gmail.com

Newcastle does *not* need 9 new utility taxes (cable, telephone, cellular, gas, electricity, water, surface water, sewer, solid waste) impacting every resident and business. Timing could not be worse given the COVID-19 economic challenge. With over \$5.2 million in cash reserves—the most in history—our city refuses to focus on reducing expenses and controlling costs *before* adding new taxes. Newcastle has consistently overestimated an imminent need for additional revenue. In 2019, Newcastle staff's deficit estimation was incorrect by over \$700,000. Council shows *repeated lack of restraint* in spending your money wisely. Historically, Council has *excessively* increased salaries, benefits, and headcount – the *worst* possible area to escalate.

This Utility Tax begins at 3% and can easily increase to 6%+. Your Newcastle fee on garbage is already at 8.49%, just implemented in 2019, and jumps to 11.49%. This tax will negatively impact Newcastle businesses who will understandably pass much of it on to customers. Newcastle government was intended to be small and efficient, keeping expansion and taxation minimal. Proponents *falsely* claim that police and fire services will be reduced without this tax. Voting no will *not* reduce existing services. Force your city to practice fiscal discipline. *Reject this new tax.*

Rebuttal of statement in favor

Making voters think emergency services would be cut is *terribly misleading*. Property tax alone covers Police and Fire (Newcastle's top priorities). Our *highest-ever reserves*, \$5,215,340, exceed policy requirement by \$2,500,000. Development and re-development fees also provide continuing revenue.

In 2012, through fiscal discipline, City headcount was 21, but has now ballooned to 27. *Businesses and residents* will be *hurt* by these 9 taxes, *easily increased* by Council vote. Vote no, stating loudly, "practice fiscal discipline."

Attachment #2: FAQs set #1 September 18, 2020 and FAQs set #2 October 1, 2020

FAQs Set #1: Published on City of Newcastle Website September 18, 2020

FAQs: Referendum 2

Posted on 09/18/2020



This November, Newcastle residents will be asked to vote on a 3 percent utility tax. There's been some confusion about this ballot measure, so we've compiled a list of FAQs. Click the dropdown menus below to learn more.

Q: Why is this tax needed?



A: The city is funded three ways. The first is through property taxes. State law caps the increase of property taxes at 1% per year, however inflation rises at a greater rate. Revenue from property taxes accounts for roughly fifty percent of the city's operating revenue. Sales tax revenue is the second significant revenue source. Lastly, the city collects fees from new development projects. These last two sources are prone to fluctuation and are highly dependent on economic conditions. The end result is that the city is left with a structural budget deficit.

Q: Is this budget shortfall a result of COVID-19?



A: The simple answer is no. While the effects of COVID-19 have not helped, especially in regards to our development revenue, the city's budget shortfall began before the pandemic and city leaders have been exploring ways to address it for over two years.

Q: Doesn't Newcastle already have a utility tax?



A: No. Newcastle is one of only three municipalities in King County that does not already have this tax. Both Renton and Bellevue already have utility taxes. In fact, Renton's utility taxes are 6% and Bellevue's are as high as 10%. What's more, even with the utility tax, Newcastle residents would remain amongst the lowest-taxed small cities in King County.

Q: Why a utility tax?



A: This utility tax would fairly distribute the burden between all Newcastle businesses, homeowners and renters while generating enough revenue to maintain existing services. 100% of the tax collected will go to the city. Additionally, the proposed rate of 3% is not set to increase.

Attachment #2: FAQs set #1 September 18, 2020 and FAQs set #2 October 1, 2020

FAQs Set #1: Published on City of Newcastle Website September 18, 2020 (Cont'd)

Q: How will I pay this tax?



A: The 3% tax will be applied to your bill for the following utilities:

- Electricity and Natural Gas (Monthly from Puget Sound Energy)
- Garbage (Quarterly from Waste Management)
- Water/Sewer (Bimonthly from Coal Creek Utility District)
- Cable TV (Monthly from Comcast)
- Phone Voice Fees*

*Often, the voice portion of your mobile bill accounts for only one-third of your total bill

Q: What utilities won't be taxed?



A: Cable internet, mobile phone text, data and non-voice fees.

Q: How much will this cost me and my family?



A: The average household in Newcastle will pay between \$8 and \$14 a month.

Q: What is driving this need?



A: The simple answer is that the cost of public safety services like police and fire is increasing and city revenue cannot keep pace. Current projections show that by 2025, 100% of city property taxes would go to fund public safety. This is up from 81% just six years ago. Additionally, since the vast majority of land available for development has been developed, the city needs a new, more reliable source of revenue to replace that funding source.

Q: How did the city come to choose a utility tax?



A: City leaders commissioned a financial study by third-party experts. After careful review of city budgets and projections, these experts suggested a 3% utility tax.

Q: What will happen if this tax doesn't pass?



A: If the utility tax fails to pass, our city will be forced to make drastic cuts to services, and within a few short years would not be able to support itself as an independent city. Simply put, if the utility tax fails to pass, our city will be forced to make drastic cuts to services, including police protection, street and parks maintenance, etc.

Attachment #2: FAQs set #1 September 18, 2020 and FAQs set #2 October 1, 2020

FAQs Set #2 Published on City of Newcastle Website October 2, 2020

FAQs: Referendum 2

Posted on 10/01/2020



This November, Newcastle residents will be asked to vote on a proposed 3% utility tax. To address common questions related to the proposed utility tax, we've compiled a list of FAQs. Click the dropdown menus below to learn more.

Q: Why is a utility tax needed?



A: Newcastle has three primary sources of revenue: property tax, sales tax and development fees. Multiple forecasts have shown that projected revenues cannot keep pace with projected expenditures. The City's largest revenue source is from property taxes which account for roughly 50% of operating revenue. The City only collects a portion of the overall property tax bill a household pays, typically about 15%. In addition, state law caps increases in property tax revenue to 1% per year, while inflation generally rises at a greater rate.

The revenue collected from sales tax and development fees are prone to fluctuation based on economic conditions. The end result is that the City's three primary revenue sources cannot keep pace with expenditures, creating what is called a structural budget deficit. Because of this, financial professionals have recommended that Newcastle diversify its revenue sources with more stable revenue options, such as a utility tax.

Q: Why is a utility tax needed now?



A: The cost of city services, including public safety services like police and fire, are increasing and existing revenue cannot keep pace. Current projections show that by 2025, 100% of property tax revenue would go to just fund public safety. This is up from 81% only six years ago. Additionally, since the vast majority of land available for new growth has already been developed, the City needs a new, more reliable source of revenue to replace that funding source.

After concerns over sustainability were raised by the state auditor's office and the City Council Finance Committee, City leaders commissioned a financial study by a third-party consultant firm. After careful review of city budgets and projections, these consultants recommended adoption of a utility tax to diversify revenue sources.

Attachment #2: FAQs set #1 September 18, 2020 and FAQs set #2 October 1, 2020

FAQs Set #2 Published on City of Newcastle Website October 2, 2020 (Cont'd)

Q: Is this budget shortfall a result of COVID-19?



A: No. Discussions to address the City's anticipated budget shortfall began before the COVID-19 pandemic and City leaders have been exploring ways to address it for over two years. The fiscal impacts of COVID -19 are being monitored and will be discussed further during the 2021 budget process.

Q: Doesn't Newcastle already have a utility tax?



A: No. Newcastle is one of only three municipalities in King County that does not have a utility tax. The only other two cities without this source of revenue is Sammamish and SeaTac. Looking at our neighboring cities, Renton's utility taxes are set at 6% and Bellevue's range from 4.5% to 10.4%.

Q: How would the utility tax be applied?



A: The utility tax would distribute the burden among all Newcastle businesses, homeowners and renters, and is anticipated to generate sufficient revenue to maintain existing city services. Unlike property and sales taxes, 100% of the revenue collected would go to the City. Additionally, the proposed rate of 3% is not set to increase.

Q: What utilities would this tax apply to?



A: The 3% tax would be applied to the following utilities:

- Electricity and Natural Gas (Monthly from Puget Sound Energy)
- Garbage (Quarterly from Waste Management)
- Water/Sewer (Bimonthly from Coal Creek Utility District)
- Cable TV (Monthly from Comcast)
- Phone Voice Fees*

*The voice portion of a mobile bill typically accounts for one-third of the total bill

Attachment #2: FAQs set #1 September 18, 2020 and FAQs set #2 October 1, 2020

FAQs Set #2 Published on City of Newcastle Website October 2, 2020 (Cont'd)

Q: What utilities are not subject to the utility tax?



A: Cable internet, stormwater, mobile phone text, data and non-voice fees.

Q: How much will this cost me and my family?



A: The average household in Newcastle will pay between \$8 and \$14 a month total.

Q: What are the impacts of approving/rejecting the utility tax?



A: If approved, it is estimated the utility tax will generate approximately \$880,000 in revenue. The City anticipates using the projected revenue to pay for public safety services (fire and police), as the City's 2020 budget identified increased costs relating to police and fire contracts in the future. If rejected, it is projected that the City will have an approximately \$1 million shortfall in the 2021 budget alone, and will need to consider cutting public safety (police and fire) and other services.

Attachment #3: Rob Clark Correspondence with City Attorney (both sets of FAQs)

[Email submitted to city attorney regarding 2nd set of FAQs showing on the city's website]

From: Clark, Robert (NSSEA)
Sent: Friday, October 2, 2020 7:09 AM
To: 'Dawn Findlay Reitan' <dreitan@insleebest.com>
Subject: RE: Referendum 2

Good Morning Dawn,

I am dismayed to see that once again the city is promoting the PRO position about the utility taxes on its website. The answers may be slightly different to the FAQ's but they still form an opinion and can easily be disputed by the CON position. I am not sure why the city manager persists in doing something that clearly violates the law that the city take NO position on any ballot measure as I described in my previous correspondence with you. Furthermore I have been informed that to create these FAQ's the city manager hired consultants at taxpayer expense to do so.

The city is spending Newcastle resident taxpayer money to promote one side of a ballot measure. Even if I was on the PRO side the ethical violations are obvious and I am sure there are related criminal statutes as well. Needless to say this portion of the website must be taken down. Not withing 24 hours but immediately. I will look again before noon today and expect to see this information removed and remain hopeful that this is the last time we will have to correspond about this before the November election.

Please acknowledge receipt of my e-mail and confirmation that action will be taken immediately.
Thank you for your attention,
-Rob Clark

Robert Clark

[See next page.]

Attachment #3: Rob Clark Correspondence with City Attorney

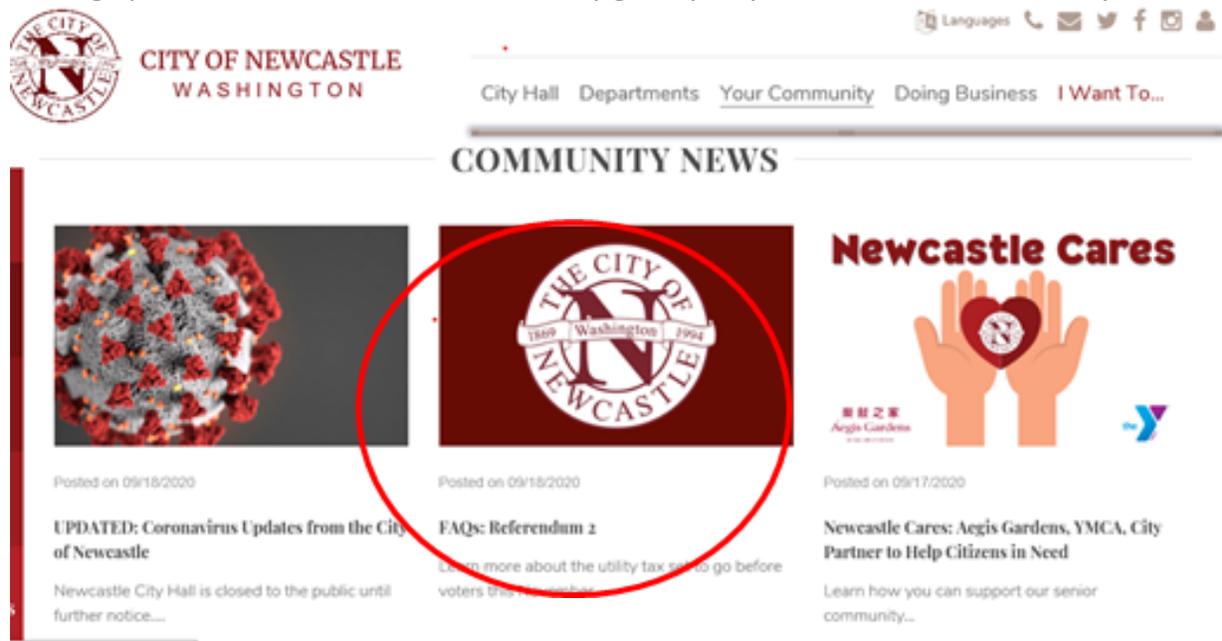
(both sets of FAQs)

[Email submitted to city attorney regarding 1st set of FAQs showing on the city's website]

From: Clark, Robert (NSSEA)
Sent: Monday, September 21, 2020 12:45 PM
To: Dawn Reitan <DawnR@ci.newcastle.wa.us>
Subject: Referendum 2

Hi Dawn,

I am one of the member of the CON committee that wrote the opposition to Referendum 2, coming up on the November ballot. I was very greatly surprised to see this on the city website:



I am also greatly concerned because this is clearly the PRO position about the ballot and clearly has the city taking sides in violation of WA 390-05-273 (listed below). I am not a legal person but there are probably other regulations or statutes that refer to this as well.

The city is giving its opinion about the ballot and this is not allowed. I request that you quickly take down this information and take no position whatsoever about the Referendum on city websites, properties or other entities and locations as understood to be owned or controlled by the city. I would think 24 hours is a reasonable amount of time to accomplish this.

I would appreciate a reply and thank you for your attention.

-Rob Clark

WAC 390-05-273 - Definition—Normal and regular conduct.

Normal and regular conduct of a public office or agency, as that term is used in the proviso to RCW [42.17A.555](http://app.leg.wa.gov) [app.leg.wa.gov], means conduct which is (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some extraordinary means or manner. No local office or agency may authorize a use of public facilities for the purpose of assisting a candidate's campaign or promoting or opposing a ballot proposition, in the absence of a constitutional, charter, or statutory provision separately authorizing such use.

VOTE NO on UNNECESSARY NEW TAXES!

REJECT NEWCASTLE REFERENDUM 2!



Soon you will receive your November ballot in the mail and as a Newcastle resident you will be asked to approve or reject Referendum 2. The referendum **sounds harmless enough**. They state, "A simple 3% tax on 8 utilities will fund police and fire." The city is hoping you will approve this without reading further or doing research. That is why they *cleverly worded* the measure this way. You may even receive a slick flyer on your doorstep or view a fancy yard sign on our city streets from a group that claims to love Newcastle. They are in love alright....in love with your money!

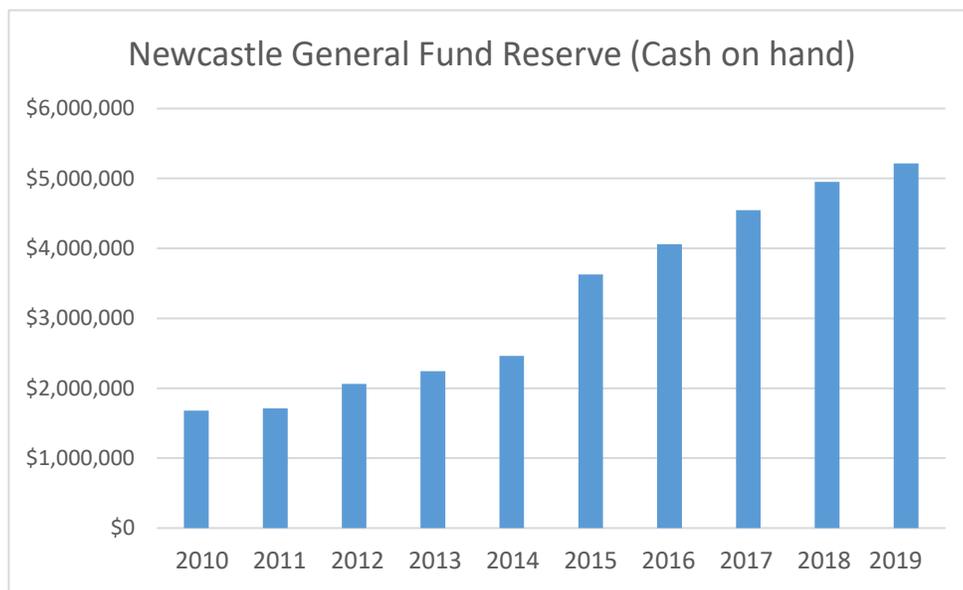
WHAT IS REALITY?

The utility tax goes into the **general** fund to be used on any number of expenses of which police and fire are only a portion.

Police and fire are the city's #1 responsibility and will NOT be cut. Public safety will always be allocated first in any budget and those services are already funded by existing taxes and fees.

The general fund reserve is the LARGEST in city history at over \$5.2 million dollars; *A 211% rise in 9 years.*

Since 2010, Newcastle's general fund reserve has increased every single year without a utility tax!



The tax is levied on all citizens AND businesses in Newcastle. Our businesses will understandably pass some of the costs on to you!

The COVID crisis has been financially difficult on members of our community and local businesses. Now is not the time to make it harder on all of us.

Any government with excess funds should put money away for a rainy day. However, the temptation to easily spend a tax revenue windfall (your money) will prove irresistible.

THINGS YOU WILL HEAR FROM THOSE IN FAVOR OF THE TAX:

The tax is 'only' 3%, about \$10 per month.

REALITY: The tax can go up to 6% by a simple council vote – and you KNOW it will. NO voter referendum is required. Some of the 9 taxes have no % ceiling and can exceed 6% **at any time**. A 9th utility (surface water) is included at 0% currently, to be increased once they figure out how to bill you.

Can you name **any** tax that started small and stayed small?

A friendly 'tax calculator' is available to show you how 'harmless' the tax really is.

REALITY: The proponent's "tax calculator" is only an ESTIMATE and does not provide for a 6% or higher tax. It also does not calculate what businesses will charge you when they pass on their utility taxes to you.

Almost every other city in our state has a utility tax so we should have one too.

Everybody else is taxed so we should be too? Really? That is an actual argument in favor of this tax!

REALITY: Most other cities in our state cut staff or reduced hours due to the COVID crisis. Newcastle did not.

The city will 'fail' without this tax.

REALITY: Does a city with an annually increasing general fund sound like it is failing? The city council has control over the city's spending. Fiscal discipline should be our immediate focus **before** adding more tax.

The city has been responsible with your money.

REALITY: The city hired financial consultants who recommended fiscal responsibility and budget discipline before any thought of taxes. The city has not done this; instead, focusing on the "easy" answer of new taxes.

REALITY: The city council recently voted, in 2018, to eliminate the need for the city manager to provide a balanced budget for annual consideration. This was a long-standing requirement, but no longer.

The city manager submits unbalanced budget "wish lists" and the council majority has failed to push back.

The result? The city council budgeted to a \$142,000 deficit in 2019 and a \$896,000 deficit in 2020!

[Budgeted to a deficit...who does that?!]

Why do that? **Because now they can get away with making the numbers look bad to "win you over" when they ask for more revenue. This is a complete misrepresentation.** To make up the difference, they want YOU to pay for 9 new utility taxes because *they refuse to cut spending or practice fiscal discipline!*

WHO ARE WE?

- We are your concerned neighbors who have Newcastle citizens' best interests in mind.
- We have NO fancy yard signs, slick brochures or an elaborate website filled with questionable "facts."
- We, like you, wish to keep our hard-earned money, keep our city small and have our city run efficiently.
- We practice fiscal discipline in our lives and expect our local government to do the same.

Proponents of this tax want citizens and businesses to make up for the city's failure of fiscal discipline by misleading you with an emotional appeal about public safety concerns.

DO NOT BE FOOLED!

Between now and November 3rd, expect to see additional misleading information in favor of this tax.

VOTE NO on **THESE UNNECESSARY NEW TAXES!**
REJECT NEWCASTLE REFERENDUM 2!

From: Newcastle Watchdogs <NewcastleWatchdogs@gmail.com>
Sent: Thursday, October 1, 2020 3:52 PM
To: {distribution list}
Subject: FOLLOW THE MONEY

Attachment #5:

Newcastle Watchdogs email
memorandum October 1, 2020
(5 pages)



***November Ballot Alert!!
Say "No" to "Yes"***

Over the last eight years, a 4-3 divided Newcastle City Council has fought a battle over the fiscal direction of the city. A slim council majority has favored an aggressive plan to grow the city through higher taxes, deficit spending, and a multitude of costly development plans that have populated the downtown area with six-story apartments. The apartments provided a short-term revenue boost with development fees and construction materials sales tax, but longer term they represent a net negative, because of the increased cost of police and fire and road maintenance.

Now the chickens have come to roost. Despite having a very low level of city services, Newcastle has one of the highest residential real estate taxes in the area (**much higher** than Bellevue's, a full-service city). Newcastle faces ever increasing operating deficits. According to the city's own financial consultant, Newcastle needed to take action or face near term bankruptcy. Rather than cutting expenses and delaying new taxes like other cities are doing during this Covid-19 economic crisis, the current council majority, comprised of **Newing, Ventrella, Magers, and Sherlock**—upon the city manager's recommendation—have chosen to increase unnecessary spending financed by a new broad-based utility tax enacted on a slim 4-3 vote this June.

Fortunately, the state legislature has provided a remedy allowing voters to overturn the unrestrained tax and spend council majority. Due to the successful and heroic signature gathering efforts of Newcastle citizens during Covid-19, Referendum 2, is on the ballot this November giving voters a chance to repeal the utility tax before it goes into effect in January of 2021.

Beware Of Wolves In Sheep's Clothing

You've probably seen the signs popping up around the city like weeds this election season asking

you to vote "Yes" in big red letters, but neglecting to tell you that the "Yes" is for a major utility tax increase that particularly negatively affects lower income and retired residents, small retail businesses, and those who have recently lost their jobs or been laid off because of the virus. As is required by the Public Disclosure Commission, the campaign signs identify (in small print) who is paying for all this: "Friends for Newcastle." Turns out these "friends" are a political action committee funded by the City Hall tax-and-spend majority and other interested parties, who want funding favors from the city.

Follow The Money

If you want to know who the individuals behind political campaign advertising are, the State Public Disclosure Commission urges citizens to "follow the money." Let's follow the money.

[Friends For Newcastle, 2020 | Select CONTRIBUTIONS tab. View Donors here.](#)

Treasurer, Ryan Sherlock. Ryan Sherlock is majority councilmember Ariana Sherlock's husband. He is employed by Puget Sound Energy (PSE). PSE has appeared numerous times before the Newcastle City Council promoting a 16-mile Eastside power line (Energize Eastside) that snakes in part through Newcastle. City Manager Rob Wyman says, "Newcastle residents have shown more interest in Energize Eastside than any other project in the city's history."

Major Donors: Friends for Newcastle (as of 9/30/20): **\$6475**

Current Council majority and related family members

- **Linda Newing: \$400**, Mayor
- **Tony Ventrella: \$550**, Deputy Mayor
- **Tom Magers: \$525**, Councilmember
- **Ariana Sherlock: \$550**, Councilmember

City Commissioners

- **Brian Cannard, \$500**. Planning Commissioner
- **Charles Gadzik, \$500**. Chair, Planning Commission. Employed by Puget Sound Energy
- **Nathan Stix: \$250**. Vice Chair, Activities Commissioner
- **Chris Villasenor: \$200**. Planning Commissioner

The last three tax-and-spend Newcastle mayors were all voted out of office by candidates for "fiscal discipline."

1. **Allen Dauterman: \$500.** As an incumbent mayor, defeated in 2019 by current minority councilmember, Tom Griffin, 63% - 37%. A clear statement by voters for fiscal responsibility.
2. **Rich Crispo: \$200.** As an incumbent mayor, defeated in 2017 by current minority councilmember, Dave Mitchell.
3. **Barbara Jean Garber: \$100.** As an incumbent mayor, defeated in 2009 by former mayor, John Dulcich.

Biggest Donor

- **Rex K. Loder: \$1000.** Employed by T-Mobile.

Donors currently seeking funds from the City of Newcastle:

- **Stuart Allen: \$400.** Newcastle Trails.
- **Eric Carter: \$100.** DeLeo Wall.

City Hall Tenant

- **Geoffrey Strange: \$100.** Sold city hall building to the city for \$6.8 million.

Illegal and Unbecoming Conduct by the Majority Council and City Manager

1. **Unbecoming:** Council majority members **Newing, Ventrella, Magers, and Sherlock** voted to pass the utility tax this past June. Their arguments for passing the utility tax are in the Voters' Pamphlet, which arrives in the mail on October 15. But apparently fearing that their arguments in the Voters' Pamphlet were not persuasive, the council majority decided to double down by forming and funding with more than \$2000 a political action committee deceptively titled, "Friends for Newcastle."
2. **Unbecoming:** Although the council majority members **Newing, Ventrella, Magers, and Sherlock** had the legal ability to place the utility tax directly on the November ballot, they refused to do so. Nevertheless, despite the risk of spreading Covid-19, petitioners gathered more than 1600 signatures, more than required to place the measure on the ballot. None of the council majority members signed the petition for the Referendum.
3. **Illegal:** City Manager, **Rob Wyman**, was caught red-handed illegally promoting the "Yes" position on the city's website to influence the vote on Referendum 2. The Council, City Manager, and public were clearly warned by the City Attorney, Dawn Reitan, at a June 16, 2020 council meeting ([View it here](#)) and at subsequent council meetings of the

illegality of using any city facility "...for the purpose of promoting or opposing a ballot measure."(RCW 42.17A.555 [View it here](#) and WAC 390-05-273 [View it here](#).)

Nevertheless, Wyman used city funds to hire a consultant to construct FAQs for posting on the city's website. On September 18, 2020, ten FAQ's that favored the "Yes" vote on critical points in dispute between the parties were publicly posted. For example, the answer to one of the FAQ's on the city's website said, *"If the utility tax fails to pass, our city will be forced to make drastic cuts to services, and within a few short years would not be able to support itself as an independent city."* This untrue statement was disputed by petitioners opposing the utility tax. The city attorney was notified by Rob Clarke (a designated member of the opposing committee who wrote their position for the ballot) of the illegality of the city's FAQ posting. He demanded they take it down within 24 hours. The illegal and prejudicial posting was quietly taken down by the city without apology or explanation.

4. **Unbecoming:** Majority Councilmember, **Tom Magers**, on NextDoor.com, *suppresses transparent government and the citizens' right to know what's really going on in this city.* Tom Magers, is a lead or monitor on Newcastle NextDoor neighborhood posts. On several occasions he has voted to remove Watchdogs' posts that he thinks are critical of the city and the majority council's leadership. In his position, this clearly represents a serious and obvious conflict of interest. No Newcastle council member should occupy a censorship position on NextDoor.com that allows them to vote to remove comments questioning the proper conduct of city affairs.

As you can see, "Friends for Newcastle" are not really your friends. It's time for belt-tightening not more taxes. The city can survive just fine if voters continue sending the message that the entire city council, not only the three council minority members, MUST practice fiscal discipline.

Just say a loud **"No"** (Reject) to "Yes" (Approve) on Referendum 2.

Please share this information with your Newcastle Neighbors.

Nola Coston
Bill Erleben
Newcastle Watchdogs



NO USER UTILITY TAXES

Important Links:

- Register to Vote ([click here](#))
- Check your Voter Registration Information and Track Your Ballot ([click here](#))
- Newcastle Watchdogs' Facebook page ([click here](#))

To: Washington State Public Disclosure Commission

City Manager, Rob Wyman, illegally authorized two sets of FAQs posted on the City of Newcastle website regarding Newcastle Referendum 2. The first set was posted on September 18, 2020 and was a clear violation (WAC 390-05-273, <https://apps.leg.wa.gov/WAC/default.aspx?cite=390-05-273>, which is the proviso to RCW 42.17A.555, which states, in part, “No local office or agency may authorize a use of public facilities for the purpose of assisting a candidate's campaign or promoting or opposing a ballot proposition...”). The second set was posted on October 1, 2020 and is equally a violation of Washington State law.

I am one of the members of the “Con” committee who provided the text for the ballot measure opposition. I demanded the first set of FAQs come down, which the city removed. However, a second set of FAQs recently appeared and are equally illegal and misleading to the voters; City Manager Wyman authorized these FAQs and appears to be misleading the citizens to create fear that basic services are in jeopardy when that is patently false information.

City Manager Wyman, I have learned, utilized city funds (estimated to be thousands of dollars) to hire consultants to create these two sets of FAQs. Using city funds to promote the “yes” vote, I believe, is illegal.

In addition, citizens have repeatedly been told that we cannot speak for or against this referendum at any city council meeting, yet the city is taking a multi-faceted approach to promoting the “yes” vote illegally by using the city website, by emailing citizens through the city e-newsletter, and I have also heard they are planning to send a mailer to all citizens. **I need clarification if there is any reason a citizen should not be allowed to speak for or against a ballot measure during public comment period.**

It is clear to me that the city and the city manager are illegally promoting Referendum 2 to the citizens of Newcastle. I am requesting that all such efforts be immediately suspended. These efforts should include all methods of communication, such as email, mailers, use of websites or any other means. My further request is that the city manager be personally notified that he has violated the law regarding this matter. Appropriate legal ramifications should be identified and implemented.

Sincerely,

Robert Clark
Newcastle Citizen

Attached: Legal references

Legal References

WAC 390-05-273

Definition—Normal and regular conduct.

Normal and regular conduct of a public office or agency, as that term is used in the proviso to RCW [42.17A.555 \[app.leg.wa.gov\]](#), means conduct which is (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some extraordinary means or manner. **No local office or agency may authorize a use of public facilities for the purpose of assisting a candidate's campaign or promoting or opposing a ballot proposition**, in the absence of a constitutional, charter, or statutory provision separately authorizing such use.

RCW [42.17A.555](#)

Use of public office or agency facilities in campaigns—Prohibition—Exceptions.

No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency. However, this does not apply to the following activities:

(1) Action taken at an open public meeting by members of an elected legislative body or by an elected board, council, or commission of a special purpose district including, but not limited to, fire districts, public hospital districts, library districts, park districts, port districts, public utility districts, school districts, sewer districts, and water districts, to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body, members of the board, council, or commission of the special purpose district, or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

(3) Activities which are part of the normal and regular conduct of the office or agency.

(4) This section does not apply to any person who is a state officer or state employee as defined in RCW [42.52.010](#).

SECOND SET FAQS POSTED ON CITY OF NEWCASTLE WEBSITE

Referendum 2

Why is a utility tax needed?

A: Newcastle has three primary sources of revenue: property tax, sales tax and development fees. Multiple forecasts have shown that projected revenues cannot keep pace with projected expenditures. The City's largest revenue source is from property taxes which account for roughly 50% of operating revenue. The City only collects a portion of the overall property tax bill a household pays, typically about 15%. In addition, state law caps increases in property tax revenue to 1% per year, while inflation generally rises at a greater rate.

The revenue collected from sales tax and development fees are prone to fluctuation based on economic conditions. The end result is that the City's three primary revenue sources cannot keep pace with expenditures, creating what is called a structural budget deficit. Because of this, financial professionals have recommended that Newcastle diversify its revenue sources with more stable revenue options, such as a utility tax.

MISLEADING: The misleading comments above are addressed throughout the remaining responses to the FAQ. In addition:

Fluctuation in revenue creates additional requirements for reducing non-mandatory expenditures. In addition to the 1% yearly increases in property tax, we receive additional property tax each year for new construction. A structural budget deficit is based on reliability of estimation going forward. Newcastle has not experienced an ACTUAL BUDGET DEFICIT since 2010 and that has been the City's only actual budget deficit other than 1999. Our General Fund Reserve of over \$5.2 million is the highest in the city's history.

Q: Why is a utility tax needed now?

A: The cost of city services, including public safety services like police and fire, are increasing and existing revenue cannot keep pace. Current projections show that by 2025, 100% of property tax revenue would go to just fund public safety. This is up from 81% only six years ago. Additionally, since the vast majority of land available for new growth has already been developed, the City needs a new, more reliable source of revenue to replace that funding source.

After concerns over sustainability were raised by the state auditor's office and the City Council Finance Committee, City leaders commissioned a financial study by a third-party consultant firm. After careful review of city budgets and projections, these consultants recommended adoption of a utility tax to diversify revenue sources.

MISLEADING: It is untrue that the consultants recommended adoption of a utility tax on 9 different utilities. The financial consultants identified 45 options for both revenue enhancement and expenditure reduction, only one of which was the utility tax. The city only pursued one minor cost reduction item and quickly focused on the easy tax option.

SECOND SET FAQS POSTED ON CITY OF NEWCASTLE WEBSITE

Referendum 2

Q: Is this budget shortfall a result of COVID-19?

A: No. Discussions to address the City's anticipated budget shortfall began before the COVID-19 pandemic and City leaders have been exploring ways to address it for over two years. The fiscal impacts of COVID -19 are being monitored and will be discussed further during the 2021 budget process.

MISLEADING: Misleading regarding budget shortfall. We have not experienced a budget shortfall. The city has projected a shortfall through consistently underestimating revenue and overestimating expenditures. Final results for 2020 appear to be better than the original budget.

Q: Doesn't Newcastle already have a utility tax?

A: No. Newcastle is one of only three municipalities in King County that does not have a utility tax. The only other two cities without this source of revenue is Sammamish and SeaTac. Looking at our neighboring cities, Renton's utility taxes are set at 6% and Bellevue's range from 4.5% to 10.4%.

MISLEADING: The city property tax levy is higher than other cities because we do not have a utility tax per se. In addition, the city added an 8.49% city "fee" onto everyone's Waste Management bill. If the utility tax passes, citizens will then pay 11.49%, so it is disingenuous to pretend our citizens aren't being charged added tax, or in this case the city called it a "fee" on a utility.

Q: How would the utility tax be applied?

A: The utility tax would distribute the burden among all Newcastle businesses, homeowners and renters, and is anticipated to generate sufficient revenue to maintain existing city services. Unlike property and sales taxes, 100% of the revenue collected would go to the City. Additionally, the proposed rate of 3% is not set to increase.

MISLEADING: It is totally misleading to state that the 3% rate "is not set to increase." While technically not set to increase yet, the percentages can be increased with a simple majority vote of the council. As noted in the above FAQ statement, Renton and Bellevue have certainly increased their percentages.

Q: What utilities would this tax apply to?

A: The 3% tax would be applied to the following utilities:

- Electricity and Natural Gas (Monthly from Puget Sound Energy)
- Garbage (Quarterly from Waste Management)
- Water/Sewer (Bimonthly from Coal Creek Utility District)
- Cable Television (Monthly from Comcast)
- Phone Voice Fees*

*The voice portion of a mobile bill typically accounts for one-third of the total bill

SECOND SET FAQS POSTED ON CITY OF NEWCASTLE WEBSITE

Referendum 2

MISLEADING: There are actually nine (9) utilities noted in the Ordinance. Phone voice fees applies to both land line phone and cell phone voice fees. Additionally, the Ordinance includes stormwater. This is initially set at 0% since the city does not have an easy way to collect the fee. This utility is included in the ordinance in readiness for increasing the percentage.

What utilities are not subject to the utility tax?

A: Cable internet, stormwater, mobile phone text, data and non-voice fees.

MISLEADING: Stormwater is included in the Ordinance but currently set to 0% because the city has not yet determined an easy way to collect it. Once determined, it will be collected.

Q: How much will this cost me and my family?

A: The average household in Newcastle will pay between \$8 and \$14 a month total.

MISLEADING: This number is merely a starting point that was an estimate from early in 2020. The council has discussed various schedules of increase and therefore, the figures noted will be only temporary. In addition, utility patterns have changed significantly through the COVID lockdown period.

Q: What are the impacts of approving/rejecting the utility tax?

A: If approved, it is estimated the utility tax will generate approximately \$880,000 in revenue. The City anticipates using the projected revenue to pay for public safety services (fire and police), as the City's 2020 budget identified increased costs relating to police and fire contracts in the future. If rejected, it is projected that the City will have an approximately \$1 million shortfall in the 2021 budget alone, and will need to consider cutting public safety (police and fire) and other services.

TOTALLY MISLEADING: It is misleading for the city to state that the 2021 budget has a \$1 million shortfall. The city providing a "wish list" is not a budget, nor has a budget been approved to state this as fact. It is also egregious to state that the city would need to consider cutting public safety. This is the city's # 1 priority. This is being used as a fear tactic to scare voters into approving this referendum. The city is clearly taking the "pro" side of this issue and promoting this position on multiple fronts.

Whether the utility tax passes or not, the city council would be irresponsible in its duties if they approve a budget for 2021 with over a \$1 million deficit. The current budget proposal from the city manager which reflects said deficit includes adding a new accountant, a new police officer and incorporating a parks planner. The accountant and the police officer are positions that have not been part of city staff previously and would therefore represent NEW services and NOT reduction in services.

If the Utility Tax does not pass, the city has more than enough money in the General Fund reserve (over \$5.2 million) to cover a potential deficit for 2020 and a potential deficit for 2021. The city should focus on investigating potential structural expenditure reductions in the expenditures required to operate the city and to focus on fiscal discipline prior to adding additional taxation on our citizens.

**Attachment #7: City Council Approved Minutes,
“Rules-of-the-Road” dated 06-16-20 (1 pg)**

**Approved Minutes
City Council Meeting
Tuesday, June 16, 2020**

*This is an **excerpt** from the approved 6/16/20 Newcastle City Council meeting minutes.*

The full document is available on the City of Newcastle website at

<https://newcastle.civicweb.net/filepro/documents/30346?preview=32883>

3 PRESENTATIONS

Referendum Rules of the Road

Dawn Reitan, City Attorney

Presentation slides were provided at the meeting and have been attached to the agenda packet.

City Attorney Reitan presented the rules and restrictions that apply to use of public facilities, resources, and forums when there is an active ballot measure pending. She described how RCW 42.17A.555 applies and explained the procedural requirements that apply to limited exceptions provided in the statute for discussing ballot measures in a public forum.

Ms. Reitan provided examples and pointed to the published guidelines of the Public Disclosure Commission, which regulates election-related activities. Washington Administrative Code (WAC) 390-05-273 defines the normal and regular conduct allowed by officials when engaging in communication about a ballot measure in their official capacity.

The restrictions aim to prevent use of undue influence by public officers and employees in election matters. There is provision for qualified exceptions for presentation of unbiased, factual information and allowance for limited ballot measure discussion when strict fairness procedures are observed. Ms. Reitan cautioned the city council that allowing the public to express opinions on a pending ballot measure during a public forum can violate these restrictions.

City Attorney Reitan responded to a number of councilmembers' questions, noting that individuals may generally use public parks to promote ballot measures as long as the use is similarly situated for all people and other applicable restrictions are followed. She addressed limits on what councilmembers can say in response to questions from the public during public meetings and under what circumstances information about a ballot measure could be included in city publications in the course of normal and regular conduct of business. She explained that the King County Elections Office provides guidance on how pro and con statements are drafted for voter pamphlets.

Business & Technology: Wednesday, November 17, 1999

City Council Dumps 6% Utility Tax -- Increase In Property Taxes Is Predicted

Mike Lindblom

Seattle Times Eastside Bureau

NEWCASTLE

The **Newcastle** City Council decided last night to dump a much-despised 6 percent **utility tax**, two weeks before it was to take effect.

"We are doing what the public is asking for," said Mayor Gary Adams. "I think it's a great message."

The tax had been approved hurriedly Sept. 21, by a 4-3 margin, because the city feared losing a fifth of its operating funds if Initiative 695 passed, which it did Nov. 2. **Newcastle** residents, angry at not having a say, collected 1,200 petition signatures to force a February referendum on repealing the **tax**.

But taxpayers aren't off the hook. Last night's move virtually guaranteed a property-**tax** boost to make up for \$561,000 in car-tab money the state will quit sending to **Newcastle**.

The city can raise property-**tax** rates a maximum 13 percent, from \$250 to \$284 per \$100,000 of assessed value. With rising property values, an average bill would go up 22 percent.

Even at \$284, Newcastle's **tax** rate would be lower than what many other cities charge.

The council was to consider property taxes last night but chose to delay a decision until Nov. 30, after two more weeks of budget deliberations. That would recover \$457,262, or about four-fifths of the state money lost through I-695. The initiative chopped annual vehicle-excise taxes to \$30 and forces a public vote on government fee and **tax** increases starting next year.

Newcastle's **utility tax** was supposed to begin Dec. 1 on cable television, electricity, natural gas and phone service.

The usual knock on **utility** taxes is that they are regressive: Lower-income people pay a greater share of their incomes for utilities, so they take a more painful **tax** bite.

None of the seven council members raised that argument last night. A greater worry was the perception they imposed a new tax on the public without listening.

The council voted 7-0 to write an ordinance repealing the **utility tax** for final approval this month.

Last night five citizens encouraged the council to cut spending. One man drove to the meeting in a pickup with anti-**tax** signs fixed to the bed.

Newcastle is looking at budget cuts in parks, roads and other services.

And a **utility tax**, tied to specific city programs, could still come back next year for a public vote.

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