



July 21, 2023

Mayor Christine Frizzell
City Hall
19100 44th Ave W
Lynnwood, WA 98036

VIA ELECTRONIC MAIL at mayor@LynnwoodWA.gov

RE: Recent Actions Against Lynnwood Public Facilities Director Vivian Dong and Public Records Request

Dear Mayor Frizzell,

I am writing to you as executive director and counsel with the Citizen Action Defense Fund, a government watchdog non-profit organization, regarding my deep concerns over the recent actions of the Lynnwood Public Facilities Board towards its Board member Vivian Dong and that the City Council may be considering action on a “no confidence vote” taken against her at a recent meeting. While I do not yet have the pleasure of representing Ms. Dong, I wanted to outline potential legal concerns I have regarding my understanding of the City’s conduct regarding this matter thus far. Please also accept this letter as a public records request.

As I understand the facts, Ms. Dong is a volunteer that was appointed to the Public Facilities Board last May. To my knowledge Ms. Dong is the only person serving on the Board of Asian descent and is an immigrant from China. In addition to her service on the Public Facilities Board, Ms. Dong also participates in rallies and events important to her community as is expressly permitted under the Public Facilities Board bylaws under Article X, Section 1.

On June 17, 2023, Ms. Dong participated in a rally on in support of a business owner of Olympus Spa who had been involved in a legal dispute over women’s single sex spaces. Prior to the event, Ms. Dong reached out to the board to let them know that she intended to attend the rally “to show her support as an Asian woman” and even consulted with the City’s legal counsel to confirm that she could participate so long as she did not represent the entire Board or the PFD. The rally occurred and, according to public records of internal emails among board members I have reviewed, was “relatively peaceful” and there were “no damages to PFD property or tenants.”

On July 11, 2023, the Lynnwood Public Facilities District held a meeting and published an agenda that included a line item “Protest Review.” According to media reports and video taken at the meeting, the Board read a previously prepared letter that purported to outline alleged “ethics code” violations of Ms. Dong stemming from her participation in the rally. The Board declined to hear from Ms. Dong and even

shut off her mike as she attempted to defend herself. The Board also refused to provide a copy of the letter or the ethics code that Ms. Dong was accused of violating. The Board, lacking the authority to actually remove her, then apparently took a “no confidence vote” and referred the matter to the City Council. In short, all facts presented indicate that the Board convened a Kafka-esq kangaroo court in which it acted as judge, jury, and executioner.

Assuming these facts are accurate, they paint outrageous violations of the laws of our state as well as Ms. Dong’s constitutional rights. The Board’s actions towards the only member of the Asian community raise serious questions of whether its actions were motivated with animus against Ms. Dong’s race and national origin in violation of the Washington Law Against Discrimination and the federal Title VII of the Civil Rights Act of 1964 (Title VII). Although one may disagree with the message of the rally in which she participated in her individual capacity, the Board’s actions appear to have been in retaliation and violation of her exercise of her right of freedom of speech. In addition, because the Board read a previously prepared statement and appeared to have agreed on an outcome or course of conduct at the meeting, there is a strong likelihood that violations of the state Open Public meetings act occurred. To compound the issue, the Board’s refusal to provide requested public documents presents obvious public records violations.

In order to investigate this matter further, please consider this letter to be a public records request to the City of Lynnwood and the Lynnwood Public Facilities Board for the following documents and records pursuant to the Washington Public Records Act (RCW 42.56):

All records pertaining to the following:

1. A copy of the letter regarding Ms. Dong that was read at the July 11, 2023 meeting
2. A copy of the ethics code that Ms. Dong is alleged to have violated
3. Any emails regarding Ms. Dong sent or received after May 1, 2023.
4. Any emails regarding the June 17 rally that is referenced in this letter
5. Any emails regarding July 11, 2023 Lynnwood Public Facilities Board meeting, the agenda for the meeting, or any matter anticipated or proposed to have been discussed at the meeting involving Ms. Dong.
6. A copy of any public records policy governing the City of Lynnwood and/or the Lynnwood Public Facilities Board.

The above request for records also includes copies of all drafts of communications. If not specified, the term “records” refers to all communications, including emails, text messages, and other electronic communications (e.g., Facebook Messenger, public and direct messages on Twitter, etc.), regardless of whether they are contained on personal or work devices. This includes the accounts of the Lynnwood Public Facilities Board and executive director, the City Council, the mayor or any staff or employee of the City of Lynnwood.

Please produce any responsive records in electronic format via email to jackson@citizenactiondefense.org, or through a file-sharing service. If you do not have a cloud-based sharing method and the responsive records are too large to send via email, please let us know and our office will coordinate with you to utilize a file-sharing service. If records responsive to these requests may

be produced in installments, please do so as soon as they are available. If there are any fees associated with searching for and copying the requested records, please inform us if those costs exceed \$100.00 prior to producing those documents to our office.

If you deny any portions of this request or redact any information from responsive records, please provide a log in compliance with applicable law that describes the reason for the denial and cite each specific exemption that justifies the refusal to release the record, in whole or in part.

Thank you for your time and attention to this matter. Please feel free to contact me should you have questions or wish to discuss further.

Sincerely,

A handwritten signature in blue ink that reads "Jackson Maynard, Jr." The signature is fluid and cursive, with the first name "Jackson" being the most prominent.

Jackson Maynard
Executive Director and Counsel
Citizen Action Defense Fund
300 Deschutes Way SW
Suite 300
Tumwater, WA 98501
(850) 519-3495

cc: Lynnwood Public Facilities Board
Lynnwood City Council