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SNOHOMISH COUNTY SUPERIOR COURT
STATE OF WASHINGTON

DORIAN KOSTELYK, as an individual person,

Plaintiff,

v.

CITY OF LYNNWOOD, a Washington
municipal corporation,

Defendant.

NO. 23-2-05726-31

**FIRST AMENDED COMPLAINT FOR
PUBLIC RECORDS VIOLATIONS
UNDER THE PUBLIC RECORDS ACT
RCW 42.56**

I. INTRODUCTION

This is a case about governmental abuse of power. RCW 42.56.030 states “the people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created.” Yet, when the government colludes to thwart the very purpose of the Public Records Act in attempt for it to gain sovereignty, as the government has done here, the people must seek judiciary review in order to protect the legislature’s intent.

1 **II. PARTIES**

2 1.1 At all material times to this action, Dorian Kostelyk (“Dorian¹”) is an individual person,
3 resident, and taxpayer of City of Lynnwood.

4 1.2 At all material times to this action, City of Lynnwood (the “City”) is a municipal
5 corporation organized under the laws of Washington state.

6
7 **III. JURISDICTION**

8 2.1 Dorian incorporates as if fully realleged paragraphs 1.1-1.2 of this Complaint.

9 2.2 The Court has jurisdiction of this matter, and this is an appropriate venue because Dorian
10 was denied an opportunity to inspect or copy certain public records as defined under RCW
11 42.56.010(3) to which she was entitled and those records are located in Snohomish County,
12 Washington pursuant to RCW 42.56.550(1) and RCW 36.01.050.

13
14 **IV. FACTS**

15 3.1 Dorian incorporates as if fully realleged paragraphs 1.1-2.2 of this Complaint.

16 3.2 Consistent with her civic duty as an informed citizen, Dorian is actively engaged in
17 communicating about issues important to her and others in her community with the City of
18 Lynnwood and Lynnwood City Council.

19 3.3 In the course of her engaging in her civic duties, Councilmember Sessions had responded
20 favorably to several of Dorian’s emails until Dorian confronted Councilmembers Sessions
21 (“Sessions”) and Altamirano-Crosby (“Altamirano-Crosby”) on their treatment of a community
22 member at a council meeting.

23 3.4 Sessions responded on January 20, 2023, at 10:07 PM to this confrontation with personal
24 attacks on Dorian’s character such as that she was “hypocritical,” “unsafe” and characterized
25

26 ¹ The Plaintiff prefers the identification of Dorian to be used to refer to her.

1 Dorian’s activity of engaging in her civic duties and providing government accountability as
2 “nasty.” In addition, she shamed Dorian for her feedback by stating, “Please take some of your
3 own advice since you know so much” and “shame on you” and that the councilmembers do not
4 have to respond to her and “here’s a taste of your own medicine.”

5 3.5 This email was also forwarded to Mayor Christine Frizzell (the “mayor”) (who thanked
6 Sessions for the email) and Assistant City Administrator Julie Moore (the “assistant city
7 administrator”).

8 3.6 In response to this email, Dorian told Sessions that she would be seeking public record
9 emails in the future for transparency and accountability.

10 3.7 Sessions’ email was an assault on Dorian’s freedom of speech. Prior to this assault on
11 Dorian’s freedom of speech, she had been successfully requesting public records from the City
12 for eight months. She had been treated like all other requestors by receiving hundreds of records
13 electronically for free.

14 3.8 In fact, Luke Lonnie, City Clerk, (“PRO”)² had promised Dorian in writing that anything
15 under \$5.00 dollars or 400 emails would be free to disclose in accordance with the Lynnwood
16 Public Records Act Policy. **Exhibit A**³ attached hereto is one page of an email chain consisting
17 of three pages email where the PRO stated anything under \$5.00 or 400 emails would be free to
18 disclose.

19 3.9 After Dorian received the hostile, retaliatory email from Sessions, promising some of her
20 “own medicine” she began to be treated differently than other public record requestors by lack of

21 _____
22 ² We will refer to him throughout as the PRO. Though, it should be noted that the City has not
23 made his information in a way “reasonably calculated to provide notice to the public under”
24 RCW 42.56.580 (3). Through a Google search, we did locate Donna Johnson claiming to be the
25 Public Records Officer on her LinkedIn account.

26 ³ Attached to this Complaint are true and correct copies of emails Dorian received or sent, and
the copies attached were created by cutting and pasting to Word and printing to a PDF from
Word. Accordingly, some formatting and hyperlinks may not appear in the “copies” attached
hereto. If any email exhibit was voluminous and shortened to the material portions, that is noted
accordingly.

1 assistance from the staff as well as being invoiced contrary to the City policy and
2 aforementioned email in Exhibit A. This initial violation of distinguishing of requestors in
3 violation of the Public Records Act (“PRA”) was a precursor of multiple PRA violations, alleged
4 below, by the City resulting in hundreds of emails, countless text messages, metadata and social
5 media posts being unlawfully withheld by the City in response to valid records requests. In
6 addition, an unknown number of public records Dorian requested, were destroyed by Police
7 Chief Nelson (the “police chief”) as admitted in his affidavit. Similarly, Councilmembers Smith
8 (“Smith”) and Hurst (“Hurst”) returned their iPads with only a few records purportedly located
9 on one of them. Additionally, the mayor also appeared to have violated RCW 40.16.010-020,
10 punishable by a felony offense, by concealing records on records request C000288-052223
11 where she provided no records responsive, but records were provided to and from her from
12 Sessions and the assistant city administrator.

13 3.10 Likewise, all councilmembers, with the exception of Councilmember Decker (“Decker”)
14 who has refused to provide even one public record (even though he and Councilmember Smith
15 falsely claimed they did provide records in affidavits) and Hurst who swapped out his device,
16 have also concealed records in violation of RCW 40.16.010-020. Finally, the PRO refused to
17 search city-owned devices for public records. It appears the City erroneously believes the records
18 belong to them rather than the public.

19 3.11 Despite this blatant retaliatory behavior by the City, Dorian has been attempting to
20 educate the City of Lynnwood informally of the multiple violations of the Public Records Act
21 specified in this complaint. Dorian’s attempts have not been met with an openness to
22 communicate and make changes but with at times complete silence and refusal to respond.

23 3.12 The City has engaged in multiple bad faith retaliatory actions against Dorian repeatedly
24 even when notified by Dorian of the unlawful nature of the activities under the PRA. Such
25 actions include, but are not necessarily limited to, the following:
26

- 1 1. Charging for locating and making documents and records available for copying, ignoring and
2 delaying modification requests.
- 3 2. Not disciplining Sessions for sending records to two pastors of Alderwood Community
4 Church who have not made public records requests for those records, as well as Smith
5 distributing records through his social media account (also a violation of their Lynnwood
6 Social Media Policy (2)(F) and causes the state auditing report to be false, according to the
7 PRO.
- 8 3. Not monitoring city officials who post on their social media accounts as city representatives
9 in violation of Lynnwood Social Media Policy (2)(F).
- 10 4. Violating their own Electronic Messages, Email and Electronic Records Retention Policy as
11 well as their own Public Records Act Policy.
- 12 5. Attempting to force requestors to receive records from the portal and refusing to email the
13 records as well as not offering the option to inspect the records in the office, or without
14 signing in.
- 15 6. Distinguishing among persons.
- 16 7. PRO failing to oversee compliance with the PRA.
- 17 8. Failure to provide the fullest assistance to the inquirer.
- 18 9. Charging against their policy for fee waiver under \$5.00 and after promising in writing via
19 email it would be free for requests under \$5.00.
- 20 10. Destruction of public records by the chief of police.
- 21 11. Lying in affidavits.
- 22 12. Swapping-out devices Dorian asked be searched without notifying her.
- 23 13. Not retaining or extracting metadata, and social media posts.
- 24 14. PRO refusing to search city-owned devices.
- 25 15. Unreasonable charges for records.

26

- 1 16. Concealing public records.
- 2 17. Not tracking metadata, text messages, or social media usage.
- 3 18. Claiming inapplicable exemptions.
- 4 19. Failing to promptly respond within the statutory required five-day period.
- 5 20. Deceptively naming files with incorrect dates and not providing the correct dated files.

6 3.13 The City Public Records Officer is responsible for overseeing the agency's compliance
7 with the Public Records Act per RCW 42.56.580, despite any statement made to the contrary by
8 the Defendant's PRO where he states each City employee/official is responsible for their Public
9 Record Act violations. Yet, they have all violated the City's policy on transitory texts⁴ (including
10 the PRO) and storing public records on their personal devices and the PRO fails to hold them
11 accountable even though the City policy specifically provides for disciplinary action. **Exhibit B**
12 attached hereto are the two pages of an email chain consisting of five pages where the PRO
13 states he is not responsible for overseeing compliance.

14 3.14 Indeed, Dorian is not aware of the policy violations as detailed throughout this complaint,
15 resulting in any disciplinary action as made known to Dorian.

16 3.15 The councilmembers, PRO, the mayor, assistant city administrator, have all purportedly
17 received mandatory Public Records Act training and the councilmembers and mayor took oaths
18 to uphold the constitution and yet have violated the Public Records Act in the numerous ways
19 detailed throughout this Complaint. They have all appeared to violate their oaths to support the
20 Constitutions of the U.S. and Washington and laws of Washington and training under the PRA
21 and instead engaged in what appears to be collusion to hide records from Dorian in a refusal to
22 yield their sovereignty and engage in retaliatory conduct.

23 3.16 Dorian has also gone to multiple agencies including the Washington ACLU, Washington
24 Attorney General Ombuds, Washington Coalition for Open Government, and Washington State
25

26 ⁴ Electronic Messages, Email and Records Retention Policy, pg 3.

1 Auditor in an attempt to hold the City accountable to no avail. **Exhibit C** is a true and correct
2 copy of the Plaintiff’s notification to the City and city attorney of her complaint to the
3 Washington ACLU, which received no response from the City.

4 3.17 Additionally, she even provided feedback on June 7, 2023, with no response from the
5 PRO even though he had allegedly welcomed public feedback. **Exhibit S** is a true and correct
6 email of feedback Dorian gave to the City.

7 3.18 On January 24, 2023, after the email from Sessions where she personally attacked Dorian
8 for speaking in accordance with the First Amendment, Dorian made the following public records
9 request, in an attempt to gain answers to her questions that were left unanswered by the
10 councilmembers and to investigate an ethics complaint made against Sessions: “I’m requesting the
11 text messages and emails for Shannon Sessions for the time frame of January 5, through January
12 24, 2023.”

13 3.19 Dorian similarly on January 24, 2023, made a public records request for Altamirano-
14 Crosby, for the same reasons as mentioned in 3.13 as follows: “I’m requesting the text messages
15 from Councilmember Julieta from October 1, 2022 –November 1, 2022. I’m also requesting her
16 emails from the same time frame.”

17 3.20 Nearly two months later on March 14, 2023, Dorian received a final response from the City
18 that Sessions had one responsive text.

19 3.21 After a request by Dorian for the affidavit showing that Sessions had conducted an
20 adequate search of her personal device for city records, the City produced a conclusory, misleading
21 affidavit that failed to conform to case law (*Nissen*) and list the accounts or devices searched. Nor
22 did this affidavit or any other affidavits provided by the City, conform to its own sample affidavit,
23 which did conform much more closely to the standards in *Nissen v. Pierce County*.⁵ *Nissen v.*
24

25 ⁵ The City’s sample affidavit would allow for Dorian to have a sufficient factual basis to
26 determine that withheld material “is indeed nonresponsive.” *Nissen v. Pierce Cty.*, 183 Wn.2d
863, 886, 357 P.3d 45 (2015).

1 *Pierce Cty.*, 183 Wn.2d 863, 886, 357 P.3d 45 (2015). **See Exhibit D** is a true and accurate copy
2 of the affidavit received by Dorian. **Exhibit E** is a true and correct copy of the sample affidavit
3 provided by the City.

4 3.22 In a similar fashion, nearly two months later on March 14, 2023, Dorian received zero text
5 records from Altamirano-Crosby. And Altamirano-Crosby also filled out a conclusory, misleading
6 affidavit that failed to conform to case law and the City’s sample affidavit and case law as well as
7 list the accounts or devices searched. As an example, in the affidavit, she stated that she provided
8 all the records “if any” she had for the request, which was zero texts. **See Exhibit E.**

9 3.23 Unfortunately, the City continued to produce affidavits that met none of the requirements
10 under *Nissen*. In addition, the affidavits failed to state if there were any records responsive and at
11 times the affidavits stated records were responsive when they were not. This required Dorian to
12 repeatedly ask the Deputy Clerk Darcy Kirschner (the “deputy clerk”) if any responsive records
13 were available.

14 3.24 On March 17, 2023, in an attempt to again attain governmental transparency, Dorian
15 notified the other councilmembers, mayor, assistant city administrator, and PRO that she believed
16 the City was not being forthcoming with text records located on Sessions’ and Altamirano-
17 Crosby’s personal cell phones. The affidavit for Sessions further falsely stated that there was only
18 one record responsive to the request. The affidavit for Altamirano-Crosby falsely stated that there
19 were zero records. Dorian further notified the City, to be forthcoming with information related to
20 these requests. **Exhibit F** is a true and accurate copy of the email Dorian sent to notify the City,
21 and councilmembers, and PRO.

22 3.25 Dorian, receiving no responses, holding Sessions or Altamirano-Crosby accountable, from
23 the mayor, assistant city administrator, PRO or other councilmembers in response to that email
24 notification, made additional records requests of the mayor, assistant city administrator, PRO, and
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1 councilmembers to produce records from the time frame of the previous request of Sessions and
2 Altamirano-Crosby.

3 3.26 The City provided records responsive to this additional request from the mayor, assistant
4 city administrator, PRO, and manager of communications and public affairs through a search by
5 the City of their city-owned phones, and three councilmembers through a search conducted by the
6 councilmembers of their personal phones, showing multiple text messages regarding city business
7 sent and received by Sessions on her personal device during the time frame that Dorian had
8 originally requested from her. Thus, Sessions' sworn affidavit claiming she had texted one person
9 and provided one text was false. On a later request, February 1, 2023-March 1, 2023, (closed on
10 July 21, 2023), the assistant city administrator and PRO also provided texts from Sessions that
11 Sessions also failed to provide in response to that request. **Exhibit G** is a true and accurate copy
12 of the texts received by Dorian showing a denial of records by Sessions.

13 3.27 Additionally, Dorian received at least one (likely was two but due to the lack of metadata
14 provided with the screenshots, Dorian is unable to determine the number of withheld texts)
15 withheld text from Altamirano-Crosby during that time frame Dorian had originally requested
16 from her. And still Dorian has no ability to determine how many more texts Altamirano-Crosby
17 withheld since she failed to provide at least one. **Exhibit H** is a true and accurate copy of withheld
18 texts from Altamirano-Crosby.

19 3.28 On a later request for February 1, 2023-March 1, 2023, (closed July 21, 2023), Altamirano-
20 Crosby again stated on a sworn affidavit she had no responsive records, which was proven false
21 by text records to and from her provided by the assistant city administrator, and Sessions. **Exhibit**
22 **H.**

23 3.29 Dorian realized based on the above-mentioned records received, those multiple records had
24 been withheld in bad faith through explicit false statements in an affidavit by the City through
25 Sessions' and Altamirano-Crosby's actions. Further, Sessions and Altamirano-Crosby both
26

1 appeared to have committed perjury by this act and appeared to have violated RCW 40.16.010-
2 020 punishable by a felony offense on concealing records as well as violating their oath they took
3 when sworn into office.

4 3.30 Prior to the two above requests by Dorian of Sessions and Altamirano-Crosby she had
5 been treated like any other requestor for eight months. The City waived every fee for records and
6 from the results of other public records requests sought by Dorian as has been the case for almost
7 every other requestor in the City of Lynnwood.

8 3.31 On or about, March 1, 2023, Dorian was also charged a fee for the first time under the
9 above-mentioned Sessions' request where upon information and belief Sessions concealed
10 records C000047-012423. She was also charged under the above-mentioned request for
11 Altamirano-Crosby where Altamirano-Crosby appeared to have concealed records. When she
12 asked the City why she was suddenly being charged after eight months, it claimed through its
13 employee, Donna Johnson Senior Records Specialist, that it had forgotten to charge her (even
14 though other requestors as stated below were not receiving these manually created invoices) but
15 that any request under \$5.00 dollars/400 emails would remain free.
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18 3.32 Then on or about March 22, 2023, under request number C000143-032023 (another
19 request for Altamirano-Crosby) the City began charging Dorian for requests both over and under
20 \$5.00 dollars. When Dorian asked why she was being charged for requests under \$5.00 dollars
21 the PRO claimed it was because she had tried to modify her requests to get her requests under
22 \$5.00 dollars to receive the fee waiver which in turn made staff work harder. **Exhibit I** attached
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1 hereto are the four pages of an email chain consisting of five pages email from the PRO saying
2 he will not waive the fee.

3 3.33 On March 23, 2023, Dorian asked the City why it was not waiving her fees for under \$5.00
4 dollars on request C000143-032023 in accordance with their policy, the day after she received an
5 invoice, the email with the invoice attached did not provide Dorian the option to inspect the records
6 for free.

7 3.34 Dorian repeatedly asked the City in follow-up emails what the criteria was, under their
8 policy for waiving the fee, but the PRO and deputy clerk indicated they could arbitrarily remove
9 the fee waiver. The PRO also indicated that the City was not withholding records from Dorian
10 when they improperly charged her and at other times he would disappear or send Dorian to the
11 MRSC website. The City may not charge for staff time to locate the records for inspection.
12 (RCW 42.56.120(1)).
13

14 3.35 Additionally, through another records request, Dorian was able to determine that the City
15 has not held a public hearing nor provided notice as required by the Public Records Act to charge
16 for actual costs. Actual costs would include staff time to copy; thus, it is impermissible for the
17 City to even charge for staff time to copy. RCW 42.56.070 (7). Moreover, the City claims it is
18 not required to have a public hearing or notice because it adopted the state fee schedule, yet in
19 order to do so it must have a statement as to why it would be unduly burdensome for it to
20 calculate its actual costs, which the City also fails to do. RCW 42.56.120(2)(b). *See* LMC
21 3.104.020; **Exhibit J** is a true and correct copy of the policy where it does not state why it would
22 be unduly burdensome to calculate actual costs.
23

24 3.36 LMC 3.104.020 provides that the “city clerk may waive a de minimus fee for records in
25 instances when operational expenses associated with collection and processing of the fee are
26

1 contrary to the city’s financial interests.” Yet, the PRO/city clerk has not provided any reason
2 why it was now as in comparison to the past eight months prior to Dorian expressing her
3 freedom of speech with Sessions, contrary to the City’s financial interest to waive the de
4 minimus fees associated with operational costs. The only reason he provided was that Dorian
5 attempted to modify her requests in accordance with RCW 42.56.120(f). **Exhibit K** attached
6 hereto are the three pages of an email chain consisting of four pages email from the PRO saying
7 he will not waive the fee.
8

9 3.37 Manually creating invoices for each person would actually increase the staff’s workload
10 as well as the cashier’s workload to process the payment in addition to making an appointment
11 for the requestor to inspect the records and being present if the requester chooses to do so. Thus,
12 denying Dorian the \$5 dollar fee waiver appears to be punitive in nature rather than cost-
13 effective.
14

15 3.38 Dorian discovered through other records requests that for a period of a little over three
16 months no other requestors were being invoiced through the manually created invoices other
17 than two who were also from Dorian’s IP address and in about 105 records requests from other
18 requestors. The City distinguished Dorian by invoicing her and delaying her requests in violation
19 of RCW 42.56.080. Distinguishing among requestors is a clear and blatant violation of the Public
20 Records Act as per RCW 42.56.080. Later, after Dorian notified them of this discriminatory
21 conduct, they began to charge other requestors.
22

23 3.39 Nevertheless, Dorian should not have to drive to City Hall in order to inspect records
24 because she is suddenly being discriminated against and denied the option to receive them for free
25 as she had been doing for eight months prior to her attempting to hold the same City officials
26

1 accountable, who she is now being charged to receive their records. Dorian refused to pay the
2 illegal charges and enable the unlawful behavior which resulted in the City withholding at least
3 hundreds of records.

4 3.40 Once again, in an attempt to avoid litigation, Dorian pro se sent an email to the city council
5 on April 6, 2023, and the PRO and city attorney, and she received no response again by the city
6 attorney and city council. Dorian also emailed the city attorney separately regarding these fees on
7 April 14, 2023, and received no response from the city attorney. **Exhibit C; Exhibit L** is a true
8 and accurate copy of the email Dorian sent to the city attorney pro se with no response.

9 3.41 The deputy clerk waited to respond to her original March 23, 2023, question until April 7,
10 2023, the day after the invoice said it would close and then answered Dorian's question (although
11 she did briefly respond on March 29, 2023, pointing Dorian toward the invoice again, and still not
12 answering why Dorian was being charged which the deputy clerk deferred to the PRO, who was
13 allegedly out of the office.) Therefore, hundreds of records included in that request were withheld
14 from Dorian. **Exhibit N** attached hereto is a copy of the email chain where Dorian asked why she
15 was being charged excluding the closing response for the request from the City.

16 3.42 This is in disregard to the WAC 44-14-04006(1) which states a 30-day time frame for
17 closure of requests for requestors who failed to claim or review records for closure of requests as
18 well as the City's own Public Records Policy which also indicates a 30-day requirement after the
19 requestor was notified that the records were available with the additional requirement that the
20 requestor has failed to contact the PRO to arrange a time to view the records. The Lynnwood
21 Public Records Policy also allows for requests to be considered abandoned if the requestor does
22 not contact the Public Records Office to arrange for payment or review of the records within 15-
23 days upon email notification that records are ready unless the requestor seeks an additional amount
24 of time to review the records. None of those policy requirements were met in this case.⁶

25
26 ⁶ Lynnwood Public Records Act Policy, 4.6.2 and 4.6.5

1 3.43 Later on in June 2023, in response to a request Dorian made to substantiate her claims of
2 distinguishing by the City she received a custom record table created by the deputy clerk which
3 compiled information incorrectly and stated false information.

4 3.44 After, Dorian asked the deputy clerk to correct the created custom table once, she notified
5 her she would make some changes, but the table still incorrectly listed all her fees as being waived
6 and the deputy clerk later told Dorian via email, she meant “no fees incurred.” Additionally, she
7 failed to properly list the greatly reduced size of Dorian’s requests after Dorian had to modify them
8 below the amount that City is allowed to charge under law. The deputy clerk, after again being
9 notified of the continued incorrect information, did not respond for about two weeks and then after
10 a follow-up from Dorian, she told Dorian that the inaccurate information was the only information
11 she was able to report.

12 3.45 All of this demonstrates that in accordance with Sessions’ claim that they do not have to
13 respond to Dorian, they have also transferred this belief into the area of public records requests,
14 contrary to the previous eight months where Dorian received lawful responses from the City.

15 3.46 On or about March 24, 2023, due to the City’s lack of interaction and willingness to help
16 Dorian receive information as well as Altamirano-Crosby and Sessions having already proven to
17 have engaged in what appears to be concealment of records without consequence from the City,
18 Dorian began to broaden her requests to include city-owned iPads.

19 3.47 It was in her requests for iPad searches that she realized, the original deceit and
20 concealment of records of the two councilmembers spread and infected all employees Dorian has
21 requested records from in the form of failing to perform proper searches of devices. On multiple
22 requests for public records on their city-owned iPads and phones as well as metadata, Dorian
23 received no responsive records for periods of months at a time for all councilmembers, the mayor,
24 police chief, assistant city administrator, and councilmember assistant.

1 3.48 On one request C000288-052223, the mayor provided no records for a month's time, but
2 the assistant city administrator as well as Sessions provided responsive texts to the mayor for the
3 same request. **Exhibit M** are true and accurate text messages records received by Dorian and not
4 provided by the mayor.

5 3.49 In response to Dorian's concerns about continued lack of responsiveness to her requests
6 for iPads to be searched, the PRO stated that the iPads are not connected to the server except for
7 emails, so the iPads do need to be physically searched in order to retrieve the public records that
8 were requested.

9 3.50 He stated that the iPads may only be used for email and that he was unsure whether the
10 iMessages app was being utilized on the city-owned iPads and he was unwilling to physically
11 search them to locate records. As per the Lynnwood Electronic Messages, Email, and Electronic
12 Records Retention Policy, councilmembers have no privacy on city-owned devices, and it is the
13 responsibility of the PRO to periodically audit city-owned devices.⁷ It was in this email
14 communication that the PRO also stated that text messages may be deleted because the "vast
15 majority" are transitory.

16 3.51 Based on the above information provided to Dorian about the iPads, she specifically
17 requested that a physical search of the iPads be conducted on multiple requests. The City allowed
18 the councilmembers and other employees to conduct physical searches of their iPads to retrieve all
19 the records not connected to the city server.

20 3.52 Allowing the city employees to conduct their own searches resulted in the councilmembers,
21 the mayor, assistant city administrator, and police chief not providing any records (including text
22 messages on their city phones) on most requests.

23 3.53 And if they did provide records, it was a small amount and appeared either tailored to
24 protect each other or to make themselves look good in an attempt to avoid embarrassment. In a
25

26 ⁷ See Electronic Messages, Email and Records Retention Policy at pg 1.

1 few of the instances involving Councilmembers Smith, Sutton, Binda, and Councilmember
2 Assistant Lisa Harrison, this actually revealed and confirmed Dorian’s concern that texts were
3 being concealed and proper searches were not being conducted.

4 3.54 Dorian made multiple records requests for the City to search iPads, especially when the
5 results were repeatedly zero responsive records. The City repeatedly refused to search City cell
6 phones of the mayor, assistant city administrator, police chief, and Deputy Chief Cole Langdon
7 (the “deputy chief”). Dorian was never informed as to where the mayor, assistant city
8 administrator, police chief, deputy chief and all councilmembers are storing their public records
9 as required in the technology agreement they signed.

10 3.55 According to City policy, all texts of employees should be transitory, and every employee
11 (including the PRO) from whom Dorian has received texts violates this policy. **Exhibits M and**
12 **G.**

13 3.56 Additionally, the City clearly has no policy for managing and monitoring text messages in
14 accordance with the three options offered by the Washington Secretary of State. The PRO is not
15 auditing or ensuring compliance with Lynnwood text messaging policies and when he was
16 repeatedly informed by Dorian that there were no responsive records being provided for months
17 at a time, did nothing and often did not even respond.

18 3.57 The City has stated that in certain instances it will conduct a search of the city phones, yet
19 it has failed to tell Dorian upon her question when this occurs. The City has continually let
20 councilmembers and other city officials obviously withhold records and fail to perform searches
21 by allowing them to search their own city devices and report zero responsive records for multiple
22 requests. In fact, the City allowed the police chief to search his own city phone on more than one
23 occasion after he admitted to “not keeping” and/or deleting records in an affidavit, and
24 unsurprisingly for a period of multiple months he provided no text records on his city phone.

25 3.58 Along those lines, Dorian also discovered through an email from Councilmember Smith
26 on April 6, 2023 that the City was potentially allowing employees to delete email records with

1 no record of those emails in violation of their own policy and state retention laws, Smith wrote:
2 “On another note, I recently discovered that all of our employees with the City (not including
3 Council) can delete their emails and the City will not have any records of their emails. Not very
4 transparent...and perhaps not exactly legal.” **Exhibit N** is a true and correct copy of the email
5 from Smith.
6

7 3.59 So, on or about May 1, 2023, it seemed to substantiate Smith’s claims when the police
8 chief, responded to the first of two of Dorian’s requests (C000230-050123, C000241-050523,
9 C000264-051223) for records by stating in a sworn affidavit that he does not keep his work-related
10 texts and deletes work-related emails, such response was given on both of Dorian’s requests.
11 **Exhibit O** is a true and accurate copy of one of these affidavits provided.

12 3.60 Dorian made the above request when she was reviewing the police chief’s City provided
13 emails and became concerned about his relationship with Sessions regarding an ethics complaint
14 previously filed against her by a taxpayer.

15 3.61 Dorian also noticed in Sessions’ City provided emails that she sent the police chief an email
16 to his personal email. So, Dorian then requested public records from his personal email account
17 and received his affidavit stating he deletes all work-related emails and texts and provided zero
18 records for that request.

19 3.62 In response, the police chief provided two affidavits stating he deleted all work-related
20 texts and emails but after Dorian reported this to the mayor his affidavits changed. Dorian tried to
21 contact him, and his email auto reply said he was gone until his retirement date of July 31, 2023.
22 **Exhibit P** is a true and accurate copy of the email Dorian sent notifying the City of his conduct,
23 which received no reply.

24 3.63 His affidavits then stated he provided records “if any” instead of the previous language
25 about deleting all work-related texts and emails, and he never provided even one record for time
26 frames that included multiple months, from all devices City owned and personal.

1 3.64 These destroyed records were the property of the public not the police chief, and
2 consequently, they need to be provided and destroying public records is a Washington State crime
3 punishable by felony under RCW 40.16.010-020. Furthermore, under the Electronic Messages,
4 Email and Electronic Records Retention Policy of Lynnwood all members of city executive
5 management are to permanently retain emails.⁸ In doing so, the police chief also appeared to have
6 violated the oath he swore to uphold the constitution, the “constitutional laws of this state” and
7 faithfully, honestly, and impartially perform the duties of the office of the chief of police for the
8 City of Lynnwood to the best of his abilities.

9 3.65 In addition to the other mentioned issues of deceit and concealment with records, on or
10 about June 8th, 2023, after Dorian waited for what appeared to be continued unreasonable
11 extensions for a record request for Councilmember Smith, she emailed the City’s deputy clerk,
12 who helps to locate records responsive to public records requests, to gather additional information
13 on the wait time. **Exhibit Q** is a true and correct copy of Dorian’s email requesting further
14 information.

15 3.66 Then also on or about June 8th, 2023, Smith included Dorian in an email where he informed
16 the City’s deputy clerk that he and another Councilmember (Hurst), whose terms end this year,
17 turned in their city-owned iPads to the City after Dorian began making requests for the city-owned
18 iPads to be searched. **Exhibit Q**.

19 3.67 To replace the city-owned iPads, the City purchased new laptops that cost taxpayers
20 hundreds of dollars and required extra hardware in order to provide the same cell capacity as their
21 city-owned iPads. The city-owned iPads received by the City appeared to be wiped of all data
22 except a few records that detailed a monetary settlement of a dispute of employment by the prior
23 city clerk that the City wished to resolve without litigation. The City Electronic Messages, Email
24 and Electronic Records Retention Policy states that employees may not store public records on
25

26 ⁸ Electronic Messages, Email and Electronic Records Retention Policy, pg 3.

1 their personal devices.⁹ Yet, Dorian is unable to determine where the records from the wiped iPads
2 are now being stored or if they were simply all deleted.

3 3.68 Additionally, on Dorian’s requests, she asked for metadata on multiple occasions. The City
4 didn’t ask for clarification regarding what metadata she was seeking and no metadata was provided
5 for any councilmember, mayor, assistant city administrator, council assistant and PRO until on or
6 about July 21, 2023.

7 3.69 When the City did start providing metadata for texts, they provided call/text logs that were
8 not requested by Dorian and the logs appeared to be altered as they did not conform to the
9 screenshot texts Dorian received. Even after Dorian notified the City that the call/text logs were
10 not the form of metadata she requested, they kept insisting that was the only available metadata.
11 The City repeatedly refused to provide the metadata Dorian actually requested by citing *Nissen v.*
12 *Pierce Cty.*, 183 Wn.2d 863, 357 P.3d 45 (2015).

13 3.70 The City originally stated to Dorian on or about June 26, 2023, that the City “[g]enerally
14 does not have a need for metadata” yet the Lynnwood Social Media Policy listed on the MRSC
15 website states they need to preserve the metadata to provide when requested for social media
16 posts.¹⁰

17 3.71 The City also originally claimed on or about June 23, 2023, that they do not retain metadata
18 for texts older than 90 days, this was later contradicted by them in closing responses after the filing
19 of this suit where they claimed they do not retain metadata for more than 6 months. They also
20 claim they do not retain, copy, or use metadata for employee’s personal social media accounts at
21 all. The City clearly has no policy for retaining metadata and appears to not understand that it is
22 part of the public record and should be extracted directly from the physical device rather than a
23 text message or phone call log. *See generally O’Neill v. City of Shoreline*, 145 Wn. App. 913, 187

24
25
26 ⁹ City Electronic Messages, Email, and Electronic Records Retention Policy 2.4 and 3.2.

¹⁰ Lynnwood Social Media Policy, pg 2.

1 P.3d 822 (2008). As such, the embedded metadata should be retained with the original record
2 requested for the required state retention period.

3 3.72 The metadata is imperative for authentication of text messages. The text messages provided
4 by the City were unclear as to whom they were to and from as the contacts were often listed as
5 first name only and/ or initials and such authenticating information would be available if extracted
6 directly from the phone. The text messages also failed to provide the phone numbers or dates or
7 times of the text messages.

8 3.73 When Dorian asked the deputy clerk for that information, she said she didn't know who
9 the contacts were and suggested, maybe a "coworker or business associate?" There were multiple
10 record requests for text metadata which were not provided to Dorian. **Exhibit R** attached hereto is
11 the first page of an email chain consisting of four pages from the deputy clerk.

12 3.74 Dorian discovered that the deputy city clerk who has stated that it is her duty to identify
13 which social media posts on councilmembers or employees' social media accounts are public
14 records has not been searching social media accounts on numerous requests.

15 3.75 In multiple requests, for social media public records, the response has been zero records
16 from all councilmembers, assistant city administrator, mayor, and police chief.

17 3.76 Until July 3, 2023, Dorian received about six social media records missing the metadata
18 that had also been requested. When Dorian inquired of the deputy clerk for missing metadata, she
19 was informed that the records that Dorian had been provided were not public records, therefore
20 there was no metadata.

21 3.77 On July 10, 2023, Dorian sent the deputy clerk an email public records request for social
22 media posts metadata, which Dorian included in the email public record request.

23 3.78 On July 11, 2023, the deputy clerk asked Dorian to confirm she was making a public
24 records request, which Dorian did on the same date.

25 3.79 No acknowledgement has been received by Dorian of this request as of the date of filing.
26

1 3.80 On or about July 14th, 2023, Dorian received an invoice for 697 responsive records.

2 3.81 Then on or about July 21, 2023, she attempted to assert her lawful right to inspect the
3 records anonymously. As of the time of filing, the City is still withholding those 697 records.

4 3.82 Then, subsequently after filing on August 22, 2023, the City told Dorian she would have
5 to wait an additional seven days to inspect the records and then provided only two dates to come
6 in and inspect for about three hours or less on each date rather than allowing her to inspect the
7 records during the times periods afforded to requesters under RCW 42.56.090, in violation of RCW
8 42.56.090. The City did not ask what dates and time would work for her to inspect the records
9 until September 1, 2023, but they have still refused to offer her the option to freely inspect records
10 during business hours because the Public Records Department is not accessible during business
11 hours since, upon information and belief, the whole Public Records Department is remote.

12 3.83 Furthermore, on or about August 22, 2023, the City began claiming exemptions and citing
13 wrong subsections of RCWs as well as attempting to exempt personal information of email
14 addresses and phone numbers located in public record emails and texts, which is in violation of
15 current case law. The City also wrongly exempted City phone account numbers as “financial
16 information” on some call/text logs (which were inaccurate) provided but not others. **Exhibit T** a
17 true and accurate copy of an example of the City’s response in exempting certain records
18 improperly.

19 3.84 Moreover, the City on or about August 24, 2023, also began claiming it could provide
20 certain text logs but that others for certain months requested were unavailable without reason. On
21 at least one other request, they refused to provide certain billing summaries but named the
22 summaries with incorrect month time frames, which appeared to be an attempt to deceive Dorian
23 from knowing they did not provide certain months of billing summaries she requested.

24 3.85 On or about June 30, 2023, Dorian made a request for the deputy chief: “We are
25 requesting all texts and voicemails relating to government conduct for Cole Langdon with the
26

1 accompanying metadata. We are requesting these messages from all his personal and City issued
2 devices for the time period of June 25, 2022 through June 25, 2023.” The City provided
3 approximately 18 text messages for only a week in June 2023 (the year of these texts was hard to
4 determine without the requested metadata) as well as a voicemail and around three unlawfully
5 redacted emails. The City also provided in response to that request a text log which showed
6 many more texts (79 to be exact) that should have been provided for just three months of that 12-
7 month request. No other texts were provided from June 25, 2022 to the week in June 2023 that
8 the City provided the texts. The record request was made on or about June 30, 2023, but in an
9 affidavit dated only five days later signed by Deputy Chief Langdon who claimed to be Police
10 Commander Langdon in the affidavit he swore to have completed the search for records. Yet,
11 Dorian did not receive this affidavit until nearly two months after it was dated that a complete
12 search had been conducted. **Exhibit U** is a true and accurate copy of the affidavit filled out by
13 the deputy chief now police chief.

16 3.86 Then on or around June 30, 2023, Dorian requested the following for Police Officer Ron
17 Moore: “We are requesting all texts and voicemails relating to government conduct and or City
18 business for Ron Moore with the accompanying metadata for authentication purposes. We are
19 requesting these messages from all his personal and City issued devices and accounts for the
20 time period of June 25, 2022 through June 25, 2023.” A similar response of only around 15 text
21 messages and two voicemails with a voicemail log (which was just a screenshot of the
22 voicemails on the phone) was given with no metadata for another 12-month long request and the
23 request was closed within less than two months after she made the request. Based on the lack of
24 accompanying metadata Dorian was unable to discern the dates of the records, however it
25
26

1 appears there were several months within the 12-month period where no records were provided
2 as was also the case with the deputy chief. **Exhibit V** is a true and accurate copy of the affidavit
3 filled out by Police Officer Ron Moore.

4 3.87 On August 30, 2023, Dorian asked Finance Director for City of Lynnwood Michelle
5 Meyer, who the Verizon City Administrator would be. The finance director refused to answer the
6 question and carbon copied the PRO for him to respond to it as a public records request. No
7 response has been received or public record request created by the PRO to the date of this
8 amendment. **Exhibit W** is a true and accurate copy of the email communication with Michelle
9 Meyer.
10

11 3.88 On request number C000426-071123 for accompanying metadata for 13 social media
12 posts for Smith on or about July 18, 2023, the City waited over two additional months on
13 September 21, 2023 to provide zero records and a conclusory affidavit.
14

15 **PRA DUTIES AND REMEDIES**

16 3.89 The City of Lynnwood is an agency as defined in RCW 42.56.010(1).
17

18 3.90 The records Dorian requested are public records as defined in RCW 42.56.010(3)

19 3.91 RCW 42.56.080(2) mandates in part: “agencies shall, upon request for identifiable public
20 records, make them promptly available to any person...”

21 3.92 RCW 42.56.090(2) requires in part: “Public records shall be available for inspection and
22 copying during the customary office hours of the agency...”

23 3.93 RCW 42.56.100 mandates in part: “Such rules and regulations shall provide for the fullest
24 assistance to inquirers and the most timely possible action on requests for information.”

25 3.94 An agency may not distinguish among persons requesting records per RCW 42.56.080.
26

1 3.95 “The adequacy of a search is judged by a standard of reasonableness, that is, the search
2 must be reasonably calculated to uncover all relevant documents....”*Neighborhood All. of Spokane*
3 *Cty. v. Spokane Cty.*, 172 Wn.2d 702, 720, 261 P.3d 119, 128 (2011) (citing *Weisberg v. U.S. Dep’t*
4 *of Justice*, 227 U.S. App. D.C. 253, 705 F.2d 1344, 1350-51 (1983)).“Additionally, agencies are
5 required to make more than a perfunctory search and to follow obvious leads as they are uncovered.
6 *Valencia–Lucena v. U.S. Coast Guard*,336 U.S.App. D.C. 386, 180 F.3d 321, 326 (1999). The
7 search should not be limited to one or more places if there are additional sources for the
8 information requested. *Valencia–Lucena*,180 F.3d at 326. Indeed, ‘the agency cannot limit its
9 search to only one record system if there are others that are likely to turn up the information
10 requested....” *Neighborhood All. of Spokane Cty. v. Spokane Cty.*, 172 Wn.2d 702, 720, 261 P.3d
11 119, 128 (2011) (quoting *Oglesby v. U.S. Dep’t of Army*, 287 U.S. App. D.C. 126, 920 F.2d 57, 68
12 (1990)) (citing *Valencia-Lucena v. U.S. Coast Guard*, 336 U.S. App. D.C. 386, 180 F.3d 321, 326
13 (1999)).

14 3.96 “Thus, an inadequate search is comparable to a denial because the result is the same, and
15 should be treated similarly in penalty determinations, at least insofar as the requester may be
16 entitled to costs and reasonable attorney fees under RCW 42.56.550(4).” *Neighborhood All. of*
17 *Spokane Cty. v. Spokane Cty.*, 172 Wn.2d 702, 721, 261 P.3d 119, 128 (2011).

18 3.97 To demonstrate an adequate search “the agency may rely on reasonably detailed,
19 nonconclusory affidavits submitted in good faith. These should include the search terms and the
20 type of search performed, and they should establish that all places likely to contain responsive
21 materials were searched.” *Neighborhood All. of Spokane Cty. v. Spokane Cty.*, 172 Wn.2d 702,
22 721, 261 P.3d 119, 128 (2011). Additionally, they should “specify which records were located,
23 withheld, and on what basis nor did they provide “affidavits [that] give the requester a sufficient
24 factual basis to determine that withheld material is indeed nonresponsive,” as required by *Nissen*
25 *v. Pierce Cty.*, 183 Wn.2d 863, 886, 357 P.3d 45 (2015).

1 3.98 “The Public Records Act clearly and emphatically prohibits silent withholding by agencies
2 of records relevant to a public records request.” *Progressive Animal Welfare Soc’y v. Univ. of*
3 *Wash.*, 125 Wn.2d 243, 270, 884 P.2d 592, 607 (1994).

4 3.99 RCW 42.56.210(3) provides with regard to silent withholding: “Agency responses
5 refusing, in whole or in part, inspection of any public record shall include a statement of the
6 specific exemption authorizing the withholding of the record (or part) and a brief explanation of
7 how the exemption applies to the record withheld.”

8 3.100 Courts have stated that “a public official's posts on a personal Facebook page can constitute
9 an agency's public records subject to disclosure under the PRA if the posts relate to the conduct of
10 government and are prepared within a public official's scope of employment or official capacity.”
11 *West v. City of Puyallup*, 2 Wn. App. 2d 586, 588, 410 P.3d 1197, 1199 (2018).

12 3.101 The Washington Supreme Court has stated that metadata embedded in a public record is
13 subject to disclosure just as the original record is under the PRA. (“There is no doubt here that the
14 relevant e-mail itself is a public record, so its embedded metadata is also a public record and must
15 be disclosed.” *O’Neill v. City of Shoreline*, 170 Wn.2d 138, 147-48, 240 P.3d 1149, 1154 (2010).)

16 3.102 RCW 42.56.070 states: “Each agency may establish, maintain, and make available for
17 public inspection and copying a statement of the actual costs that it charges for providing
18 photocopies or electronically produced copies, of public records and a statement of the factors and
19 manner used to determine the actual costs. Any statement of costs may be adopted by an agency
20 only after providing notice and public hearing.”

21 3.103 42.56.580(1) requires: “Each state and local agency shall appoint and publicly identify a
22 public records officer whose responsibility is to serve as a point of contact for members of the
23 public in requesting disclosure of public records and to oversee the agency's compliance with the
24 public records disclosure requirements of this chapter.”

1 3.104 RCW 42.56.100 requires the fullest assistance to inquirers as follows: “Such rules and
2 regulations shall provide for the fullest assistance to inquirers and the most timely possible action
3 on requests for information.”

4 3.105 RCW 42.56.550(1) allows for judicial review of PRA violations by “any person having
5 been denied an opportunity to inspect or copy a public record by an agency” with the burden on
6 the agency to “show cause why it has refused to allow inspection or copying of a specific public
7 record or class of records.” “The burden of proof shall be on the agency to establish that refusal to
8 permit public inspection and copying is in accordance with a statute that exempts or prohibits
9 disclosure in whole or in part of specific information or records.”

10 3.106 RCW 42.56.550(3) also provides: “Courts shall take into account the policy of this chapter
11 that free and open examination of public records is in the public interest, even though such
12 examination may cause inconvenience or embarrassment to public officials or others. Courts may
13 examine any record in camera in any proceeding brought under this section. The court may conduct
14 a hearing based solely on affidavits.” Finally, under RCW 42.56.550(4): “Any person who prevails
15 against an agency in any action in the courts seeking the right to inspect or copy any public record
16 or the right to receive a response to a public record request within a reasonable amount of time
17 shall be awarded all costs, including reasonable attorney fees, incurred in connection with such
18 legal action. In addition, it shall be within the discretion of the court to award such person an
19 amount not to exceed one hundred dollars for each day that he or she was denied the right to inspect
20 or copy said public record.”

21 3.107 “Actions under this section must be filed within one year of the agency's claim of
22 exemption or the last production of a record on a partial or installment basis.” RCW 42.56.550 (6).

23 3.108 RCW 42.56.520 requires: “Responses to requests for public records shall be made
24 promptly ...” Within five business days of receiving a public record request, the agency must
25 respond as outlined in 42.56.520(a)-(d).

1 3.109 Courts have narrowly construed exemptions specifically those under RCW 42.56.230(3)
2 and RCW 42.56.250(4): “As in *Lindeman v. Kelso School District No. 458*, 162 Wn.2d 196, 202,
3 172 P.3d 329 (2007), we hold that the exemption applies only to the personal e-mail addresses
4 contained *in* personnel or employment related records held by the public agency and does not
5 exempt from disclosure personal e-mail addresses contained in the e-mail messages of public
6 officials discussing city business.” See *Mechling v. City of Monroe*, 152 Wn. App. 830, 845-46,
7 222 P.3d 808, 815 (2009).

8 3.110 A lack of prompt response by an agency can constitute constructive denial of records. We
9 hold that when an agency ignores a request for an extended period of time, such inaction may
10 constitute the constructive denial of records. *Cantu v. Yakima Sch. Dist. No. 7*, 23 Wn. App. 2d
11 57, 66, 514 P.3d 661, 668 (2022).

12 13 **V. RESERVATION OF RIGHTS**

14 4.1 Dorian incorporates as if fully realleged paragraphs 1.1-3.109 of this Complaint.

15 4.2 Dorian reserves the right to amend this complaint regarding the factual allegations
16 contained herein, and to add any and all other claims that have or may arise from the facts
17 underlying the lawsuit in accordance with CR 15. Dorian further reserves the right to amend this
18 complaint as information is sought and obtained through discovery.
19

20 21 **VI. CAUSES OF ACTION**

22 **FIRST CAUSE OF ACTION: DENIAL OF PUBLIC RECORDS IN VIOLATION OF** 23 **RCW 42.56.550(1)**

24 5.1 Dorian incorporates as if fully realleged paragraphs 1.1-4.2 of this Complaint.

25 5.2 The City failed to make records promptly available for copying and inspecting in
26 violation of RCW 42.56.080 under requests including but not limited to C000047-012423,

1 C000039-012323, C000141-032023, C000143-032023, C000318-060223, C000324-060223,
2 C000268-051523, C000322-060223, C000323-060223, C000353-061523, C000365-062123,
3 C000395-063023, C000288-052223, C000283-051723, C000396-063023, C000388-062923,
4 C000401-063023, C000371-062223, C000397-063023, C000402-063023, C000391-063023,
5 C000406-070523, C000418-071123, C000291-052323, C000443-072523, C000444-072523,
6 C000445-072523, C000398-063023, C000392-063023, C000446-072523, C000394-063023,
7 C000448-072623, C000426-071123, C000458-080223, C000454-080123.

9 **SECOND CAUSE OF ACTION: FAILURE TO INCLUDE PROPER SEARCH**
10 **PARAMETERS AND CONFORM TO *NISSEN* REQUIREMENTS IN THE AFFIDAVIT**
11 **OF SEARCH RESULTING IN DENIAL/SILENT WITHHOLDING OF RECORDS**

12 5.3 Dorian incorporates as if fully realleged paragraphs 1.1-5.2 of this Complaint.

13 5.4 The affidavits provided to Dorian failed to conform to the requirements in *Nissen v. Pierce*
14 *County*, specifically under requests including but not limited to C000254-050923, C000176-
15 040523, C000230-050123, C000154-032423, C000258-051023, C000175-040523, C000240-
16 050523, C000252-050923, C000264-051223, C000039-012323, C000239-050523, C000268-
17 051523, C000283-051723, C000288-052223, C000323-060223, C000318-060223 C000319-
18 060223, C000320-060223, C000321-060223, C000322-060223, C000324-060223, C000351-
19 061423, C000336-060823, C000365-062123, C000392-063023, C000387-062923, C000394-
20 063023, C000426-071123. *Nissen v. Pierce Cty.*, 183 Wn.2d 863, 357 P.3d 45 (2015). **Exhibit D.**

21 5.5 As a result, the City has silently denied the right to promptly copy and inspect records
22 under RCW 42.56.080.

23 **THIRD CAUSE OF ACTION: IMPERMISSBLY DISTINGUISHING AMONG**
24 **PERSONS IN VIOLATION OF RCW 42.56.080(2) RESULTING IN DENIAL OF**
25 **PUBLIC RECORDS**
26

1 5.6 Dorian incorporates as if fully realleged paragraphs 1.1-5.5 of this Complaint.

2 5.7 The City distinguished among persons under request including but not limited to C000039-
3 012323 when it told Dorian that the City would no longer waive the fee for records under \$5.00
4 dollars in accordance with their policy because she was modifying her requests in accordance with
5 RCW 42.56.120(f). **Exhibit I.** The City also distinguished among persons when it charged Dorian
6 for any fees for requests while it was charging no other requestors at the same time, and thus denied
7 her the opportunity to copy records per RCW 42.56.080 specifically under requests including but
8 not limited to C000039-012323, C000183-040723.

10 5.8 The City further distinguished among persons in violation of RCW 42.56.080 when it
11 refused to explain to Dorian the criteria for when they will waive the fee for requestors in
12 accordance with their policy, and thus, the only reason she had why she was refused the fee waiver
13 was because of her identity and history with the City of modifying requests. **Exhibit K.**

14 5.9 Thus, it is evidenced by the facts that the City denied her the fee waiver option because of
15 its history with her and that resulted in her being denied the opportunity to copy records per RCW
16 42.56.080 specifically under requests including but not limited to C000143-032023, C000141-
17 032023, C000039-012323, C000194-041023, C000154-032423, C000183-040723, C000153-
18 032423, C000155-032423.

20 **FOURTH CAUSE OF ACTION: IMPERMISSBLY CHARGING DORIAN FOR**
21 **REVIEW OF RECORDS RESULTING IN DENIAL OF PUBLIC RECORDS**

22 5.10 Dorian incorporates as if fully realleged paragraphs 1.1-5.9 of this Complaint.

23 5.11 The City charged Dorian for making their employees work harder to locate records due to
24 Dorian's requests for modification of requests. **Exhibit I.**

1 5.12 The City essentially charged Dorian to locate and make records available through the
2 above actions in violation of RCW 42.56.120(1) and as a result she was denied the opportunity to
3 promptly inspect records under RCW 42.56.080.

4 **FIFTH CAUSE OF ACTION: UNREASONABLE CHARGES RCW 42.56.120(1)**

5 5.13 Dorian incorporates as if fully realleged paragraphs 1.1-5.12 of this Complaint.

6
7 5.14 The City charged Dorian when it promised anything under \$5.00 dollars, or 400 emails
8 would be free. It also failed to have a public hearing and notice to allow for charging for staff
9 time to make copies nor does it provide for that in its fee policy or LMC 3.104.020, which was
10 improperly adopted by not stating the reasons it would be unduly burdensome for the City to
11 create a fee schedule of its actual costs. **Exhibit A; Exhibit J.**

12 5.15 Therefore, any charges Dorian incurred for copying were not reasonable, and she was
13 denied the right to copy under RCW 42.56.080.

14 **SIXTH CAUSE OF ACTION: FAILURE TO CONDUCT AN ADEQUATE SEARCH OF**
15 **DEVICES PURSUANT TO RCW 42.56.550(4) RESULTING IN DENIAL OF PUBLIC**
16 **RECORDS**

17 5.16 Dorian incorporates as if fully realleged paragraphs 1.1-5.15 of this Complaint.

18 5.17 Under requests including but not limited to C000186-040723, C000047-012323, C000141-
19 032023, C000239-050523, C000240-050523, C000187-040723, C000175-040523 C000154-
20 032423, C000176-040523, C000039-012323, C000283-051723, C000288-052223, C000250-
21 050923, C000251-050923, C000252-050923, C000253-050923, C000254-050923, C000258-
22 051023, C000268-051523, C000320-060223, C000322-060223, C000323-060223, C000321-
23 060223, C000324-060223, C000319-060223, C000351-061423, C000336-060823, C000392-
24 063023, C000387-062923, C000365-062123, C000394-063023, C000426-071123 the City did not
25 conduct searches in accordance with the standards as set out in paragraphs 3.94-3.96 of this
26 complaint.

1 5.18 As stated above the City also failed to provide an adequate search under *Nissen* because
2 the affidavits did not give Dorian a sufficient factual basis to determine that withheld material was
3 indeed nonresponsive. **Exhibit D.**

4 5.19 Therefore, Dorian was denied the right to promptly copy and inspect records under RCW
5 42.56.080 as a result of the inadequate searches.

6 **SEVENTH CAUSE OF ACTION: FAILURE TO RETAIN RECORDS RESULTING IN**
7 **DENIAL OF PUBLIC RECORDS**

8 5.20 Dorian incorporates as if fully realleged paragraphs 1.1-5.19 of this Complaint.

9 5.21 The City has violated RCW 42.56.080 by failing to make the records promptly available
10 for copying and inspecting under requests including but not limited to C000230-050123,
11 C000241-050523, C000264-051223 when it failed to retain all work-related emails and Nelson's
12 texts on his personal cell phone. **Exhibit O.**

13 5.22 The City has violated RCW 42.56.080 by failing to make the records promptly available
14 for copying and inspecting when it allowed councilmembers and employees to delete texts on the
15 basis that they were transitory when the City has notice that multiple employees including the PRO
16 do not follow this policy for texting. *See Exhibits M and G.*

17 5.23 The City has violated RCW 42.56.080 by failing to make the records promptly available
18 for copying and inspecting when it failed to retain metadata under requests including but not
19 limited to C000388-062923, C000365-062123, C000268-051523, C000353-061523, C000391-
20 063023, C000397-063023, C000288-052223, C000402-063023, C000406-070523, C000443-
21 072523, C000444-072523.

22 **EIGHTH CAUSE OF ACTION: FAILURE TO PROVIDE FULLEST ASSISTANCE TO**
23 **INQUIRER IN VIOLATION OF RCW 42.56.100**

24 5.24 Dorian incorporates as if fully realleged paragraphs 1.1-5.23 of this Complaint.
25
26

1 5.25 The City refused to respond and provide assistance to Dorian who had questions regarding
2 her requests including but not limited to C000143-032023, C000141-032023, C000039-012323 as
3 stated in Facts of this Complaint.

4 5.26 The City also failed to provide the fullest assistance to the inquirer with respect to metadata
5 under requests including but not limited to C000268-051523, C000283-051723, C000288-052223,
6 C000396-063023, C000395-063023, C000388-062923, C000401-063023, C000323-060223,
7 C000365-062123, C000353-061523, C000395-063023, C000397-063023, C000402-063023,
8 C000406-070523, C000391-063023, C000392-063023, C000418-071123, C000398-063023,
9 C000446-072523, C000443-072523, C000444-072523, C000445-072523, C000394-063023,
10 C000426-071123, C000458-080223, C000454-080123, C000322-060223.

11 5.27 The City also failed to adopt rules and regulations including tracking and auditing social
12 media, text messages, metadata that would provide for the fullest assistance to the inquirer.

13 5.28 As a result of the City not the fullest providing assistance, Dorian was denied the ability to
14 promptly copy and inspect records in accordance with 42.56.080.

15 **NINTH CAUSE OF ACTION: PRO FAILURE TO OVERSEE COMPLIANCE WITH**
16 **PUBLIC RECORDS ACT**

17 5.29 Dorian incorporates as if fully realleged paragraphs 1.1-5.28 of this Complaint.

18 5.30 The PRO has failed to oversee that the City complies with the Public Records Act.

19 5.31 The PRO's failure to oversee compliance has caused Dorian to be denied the opportunity
20 to promptly copy and inspect records under RCW 42.56.080.

21 **TENTH CAUSE OF ACTION: PERMANENT INJUNCTION**

22 5.32 Dorian incorporates as if fully realleged paragraphs 1.1-5.31 of this Complaint.

23 5.33 Dorian has clear legal rights under the Public Records Act.

24 5.34 Dorian has a well-grounded fear of immediate invasion of those rights, which have and
25 continue to be invaded by the City's actions, as described in 3.1-4.1
26

1 5.35 The acts described in 3.1-4.1 are resulting in actual and substantial injury to Dorian.

2 5.36 The relative equities of the Parties in the public interest favor granting a permanent
3 injunction to Dorian.

4 **ELEVENTH CAUSE OF ACTION: FAILURE TO ALLOW INSPECTION OF**
5 **RECORDS ANONYMOUSLY DURING CUSTOMARY BUSINESS HOURS PER RCW**
6 **42.56.090**

7 5.37 Dorian incorporates as if fully realleged paragraphs 1.1-5.36 of this Complaint.

8 5.38 Public records shall be available for inspection and copying during the customary office
9 hours of the agency.

10 5.39 Dorian was unable to review records anonymously during customary office hours under
11 request number C000371-062223.

12 5.40 Therefore, Dorian has been denied the opportunity to promptly copy and inspect records
13 under RCW 42.56.080 for 18 days.

14 **TWLEFTH CAUSE OF ACTION: CONSTRUCTIVE DENIAL OF RECORDS BY**
15 **FAILURE TO PROVIDE PROMPT RESPONSE IN VIOLATION OF RCW 42.56.520**

16 5.41 Dorian incorporates as if fully realleged paragraphs 1.1-5.40 of this Complaint.

17 5.42 Dorian made a request for public records and never received a response in accordance
18 with RCW 42.56.520.

19 5.43 Dorian asked a question of the finance director that the finance director forwarded to the
20 PRO as a public records request and Dorian has not received response as of the filing date of this
21 First Amended Complaint.

22 5.44 Dorian was denied a prompt response under those two aforementioned requests.

23 5.45 Under request number C000448-072623 no date was provided for a reasonable time
24 estimate for a second installment of records, and Dorian has still not received any response or
25
26

1 records under this request after the first installment. Dorian was therefore denied the opportunity
2 to promptly inspect and copy the additional installments of records.

3
4 **THIRTEENTH CAUSE OF ACTION: DENIAL OF RECORDS DUE TO**
5 **INAPPLICABLE EXEMPTION PROVIDED**

6 5.46 Dorian incorporates as if fully realleged paragraphs 1.1-5.45 of this Complaint.

7 5.47 Dorian was denied the opportunity to promptly copy and inspect records on the basis of
8 an inapplicable exemption under RCW 42.56.080 when the City wrongly withheld employee
9 information as well as City cell phone carrier account numbers as financial information
10 contained in public records on the basis of an exemption under but not limited to the following
11 request numbers: C000454-080123, C000458-080223, C000392-063023, C000444-072523
12 C000445-072523, C000448-072623.

13
14 **FOURTEENTH CAUSE OF ACTION: FAILURE TO PROVIDE AN ADEQUATE**
15 **RESPONSE UNDER RCW 42.56.550(2)**

16 5.48 Dorian incorporates as if fully realleged paragraphs 1.1-5.47 of this Complaint.

17 5.49 Dorian was denied an adequate response under RCW 42.56.550(2) when the City cited to
18 an incorrect statutory exemption under but not limited to the following request numbers:
19 C000458-080223, C000454-080123, C000392-063023.

20
21 **FIFTEENTH CAUSE OF ACTION: SILENT WITHHOLDING**

22 5.50 Dorian incorporates as if fully realleged paragraphs 1.1-5.49 of this Complaint.

23 5.51 The City silently withheld records when it deceptively renamed records with incorrect
24 date ranges and did not notify Dorian it had failed to provide a date range records she had
25
26

1 requested as well as failing to provide text message details in the account details without reason
2 under but not limited to the following request numbers: C000448-072623.

3 **CITY OF LYNNWOOD’S BAD FAITH VIOLATIONS WARRANT THE MAXIMUM**
4 **PENALTY**

5 6.1 The City of Lynnwood has engaged in multiple bad faith actions such as delaying repeated
6 responses only to provide zero records, failing to provide records without reason and deceptively
7 file naming the records, failing to show an adequate search, as well as citing to inapplicable
8 exemptions, lack of proper training and supervision of the City’s personnel to the degree that the
9 employee asked Dorian if she knew of any other local cities with robust PRA policies, the
10 explanation for noncompliance with the PRA upon repeated requests from Dorian has been
11 nonexistent or in violation with the City policy and/or the PRA and thus unreasonable, the City
12 has engaged in wanton and intentional noncompliance with the PRA and dishonesty through the
13 actions of its councilmembers, mayor, PRO, and police chief. The public importance of
14 transparency of the council through their personally held public records and transparency of the
15 mayor and police chief is of utmost public importance as it undermines public trust and restricts
16 the public’s sovereignty. The penalty amount should be as high as statutorily allowed to deter
17 future misconduct by the agency since repeated pleas by Dorian have not been successful as a
18 deterrent. The City also has failed to comply with the PRA procedural requirements by adopting
19 the state’s fee schedule without stating why it would be unduly burdensome as required by RCW
20 42.56.120(2)(b). Moreover, in most instances the City did not promptly respond to Dorian’s
21 questions nor did it seek any clarification. Furthermore, the City usually refused to offer
22 explanations for noncompliance that Dorian brought to their attention. The City does not have a
23 system to track and retrieve multiple types of public records including texts, social media posts,
24 and metadata being a few examples. Finally, the City has been extremely unhelpful to Dorian
25 without honest communication and strict compliance with the PRA procedural requirements to the
26

1 point of antagonistic behavior. *Yousoufian v. Office of Ron Sims, King Cty. Exec.*, 168 Wn.2d 444,
2 467, 229 P.3d 735 (2010).

4 VII. PRAYER FOR RELIEF

5 Based upon the foregoing, Dorian seeks the following relief:

- 6 1. Equitable relief in the form of an injunctive order requiring production of all denied
7 Records.
- 8 2. In camera review of all records requested of all councilmembers, police chief, and the
9 mayor as per RCW 42.56.550(3).
- 10 3. \$100 dollar penalty fee for every record pursuant to RCW 42.56.550(1) for every day the
11 public records were withheld.
- 12 4. All Costs and Attorney's Fees.
- 13 5. Injunctive relief prohibiting the City from engaging / further engaging in acts described in
14 paragraphs 3.1-4.1 or otherwise failing to produce the records described herein pursuant to the
15 PRA by requiring the City to attain a neutral third party to supervise and facilitate the production
16 of the records requested herein given the City's bad faith history with failing to conduct searches
17 of city devices as well as personal devices and concealing records.
- 18 6. Any other equitable and injunctive relief as the Court deems just and equitable under the
19 circumstances.
- 20 7. Any further relief the court deems just and proper under the circumstances.
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1 DATED this 18th day of December, 2023

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OJALA LAW INC., P.S.

Jordan Kostelyk

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Attorneys for Dorian Kostelyk.

EXHIBIT A

EXHIBIT A

From: [Luke Lonie](#)
Sent: Wednesday, March 8, 2023 11:51 AM
To: [DORIAN Leigh](#)
Subject: RE: Lynnwood Public Records Request :: C000047-012423

Text messages are a different story. They're released via screenshots, and so it can vary even more than emails. A screenshot could contain 5 messages, or it could contain a third of a message, depending on the length. In that case, it would be counted in the amount of screenshots.

Luke Lonie
(he/him/his)
City Clerk
19100 44th Ave W, Lynnwood, WA 98036
Ph: 425-478-9243
www.lynnwoodwa.gov



From: DORIAN Leigh <dorianleighk@msn.com>
Sent: Wednesday, March 8, 2023 11:47 AM
To: Luke Lonie <llonie@lynnwoodwa.gov>
Subject: RE: Lynnwood Public Records Request :: C000047-012423

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you. So to clarify, it sounds like the limit for free electronic files is 400? Is that the same for text messages?

I can make shorter requests more frequently if that works better?

Dorian,

Unfortunately, this question isn't as simple as a number of emails. Per section 4.5.1 of the Records Disclosure policy (which I think you've seen before), the cost of electronic files (in this case, emails) is \$0.05 for every 4 files. The City typically waives costs if they are under \$5, also per section 4.5.1. Therefore, the amount of emails that would be free to disclose would have to be less than 400 to be under that \$5.00 threshold.

However, if a hypothetical request included even one additional responsive record (a non-email, for example), it would cross that threshold again.

Let me know if this doesn't answer your question.

Luke Lonie

(he/him/his)

City Clerk

19100 44th Ave W, Lynnwood, WA 98036

Ph: 425-478-9243

www.lynnwoodwa.gov



EXHIBIT B

EXHIBIT B

From: DORIAN Leigh <dorianleighk@msn.com>

Sent: Tuesday, May 23, 2023 1:48 PM

To: Luke Lonie <llonie@Lynnwoodwa.gov>

Cc: Darcy Kirschner <dkirschner@lynnwoodwa.gov>

Subject: RE: Questions about affidavits and repeated refusal of councilmembers to provide public records from public devices

Thank you, Luke.

You didn't address that you had told me the affidavits had perjury language in them? Also, the Lynnwood affidavits you have provided are conclusory which is not in compliance with case law. There are no search parameters listed nor a list of the accounts that were searched. I have to ask Darcy every time I get an affidavit if the employee provided any records. The affidavits from Decker and Smith indicate they have provided records and according to Darcy, they did not.

When you state that "text communications are generally transitory," do you have any proof that the employees are **only** communicating via transitory messaging? As you probably know, transitory messaging basically provides no information other than what time someone is meeting or to call someone. You could be reviewing the text messages on the government cell phones to see if that is actually happening and it is your responsibility as the PRO to monitor and audit the employees with regard to their compliance with the policy. As you know, if employees are text messaging with non transitory messaging and deleting them, they are violating State retention policies and destroying public records.

The agreements signed by the councilmembers even talk about discipline for non compliance, so if you aren't monitoring compliance, who is? Who disciplines them when they don't comply if it isn't your responsibility? Your role as the PRO is to oversee the whole records department to ensure the laws and polices are being followed, so you are responsible for protecting the City from legal liability.

What about when non transitory text messages are sent by non government employees to government employees? Those messages should not be deleted as they are public records. Where are they being stored?

In addition, it says on the MRSC that if there are transitory messages when someone does a PRA request, they need to be provided. Yet, every request I've made of Decker, Smith, Sessions, and Crosby are claiming they have zero public records on their public devices. That should be a red flag for you as the PRO in terms of ensuring that the public records are not being withheld.

If the taxpayer owned ipads have the imessage app downloaded, the councilmembers are using their publicly owned devices for texting. Furthermore, the imessage app does not provide the capability to archive the non transitory text messages, so it should be shut off from the public devices. When you refuse to search the specific device you have no way of ensuring that an adequate search for public records is actually occurring on public devices.

The Lynnwood technology policy states that the councilmembers are not supposed to be storing any public records on their personal devices, so where are they storing all their public records if not on their public devices? It is your responsibility as the PRO, to hold the councilmembers accountable and ensure they are following the policy. The policy states that there is no right to privacy on public devices and

everything located on the public devices is owned by the City. It also states that you do not need the permission of the employee/public official to inspect their device and access the public records from the device. The fact that the policy provides this information, shows it is the City's responsibility to access these public records when a requester is repeatedly being told by employees there are no public records on public devices.

If councilmembers are withholding records, it is not the councilmember who would be sued, it is the City. This is why it is your responsibility to protect the City from legal liability. If you are unwilling to audit and monitor the City owned devices to ensure that public records are being provided, you are not overseeing the public records department in accordance with RCW 42.56.580. This law mandates that you are overseeing the City of Lynnwood's compliance with the public record's disclosure requirements. The councilmembers are required to provide public records from their public devices and if they are not doing so, you are not "overseeing their compliance with disclosure requirements." They are also not supposed to be storing public records on their personal devices and it is your job to "oversee" their compliance in this area as well. "Overseeing" is your responsibility, not the councilmembers. If you do nothing when you are being told that the councilmembers are repeatedly denying requests for public records from their public devices, you are not "overseeing," you are enabling. Are their text messages all transitory? How are you overseeing this?

Lastly, you mentioned the councilmembers signing affidavits about their denial of records, yet they are repeatedly claiming they have zero public records on their public devices and not signing anything. In fact, they aren't even saying anything to the requester. You are alleging that the public records department is reaching out to them and they are claiming zero public records on their public devices and you don't see a need to oversee compliance with regard to zero public records on public devices? You also don't see the need to oversee where the councilmembers are storing their public records?

Sent from [Mail](#) for Windows

From: [Luke Lonie](#)

Sent: Tuesday, May 23, 2023 10:08 AM

To: [DORIAN Leigh](#); [Darcy Kirschner](#)

Subject: RE: Records Request :: C000154-032423- Affidavit from Crosby

Allow me to offer some clarification to your below message.

Our template is not a mandate, it is suggested language, and notarization is not required by statute.

Text communications are generally transitory, which means they have zero retention, *not* permanent. Several things *do* have permanent retention, like ordinances and Council minutes, but text communications are generally *not* permanent. However, records management and public records requests are not black and white. Depending on content, a text message may have longer retention value, but City policy EXE-004-2021 (which has been provided to you) states that text messages and instant messages are intended only for transitory communications. This includes communications on iPads, and so if you're receiving zero messages, it is likely that councilmembers are either not using the iPads for messaging or they are *properly* deleting the transitory messages in accordance with the City policy and the state retention schedule.

It is not the responsibility of the PRO to ensure that Councilmembers are following the policy that they sign. That responsibility falls on the individual Councilmember. My duty is only ask that they provide the records, and if they sign an affidavit saying they have none, then it is not my role to dispute their statement.

Luke Lonie (he/him) | City Clerk

Executive Department

19100 44th Ave W, Lynnwood WA 98036

Ph: 425-478-9243 | [City Clerk](#)

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EXHIBIT C

EXHIBIT C

From: [DORIAN Leigh](#)

Sent: Thursday, April 6, 2023 1:57 PM

To: [Luke Lonie](#)

Cc: Lisa@KenyonDisend.com; [Christine Frizzell](#); [Darcy Kirschner](#); [Donna Johnson](#); [Julie Moore](#); [Jim Smith](#); [Patrick Decker](#); [George Hurst](#); [Shirley Sutton](#); [Mario Lotmore](#); [James Nelson](#)

Subject: Complaint filed with ACLU of WA

Hello Luke,

Pursuant to RCW [42.56.120\(f\)](#) A requestor may ask an agency to provide, and if requested an agency shall provide, a summary of the applicable charges before any copies are made and the requestor may revise the request to reduce the number of copies to be made and reduce the applicable charges.

Why isn't this listed in the Lynnwood Public Records Act Policy (PRAP)? According to state law, the "requester may revise the request to reduce the number of copies to be made and reduce the applicable charges." This is exactly what I did and am now being financially punished by the City of Lynnwood for exercising my rights under the law.

As you know, I've been making Lynnwood public records requests for a long time and there has been no issues or charges. Recently, the city began charging me for records requests and when I asked why, Donna said she "should have been charging me before but forgot?" This inconsistent behavior is extremely suspicious and yet, I've tried to be gracious, patient and help educate the City of Lynnwood when it comes to providing the public with the transparency they seek.

I explained to you that there were several mistakes both in the policy and on the website, and it looks like you haven't done anything to correct them. If I were a litigious person, I would have filed a lawsuit as the Attorney Generals office has suggested. I didn't see that option listed on the Lynnwood PRAP, which is our recourse if you violate our rights.

I also didn't see under 4.1.2 of the PRAP that the requester can anonymously make requests and does not have to provide a signature. The information on this PRAP is deceptive and misleading, please correct it to reflect the Washington laws which protect the public from tyrannical government workers. The law states that there is no required format for making a request and the requester doesn't need to provide ANY of their personal information. Lynnwood's policy says the requester "should provide their name, address and signature." That is false information and not compliant with the laws of Washington State.

In addition, on the website under, Public Records Menu, the "FAQs," "How do I request records," is also inaccurately reflecting Washington State laws. The only option provided in response to this question is the portal. The public has several options to make their requests and the portal is only one of them. Lynnwood's website and PRAP is not compliant with Washington State laws which reflect the rights and options for the public. We the people are concerned about Lynnwood's attempts to violate our rights for transparency.

Our patience is wearing thin with the repeated mistakes and violations of the law which have been happening with Lynnwood's public records department. Most recently, Lynnwood PD records contacted me and tried to force me into receiving my records through the portal. They even used the excuse that the files are too large to email? Why aren't they receiving the necessary training which would educate them on how to actually SERVE the public instead of dominate them. It is the public who gets to choose how they request the records and how they receive them, yet Lynnwood appears to have no idea how to properly serve the people who pay their salary.

I had to teach you and Donna that you are required to offer the option of inspecting the records for free. When you decided to start charging me for records, you were not offering that option.

When I asked you if public officials are supposed to be forwarding citizen's emails to other citizens (pastors of a local church) you said this: **Section 4.1.2 of the public records policy indicates that public records may be inspected by, or copies made for, the public after going through the proper channel, which would be the Public Records Officer. Elected officials should not be turning over records in this manner, as we track our records requests with the state to generate a report at the end of the year.**

A Lynnwood public official (Sessions) did NOT go through the proper channel as you stated above and therefore caused Lynnwood's records report for the state to be inaccurate. To my knowledge, this public official did not apologize nor admit wrongdoing for these violating actions.

You also violated the state mandated time window of 5 days and when you suddenly disappeared for a week, I sent reminders to your supervisors. After sending the reminders, Donna finally responded the following week and said she had to look in your email to find the requests? She then said that I had closed the

request? This is completely false as I sent multiple reminders when you were not responding.

A request was sent to you on March 24th, then forwarded to the mayor, city manager and deputy clerk on March 29th. Donna responded on March 29th saying she should have a response by the next day. On March 30th, she responded saying she was forwarding the request to you and the deputy clerk and you were both copied. As of today, April 6, we still have not received a response and fair notice was provided multiple times.

Many citizens would not tolerate this unlawful behavior and would exercise their right for resolution in Superior Court, however, my goal is to help Lynnwood avoid lawsuits.

I've tried to educate you about what you are currently doing that is unlawful and after your response yesterday, I had no other option but to contact the ACLU and the AG's office.

In accordance with RCW 42.56.120 listed above, I attempted to reduce the size of my request based upon what you told me in an email on March 8th. This is what you said, "The City typically waives costs if they are under \$5, also per section 4.5.1. Therefore, the amount of emails that would be free to disclose would have to be less than 400 to be under that \$5.00 threshold." Donna also said in an email, "we don't charge for records under \$5.00." Then when I reduced the size of a request, to avoid fees you stated this: "A week or so ago, you had asked for ways around our policy (making smaller requests so that it does not exceed the \$5.00 amount). These smaller requests actually create more work rather than less....." You indicated that Lynnwood was refusing to waive the fee for a record that was reduced to under \$5.00. See above RCW

Yesterday, you accused me of "using the optional fee waiver to my advantage?" You also accused me of making repeated requests asking for the same or similar information across different dates. I have no idea what you are referring to with regard to asking for the "same information across different dates?" Or your accusation about "repeated requests?" As stated before, I'm an advocate for the most vulnerable in the community who may have language barriers, financial limitations, disabilities or other challenges. If a request comes from my email, don't assume that record is for me. Many Lynnwood taxpayers are terrified to make their own public records requests and after the manner in which I've been treated, I can see why.

I have repeatedly asked you to substantiate your responses and accusations towards me with Washington State laws and to date, you have not provided those laws. In contrast, I have provided you with laws which confirm my statements to you. The RCW above states that the agency shall provide a summary of the applicable charges upon request and the requester may reduce the size to reduce the charges. The law doesn't state that this would be taking advantage of any policy offered by the city. Nor, does it state that the city can refuse a citizen the reduction of fees if it would cause the city to do more work.

Each public records request should be treated individually and no citizen should be punished or discriminated against for asking questions and attempting to reduce fees, especially when this citizen is advocating for the most vulnerable citizens in the community.

You've repeatedly ignored the facts that there are taxpayers who can't afford to pay for records and are not able to travel to city hall for their records. If you are treating me in this manner, I can't imagine how these vulnerable folks are being treated when they attempt to reduce the size of records in order to reduce or eliminate their fees.

The public record I'm referring to was ready for viewing on March 22, however, it is not being released due to an invoice for payment. You disappeared for a week and no one would respond to this issue in your absence. You stated in an email on March 8, "the amount of emails that would be free to disclose would have to be less than 400 to be under that \$5.00 threshold." The amount of emails for this request I am being prevented from receiving was 221. You stated that amount would be "free to disclose." Yet now, you are refusing to disclose it without payment.

I've repeatedly asked you to clarify what the charges for future requests would be so we can refrain from making requests that will need to be revised, yet you won't respond to my questions. Your lack of response to this question seems odd based upon your repeated concerns about not wasting taxpayer dollars.

This was also stated by Donna, on March 1st, "Going forward if any of your requests go over the \$5.00 amount, we will charge you per policy....." Apparently Donna has not been trained in accordance with the RCW above which states the requester may reduce the size and therefore reduce the fees which is not listed in the Lynnwood policy.

According to the Attorney General's office, "if there is unreasonable delay by the agency, or unreasonable estimate of copying costs the requester can file a lawsuit in Superior Court.

Lastly, my goal for the City of Lynnwood is transparency and the ability of ALL taxpayers to have the same freedom to access public records. If taxpayers can afford to pay for copies of public records or have the mobility and transportation to travel to city hall, that is a completely different situation than taxpayers who are financially and geographically limited. No taxpayer should ever be told they are taking advantage of a policy or causing the city to do more work, simply because they are exercising their rights under the law which clearly provides for reducing the size to reduce the fees.

Sent from [Mail](#) for Windows

EXHIBIT D

EXHIBIT D



**AFFIDAVIT OF RECORD SEARCH of PUBLIC OFFICIAL
RE: SEARCH OF PERSONAL DEVICES/ACCOUNT**

I, Shannon Sessions of City of Lynnwood Council do hereby certify that I completed the following search of records on my personal email account(s) or my personal cellular device for agency business:

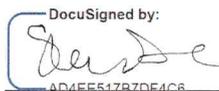
I'm requesting the text messages and emails for Shannon Sessions for the time frame of January 5, through January 24, 2023.

The search was performed to provide records responsive to the following Public Records Request:

C000047-012423

Description: I'm requesting the text messages and emails for Shannon Sessions for the time frame of January 5, through January 24, 2023.

I hereby certify that all files on any personal devices and accounts that I use for City of Lynnwood business have been searched for records responsive to this request. I further certify that I have provided responsive records, if any, relevant to the City of Lynnwood City Clerk's Public Records Officer or designee pertaining to Public Records Request C000047-012423.

DocuSigned by:

AD4EE517B7DF4C6

3/26/2023

Signature

Date

EXHIBIT E

EXHIBIT E

SAMPLE



LYNNWOOD
WASHINGTON

Search of Personal Device/Account Declaration

Description: If records responsive to a records request reside on an employee’s or official’s personal device or account, that individual must search for responsive records and the agency should have the individual prepare and sign a declaration describing the nature and extent of the search. The declaration must also include a description of personal records not produced with sufficient facts to show the records are not public records. [Nissen v. Pierce County](#).

**DECLARATION OF PUBLIC OFFICIAL/EMPLOYEE
RE SEARCH OF PERSONAL DEVICE/ACCOUNT**

I, Susan Smith, Councilmember for the Agency, do hereby certify that I completed the following search of my personal devices and personal accounts on March 27, 2018:

- I searched the following accounts and devices:
 - Personal Gmail Account (ssmith2018@gmail.com)
 - Text Messages on Personal Cell Phone

- I used the following individual search terms independent of each other:
 - “city hall”
 - “location”

- I searched for records within the following dates: January 1, 2017-December 31, 2017

The search was performed in order to provide records responsive to the following Public Records Request (“Request”):

“All emails and text messages from 2017 to and from all councilmembers regarding the proposed location of a new city hall.”

I hereby certify that the only personal devices and accounts I use to communicate for agency business are my Gmail account and the text messaging feature on my personal cell phone. I further certify that I have provided to the Agency PRO all responsive emails located in my Gmail account and all responsive text messages located on my personal cell phone as a result of my search. I hereby certify that any other email messages in my Gmail account and any other text messages on my personal cell phone, other than those I have provided pursuant to the Request, are either personal in nature (and therefore not public records) or are not responsive to the Request.

Signed and dated this ____ day of _____, _____ at _____, _____.

Signature

Include notary acknowledgment

TEMPLATE ON NEXT PAGE



AFFIDAVIT OF PUBLIC OFFICIAL/EMPLOYEE RE SEARCH OF PERSONAL DEVICE/ACCOUNT

Choose one of the following options (delete unneeded text):

Option 1 – use if the employee/official does not use a personal account or device for agency business:

I, *{Enter employee/official name and job title or position}* for the City of Lynnwood, do hereby certify that I do not use my personal email account(s) or my personal cellular device for agency business.

Option 2 – use if the employee/official uses personal account and/or device for agency business:

I, *{Enter employee/official name and job title or position}* for the City of Lynnwood, do hereby certify that I completed the following search of my personal devices/accounts on *{Enter date search was performed}*:

{List personal devices and accounts searched}

{Describe search terms used}

{Enter date search parameters}

The search was performed in order to provide records responsive to the following Public Records Request ("Request"):

{Enter requestor's name, description of request and date recieved}

I hereby certify that the only personal devices and accounts that I use for The City of Lynnwood business are *{List personal devices and accounts used for agency business}*. I further certify that I have provided to The City of Lynnwood, Public Records Department all responsive records located on *{Enter list of personal devices and accounts searched}* a result of my search. I hereby certify that any and all records located on *{Enter list of personal devices and accounts searched}*, other than those I have provided pursuant to the Request are either personal in nature (and therefore not public records) or are not responsive to the Request.

Signed and dated this ____ day of _____, _____ at _____, _____.
City State

Signature

{Enter notary acknowledgment}

EXHIBIT F

EXHIBIT F

Sent from [Mail](#) for Windows

From: [DORIAN Leigh](#)

Sent: Friday, March 17, 2023 4:39 PM

To: [Christine Frizzell](#); [Joshua Binda](#); [Patrick Decker](#); [Shirley Sutton](#); [George Hurst](#); [Luke Lonie](#); [Julie Moore](#); [Jim Smith](#)

Subject: Correction

Pursuant to my previous email, the time frame for the text messages to or from Sessions, was January 5, 2023-January 24th, 2023, not October-November 22.

Sent from [Mail](#) for Windows

From: [DORIAN Leigh](#)

Sent: Friday, March 17, 2023 4:27 PM

To: [Christine Frizzell](#); [Jim Smith](#); [Joshua Binda](#); [Patrick Decker](#); [Shirley Sutton](#); [George Hurst](#); [Luke Lonie](#); [Julie Moore](#)

Subject: Honesty with public records?

Hello,

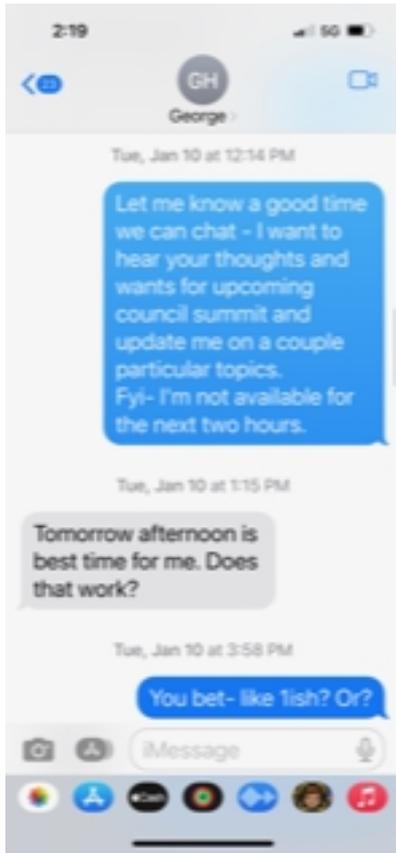
CM Crosby is telling the Public Records Officer that she has zero texts that were sent or received regarding city business from October 1, 2022 – November 1, 2022. This is suspicious to the public and we are requesting any of you who have done any city business with Crosby via text during that time to be transparent and disclose that information now. If we request all of your text messages and you aren't being honest, it will eventually be exposed.

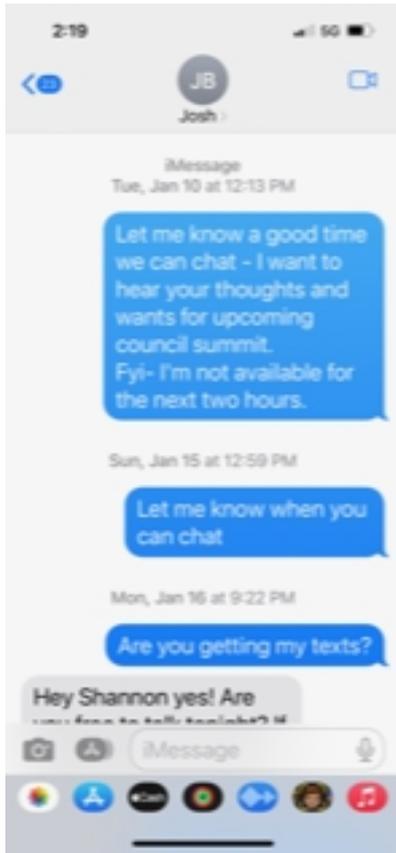
In addition, CP Sessions is claiming that she only had one city text during the same time frame. She is saying that for a whole month, she only had one text that was city business? Any of you who know that to be false have a duty and an obligation to speak the truth and provide the transparency the public is promised via the Public Records Act. Did you send or receive a text with Sessions during that time frame? You have all completed the training and are accountable for your actions. As you know, lying in an affidavit, is a serious offense.

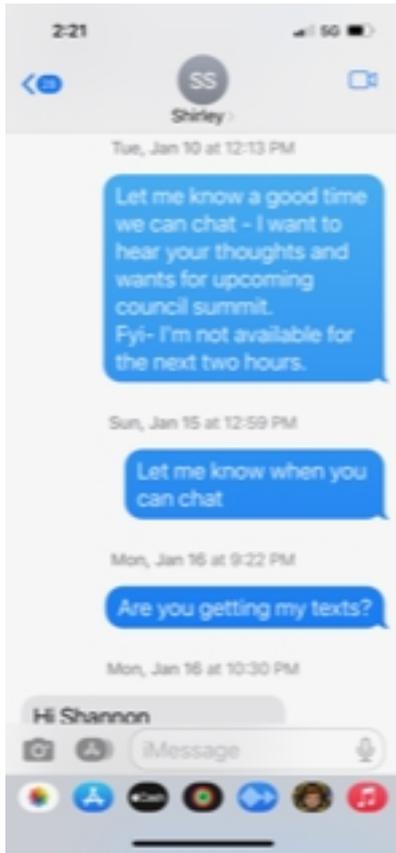
Thanks,
Dorian

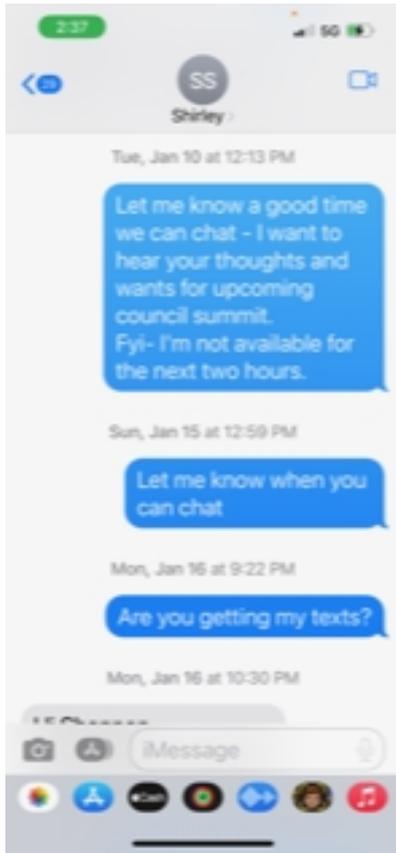
EXHIBIT G

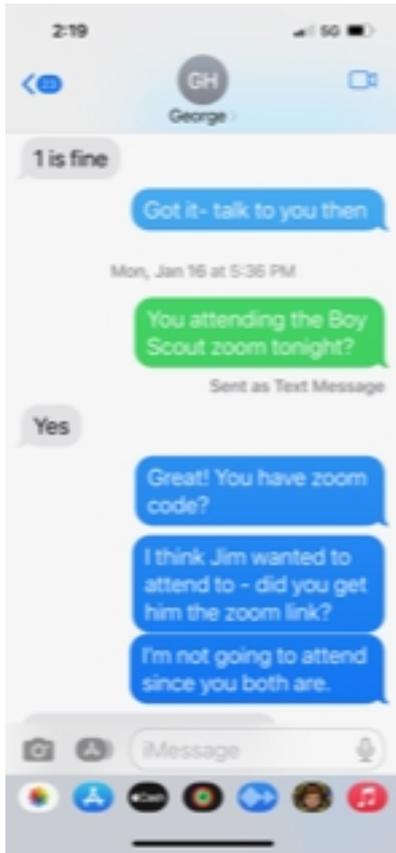
EXHIBIT G

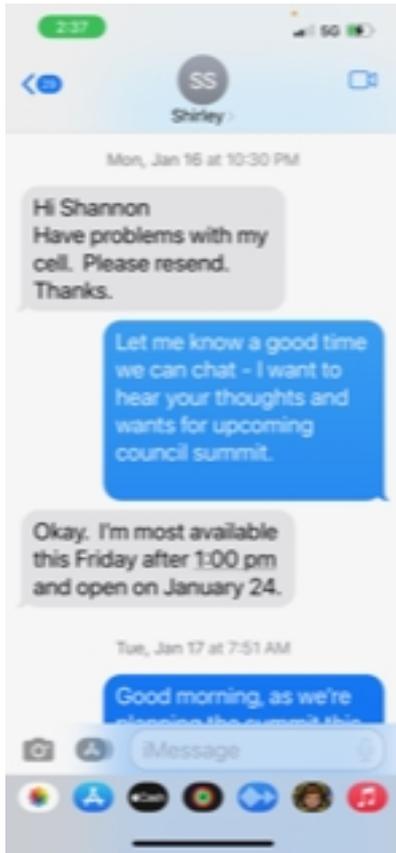


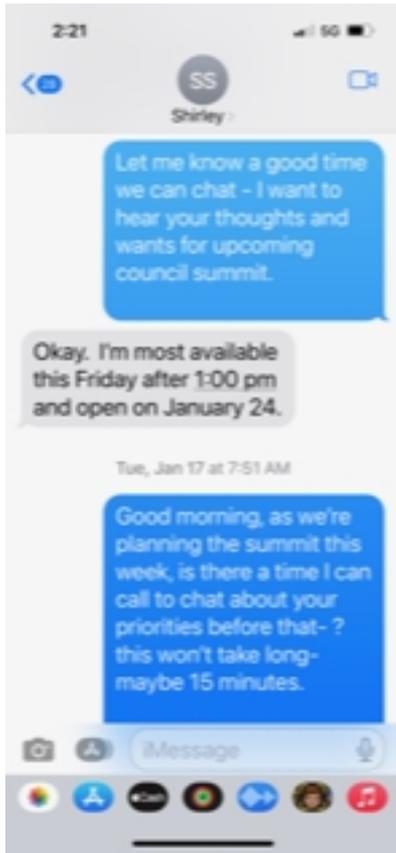




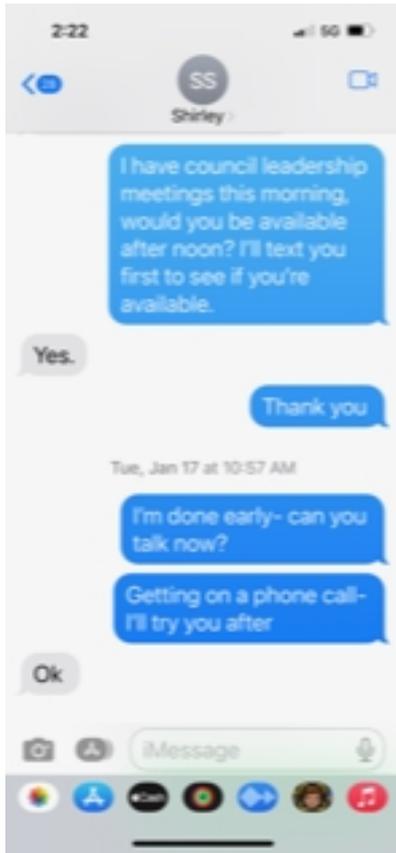




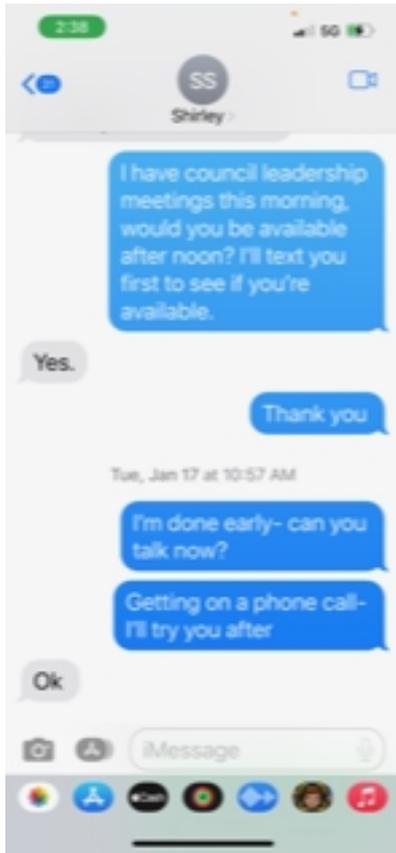


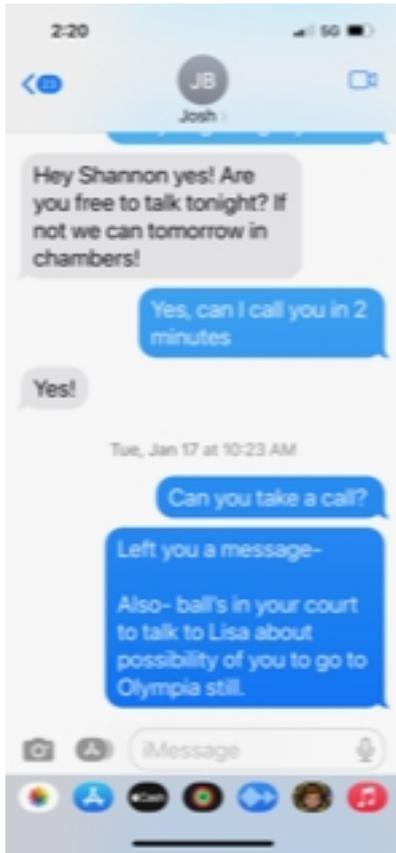


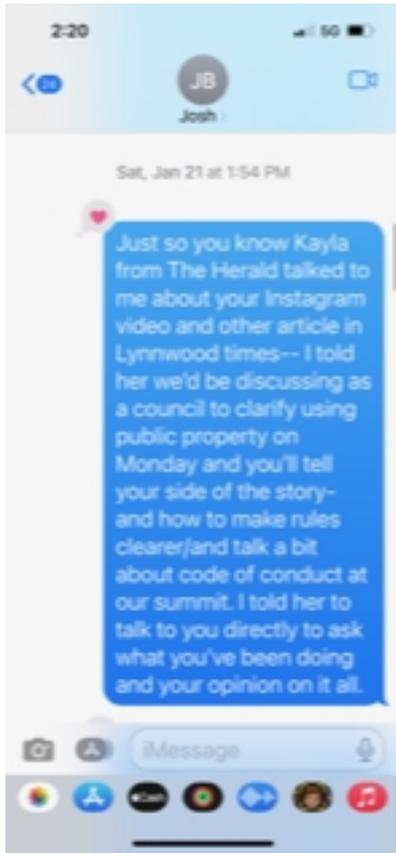


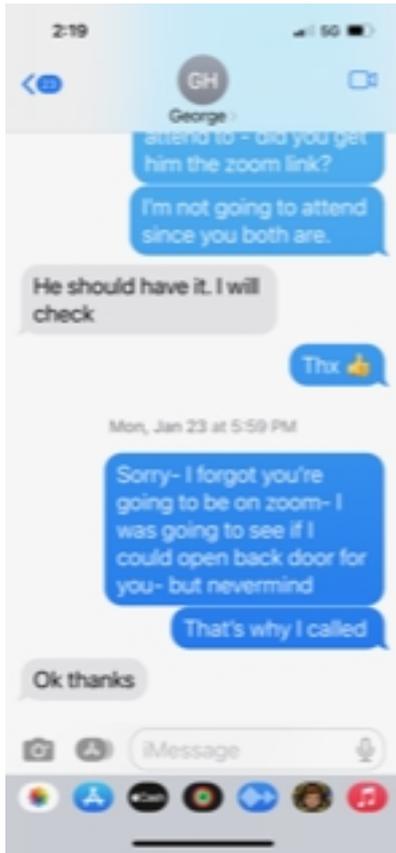


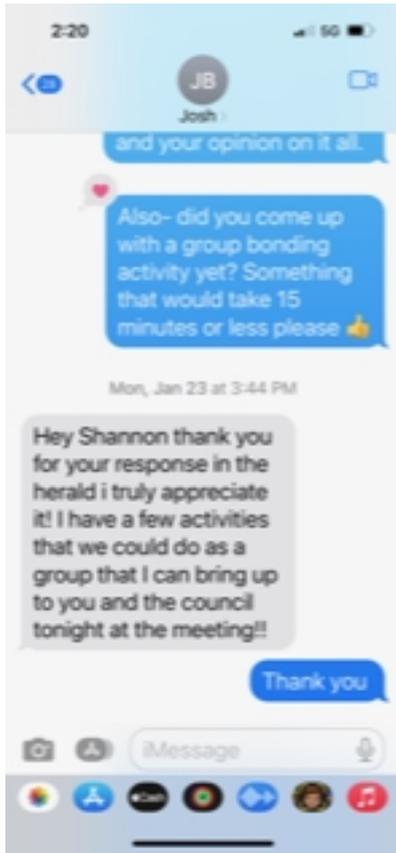


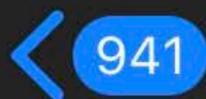












Shannon Sessions >

Let me know a good time we can chat - I want to hear your thoughts and wants for upcoming council summit. Fyi- I'm not available for the next two hours.

Sun, Jan 15, 12:59 PM

Let me know when you can chat

Mon, Jan 16, 9:22 PM

Are you getting my texts?

Hey Shannon yes! Are you free to talk tonight? If not we can tomorrow in chambers!

Yes, can I call you in 2 minutes

Yes!

Tue, Jan 17, 10:23 AM

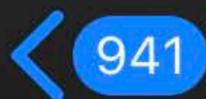
Can you take a call?

Left you a message-



iMessage





Shannon Sessions >

Tue, Jan 17, 10:23 AM

Can you take a call?

Left you a message-

Also- ball's in your court to talk to Lisa about possibility of you to go to Olympia still.

Sat, Jan 21, 1:54 PM

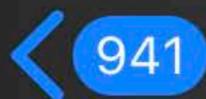
Just so you know Kayla from The Herald talked to me about your Instagram video and other article in Lynnwood times-- I told her we'd be discussing as a council to clarify using public property on Monday and you'll tell your side of the story- and how to make rules clearer/and talk a bit about code of conduct at our summit. I told her to talk to you directly to ask what you've been doing and your opinion on it all.

Also- did you come up with a



iMessage





Shannon Sessions >

doing and your opinion on it all.

Also- did you come up with a group bonding activity yet? Something that would take 15 minutes or less please 👍



Mon, Jan 23, 3:44 PM

Hey Shannon thank you for your response in the herald i truly appreciate it! I have a few activities that we could do as a group that I can bring up to you and the council tonight at the meeting!!

Thank you

Tue, Jan 31, 11:16 AM

What did you decide on your bonding exercise for summit on Feb 11?

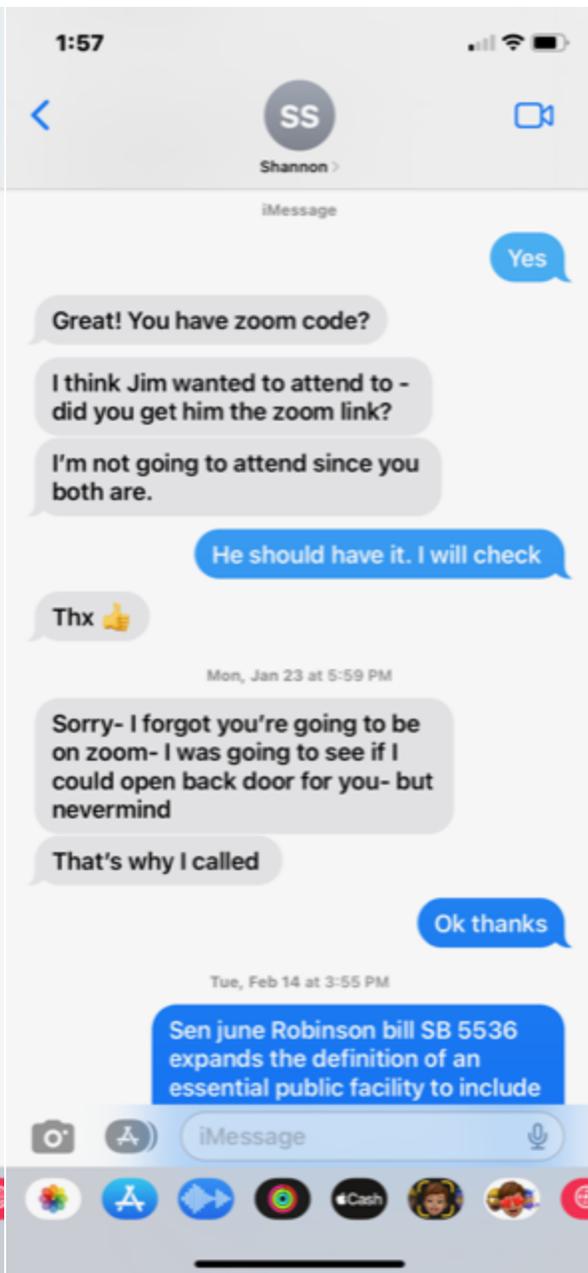
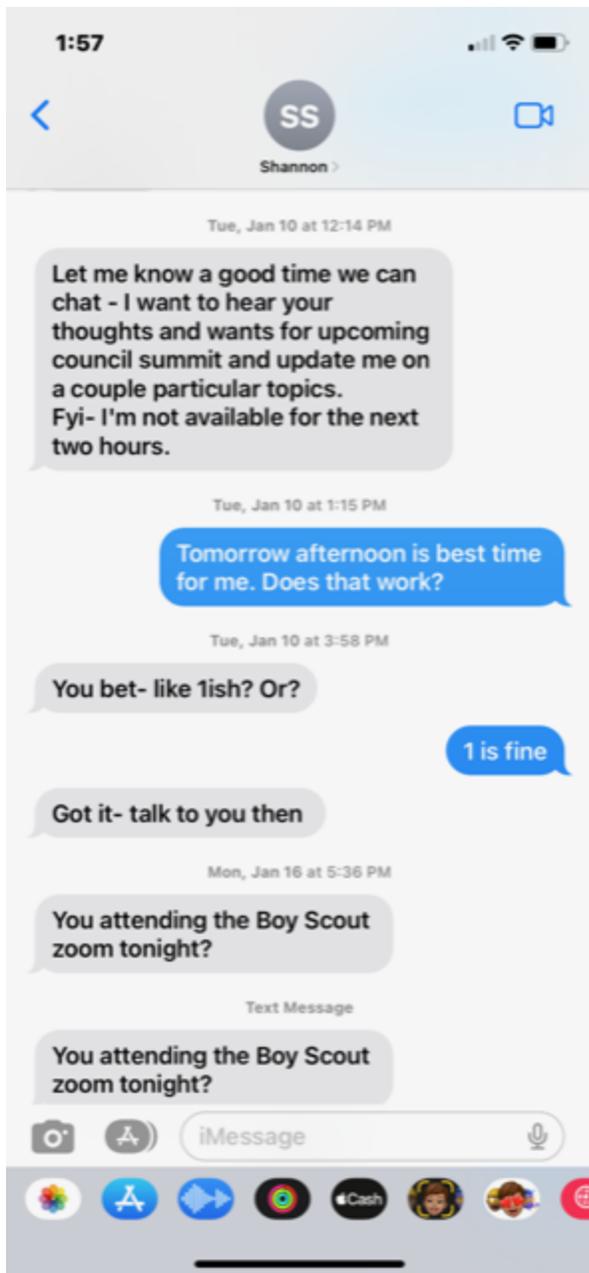
Fri, Feb 3, 9:50 AM

Also- No Josh you can't bring



iMessage





6:37



Shannon



Oh well

Are they going with you?
George and Shirley?

Josh said he's drive on his own

So far it is just the mayor and I
in our city car, we haven't
offered to anyone else

I thought Lisa could help figure
out their transportation??

Do you want her to offer your
car? No pressure

Oh sure, it would be the nice
thing to do

Ok- I'll have her do that and tell
them they'd need to be at city
hall ready to leave by 3ish?

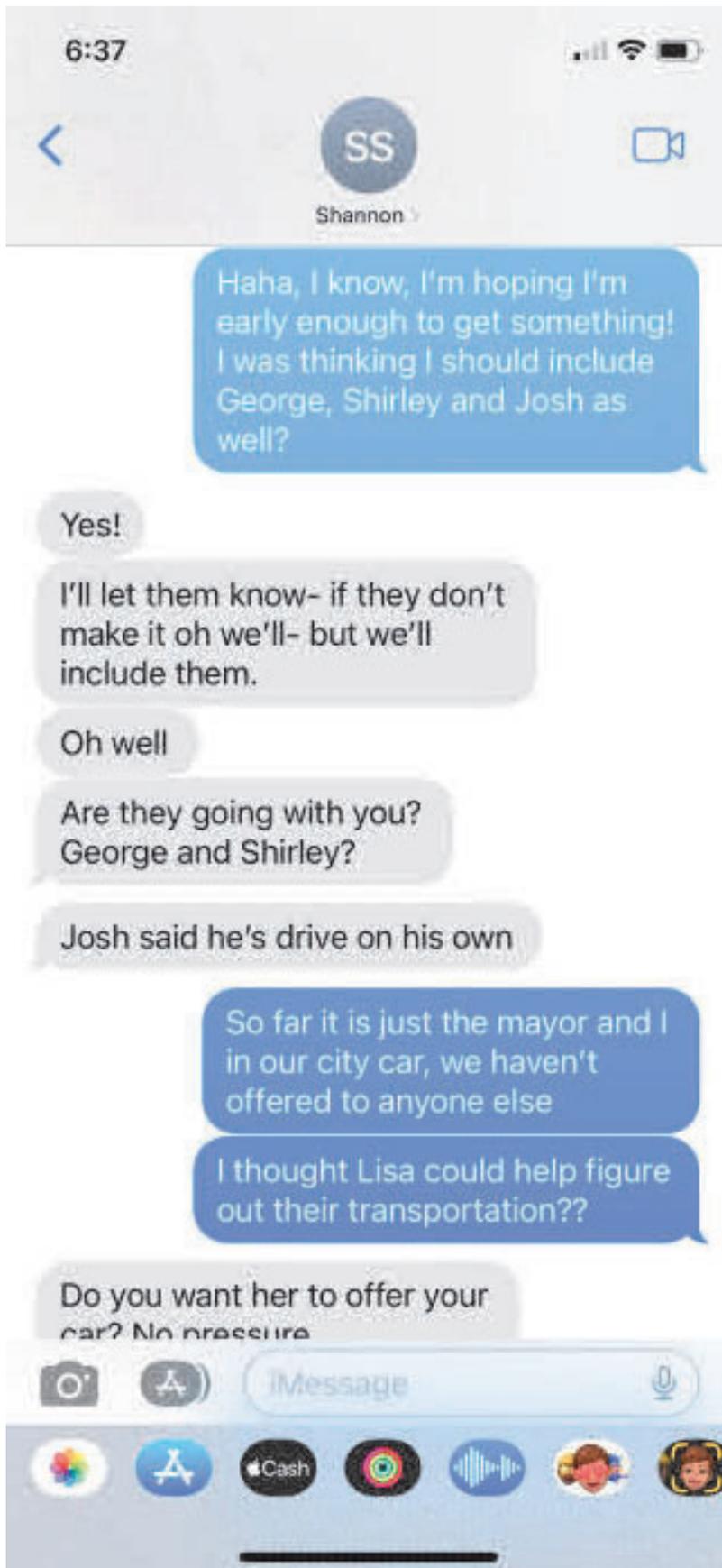


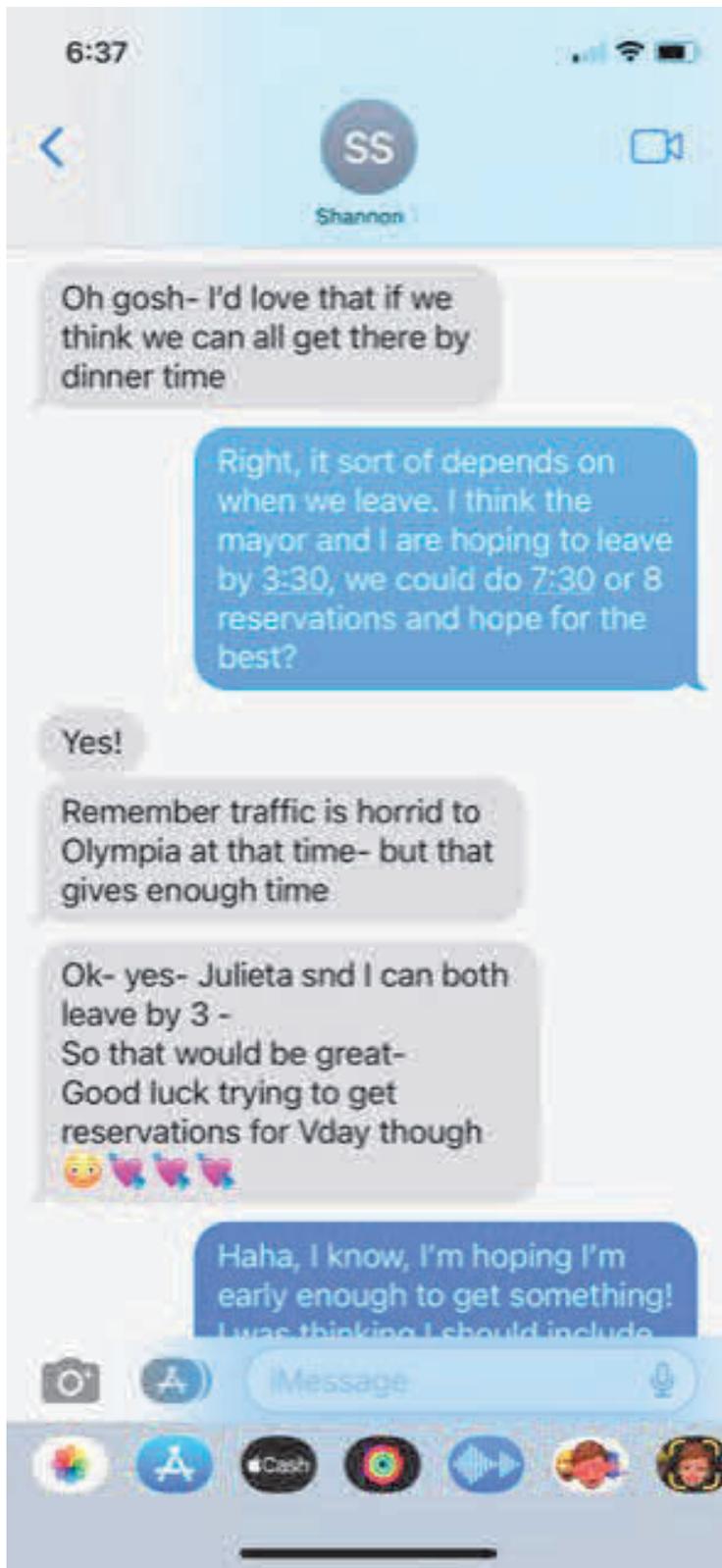
Sounds good!

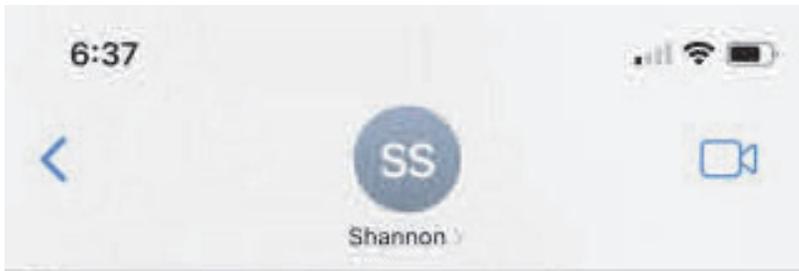


iMessage









Oh right! We can do my office if that's ok.

👍 see you soon

Wed, Jan 11 at 2:36 PM

Thx for the snack- saved my life



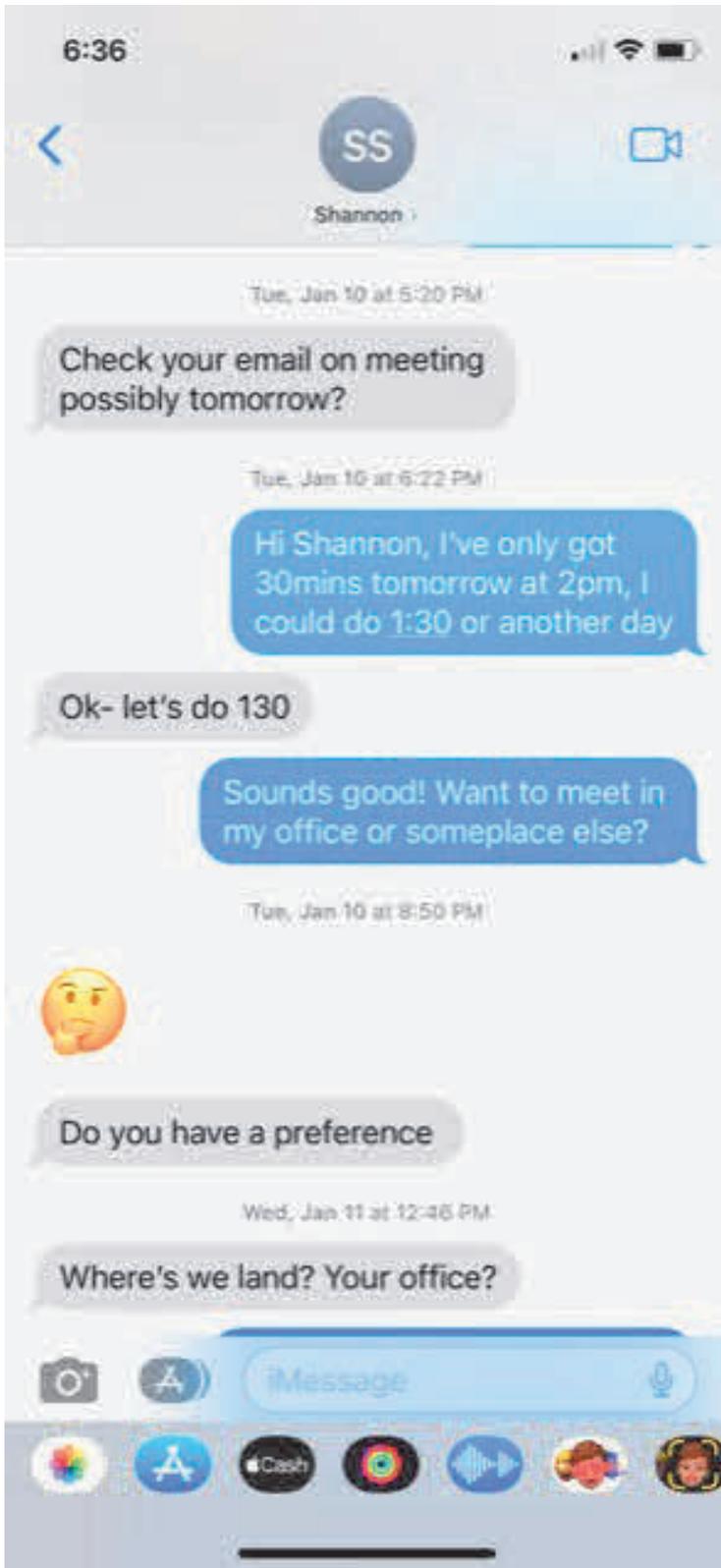
Haha, no problem!!
Thanks for meeting

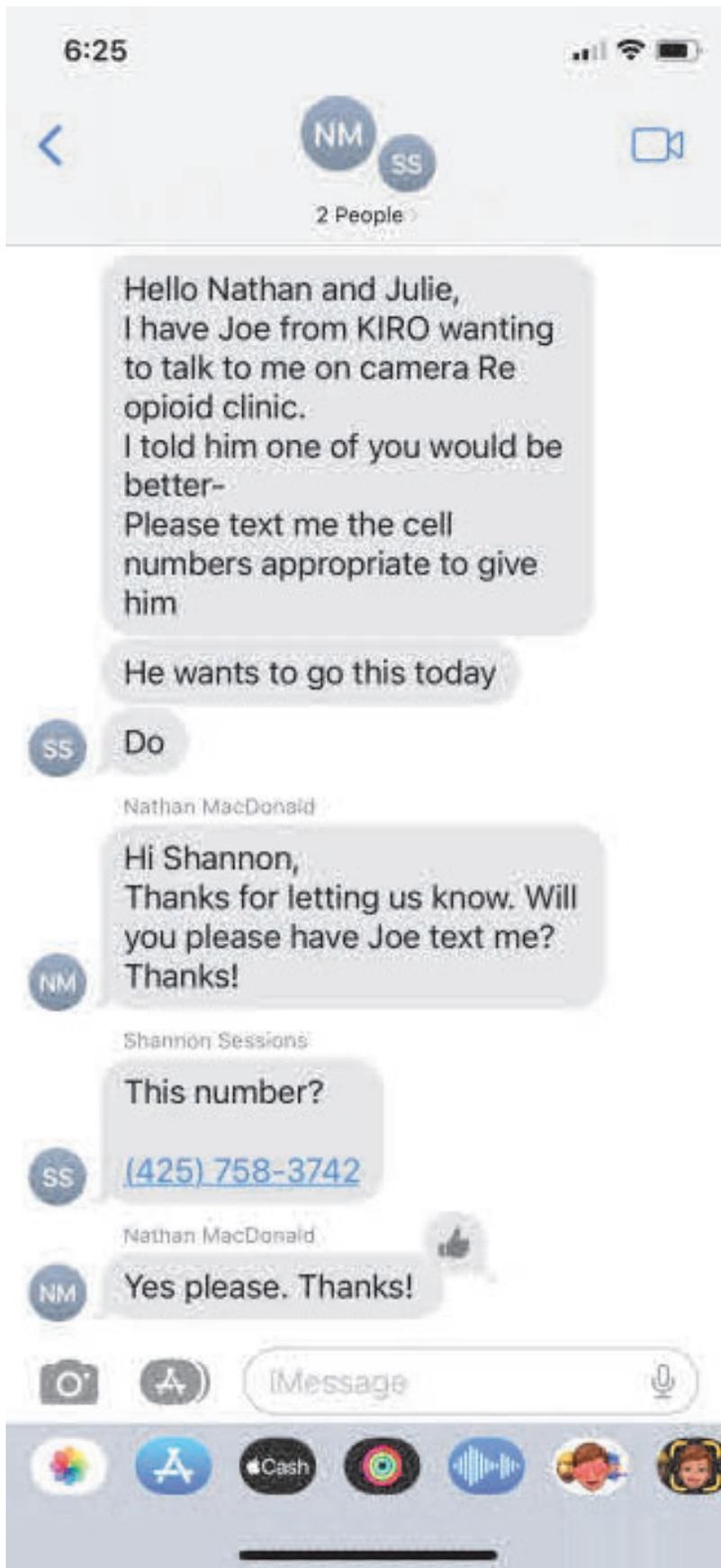
Thu, Jan 19 at 3:35 PM

Hi Shannon, on the evening of Feb 14th do you think we should try for a group dinner in Olympia? I can attempt to make reservations, a group Valentine's Day dinner 😊

Oh gosh- I'd love that if we









iMessage
Thu, Jan 5 at 12:30 PM

Shannon Sessions

Hello Nathan and Julie,
I have Joe from KIRO wanting
to talk to me on camera Re
opioid clinic.
I told him one of you would be
better-
Please text me the cell
numbers appropriate to give
him

He wants to go this today

SS Do

Nathan MacDonald

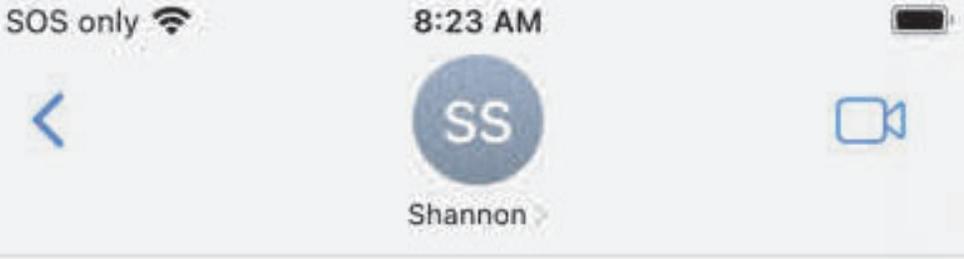
Hi Shannon,
Thanks for letting us know. Will
you please have Joe text me?
Thanks!

Shannon Sessions

This number?

SS [\(425\) 758-3742](tel:(425)758-3742)





iMessage
Thu, Jan 12 at 3:05 PM

Good afternoon CP! Were you able to review the draft agenda from this morning?

Sorry/ I'll look now

No worries, thank you!

Done ✓



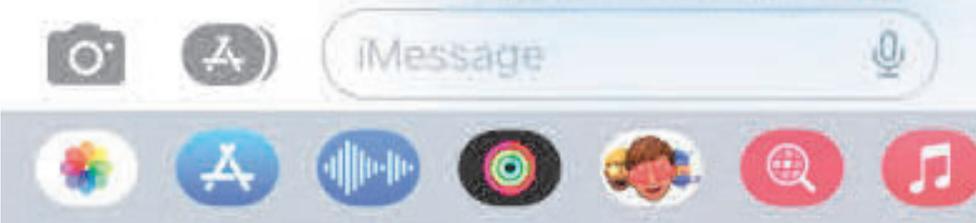
Thx for text

Did you hear from Julieta?

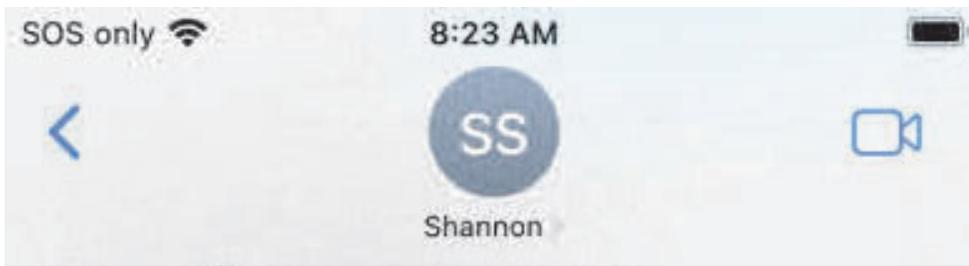
I haven't, not yet.

Ok- move forward - we'll have to add letter after too

Will do! 🙌







Let me reach out to Lisa, she usually adds proclamations. I'll also correct the spelling on your name (sorry I missed that, I swear I know your name!)

Once those changes are made, do we have your approval, or would you like to see them again before I finalize?

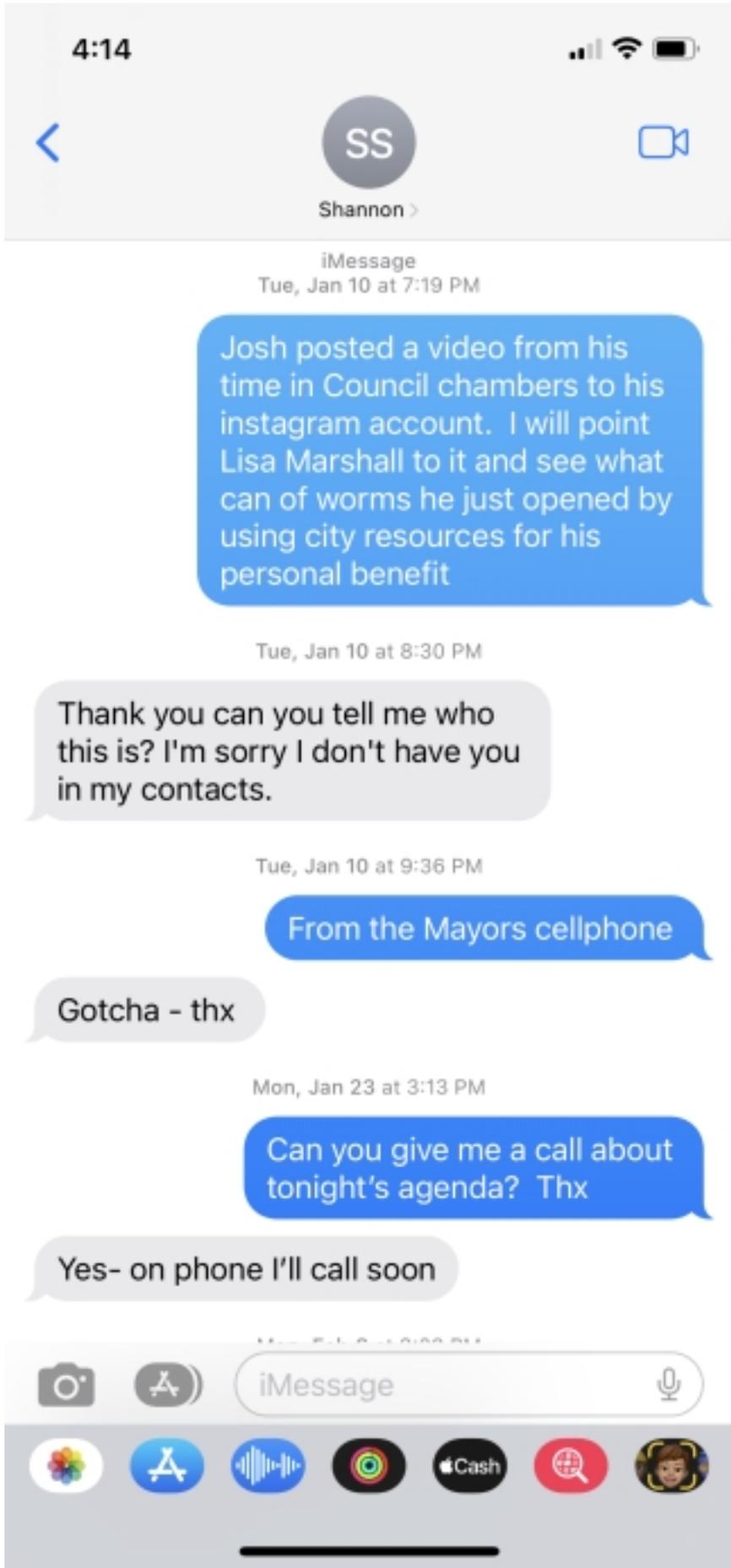
Approved

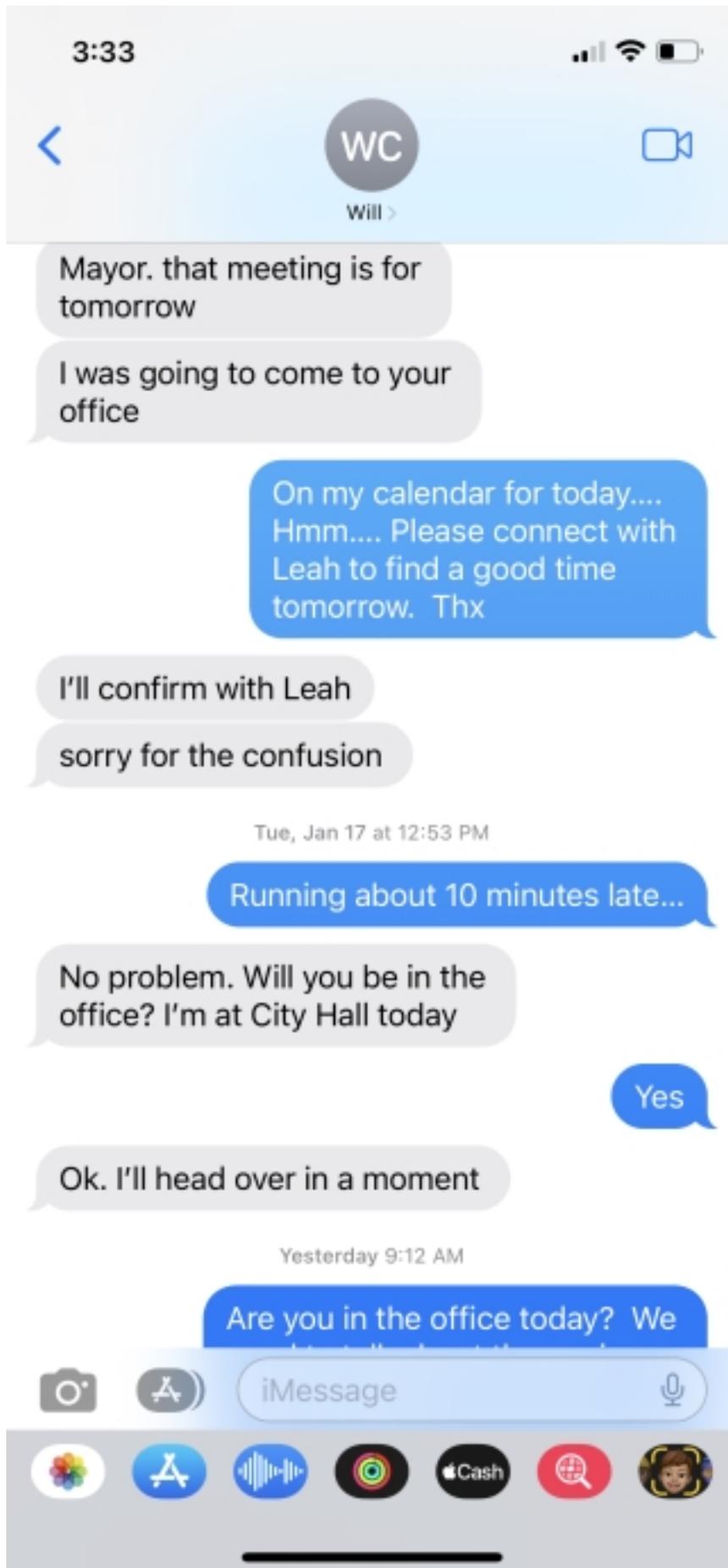
Did you get a chance to read Julie's email?

Thu, Jan 19 at 3:04 PM

Sorry no- been in meeting- I'll check now







4:08



New iMessage

Cancel

To: Luke Lonie

Thu, Dec 29 at 12:02 PM

Hey Mayor, I hope you're feeling better! Those head colds can really knock you out.

Were you able to review the agenda for Tuesday?

Thu, Jan 19 at 10:33 AM

Please give me a call when you can. I have an LMC question

Will do, I'm in a training until 12:15 but I should have a break in about 30 minutes

K

Mon, Jan 30 at 2:02 PM

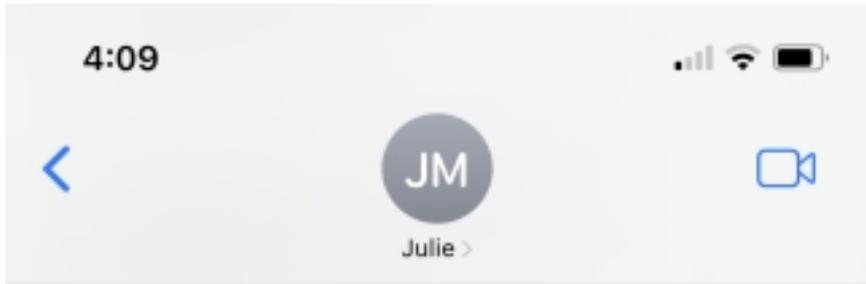
 Working great. Thank you

Delivered



iMessage





Thu, Jan 5 at 9:10 AM

Good morning, don't think I mentioned it to you, I'm attending the EASC legislative kickoff session today from 10-12 in Everett. Will be in the office afterwards

Cool

Fri, Jan 6 at 1:52 PM

Are you working up a letter to DoH?

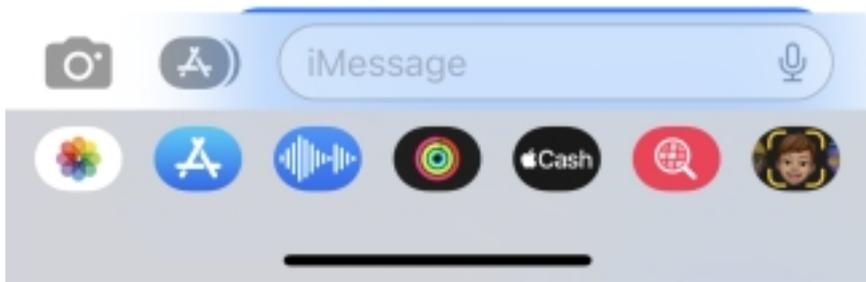
I can and will but I've been in meetings since we last talked!

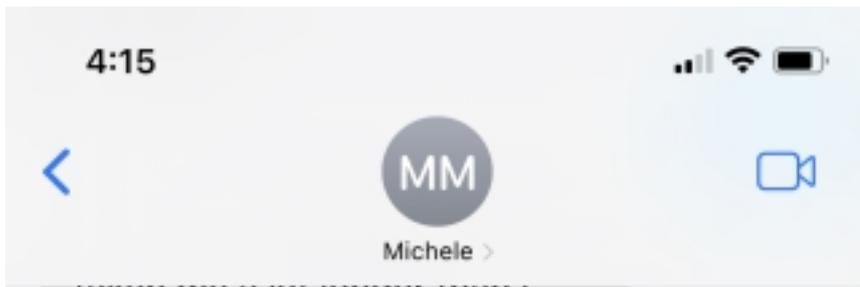
Meetings! Lifeblood of our chaos

And today was going to be my "light day"!

Hahaha

Mon, Jan 9 at 2:18 PM





taken me a lot longer than I thought to get all the budget stuff updated with those requests for additional funding. Getting started on the forecast and the memo now and will get you something to review. Luke knows I'm still not done.

Thanks for the update

Tue, Jan 10 at 11:29 AM

Hi boss, chimney repair person just showed up. Can I call once I get him situated?

Tue, Jan 24 at 11:31 AM

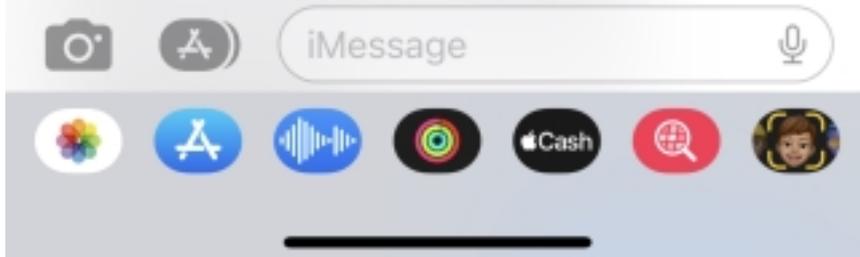
Just got out of meeting. Connect in 6

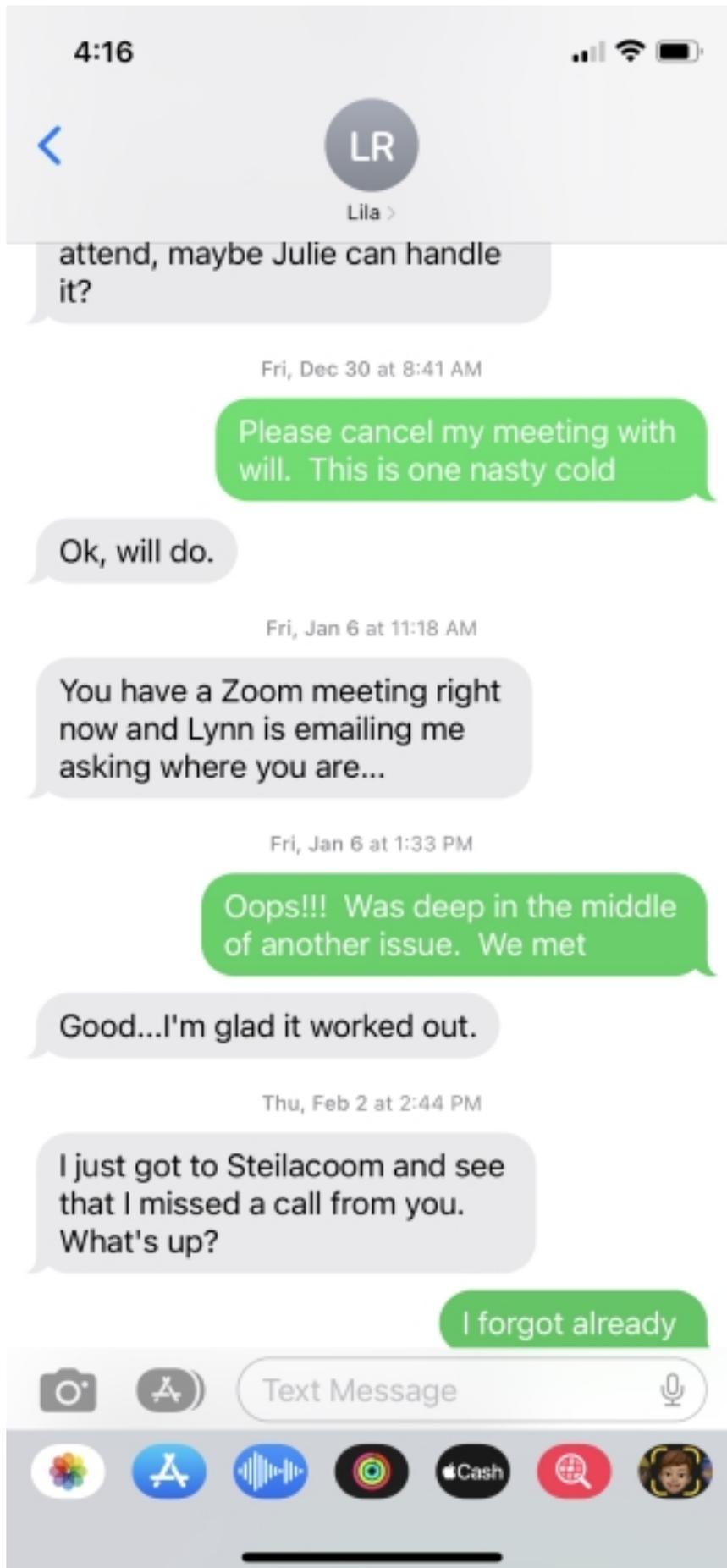
5 or 6...



Mon, Feb 6 at 12:39 PM

Saw you calling and will call back









Can you see what Mario is doing in conference room? Pull up shades??

It's a news reporter working on her laptop

Okay

Wed, Jan 11 at 8:30 AM

Could we move our meeting today? Earlier would be better, I'm on my way in now

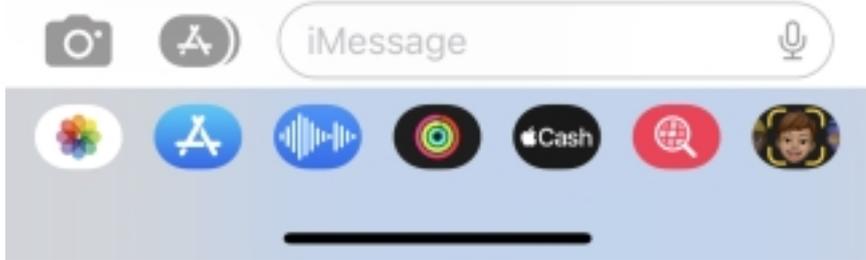
Okay

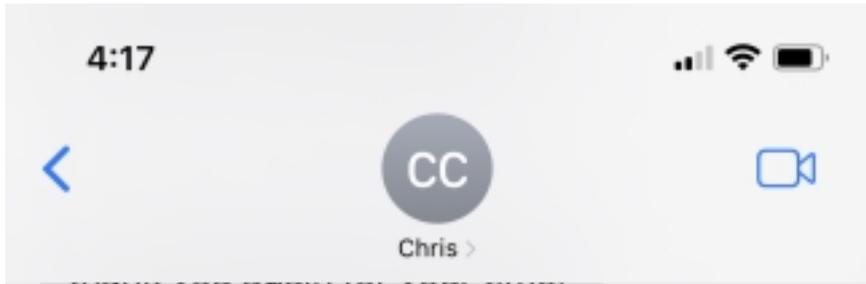
Mon, Jan 30 at 8:04 AM

Good morning, Valentine has a head cold this morning and is feeling cruddy, I'm going to WFH today. Can we chat before our Exec team meeting?

Mon, Jan 30 at 11:19 AM

The meeting ended, I joined the new meeting invite





and my best to you and yours over the holiday!

Thu, Jan 12 at 1:04 PM

I'm in the lobby if you're waiting for me! Sounds like Julie is busy?

Thu, Jan 12 at 2:22 PM

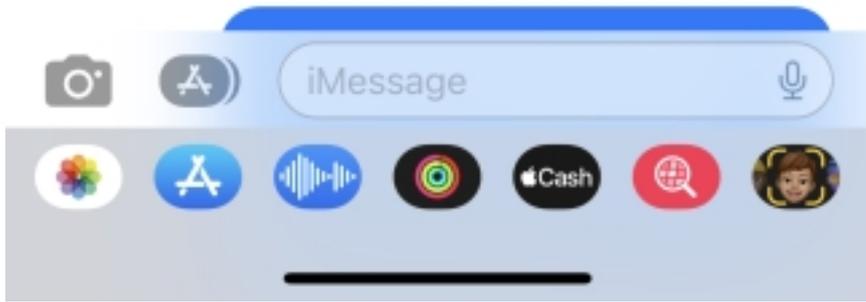
Let me know if Judge Valerie actually does steal your paper copies. Happy to send you electronically! (Or if she'd like electronic copies!)

Fri, Jan 13 at 8:25 AM

She did not even take my excel info on a topic she and I discussed.... I will be keeping my paper copies



Thu, Feb 16 at 10:30 AM



4:18



Lisa >



Text Message
Mon, Jan 23 at 9:13 PM

20 minutes. Please confirm

iMessage

10 more please confirm. This is mayor phone

Got it

10 more. Up to 9:55

Ok

10 more 10:05

Confirm please

Read 1/23/23

Sorry I announced



iMessage





Shannon >

Thu, Feb 9 at 10:05 AM



Would you please text me the dinner reservation time and location so I can let everyone know 😊

Feb 14 7:30pm
Anthony's Hearth Fire Grill
1675 Marine Dr NE

There are two Anthony's restaurants close together - so make sure it is the Fire Grill!

Thank you!
Also- can you take quick call

Talking to Chief right now, I can call you soon

Sorry, I can't talk right now.

Ok, call whenever

Thu, Feb 9 at 1:05 PM



iMessage





Shannon >

Thu, Feb 9 at 1:05 PM

Call when you're available 😊

Mon, Feb 13 at 9:20 AM

Good morning, do you have a quick moment for a phone call?

Thx

Thu, Feb 16 at 10:28 AM



I'll wait for you all in lobby- need to make some work calls

Tue, Feb 28 at 10:33 AM

5 Photos



iMessage





Shannon >

Tue, Feb 28 at 4:52 PM

Thoughts on the certificate language?

"In recognition of your outstanding contributions to the Lynnwood community"

"In honor of your outstanding leadership in the Lynnwood community"

"In recognition of your incredible contributions, making Lynnwood a vibrant and welcoming community"



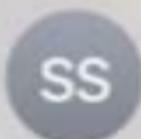
"In recognition of your incredible contributions, making Lynnwood a vibrant and welcoming community"

Thank you!



iMessage





Shannon >



Tue, Feb 28 at 4:52 PM

Thoughts on the certificate language?

"In recognition of your outstanding contributions to the Lynnwood community"

"In honor of your outstanding leadership in the Lynnwood community"

"In recognition of your incredible contributions, making Lynnwood a vibrant and welcoming community"



"In recognition of your incredible contributions, making Lynnwood a vibrant and welcoming community"

Thank you!



iMessage





Shannon >



And I got your message about Julieta 😊

Thu, Mar 2 at 10:00 AM

Just fyi- I thought better about it- and not going to give Julieta certificate. So don't bring it- while she certainly deserves a lot of praise- I don't want it to look condescending by me doing that- make sense?

Yup, makes sense!
Will you be in today? I'm getting the certificates printed and will need your signature- we could also do it in the morning

Thu, Mar 2 at 11:44 AM

I can make myself available as you need or do it in morning- whichever.
How long will you be at city



iMessage





Shannon >



Thu, Feb 2 at 3:42 PM

Hey CP Sessions, have you had a chance to review the agenda?

Oh goodness- no- sorry- thx for text- going it now -

Awesome, thank you!

Done thank you



Please feel free to text me every Thursday as soon as it's ready for me to look at -that way I'll surely get to it sooner/ 😊 thank you so much 👍

Thu, Feb 9 at 10:47 AM

Good morning CP Sessions! I sent the agenda for review, if



iMessage





Shannon >

Thu, Feb 9 at 10:47 AM

Good morning CP Sessions! I sent the agenda for review, if you have time to take a look.

Thu, Feb 9 at 11:50 AM

Thank you! I'll look now

Thu, Feb 16 at 11:33 AM

Good morning! I sent the agenda a few minutes ago. Let me know if you have any updates

Thank you for text, I'll check it out

Thu, Feb 23 at 9:35 AM

Good morning CP Sessions!
😊 I'm sending the agenda for review in just a minute



iMessage





Shannon >

Thu, Feb 23 at 9:35 AM

Good morning CP Sessions!
😊 I'm sending the agenda for review in just a minute.

Thank you! I'll check it out

Thu, Feb 23 at 1:43 PM

Were you able to review?
Ready to publish once I get approval!

Oh shoot! I'll do in a few minutes- got distracted

Thu, Feb 23 at 3:00 PM

Sorry luke- got cornered- I'm doing this now

No worries, thank you! I hope everything's okay!



iMessage





Shannon >

Sorry luke- got cornered- I'm doing this now

No worries, thank you! I hope everything's okay!

Sat, Feb 25 at 12:03 PM

Check your email - I'm asking about a plan B for our cc meeting if we get a lot of snow like forecast suggests.

Happy Saturday- by the way 😊

Mon, Feb 27 at 8:58 AM

Go ahead and send the info along to the rest of Council, if you'd like 😊

Thank you!



iMessage



EXHIBIT H

EXHIBIT H

11:00



New iMessage

Cancel

To: Julieta Altamirano-Crosby

Wed, Sep 14 at 10:25 AM

A quick google search indicates the SAT testing was temporarily not a requirement due to Covid. I don't read the test has permanently been eliminated for college admissions let's see what your research finds

Yes, I got the same answer from the us and other college professors. I am going to continue to talk and research on the subject. Thank you.

Thu, Oct 27 at 3:02 PM

Will u be able to join the finance committee today?

Wed, Dec 28 at 2:44 PM

I sent an email to your city email a reminder of the state department of health zoom public hearing 4:30pm tomorrow on the proposed opioid treatment program in lynnwood



iMessage





George Hurts >

Wed, Sep 14 at 10:25 AM

A quick google search indicates the SAT testing was temporarily not a requirement due to Covid. I don't read the test has permanently been eliminated for college admissions let's see what your research finds

Yes, I got the same answer from the us and other college professors. I am going to continue to talk and research on the subject. Thank you.

Thu, Oct 27 at 3:02 PM

Will u be able to join the finance committee today?

Wed, Dec 28 at 2:44 PM

I sent an email to your city email a reminder of the state department of health zoom public hearing 4:30pm tomorrow on the proposed opioid treatment program in lynnwood



Julieta



Sat, Feb 11 at 9:13 AM



Proclamation

Proclamation to Declare a Friendship City Relationship Between
Chilpancingo de los Bríos, Mexico and Lynnwood Washington, USA

WHEREAS, the City of Lynnwood established a Friendship City Program to
celebrate on the 7th day of March 2023 as part of the State City Program; and

WHEREAS, the Friendship City agreement and the relationship between the City of
Chilpancingo and the City of Lynnwood; and

WHEREAS, the Friendship City Program was established to both create business
and economic to community relationships; and

WHEREAS, a Friendship City relationship will strengthen and share diversity, and
promote cultural awareness and working among communities in Chilpancingo and Lynnwood
Washington; and

WHEREAS, a Friendship City relationship between the two cities will provide
opportunities for city officials and community members to meet and support other
cities through program partnerships; and

WHEREAS, a Friendship City relationship will bring the two cities together to share
ideas, exchange views and coordinate different objectives; and

WHEREAS, a Friendship City relationship between the City of Chilpancingo Mexico
and the City of Lynnwood Washington will establish a more culturally integrated society and
offer the opportunity for communities in both cities to share ideas that will promote cultural
understanding, appreciation and respect for each other;

NOW, THEREFORE BE IT RESOLVED that I, David Henry Smith, do hereby
proclaim that a Friendship City relationship between the City of Lynnwood Washington, USA
and Chilpancingo de los Bríos, Mexico will formally formal such communities and benefit
and the establishment of the relationship.



David Henry Smith
Mayor



Wed, Feb 15 at 9:43 AM

Good morning, the mayor and I
have arrived to the hotel now.
Since George isn't here, do
you or Shannon want to go to
the Jesse Solomon meeting
today at 2?

Fri, Feb 17 at 12:04 PM



iMessage



6:22



Julieta



Fri, Feb 17 at 12:04 PM



Everett council investigating mayor's relationship with deputy mayor

heraldnet.com

I saw that!

We are not the only city ..

Happy to be out of the bright spotlight for a minute!

Agree

Mon, Feb 27 at 7:58 PM



iMessage



6:22



JC
Julieta >



Agree

Mon, Feb 27 at 7:58 PM

Here is Lisa's contact info:

Tel: (425) 392-7090

Emp Priv Info

Lisa@kenyondisend.com

Thank you

Thu, Mar 2 at 12:16 PM

Hi Julieta, I've got the certificates printed and will bring them tomorrow. Can you plan on finding me as soon as you get there to sign them?

Thu, Mar 9 at 9:58 AM

Good morning, did you have a chance to translate the women's month proclamation? Luke needs to close the agenda soon. If not that's ok, we can just bring it to the meeting



iMessage



10:22



3 People

Message

Wed, Feb 15 at 6:40 PM



Thu, Feb 16 at 1:38 PM

Julie Moore

8 Photos [Saved](#)



Message





3 People



Message





2 People



Message

Thu, Feb 16 at 8:56 AM

Julie Moore

Good morning! We think catching the 11am shuttle for our 11:30 meeting with the Lt Governor should be ok. Shall we meet in the lobby by 11:25? I'm in the morning session and haven't seen Shirley or Josh.

Good morning, Julietta and I are in restaurant having breakfast.

Josh is in here too having a meeting of sorts with some random people...



Message





2 People



If we take the shuttle- will we stay there until next meeting too?

Haven't seen Shirley yet

I'll check on Shirley

Julie Moore

Yes, we should just stay there, we have 12:45 with Cindy & Lauren - don't think there is time to go back and forth

✓ ok

Shirley had a bad night with her back and is headed home - I called



Message





2 People



she's already on the road
headed back 👍

Julie Moore

Oh ok then, do you feel
like asking Josh if he'd
like to go to the Lt Gov
meeting then?

If Josh reaches out to me
and actually answers
other text he's already
ignored- I will let him
know.

Julie Moore

Works for me, just figured
I should ask 🤔

Josh said he's leaving
soon and won't be at any



Message





2 People



Josh said he's leaving soon and won't be at any of these visits either.

Julie Moore

Well ok then

And oh, he said, "I must've gotten distracted yesterday and missed the meeting with the senator"

Oh and- "I told Lisa I was leaving early today"

And Lisa confirmed- he didn't tell her anything

Julie Moore

Before we leave, I'd love

to see a photo of the house



Message





2 People



Julie Moore

Before we leave, I'd love to get a photo of the four of us in front of the AWC banner upstairs

Julieta just left to hill early to talk John Lovick- he asked to meet with her. We could try to get picture after the hill before we go

Julie Moore

Ok gotcha

This gal here talking about transportation's name is Debbie "Driver" 🍌 that's perfect



Message



EXHIBIT I

EXHIBIT I

From: [DORIAN Leigh](#)

Sent: Thursday, March 23, 2023 2:34 PM

To: [Luke Lonie](#)

Cc: [Christine Frizzell](#); [George Hurst](#); [Shirley Sutton](#); [Patrick Decker](#); [Jim Smith](#); Lisa@KenyonDisend.com

Subject: Lynnwood Public Records Request :: C000039-012323

The people of this state do not yield their sovereignty to the agencies that serve them.... The people insist on remaining informed so that they may maintain control over the instruments that they have created. -RCW 42.56.030

Luke,

The reason I asked for “ways around fees,” is because you are discriminating against citizens who are financially limited and unable to pay for records and/or travel in to city hall to review them. All citizens, regardless of their financial status, are deserving of public records and believe it or not, there are many citizens who can’t afford to pay for records and are housebound. They may be elderly, disabled or struggling with a mental health issue and they should not be punished for trying to find ways to acquire their public records. For you to be offended by that concern, is extremely disturbing, given that you are being paid by the citizens to SERVE us.

Your email to me didn’t feel like service in any capacity. It feels like you are trying to hinder citizens who can’t afford to pay for records. Is that your intent? Are you more concerned about the work the staff has to do, or the citizens getting their records? If your staff has to work harder to accommodate those who are financially limited, perhaps the city should increase the dollar amount above \$5.00 so those who can’t afford to pay for records can make larger requests. The answer is not to blame citizens for your extra work, instead, try to find viable solutions which enable you to SERVE those who are attempting to hold the city accountable. Your behavior feels like the city is trying to hide information rather than provide it.

Please clarify what you are referring to when you underline the words “does not?” You are now adding words “vast majority” to Donna’s statement about not charging for records under \$5.00. This feels discriminatory and unlawful. All this confusion is a red flag and hinders the public from receiving the records they own. I didn’t see any state laws in your email which substantiate what feels like you threatening the public with charges for certain citizens and not others. Can you please provide those state laws?

We are also confused because the email below was from Donna, yet you now claim the “language” she used were yours? So it was really from you? How does the public know that an email is from you when it is signed by Donna? Can you see how confusing this is when Donna tells us she “will not charge” and then she sends another email with language from you, but the email was from her? How is any of this facilitating the process of transparency for the public?

You need to be extremely careful when claiming that there “may be situations where we do not waive the fee,” which could be construed as discriminatory and manipulative behavior by the city in hindering the public from receiving the records they own. What are the “situations” you are claiming **could** be the reason for not waiving the fees?

Please show us in the state law where you as the PRO can charge certain citizens for records because you don't like or agree with the number of records they are requesting? Please remember that citizens don't have to identify who they are, nor are they required to explain their reasoning for record's requests.

To this point, I've identified myself to you and your staff, but if you are going to threaten me with charging me for records that you are not charging other citizens' for, I'm happy to request records anonymously, and/or allow other citizens to make the requests. The fact that I would have to do that would be unlawful on your part, so hopefully you won't attempt to discriminate or hinder ANY citizen from obtaining the records which belong to the public.

Please clarify what your point is in your last paragraph regarding what "simply doesn't make sense" and be clear about what you are and are not going to charge the public for. That way, I can know for the future when I need to remain anonymous so you don't discriminate against me or any other citizen you are attempting to punish and/or hinder from receiving their rightfully owned records. Reminder: you don't own the records, the public does and we shouldn't be treated in this manner when trying to obtain them.

Please see: RCW [42.56.120](#)

Charges for copying.

(1) No fee shall be charged for the inspection of public records or locating public documents and **making them available for copying**

Lastly, if the councilmembers would actually follow the law and provide all the public records in their possession, the citizens would not need to request the affidavits. Perhaps, you should be scolding the councilmembers who are refusing to follow the law and therefore causing you and your staff to work harder? As usual, the citizens continue to be blamed for the city's failures.

We currently have two councilmembers who appear to be withholding public records. One is claiming she didn't text anyone for a whole month and another one claims she had one text in three weeks? Does that sound like they are complying with public record's laws?

Sent from [Mail](#) for Windows

From: [Luke Lonie](#)

Sent: Wednesday, March 22, 2023 1:01 PM

To: [DORIAN Leigh](#)

Subject: RE: Lynnwood Public Records Request :: C000039-012323

Dorian,

The Public Records Policy allows us to waive the fees associated with responding to Public Records when the cost does not exceed \$5.00. We almost always do this if the amount is under \$5.00.

The policy does not require us to waive this fee, but in her statement below, Donna is correct: we do not charge for records under \$5.00 in the vast majority of situations. The section below where it is indicated there is a difference between being “allowed” and being “required” was my language, because there may be situations where we do not waive the fee even though it falls under \$5.00.

A week or so ago, you had asked for ways around our policy (making smaller requests so that it does not exceed the \$5.00 amount). These smaller requests actually create more work rather than less by forcing our staff to conduct multiple email searches rather than one, generate multiple affidavits for multiple Councilmembers and/or staff to sign, properly track each individual request for state reporting purposes, and organize and manage a folder for each individual request, so to waive fees for more work simply does not make sense.

Luke Lonie (he/him) | City Clerk
Executive Department
19100 44th Ave W, Lynnwood WA 98036
Ph: 425-478-9243 | [City Clerk](#)
Sign up for [Lynnwood eNews](#) follow us on [Facebook](#) and [Twitter](#)



From: DORIAN Leigh <dorianleighk@msn.com>
Sent: Monday, March 20, 2023 1:28 PM
To: Luke Lonie <llonie@lynnwoodwa.gov>
Cc: Donna Johnson <DJohnson@lynnwoodwa.gov>
Subject: FW: Lynnwood Public Records Request :: C000039-012323

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

I'm getting mixed messages from Donna. Can you please clarify. I'm copying an email (in red) where she said she would not charge me for any request “under” \$5.00, then she seems to be playing word games below with “allowed” verses “required.” Please explain as her language is confusing. Is the email I copied what she means, or her email below this email and if so, what is the distinction between the two words? It appears like she is trying to manipulate the public, rather than adhering to the Lynnwood City policies for ALL citizens.

Hi Dorian,

Attached you will find our Public Records Policy (which is also posted on the City of Lynnwood website <https://www.lynnwoodwa.gov/Government/City-Clerk/Public-Records-Requests>), see page 7 of

the policy starting with Section 4.5 Copying of Public Records. **We don't charge for records that are \$5.00 and under.** Unfortunately, your request this time resulted in 762 responsive emails regarding all emails for Shannon Session timeframe of January 5 through January 24, 2023. I should have charged your request C0000241-061322 last year but forgot too. Honestly, let me know how you would like to proceed.

Regards,
Donna Johnson
425-670-5152

Sent from [Mail](#) for Windows

EXHIBIT J

EXHIBIT J

PUBLIC RECORDS ACT POLICY

4.5 Copying Public Records

4.5.1 Copies. The City will charge one or more of the following charges for copies:

- Fifteen cents per page for photocopies of public records, printed copies of electronic public records when requested by the person requesting records, or for the use of agency equipment to photocopy public records;
- Ten cents per page for public records scanned into an electronic format or for the use of agency equipment to scan the records;
- Five cents per each four electronic files or attachment uploaded to email, cloud-based data storage service, or other means of electronic delivery; and
- Ten cents per gigabyte for the transmission of public records in an electronic format or for the use of agency equipment to send the records electronically. The agency shall take reasonable steps to provide the records in the more efficient manner available to the agency in its normal operations; and
- The actual cost of any digital storage media or device provided by the agency, the actual cost of any container or envelope use to mail the copies to the requestor, and the actual postage or delivery charge.
- Ninety-eight cents per minute for the redaction of body worn camera recordings.
- The de minimis amount for the City may be waived under \$5.00.

4.5.2 Deposits. An agency may require a deposit in an amount not to exceed ten percent of the estimated cost of providing copies for a request, including a customized service charge. If an agency makes a request available on a partial or installment basis, the agency may charge for each part of the request as it is provided. If an installment of a records request is not claimed or reviewed, the agency is not obligated to fulfill the balance of the request. An agency may waive any charge assessed for a request pursuant to agency rules and regulations.

4.5.3 Copies of electronic records. Unless the requestor specifically requests copies of records in a particular format, the City will usually produce all records electronically. Electronic records that require redaction usually cannot be produced in a native format and will be converted to PDF.

4.6 Inspection of Records

4.6.1 Notice. Once the Public Records Officer or Public Records Liaison has collected all responsive records (or the first installment if the records are being produced on an installment basis), has reviewed the responsive records to remove

PUBLIC RECORDS ACT POLICY

exempt records, and has prepared an exemption log, the Public Records Officer or Public Records Liaison shall notify the Requestor that the records are available.

4.6.2 Response by Requestor. If the Requestor does not contact the Public Records Office to arrange for payment of the copies or for review of the records within fifteen (15) days after the email notifying the Requestor their records are ready, the City may consider the Records Request abandoned, unless the Requestor seeks an additional amount of time to review the records.

4.6.3 Protection of Records. In order that Public Records maintained on the premises of the City may be protected from damage or disorganization as required by the Act, the following procedures and practices are hereby instituted:

- No Public Records shall be removed from City Hall without the Public Records Officer's permission;
- Inspection of any Public Records shall be conducted in the presence of the Public Records Officer or designated staff;
- No public records may be marked, defaced, torn, damaged, destroyed, unreasonably disorganized or removed from its proper location or order by a member of the public;
- Public records maintained in a file jacket or binders, or in chronological order, may not be dismantled except for the purpose of copying, and then only by City staff; and
- Public records of the City may be copied only on the copying machines of the City unless other arrangements are made by the Public Records Officer.

4.6.4 Loss of Right to Inspect. Inspection shall be denied and the records withdrawn by the Public Records Officer if the Requestor, when reviewing records, acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of the City.

4.6.5 Closing the File. Once all copies of requested records have been provided to the Requestor, the Requestor has reviewed the requested records, or 30 days have passed since the Requestor was notified that the records were available and the Requestor has failed to contact the Public Records Officer to arrange for the review of those records or for payment for copies, the Public Records Officer shall treat the request as closed.

4.7 Administrative Review of Denial

A Requestor may ask for review of a decision to withhold or redact exempt records by submitting a written petition to the Public Records Officer that includes a copy of the

EXHIBIT K

EXHIBIT K

From: [DORIAN Leigh](#)

Sent: Monday, May 8, 2023 2:30 PM

To: [Luke Lonie](#)

Subject: RE: Request :: C000143-032023-Why was this request closed?

Luke,

Thank you for your interpretation of the laws, I'll review them.

I still didn't get a response from you about what the Lynnwood PR policy is regarding modification of the request? How long does a requester have once they are invoiced, to reduce the size and therefore reduce the fees for their request? I suggested to the Deputy City Clerk that you could let the requester know that the fees will be, prior to creating an invoice, especially when they are under \$5.00, because it is still unclear which requesters are eligible for the fee waiver.

As stated previously, you stated in an email to me that anything under "400 emails would be free to disclose." You didn't say, it "may be" free to disclose, so can you see how that could have been a bad faith decision on your part? Prior to that email you and Donna both said that the criteria for the fee waiver was if it was under \$5.00, then when I asked to reduce the size of records, you stated that the city "may" provide the fee waiver. You also stated that my attempts to reduce the size was causing the city to "do more work" and therefore I would have to pay for records under \$5.00 from that point forward. How is that not "distinguishing between requesters? I also reminded you that the city can not charge for the cost of assembling the records, only for copies, yet you stated that my attempt to reduce the size of records was costing the city more money and that cost was being passed along to me. We have still not received an answer from the city as to which requesters are eligible for the fee waiver, and which ones are not.

Once we see the fees and we try to reduce the size, we are ignored and then told the request is closed for non payment so we then have to create a whole new request. There are several records we have not received due to your promise that it would be "free to disclose," then contradicting that statement and charging us for requests which were well under the 400 emails. Can you see how our ability to get records in a reasonable amount of time is being hindered? As stated before, there are requesters who are not able to pay for records, yet they don't know what size to request because you won't inform the public about who will get the fee waiver. So they order a request, it is then "not free" as you previously indicated, they try to reduce the size and are told they need to submit a whole new request.

Furthermore, with regard to this request you claimed was closed for non payment, I had sent an email to you on April 5, challenging your bad faith decision to make a promise to a requester with regard to all requests under 400 emails being "free to disclose." You did not respond to my email and the next day the request was closed, which meant I had no ability to even inspect the records. The request had clearly not been abandoned, as I had communicated with you the day before you closed the request. Due to your actions, we were hindered from receiving all those records and have still not received them.

I also didn't hear back from you regarding a request I made which the Deputy City Clerk responded to and would not use the words I requested. I specifically requested a physical search of the city owned I pad and she left out the word "physical." You stated to me that the city owned I pads are connected to the city server and the only information the city has access to via the server are emails. I have repeatedly asked for all the public records or the text messages from the city owned I pads of a couple

councilmembers and the city has refused to do this search. Thus, there are several records we have not received, due to this lack of reasonable search that was requested. The city is responsible for everything that is on the city owned devices and should have access to them, yet the IT department stated that they are only searching them via the server and that no affidavit is required. Yet, you now claim that the councilmember is supposed to be searching their own i pad and providing a detailed affidavit of their search parameters? We have not received any affidavit which documents this information which should be recorded at the city level to provide to the public upon request.

You also referenced that i messages and other messaging apps on the i pads are “transitory,” yet that is not true for all the messages. It is only true if the content of the message makes it transitory. The City should be tracking all the messages on the city owned devices, just like they are doing with city owned cell phones and when the public requests all text messages, browsing history, public record social media posts and applicable metadata, there should be a search of the physical device to provide these records. This has not been done and there are multiple records we have not received due to this negligence.

From: [Luke Lonie](#)
Sent: Monday, May 8, 2023 10:00 AM
To: [DORIAN Leigh](#)
Subject: RE: Request :: C000143-032023-Why was this request closed?

Dorian,

I had repeatedly stated that the city is *allowed*, but *not required* to waive fees under a certain amount. RCW 42.56.120 does not require a local agency to waive or not waive fees, but that section of the PRA uses the permissive term 'may' with respect to waiving or not waiving fees. In addition, RCW 42.56.120 is silent as to "criteria" to be applied to the agency regarding a decision to waive or not waive fees. Finally, you might contact Municipal Research and Services Center at www.MRSC.org. That organization maintains a publication on the PRA you may find useful and informative.

The request was closed for lack of payment.

Luke Lonie (he/him) | City Clerk
Executive Department
19100 44th Ave W, Lynnwood WA 98036
Ph: 425-478-9243 | [City Clerk](#)
Sign up for [Lynnwood eNews](#) follow us on [Facebook](#) and [Twitter](#)



From: DORIAN Leigh <dorianleighk@msn.com>
Sent: Sunday, May 7, 2023 8:03 PM
To: Luke Lonie <llonie@lynnwoodwa.gov>
Subject: Request :: C000143-032023-Why was this request closed?

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Luke,

What is the procedure for modifications in terms of how the requester is notified when they are not on the portal and how long the requester has to make the modifications before the request is closed and the requester has to create a whole new request?

Why was this request closed? I thought a request was only closed when it is assumed to be abandoned for a certain period of time? I believe this was the request that I was trying to get an answer from you about why you had told me if my request was under 400 emails it would be free. Then I was repeatedly charged for requests under 400 emails. I didn't ever get a valid response from you and then the request was closed, so I never got my records for this request.

Can you tell me why this request was closed and why I didn't ever get a response from you about why you told me under 400 emails would be free? I was told that the fee waiver was any request under \$5.00, then you told me it is not for all requesters only some, and the city "may" waive the fee but you

won't explain why someone wouldn't get the fee waiver under \$5.00. Can you please explain to us why you violated your own written word in an email?

Sent from [Mail](#) for Windows

EXHIBIT L

EXHIBIT L

From: [DORIAN Leigh](#)
Sent: Friday, April 14, 2023 12:06 PM
To: Lisa@KenyonDisend.com
Cc: [Jim Smith](#); [Patrick Decker](#); [Shirley Sutton](#); [George Hurst](#)
Subject: Your client is behaving unlawfully

Hello Lisa,

It was recommended to me that I reach out to you directly. As a resident of Lynnwood, my goal is to help Lynnwood avoid lawsuits. Unfortunately, Mr. Lonnie and Ms. Kirschner are making that goal extremely challenging.

They are both refusing to respond to the public's questions regarding the alleged "fee waiver" which appears to be violating the law that specifies there "shall not be distinguishing between requesters." They will not provide the public with the appropriate elements which determine the requests which qualify for the fee waiver and the requests which don't. They originally claimed that they were distinguishing between requesters by removing the fee waiver from me, due to the questions I asked regarding how to reduce fees. Now, they won't respond at all with regard to this concern.

The City Clerk sent me an email and stated that "requests under 400 emails would be free to disclose." Instead of adhering to his statement, they have been charging me for requests well under the allotted 400 and refuse to respond to my questions. While I was waiting for a response as to why the City Clerk was violating his own statement about the free disclosure, Ms. Kirschner closed the request due to non payment.

They are also refusing to send the public their records via email when requested and are ignoring repeated attempts by the public to receive their records in the preferred method. They are attempting to force the public to use their web portal which is unlawful.

We are also not receiving an answer regarding a particular request for the city ipads of CM Sessions and CM Crosby to be searched for a specific time frame. The clarification request was sent to multiple government employees from the mayor, the city manager, the IT Director, the City Clerk, the Deputy Clerk and the public has still not received an answer.

Hopefully, you can inform your client that this kind of unlawful behavior is hindering the public from receiving their records in a timely and professional manner and assist them.

Sent from [Mail](#) for Windows

EXHIBIT M

EXHIBIT M

6:20



Christine >

Wed, Feb 1 at 3:23 PM

Lila says Linda wasn't involved in the ribbon cutting?

Tue, Feb 7 at 3:42 PM

On our way back. How are interviews going?

Good, think you'll be back by 5?

YEP!! Passed north gate a few minutes ago

Good

Fri, Feb 10 at 9:04 AM

Nathan is home with sick kiddos so won't be in person to meet with Gary, do you want us to log onto zoom with you at all?

Fri, Feb 10 at 12:51 PM



iMessage



6:20



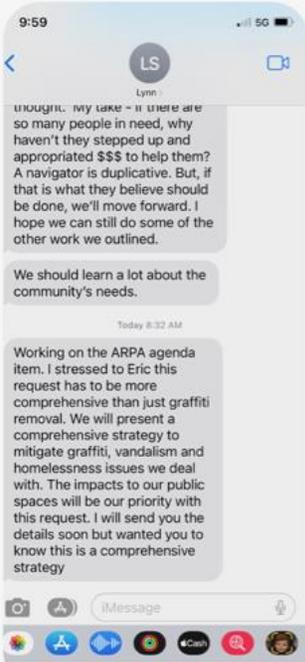
Christine >

Fri, Feb 10 at 12:51 PM

Just saw this. Gary had a time limit and set message.... All good. Btw Lynn and Mary Anne both came to my office at different time this morning to talk about HS position. We can talk about it on Monday



Wed, Feb 15 at 10:00 AM



6:20



Christine >

I think he is reaching too far. Will need higher skill level people than just painting over graffiti and repair bathrooms...

I hope he is working collaboratively with PD on this plan

He has sent me a thread of emails with him and Chief....

Wed, Feb 15 at 8:07 PM

I "sent" the invite but can't get logged in to our network so it may not get delivered until we get back to the office. I'm adding to my list of non Mayor people for you to take a look at.

Wed, Feb 22 at 9:31 AM

Are you good with canceling the Directors meeting? Not much on agendas. Will, Jim and Lori are out.



iMessage



6:20



Christine >

Wed, Feb 22 at 9:31 AM

Are you good with canceling the Directors meeting? Not much on agendas. Will, Jim and Lori are out.

Sure!

Want to invite folks to root beer floats still?

Just do an invite to RB floats

Thu, Feb 23 at 8:44 AM

Did you invite Nicola to the state of the city?

Thu, Feb 23 at 10:46 AM

Please call when you have a few moments

Fri, Feb 24 at 9:11 AM

Hi, I woke up with the starts of a head cold, don't want to share germs so I'll be working



iMessage



6:20



Christine >

Fri, Feb 24 at 9:11 AM

Hi, I woke up with the starts of a head cold, don't want to share germs so I'll be working from home today

Mon, Feb 27 at 1:28 PM

Are you able to respond back to Jim Nelson's email?

Wed, Mar 1 at 10:57 AM

Good morning! Are you headed in today?

No I wasn't planning on coming in today. I'm out getting a gift for lunch on Friday

Okay. Just checking

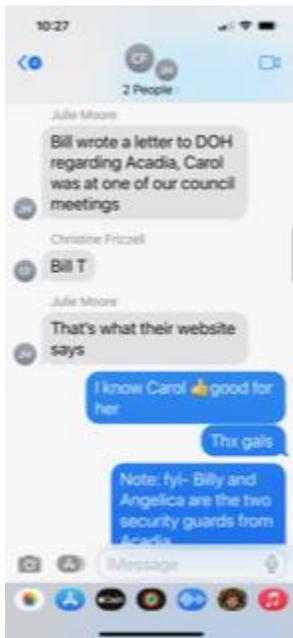
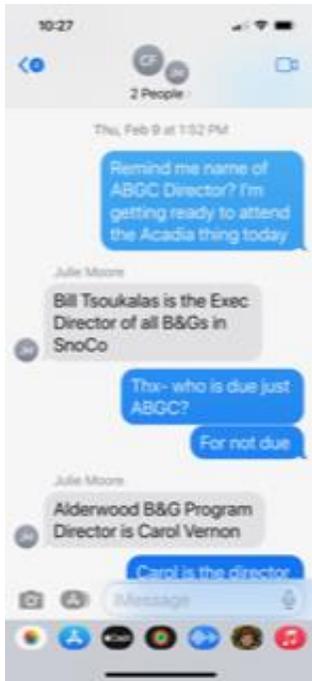
Call when you have a few minutes

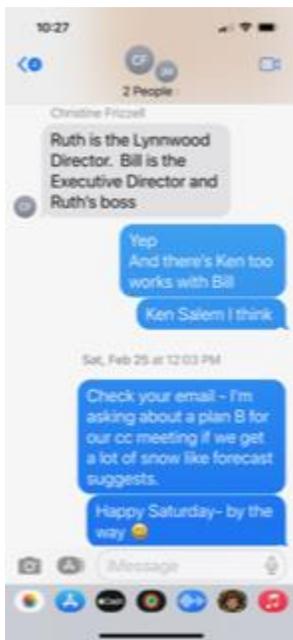
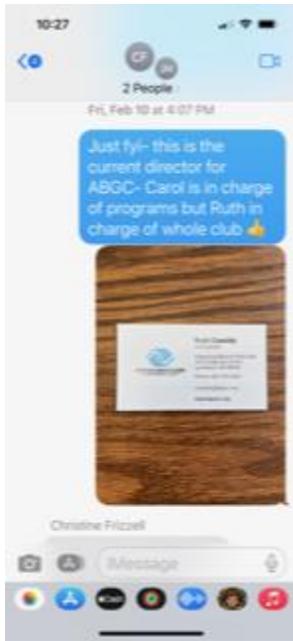
Ok!

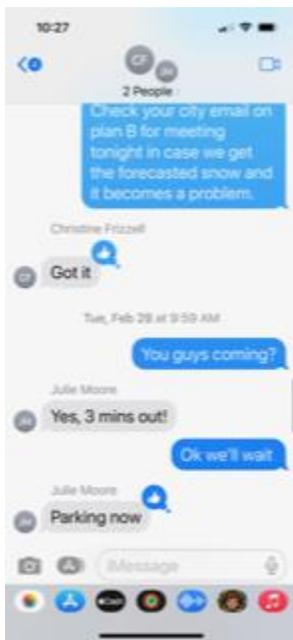
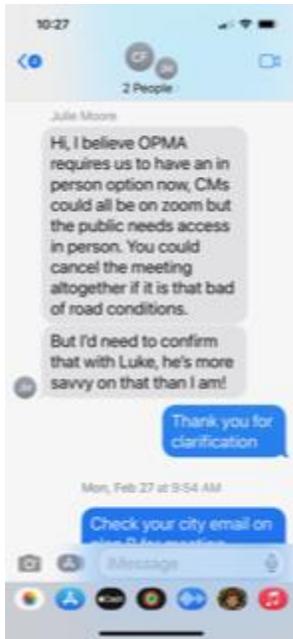


iMessage

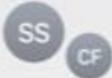








6:24



2 People

Tue, Feb 28 at 9:59 AM

Shannon Sessions



You guys coming?

Yes, 3 mins out!

Shannon Sessions



Ok we'll wait



Parking now

Tue, Feb 28 at 12:13 PM

Christine Frizzell



iMessage



6:24



2 People

Tue, Feb 28 at 9:12 PM

Shannon Sessions



This blouse is kind of a light shiny beige

SS

Black suit pants too

Christine Frizzell

There is a black backdrop on the stage. You might want a different jacket so it shows up better on camera

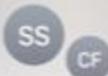
CF



iMessage



6:24



2 People

SS

Black suit pants too

Christine Frizzell

There is a black backdrop on the stage. You might want a different jacket so it shows up better on camera

CF

Shannon Sessions

Thanks for the good info- not sure I have a better option that doesn't clash with your outfit- I'll look again

SS

Wed, Mar 1 at 8:40 AM

Christine Frizzell

Another woman came to mind if you want to add to your list... Olympia Edwards of Project Girl

CF

Shannon Sessions

Thank you, she is doing great things and has received a lot of recognition already. We'll stick with the ones we have 🙌

SS



iMessage



EXHIBIT N

EXHIBIT N

From: [Jim Smith](#)
Sent: Thursday, April 6, 2023 7:21 PM
To: [DORIAN Leigh](#)
Subject: Re: No Response?

Dorian,

Did you receive any response to this email? I didn't see one.

On another note, I recently discovered that all of our employees with the City (not including Council) can delete their emails and the City will not have any records of their emails. Not very transparent...and perhaps not exactly legal.

Jim

Get [Outlook for iOS](#)

From: DORIAN Leigh <dorianleighk@msn.com>
Sent: Wednesday, April 5, 2023 1:19:30 PM
To: Luke Lonie <llonie@Lynnwoodwa.gov>
Cc: Julie Moore <JMoore@lynnwoodwa.gov>; Christine Frizzell <cfrizzell@Lynnwoodwa.gov>; Lisa@KenyonDisend.com <Lisa@KenyonDisend.com>; Donna Johnson <DJohnson@lynnwoodwa.gov>; Darcy Kirschner <dkirschner@Lynnwoodwa.gov>; Mario Lotmore <publisher@lynnwoodtimes.com>; Jim Smith <jsmith@Lynnwoodwa.gov>; Patrick Decker <pdecker@Lynnwoodwa.gov>
Subject: No Response?

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Luke,

Pursuant to RCW 42.30.10: "The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed and informing the people's public servants of their views so that they may retain control over the instruments they have created."

This email is confusing as you have not substantiated any of your words with laws. Please clarify what the City of Lynnwood is going to charge for records going forward. We don't see anything in the policy or state laws which state you can charge taxpayers differing amounts for locating records being made ready for copying?

As stated before, state laws prohibit charging fees for any work done to get records ready for copying. In addition, there are taxpayers who can't afford to pay for records and are unable to travel to city hall to review them. Your punitive behavior towards a taxpayer who is attempting to assist taxpayers with barriers to receiving public records, is unconscionable. As stated previously, it feels like you are attempting to hinder transparency, rather than promote it.

Are you saying the city is now going to charge all taxpayers for smaller requests or just if the request comes from dorianleigh@msn.com? This sounds retaliatory and punitive for attempting to work within the guidelines of the policy to assist ALL taxpayers in accessing the records they own.

It sounds like you don't like that I was asking how financially limited taxpayers can access records without being charged, is that accurate?

This request is for someone who wants to remain anonymous and is afraid of making requests due to retaliatory tactics which hinder transparency. Please clarify what you are saying with regard to the charges for all taxpayers so I can continue to assist those taxpayers who are trying to hold their government accountable within their current financial and geographical limitations.

If the City is going to waive fees for some taxpayers and not for others, how do taxpayers know what they can request and not be charged? This request was made in accordance with the City's policy to waive the fee for requests under \$5.00 and now, because it came from my email the fee is not being waived? Is that accurate?

Not being clear about the charges to all taxpayers will make more work for the city because if taxpayers make requests in accordance with the policy and are then told they are going to be charged, the time spent by staff acquiring the records was wasted.

If necessary, we can request the records of which taxpayers are being charged for records under \$5.00 and which taxpayers are receiving the waiver.

Please be advised that if this discriminatory behavior continues, we will be filing complaints with the appropriate agencies and pursuing justice in accordance with RCW 42.30.10 listed above.

Respectfully,
Dorian

Sent from [Mail](#) for Windows

From: [Luke Lonie](#)

Sent: Wednesday, April 5, 2023 10:04 AM

To: [DORIAN Leigh](#)

Cc: [Julie Moore](#); [Christine Frizzell](#); Lisa@KenyonDisend.com; [Donna Johnson](#); [Darcy Kirschner](#)

Subject: RE: No Response?

Dorian,

As I had stated in a prior email, the city is not required to waive fees that are under \$5.00. However, you had previously asked for ways to use this optional waiver to your advantage. The solution you had settled on was to make smaller requests more frequently, which creates more work for the City and results in more tax dollars being spent on responding to Public Records Requests.

In my previous email, I mentioned that waiving fees for more work does not make sense, and I am referring back to that email here. It is our desire to provide you with timely responses, and making

smaller requests more frequently actually causes our team to increase the time we spend to get you the information you are asking for. I'm sure you understand there is a cost associated with your repeated requests asking for the same or similar information across different dates. It is because of these extra costs that we pass along a very small amount of that cost to you.

Please feel free to reach out with additional questions, and always keep in mind that inspecting records in-person at City Hall is free and can be easily arranged.

Luke Lonie (he/him) | City Clerk
Executive Department
19100 44th Ave W, Lynnwood WA 98036
Ph: 425-478-9243 | [City Clerk](#)
Sign up for [Lynnwood eNews](#) follow us on [Facebook](#) and [Twitter](#)



From: Darcy Kirschner <dkirschner@Lynnwoodwa.gov>
Sent: Wednesday, March 29, 2023 1:38 PM
To: DORIAN Leigh <dorianleighk@msn.com>
Cc: Julie Moore <JMoore@lynnwoodwa.gov>; Christine Frizzell <cfrizzell@Lynnwoodwa.gov>; Lisa@KenyonDisend.com; Donna Johnson <DJohnson@lynnwoodwa.gov>; Luke Lonie <l lonie@Lynnwoodwa.gov>
Subject: RE: No Response?

Dorian,

At the bottom of this email chain is the calculations used for the invoice. If Luke has responded to your previous inquiry regarding the reason for charges, he is currently out of office.

Once he returns, he can follow up with you.

Thank you,

Darcy Kirschner (she/her) | Deputy City Clerk
Executive Department
19100 44th Ave W, Lynnwood WA 98036
Ph: 425-478-8795 | [City Clerk](#)
Sign up for [Lynnwood eNews](#) follow us on [Facebook](#) and [Twitter](#)



From: DORIAN Leigh <dorianleighk@msn.com>
Sent: Wednesday, March 29, 2023 1:20 PM
To: Donna Johnson <DJohnson@lynnwoodwa.gov>; Luke Lonie <l lonie@Lynnwoodwa.gov>

Cc: Julie Moore <JMoore@lynnwoodwa.gov>; Christine Frizzell <cfrizzell@Lynnwoodwa.gov>;
Lisa@KenyonDisend.com; Darcy Kirschner <dkirschner@Lynnwoodwa.gov>
Subject: No Response?

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Donna,

We're not receiving a response to the reason that there is a charge for the records below which are under \$5.00? The person who has requested this record wants to remain anonymous and doesn't understand why Lynnwood's Public Records Policy regarding waiving of fees under \$5.00 has changed for this record?

Sent from [Mail](#) for Windows

From: [DORIAN Leigh](#)
Sent: Friday, March 24, 2023 1:18 PM
To: [Julie Moore](#); [Christine Frizzell](#)
Subject: Charging some citizens for public records under \$5.00?

No response from Darcy? Why is there a charge for this request which is under \$5.00?

Sent from [Mail](#) for Windows

From: [DORIAN Leigh](#)
Sent: Thursday, March 23, 2023 2:44 PM
To: [LYNNWOODWA PUBLIC RECORDS CENTER](#)
Subject: RE: Lynnwood Public Records Request :: C000143-032023

Darcy,

Why am I being charged for this request which is under \$5.00?

Sent from [Mail](#) for Windows

EXHIBIT O

EXHIBIT O



**AFFIDAVIT OF PUBLIC OFFICIAL/EMPLOYEE
RE SEARCH OF PERSONAL DEVICE/ACCOUNT**

I, James Nelson, Chief for the City of Lynnwood, do hereby certify that I do not conduct City business on my personal email or personal cellular device texts. In the event I receive a work-related business email to my personal email I either delete and/or notify the parties that they have sent this to my personal email and not to use it for that purpose.

I do, at times, get contacted on my personal phone, primarily when off-duty as I am in a 24-hour a day position. I do not keep any work-related records from those contacts.

A search was performed in order to provide records responsive to the following Public Records Request ("Request"): #C000241-050523

jesuslovesutik@gmail.com "We are requesting the public record text messages from Jim Nelson's city phone as well as any and all public record texts from all his personal devices. The time period is for:Jan.5, 2023-Jan. 25, 2023.

Signed and dated this 8th day of May, 2023 at Lynnwood, WA.
City State

DocuSigned by:
James Nelson
6087A9735A94421...
Signature

EXHIBIT P

EXHIBIT P

Jordan Kostelyk

From: DORIAN Leigh <dorianleighk@msn.com>
Sent: Thursday, June 1, 2023 9:47 AM
To: Luke Lonie
Cc: Darcy Kirschner; George Hurst; Patrick Decker; Jim Smith; Shirley Sutton; Joshua Binda; Christine Frizzell; Julie Moore; James Nelson; Coleman Langdon
Subject: PRA Violations

Hello Luke,

Can you please clarify what you meant by this statement in your May 5 email to me? **For City owned phones, depending on the record requested, I do need to have the physical phone to search through.** You are now claiming that the Mayor, City Manager, PRO, Chief and all other directors are searching their own phones? A recent request for the Chief came back that he had zero text message on his City-owned phones for 3 weeks? Does he need supervision? This is the same Chief who swore on an affidavit that he is destroying public records (work related texts and emails) which is a felony and a PRA violation. Should we really trust him to search the phone that we own?

Also, can you explain to me why for 8 months of requesting records I was not charged for any requests until I asked for the emails of CM Sessions and CM Crosby? It appears from our research that I was one of the only requesters being charged for requests, other than Mario Lotmore who is also a citizen that is not afraid to hold public officials accountable. When you started charging me for requests over \$5. I didn't know at the time that I was being targeted, but now it appears that is what happened. I asked you how I could reduce the fees and that is when the mistreatment of me as a requester really went into full force. You punished me for asking how I could reduce the fees, and it now looks like I shouldn't have even been charged any fees to begin with. I should have been treated like every other requester and from what we can see my only "crime" was requesting the emails of Sessions and Crosby. You told me because I was trying to "get around the fees," you were going to charge me for every record under \$5 as well. I was repeatedly ignored by Darcy, the Deputy, when attempting to modify and reduce the size to reduce the records, which I should not have had to do because no other requesters were being treated like that. Requests were closed when I attempted to modify and it was clear that Lynnwood has no policy for modifying records based upon the way I was treated. Luke, clearly had no idea that State law provides for modifications as he claimed my attempt to reduce the size of records was the reason he was punishing me financially and forcing me to pay for every request under \$5. Then I learned that other requesters were not being charged for requests even OVER \$5.

Darcy repeatedly refused to send me my records via email and I had to repeatedly remind you that the requester has the option to inspect for free. Again, I should not have had to come in to City Hall when other requesters were being given their records electronically. To date, you have withheld hundreds of records I didn't ever receive due to this discriminatory behavior.

From what we can see, it is looking like Sessions and Crosby didn't like that I was asking for their emails and somehow perhaps through the mayor, or city manager was able to convince you that it would be a good idea to start charging me for records? Then when I tried to reduce them, I was punished even further. Or, it could also be that Sessions convinced you directly? We reviewed some interesting text messages between you and Sessions, and interestingly enough it was during the time frame that Sessions swore on an affidavit (committed perjury according to you) that she only had one text message to Nathan Macdonald. How do you explain that? Isn't the PRO supposed to be overseeing compliance to the PRA? According to you, she also violated the Lynnwood Public Records policy by providing public records to two pastors of Alderwood Community Church.

I asked you what the penalties are when a councilmember commits perjury by lying on an affidavit and you said you didn't know and sent me to a website. If your responsibility is to oversee compliance for the whole department,

shouldn't you know the answer to that? What about when a councilmember violates both the Lynnwood Technology policy AND the Public Records Policy like Sessions did? What about when they violate their oath of office by committing perjury?

I've repeatedly asked you why I was charged for records under \$5 and asked for a policy which gives you the ability to punish certain requesters and to date, you have not provided anything. I've also repeatedly asked the Deputy who appears to be afraid of you. She isn't doing her job of ensuring that Lynnwood is in compliance with the PRA. She repeatedly sends me to you and you don't respond, or she copies and pastes your deceitful explanations for these actions.

I've also told you in writing that I did not receive hundreds of records due to this targeting, discriminatory behavior and your response is that I haven't been denied records. Yet, we received a list of all the public record requests for that time period which included 105 requests and there was only one requester who paid a fee, and it was Mario. I was invoiced several times but didn't pay because I knew it was illegal. Why didn't I receive the electronic records I requested without being charged like the vast majority of requesters? The emails I requested should have been sent to me without receiving a manually created invoice that caused your staff to do more work.

We also requested the notice and public hearing that should have been held prior to the City of Lynnwood's statement of costs on their public record policy and we were sent a hearing about body cameras? Do you even know what the notice and public hearing for the statement of costs is? Where is the city attorney? She doesn't respond, nor does the mayor, city manager or councilmembers. They are all complicit in this illegal activity.

Furthermore, there were hundreds of records (emails for Crosby) for one request that I asked you about because I was being charged and also copied the councilmembers and mayor. Instead of responding to my question, you closed the request the next day and I wasn't able to receive hundreds of records for that request. The Lynnwood policy states that the request "may be closed" and assumed to be abandoned **if the requester doesn't contact the PRO, yet I contacted you the day before and Darcy weeks before and received no response until after the request was closed.**

Is there a explanation for all of this? Can you please explain to me why you started charging me when I asked for Sessions and Crosby's emails? Why only me? After checking with other agencies, I was told that charging for requests causes the staff to work much harder. They have to manually create an invoice, and wait for the requester to pay or come in and can't move forward until the requester responds or it has been abandoned. The requester then has to contact the Cashier and make them work to process the payment. If the requester wants to come in, they have to set up a time and be sure there is someone in the office to be there with them. This is the reason, it is most cost effective not to charge requesters.

So, it appears that you caused your staff to work harder (wasting city resources) in order to punish a requester for seeking records that apparently Sessions and Crosby didn't want to be provided? At this point, we are speculating because we don't have the communications to substantiate our claims. Now, that you are no longer searching City-paid phones, getting that information could be much more difficult. If you would go to the lengths of forcing your staff to do extra work to punish a requester, we can't even trust that you would provide public records from searching City-owned phones. Again, Luke, if this is not true, please provide the explanation. I hope and pray I'm wrong.

Respectfully,
Dorian

Sent from [Mail](#) for Windows

EXHIBIT Q

EXHIBIT Q

Jim Smith <jsmith@lynnwoodwa.gov>

Jun 8, 2023,
11:40 AM (1 day
ago)

to SMB, JesusLovesUTIK@gmail.com

Darcy,

As I believe you know, the City has the iPad that I used to use. A couple of us Councilmembers switched over to an Android laptop. So the City has all of the info that was requested, not me.

Jim Smith

From: SMB Public Records <publicrecords@lynnwoodwa.gov>

Sent: Thursday, June 8, 2023 10:22 AM

To: Jim Smith <jsmith@Lynnwoodwa.gov>

Subject: FW: Records Request :: C000251-050923-Why is this continually being extended? (Smith)

Councilmember Smith,

The requestor for the public record request below is seeking clarification as to why records have not yet been provided or affidavit signed. I wanted to provide your response to the requestor. I've attached the affidavit if you don't happen to already have a copy.

I'll be at city hall this afternoon if you would like to meet or need any assistance with a search for records.

If you have any questions, feel free to contact me.

Thank you,

Darcy Kirschner (she/her/hers) | Deputy City Clerk

Executive Office

From: **Dal lad** <jesuslovesutik@gmail.com>

Date: Thu, Jun 8, 2023 at 10:02 AM

Subject: Records Request :: C000251-050923-Why is this continually being extended? (Smith)

To: <publicrecords@lynnwoodwa.gov>

Hello,

This was requested on May 9 and there have been multiple extensions which appear to be unreasonable. Can you please explain the reasons for the repeated extensions?

The other councilmember with the same request responded on May 16 and this one is still not responding? If their records were being stored on their public device in accordance with the Lynnwood Technology Policy, providing them to the public would not require weeks of extensions.

Please explain how this is reasonable?

EXHIBIT R

EXHIBIT R

From: **SMB Public Records** <publicrecords@lynnwoodwa.gov>
Date: Wed, Jun 14, 2023 at 9:39 AM
Subject: RE: Lynnwood Public Records Request :: C000336-060823
To: Dal lad <jesuslovesutik@gmail.com>

Good Morning,

The screenshot was provided from Commander Langdon's phone and captures a conversation with a contact Ron. Although I cannot interpret, since he provided this response in relation to the request Ron is either a co-worker or business associate. More details may be present within the conversation captured.

Thank you,

Darcy Kirschner (she/her) | Deputy City Clerk

Executive Office

19100 44th Ave W, Lynnwood, WA 98036

cityclerk@lynnwoodwa.gov | Ph: 425-670-5125
Sign up for [Lynnwood eNews](#) follow us on [Facebook](#) and [Twitter](#)



EXHIBIT S

EXHIBIT S

From: [DORIAN Leigh](#)

Sent: Wednesday, June 7, 2023 1:16 PM

To: [Luke Lonie](#)

Subject: RE: Question-Results of search not listed on portal or provided via email?

Hello Luke,

The email I provided isn't what I was referring to when you didn't respond. You may find the missing responses by searching earlier on as I referred in this email where I stated you were not responding to issues with the affidavits. I had sent you copies of the affidavits that were provided and you did not respond, which has happened several times where you disappeared. If you aren't sure about this, please do an email search of emails from me and you will see what I'm referencing.

With regard to the affidavits, which statute do you keep referring to without citing your references? This is confusing and I'm also wondering if you have researched case law with regard to detailed affidavits. This is another issue which can cause legal liability for Lynnwood as the affidavits are supposed to be a good faith measure to ensure public trust in terms of knowing that the public official has searched their devices and is being truthful. This is the reason we've been concerned that you've stated you are not responsible for any perjury that is occurring with Lynnwood affidavits and/or records being withheld. The RCW 42.56 states that you are responsible for overseeing compliance to the PRA which includes public officials withholding records.

You also have councilmembers like Decker claiming he repeatedly has zero public records on all his devices? That is not a red flag to you? Where is he storing all his public records? According to Lynnwood policy they aren't supposed to be storing them on their personal devices, but he is claiming he doesn't have any on all his accounts and devices? How can a public official claim to have zero public records for three months, yet you refuse to search his iPad? He has no social media, no browsing history, no notes, council minutes, photos, messaging or metadata on ANY devices? Why hasn't the iMessage app been permanently shut off so you can know for sure that there are no non-transitory messages being withheld from the public?

As stated previously, how are you overseeing compliance in Lynnwood PRR when you have no idea what is on the public devices?

Also, what are you doing to provide us with the records that Chief Nelson deleted? Those records belong to us, so they need to be recovered. He clearly violated the Lynnwood Technology Policy and it claims that the employee will be disciplined for violations of the policy. He deleted "work related emails."

I'm glad you are now saying that public feedback is welcome, so would you please go back and respond to all the public feedback/questions I've provided where you didn't respond? In accordance to your new statement that you are wanting to improve, I look forward to your forthcoming answers.

The first question would be why did you start charging me for my requests after 8 months of being treated like all other requesters and receiving no charges, when I asked for the emails of Sessions and Crosby? What did I do to incur charges when no one else was incurring them? The next question would be why did you instruct your staff to manually create invoices to charge Dorian and any other requester using her IP address when they were not creating these invoices for any other requesters? The other question that hasn't been answered is how are you monitoring and auditing the public devices to ensure

that the public is getting all the records requested when you are not supervising the searches? Another unanswered question is how do you know that Lynnwood employees are complying with the Lynnwood policy of “only transitory text messages being allowed?” You explained what you believe is happening, however, you aren’t doing anything to ensure that what you believe is happening is truly occurring.

Sent from [Mail](#) for Windows

EXHIBIT T

EXHIBIT T

----- Forwarded message -----

From: **LYNNWOODWA PUBLIC RECORDS CENTER** <lynnwoodwa@mycusthelp.net>

Date: Tue, Aug 22, 2023 at 1:19 PM

Subject: Lynnwood Public Records Request :: C000454-080123

To: truth4transparency@gmail.com <truth4transparency@gmail.com>

--- Please respond above this line ---



08/22/2023

RE: PUBLIC RECORDS REQUEST, Reference # C000454-080123 - Closing Response

Dear Dorian Leigh:

The City of Lynnwood is in receipt of your request for public records as it relates to " , , We are requesting the metadata for all Shannon's texts for this request:C000288-052223- We are not requesting the call/text logs. We are requesting the date, time, full name of each contact and phone number for each text provided.

Attachments:

05-24-23_AFFIDAVIT_OF_RECORD_SEARCH_-_Julie_Moore_-_C000288-052223.docx.pdf

05-24-23_AFFIDAVIT_OF_RECORD_SEARCH__Luke_Lonie_-_C000288-052223_-_signed.pdf

05-24-23_AFFIDAVIT_OF_RECORD_SEARCH_Public_Official_CP_Sessions_-_C000288-052223_-_signed.pdf

05-24-23_AFFIDAVIT_OF_RECORD_SEARCH_Public_Official_Mayor_Frizzell-_C000288-052223.docx.pdf

Shannon_-_Colin_Text_1.png

Shannon_-_Colin_Text_2.png

Shannon_-_Julie__Julieta__Mayor_Text_1.png

Shannon_-_Julie__Julieta__Mayor_Text_2.png

Shannon_-_Julie__Julieta_Text_1.png

Shannon_-_Julie__Julieta_Text_2.png

Shannon_-_Julie__Julieta_Text_3.png

Shannon_-_Julie__Julieta_Text_4.png

Shannon_-_Julie__Julieta_Text_5.png

Shannon_-_Julie__Mayor_Text_1.png

Shannon_-_Julie__Mayor_Text_2.png

Shannon_-_Julie__Mayor_Text_3.png

Shannon_-_Julie__Mayor_Text_4.png

Shannon_-_Julie__Mayor_Text_5.png
Shannon_-_Julie__Mayor_Text_6.png
Shannon_-_Lynn_Text_1.png
Shannon_-_Lynn_Text_2.png".

The Revised Code of Washington (RCW) 42.56 states, in part, that a City must make a timely response to requests for public record by:

1. Providing the document(s) sought;
2. Acknowledging the request and informing the requestor of an approximately-anticipated response date; or
3. Denying the request AND providing legal statutes or explanations as to why the records are not to be disclosed.

Date and time stamp is shown within the provided screenshots. Council President Sessions provided these from her personal cellular, and phone number is exempt from being released per RCW 42.56.250(3) as is Julieta Altamirano-Crosby's personal cellular number.

The file names provide the names of the contacts who are Julie Moore City Administrator, Council Vice President Julieta Altamirano-Crosby, Mayor Christine Frizzell and Lynn Sordel Parks Director.

I can provide the city cellular numbers for the employees listed:

Mayor Christine Frizzell 425-582-1623

Julie Moore 425-551-8444

Lynn Sordel 425-248-5760

Colin is not a city employee and full name and phone number is not provided within the screenshot of the text.

Your request is considered complete and closed.

If you have any questions or have any difficulty in accessing the records, please do not hesitate to respond to this correspondence through your portal account, or contact the Public Records Office at 425-670-5152. Please note that staff do not routinely monitor closed requests.

Sincerely,
Darcy Kirschner
Deputy City Clerk
City Clerk / Records
425-670-5152 | www.lynnwoodwa.gov/Government/City-Clerk/Public-Records-Requests

To monitor the progress or update this request please log into the [Lynnwood Public Records Center](#)



EXHIBIT U

EXHIBIT U



**AFFIDAVIT OF RECORD SEARCH of EMPLOYEE
RE: SEARCH OF PERSONAL DEVICES/ACCOUNT**

I, Coleman Langdon, Police Commander, do hereby certify that I completed the following search of records(s) on my personal cellular device(s) for agency business.

The search was performed to provide records responsive to the following Public Records Request: C000392-063023

jesuslovesutik@gmail.com: "06/30/23: modify to include affidavit

We are requesting all texts and voicemails relating to government conduct for Cole Langdon with the accompanying metadata. We are requesting these messages from all his personal and City issued devices for the time period of June 25, 2022 through June 25, 2023.

We are also requesting all emails relating to government conduct from all his personal accounts/devices with accompanying metadata. This request is for the same time period."

I hereby certify that all files on any personal devices and accounts that I use for City of Lynnwood business have been searched for records responsive to this request. I further certify that I have provided responsive records, if any, relevant to the City of Lynnwood City Clerk's Public Records Officer or designee pertaining to Public Records Request C000392-063023.

Signed and dated this 5th day of July, 2023 at Lynnwood, Washington.
City State

DocuSigned by:
Cole Langdon
8F4F8BB0500647A...
Signature

EXHIBIT V

EXHIBIT V



**AFFIDAVIT OF RECORD SEARCH of EMPLOYEE
RE: SEARCH OF PERSONAL DEVICES/ACCOUNT**

I, Ron Moore, Court Marshal, do hereby certify that I completed the following search of records(s) on my personal cellular and devices for agency business.

The search was performed to provide records responsive to the following Public Records Request: C000394-063023

jesuslovesutik@gmail.com: "We are requesting all texts and voicemails relating to government conduct and or City business for Ron Moore with the accompanying metadata for authentication purposes. We are requesting these messages from all his personal and City issued devices and accounts for the time period of June 25, 2022 through June 25, 2023.

We are also requesting all emails relating to government conduct from all his personal accounts/devices with accompanying metadata for authentication purposes. This request is for the same time period. .Please include an affidavit to substantiate his claims."

I hereby certify that all files on any personal devices and accounts that I use for City of Lynnwood business have been searched for records responsive to this request. I further certify that I have provided responsive records, if any, relevant to the City of Lynnwood City Clerk's Public Records Officer or designee pertaining to Public Records Request C000394-063023.

Signed and dated this 28th day of AUGUST, 2023 at LYNNWOOD, WASHINGTON.
City State

DocuSigned by:
Ron Moore
2F7DCF1E7126453...
Signature

EXHIBIT W

EXHIBIT W

Jordan Kostelyk

From: DORIAN Leigh <dorianleighk@msn.com>
Sent: Wednesday, September 6, 2023 11:42 AM
To: Michelle Meyer
Subject: No transparency

Thank you, Michelle!

It seems odd that the City won't allow you as the finance director, to answer a question that is public information. Ongoing litigation would only require confidential information to be with held, not public information which technically belongs to the public. This lack of transparency speaks volumes and destroys public trust.

I do understand that you are doing what you are told to do, however, it makes no sense and is hurtful to those who are paying you to serve us.

Sent from [Mail](#) for Windows

From: [Michelle Meyer](#)
Sent: Thursday, August 31, 2023 1:59 PM
To: [DORIAN Leigh](#)
Cc: [Luke Lonie](#)
Subject: RE: Verizon Administrator for Lynnwood?

Hi again Dorian,

I'm looping in our City Clerk, Luke Lonie, so he can log this request and respond accordingly since it is potentially related to ongoing litigation.

Please direct any further inquiries related to this topic directly to him for a timelier response.

Thanks!
Michelle

From: DORIAN Leigh <dorianleighk@msn.com>
Sent: Wednesday, August 30, 2023 9:11 PM
To: Michelle Meyer <mmeyer@Lynnwoodwa.gov>
Subject: Re: Verizon Administrator for Lynnwood?

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Who would know?

Sent from my iPhone

On Aug 30, 2023, at 4:27 PM, Michelle Meyer <mmeyer@lynnwoodwa.gov> wrote:

Hi Dorian,

I'm not sure who the administrator on the account is...it's gotta be someone in IT.
I don't think our bills show any detail for text messaging, but they would be able to confirm that.

From: DORIAN Leigh <dorianleighk@msn.com>
Sent: Wednesday, August 30, 2023 1:01 PM
To: Michelle Meyer <mmeyer@Lynnwoodwa.gov>
Subject: Verizon Administrator for Lynnwood?

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Michelle,

I was speaking with Verizon today about some invoices we've received from Lynnwood Public Records and they said there is a Verizon Administrator who manages the account within City government? Can you tell me who that is?

The issue we are repeatedly seeing is the invoices being provided are either incomplete, or an excel spreadsheet is being created instead of providing the messaging listed on the invoices? The invoice shows text messages yet the messages details and history aren't being provided? Instead, the voice calls are provided.

Thanks for your assistance!

Sent from [Mail](#) for Windows