

The Drain Report

Sewer & Water Utilities Tapped As A Revenue Source

By: Ken Kase

County and City governments are looking to water and sewer utilities as a new source of revenue to balance their budgets. Most of the cities within the boundaries of the Midway Sewer District have attempted to add some sort of excise tax to the revenues from sewer customers. There is currently no statutory limit to the amount of tax imposed. King County recently passed a new law imposing rent on the use of the public right-of-way. King County can manipulate the formula used to calculate the rent they charge utilities to increase their revenues.

First Normandy Park passed an ordinance creating a utility tax on certain utilities including, sewer service but excluding water service, on September 28, 1999. Their tax imposed a 6% tax on the total gross income of a sewer utility operating inside their City. Normandy Park did not notify the District about this tax until September 25, 2017, about 18 years after its passing. Oddly, Normandy Park agreed to exclude Southwest Suburban Sewer District from this tax, even though that District is the majority sewer service provider in that city. Midway has declined to pay this tax but did offer to enter a franchise agreement that could provide some revenue to the City. This matter has not been resolved to date.



Next to propose an excise tax was the City of SeaTac. It was only hours before a Council Study Session on October 14, 2014, that the local water and sewer districts became aware of a proposed new tax on utilities. The Districts attended the study session and were able to dissuade the Council from imposing the new tax on their services.

Des Moines was the next City to consider charging an excise tax on special purpose water and sewer districts. Again, with little time to prepare, the local districts were notified by City staff of a proposed new 16% tax. On October 29, 2015, at a Des Moines City Council meeting, the public at large and the local sewer and water utilities voiced their displeasure of this new tax. The group of districts threatened a lawsuit. The City Council later decided to not impose an excise tax and the City and the districts compromised by negotiating a franchise agreement including payment of a 6% fee.

The City of Kent is currently in negotiations with the Highline Water District and the Midway Sewer District for a franchise agreement that could include a payment of a fee, but would preclude an excise tax.

Most recently, on March 8, 2018, the City of Federal Way began the process of passing a law creating a new 7.75% tax on special purpose sewer and water districts. The local water and sewer districts voiced their opposition to the tax and offered to negotiate an agreement instead. In spite of this offer, the City of Federal Way passed the new law imposing the tax on March 20, 2018. If you reside in Federal Way you are subject to this new tax. A lawsuit challenging this new tax is now in the works. The Lakehaven Utility District, the Highline Water District, and the Midway Sewer District have joined together to challenge the new Federal Way tax.

King County went in a slightly different direction. Under King County Ordinance 18403, adopted on November 7, 2016, electric, gas, water and sewer utilities are required to pay "reasonable compensation", in the nature of rent, for their continued use of these public ROW. Many of the King County special purpose districts, including the Midway Sewer District, began a legal challenge to this new law. King County responded by filing a "Complaint for Declaratory Judgement" on January 25, 2018. Even though this ordinance does not directly affect the Midway Sewer District we are contributing to this important legal challenge.

It is unfortunate that we must go to court to protect our customers from these new taxes and fees. The Board believes it is representing the best interest of its customers by taking these actions. If these fees and taxes are legal and enforceable, then the District will have no choice but to pass on the costs to its customers. These charges will show up as a separate item on your bill. The District cannot just absorb the added cost as we have a sewer system to run, maintain, and improve. We are trying our best to protect our customers from added expense to the provision of the essential service we provide.

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Special points of interest:

- Midway Sewer District has one of the lowest monthly rates in the state.
- The Board meets the 2nd and 4th Wednesday of each month. Please contact the office for the meeting time.
- Midway serves the Cities of Des Moines, SeaTac, Kent, Federal Way, Normandy Park, Burien, and the Port of Seattle's SeaTac Airport.
- We have been part of this community since 1946.
- You can expect fast personal service when you need it.
- Our employees care about their customers.
- We have a single focus of providing quality sanitary sewer service.

Keeping the Cost of Sewer Service Down is Getting Harder!

By: George Landon



At the Midway Sewer District we strongly believe that the service we provide is essential to our society and the more service we can provide the better off the community will be. The more successful we are at keeping the cost of service down, the more likely people will utilize the service we provide. Customers of the Midway Sewer District are fortunate to have quality sewer service at one of the lowest monthly rates in the State of Washington. In order to maintain low rates we must use our resources carefully to maximize the benefits possible. This means buying the right equipment, maintaining it correctly, and making the right choices concerning replacement or repair. It also means creating a workforce and workplace culture that instills behaviors that prevent waste or abuse. I think we have done well as far as these things are concerned.



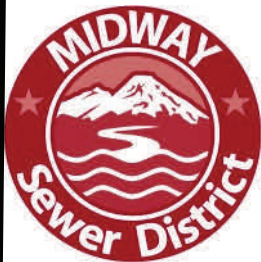
There are many things that also affect our cost of service that are out of our control. Things like tools, equipment, and supplies that increase in cost over time. There is one relatively **new cost** of providing sewer service that that we are trying hard to prevent or minimize. By saying **new cost**, I mean the many ways the local cities and King County are trying to add fees, taxes or rent to the bills of sewer customers.

The District has initiated or threatened lawsuits to protect its customers from excise taxes and rent for use of the public right-of-way. In other cases we have negotiated payment of a smaller fixed fee to avoid payment of an excise tax (there is no limit on this tax). Agreements to pay a smaller fee come down to a "lesser of two evils" type of decision. We believe that our customers benefit when we challenge these **new costs** and it does help to suppress the cost of the essential service we provide.

This District is currently contributing to two legal challenges concerning **new costs** to providing sewer service. One lawsuit is challenging whether or not the county can charge rent for the use of the public right of way. Another lawsuit is trying to determine if a City can charge a special purpose district a tax on its revenue. If we lose our legal challenge, or agree to a smaller fixed cost, these **new costs** will show up as a separate item on your sewer bill. It will however be part of the total amount due. Please be aware that we only collect this money from you to pay to them.

Our success or failure will have an impact on your sewer bill. We are fighting these battles on behalf of our customers. Please wish us luck!

Board of Commissioners



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