

File No. 21153

Item No. 7

SUNSHINE ORDINANCE TASK FORCE
AGENDA PACKET CONTENTS LIST

Sunshine Ordinance Task Force

Date: September 7, 2022

<input type="checkbox"/>	Petition/Complaint	Page: <u> </u>
<input checked="" type="checkbox"/>	Memorandum - Deputy City Attorney	Page: <u> </u>
<input checked="" type="checkbox"/>	Petitioner/Complainant Supporting Documents	Page: <u> </u>
<input checked="" type="checkbox"/>	Respondent's Response	Page: <u> </u>
<input type="checkbox"/>	Public Correspondence	Page: <u> </u>
<input type="checkbox"/>	Order of Determination	Page: <u> </u>
<input type="checkbox"/>	Minutes	Page: <u> </u>
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<input type="checkbox"/>	No Attachments	

251
284

OTHER

Completed by: C. Leger Date 9/1/22

* An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document is in the file on a disk

**Sunshine Ordinance Task Force
Complaint Summary**

File No. 21153

Anonymous (ARE) vs. Dennis Herrera

Date filed with SOTF: 11/18/21

Contact information (Complainant information listed first):

Anonymous (arerecordsrequestor@protonmail.com) (Complainant)

Dennis Herrera and SFPUC; Brittany Feitelberg (BFeitelberg@sfwater.org); Jen Kwert (jen.kwert@sfcityatty.org); (Respondent)

File No. 21153: Complaint filed by Anonymous (ARE) versus Dennis Herrera for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.29-5(a) by failing to keep or cause to be kept a calendar with certain minimum information about his business meeting, and to disclose them as public records and willful failure to discharge any duties imposed by the Sunshine Ordinance, Brown Act or the Public Records Act and 67.34 willful violation constituting official misconduct.

Administrative Summary if applicable:

NOTE: Department not listed due to change of position within the city and at the request of the Complainant. Copy sent to SFPUC as the current department of record

November 9, 2021, request made for November 1, 2 and 3, 2021 meeting entries.

Complaint Attached.

Complainant/Petitioner's Document Submission

From: Anonymoose (@journon_anon) 🐾 🔍 <arecordsrequestor@protonmail.com>
Sent: Thursday, November 18, 2021 9:33 AM
To: SOTF, (BOS)
Cc: Herrera, Dennis (PUC)
Subject: Willful Sunshine Violation, SOTF Complaint against Dennis Herrera - myref SFDH2 - Fwd: RE: Prop G calendar, Herrera, Nov 1-3, 2021 - immediate disclosure request
Attachments: Zoom Test_Redacted.pdf; HerreraNorby.pdf; GM Direct Reports Meeting.pdf; HerreraRitchie.pdf; HerreraSandlerr.pdf; HerreraJohanson.pdf; SEP Tour.pdf; HerreraOrdikhani.pdf; Agenda Review Mtg.pdf; Meet and Greet- External Affairs Manager's Meeting.pdf; Treasure Island Housing Ferry Ride.pdf; HerreraHale.pdf; SOTF_ORDER_19108.pdf; signature.asc

Please file an SOTF Complaint, *Anonymous v General Manager Dennis Herrera* (NO agency respondent here).
Allegations: 67.34 willful violation constituting official misconduct, 67.29-5 failing to keep or cause to be kept a daily calendar with general statements of issues discussed and

I allege that Dennis Herrera is committing official misconduct by willfully violating SF Admin Code 67.29-5(a), requiring him to keep or cause to be kept a calendar with certain minimum information about his business meetings, and to disclose them as public records. Herrera continues to prevent the public from knowing what is discussed at his meetings. Note that unlike 67.29-5(b) and (c) there is no supposed general good faith exception to (a), and Herrera is not a Board of Supervisors member and so has no good faith exception to (a) either.

Due to Herrera's prior violation here, and the plain wording of Admin Code 67.30(c), I urge SOTF to find that Herrera's continued violations are willful, and recommend to the Ethics Commission that Herrera be found to have committed official misconduct. I also ask that Herrera also be referred to the District Attorney - Boudin may do nothing, but the law allows you to refer to municipal offices with enforcement power - and both Boudin and Ethics can do so.

As background, in 2019, I requested then-City Attorney Herrera's calendars. Following an SOTF complaint, SOTF decided on Feb 5, 2020 that Herrera violated Admin Code 67.29-5 by failing to record the location and issues discussed - see SOTF Order 19108: https://sfgov.org/sunshine/sites/default/files/SOTF_ORDER_19108.pdf
Herrera has had actual notice of his obligation to comply with Admin Code 67.29-5 since no later than March 28, 2020, when SOTF published the above order of determination. I'm not sure how many bites at the apple Herrera is supposed to get to comply with the plain language of the law.

Then, when Herrera became GM of the PUC this November, I again requested his Prop G calendar (see the thread below) to verify his compliance with Prop G.
Herrera remains subject to Admin Code 67.29-5 as a department head.

A year and a half later, Herrera continues to ignore and violate Admin Code 67.29-5. Note that the Sunshine Ordinance puts the responsibility for keeping or causing to be kept the calendar on the department head. It is possible that Herrera doesn't know what will be discussed beforehand - which is why he has 3 business days to record the issues ***after-the-fact for every meeting not publicly recorded.***

I requested his Nov 1, 2, and 3, 2021 meeting entries on November 9 (which is 3 or more business days after the entry dates). PUC provided them at: <https://sfpuc.sharefile.com/d-sb48b0a0fbc3f4cf1844a1df68f1f12c2>, and all 12 entries are attached.

For example, out of 12 meetings disclosed, at least 8 appear to violate Admin Code 67.29-5:

- On November 1, 9am, Herrera had a "GM Direct Reports Meeting" - Herrera failed to record the general statement of issues discussed - we don't know anything about what they discussed.
- On November 2, 230pm, Herrera had a meeting with Alan Johanson. Herrera failed to record the general statement of issues discussed - we don't know anything about what they discussed.
- On November 2, 430pm, Herrera had a meeting with Barbara Hale. Herrera failed to record the general statement of issues discussed - we don't know anything about what they discussed.
- On November 2, 130pm, Herrera had a meeting with Greg Norby. Herrera failed to record the general statement of issues discussed - we don't know anything about what they discussed.
- On November 2, 1pm, Herrera had a meeting with Masood Ordikhani. Herrera failed to record the general statement of issues discussed - we don't know anything about what they discussed.
- On November 2, 3pm, Herrera had a meeting with Steve Ritchie. Herrera failed to record the general statement of issues discussed - we don't know anything about what they discussed.
- On November 2, 4pm, Herrera had a meeting with Eric Sandler. Herrera failed to record the general statement of issues discussed - we don't know anything about what they discussed.
- On November 2, 8am, Herrera had an "SEP Tour" with (apparently) "Norby" without any issues discussed. If Norby is not a PUC staffer, their name is also not recorded.

Regards,

Anonymous

Twitter [@journo anon](#)

IMPORTANT:

1. If you are a public official: I intend that these communications all be disclosable public records, and I will not hold in confidence any of your messages, notwithstanding any notices to the contrary.
2. If you are NOT a public official: This communication is confidential and may contain unpublished information or confidential source information, protected by the California Shield Law, Evidence Code sec. 1070. I am a member of the electronic media and regularly publish information about the conduct of public officials.
3. I am not a lawyer. Nothing herein is legal, IT, or professional advice of any kind. The author disclaims all warranties, express or implied, including but not limited to all warranties of merchantability or fitness. In no event shall the author be liable for any special, direct, indirect, consequential, or any other damages whatsoever.
4. The digital signature (signature.asc attachment), if any, in this email is not an indication of a binding agreement or offer; it merely authenticates the sender.

Sent from ProtonMail for iOS

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

From: Ruski Augusto Sa, Mayara <MRuskiAugustoSa@sfwater.org>

Date: On Wed, Nov 17, 2021 at 4:22 PM

Subject: Fwd: RE: Prop G calendar, Herrera, Nov 1-3, 2021 - immediate disclosure request

To: Anonymoose   <arecordsrequestor@protonmail.com>

Cc:

Dear Requester,

The SFPUC has located records responsive to your request, which are available at this link <https://sfpuc.sharefile.com/d-sb48b0a0fbc3f4cf1844a1df68f1f12c2>. We now consider your request closed.

Please be advised that we have redacted from the records ("Zoom Test_Redacted") a conference meeting hyperlink, the meeting ID and passcode in order to prevent access to privileged, private, or otherwise confidential communications that are protected from disclosure under the Public Records Act, for example, attorney-client privileged communications (Cal. Govt. Code §§ 6254(k), 6276.04; Cal. Evid. Code §§ 950 et seq.), personal private information (Cal. Govt. Code §§ 6250, 6254(c); Cal. Const., Art. I, §1; Admin. Code §67.1(g)), trade secrets (Cal. Govt. Code § 6276.44; Cal. Civil Code §§ 3426, 3426.7(c); Cal. Evid. Code § 1060), and utility customer data (Cal. Govt. Code § 6254.16).

Additionally, please note that the calendar events have not been modified in any way (other than the redaction mentioned above) after your request was received.

Best Regards,

Mayara Ruski Augusto Sa

SFPUC Public Records Senior Analyst, External Affairs


Cell: 415-680-6683

Pronouns: she, her, hers



From: Ruski Augusto Sa, Mayara

Sent: Wednesday, November 10, 2021 12:49 PM

To: Anonymoose (@journno_anon)  <arecordsrequestor@protonmail.com>
Subject: RE: Prop G calendar, Herrera, Nov 1-3, 2021 - immediate disclosure request

Dear Requester,

Thank you for public records request. As explained in the linked memo, per the emergency orders of the Mayor, the provisions of the Sunshine Ordinance relating to immediate disclosure requests have been temporarily suspended for the duration of the local emergency. We will provide our initial response to you on or before November 19, 2021, in accordance with those Mayoral orders and the California Public Records Act.

Best Regards,


Mayara Ruski Augusto Sa

SFPUC Public Records Senior Analyst, External Affairs

Cell: 415-680-6683

Pronouns: she, her, hers



From: Anonymoose (@journno_anon)  <arecordsrequestor@protonmail.com>
Sent: Tuesday, November 9, 2021 9:55 AM
To: Herrera, David <DHerrera@sfgwater.org>
Cc: Cote, John W <JCote@sfgwater.org>; Ruski Augusto Sa, Mayara <MRuskiAugustoSa@sfgwater.org>
Subject: Prop G calendar, Herrera, Nov 1-3, 2021 - immediate disclosure request

Dennis Herrera:

1. Produce, without any modifications and as they exist at this time, each individual entry with all details (whether required to be recorded by law, or not) in Outlook (or whatever other calendar system you use) for all calendars kept or caused to be kept by you for all meetings on November 1, 2, and 3, 2021, each date which is 3 or more business days prior to today, November 9, and thus should be immediately available to the public.

You may remember that you were found to have unlawfully failed to maintain your proposition G calendar when you were City Attorney, *19108 Anonymous v Herrera*. The order against you is here: https://sfgov.org/sunshine/sites/default/files/SOTF_ORDER_19108.pdf

I am verifying your compliance.

Your representative, Mr. Cote, has previously asserted that an apparent you have to alter public records prior to producing them, after a request is received. You don't have that right. Thus:

2. As a separate request (do not delay the first request for this), produce the ICS/iCalendar metadata for the above entries (which show last modified dates) - I will be verifying that you are not creating/altering public records to pretend to comply with the law after you receive a request. You can also choose to simply represent in writing that you have not modified in anyway (other than redaction pursuant to 67.26) after receiving my request, the contents

Regards,

Anonymous

Twitter [@journo_anon](#)

IMPORTANT:

1. If you are a public official: I intend that these communications all be disclosable public records, and I will not hold in confidence any of your messages, notwithstanding any notices to the contrary.

2. If you are NOT a public official: This communication is confidential and may contain unpublished information or confidential source information, protected by the California

Shield Law, Evidence Code sec. 1070. I am a member of the electronic media and regularly publish information about the conduct of public officials.

3. I am not a lawyer. Nothing herein is legal, IT, or professional advice of any kind. The author disclaims all warranties, express or implied, including but not limited to all warranties of merchantability or fitness. In no event shall the author be liable for any special, direct, indirect, consequential, or any other damages whatsoever.

4. The digital signature (signature.asc attachment), if any, in this email is not an indication of a binding agreement or offer; it merely authenticates the sender.

Sent from ProtonMail for iOS

Feitelberg, Brittany K

Subject: Herrera, Dennis J's Zoom Meeting

Location: [REDACTED]

Start: Wed 11/3/2021 10:30 AM

End: Wed 11/3/2021 11:00 AM

Recurrence: (none)

Meeting Status: Meeting organizer

Organizer: Herrera, Dennis J



Hi there,

Herrera, Dennis J is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

One tap mobile: US: +12133388477,,81703084152#,,, *977160# or +16692192599,,81703084152#,,, *977160#

Meeting [REDACTED]

URL:

Meeting [REDACTED]

ID:

Passcode: [REDACTED]

Join by Telephone

For higher quality, dial a number based on your current location.

Dial:

US: +1 213 338 8477 or +1 669 219 2599 or +1 669 900 6833 or +1 646 518 9805

Meeting [REDACTED]

ID:

Passcode: [REDACTED]

International numbers

Feitelberg, Brittany K

Subject: Herrera/Ritchie
Location: GM's Office

Start: Tue 11/2/2021 3:00 PM
End: Tue 11/2/2021 3:30 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Organizer: Herrera, Dennis J
Required Attendees: Ritchie, Steve

Please provide your agenda by COB Monday – November 1.

Feitelberg, Brittany K

Subject: SEP Tour - Norby/Herrera
Location: 750 Phelps Street, San Francisco, CA 94124

Start: Tue 11/2/2021 8:00 AM
End: Tue 11/2/2021 10:30 AM
Show Time As: Out of Office

Recurrence: (none)

Organizer: Herrera, Dennis J

Feitelberg, Brittany K

Subject: Meet and Greet: External Affairs Manager's Meeting
Location: Hetch Hetchy Conference Room

Start: Wed 11/3/2021 2:00 PM
End: Wed 11/3/2021 3:00 PM

Recurrence: (none)

Organizer: Herrera, Dennis J

Meeting with Masood Ordikhani's staff

**SUNSHINE ORDINANCE
TASK FORCE**



City Hall
1 Dr Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-7724
Fax No. (415) 554-7854
TTD/TTY No. (415) 554-5227

**ORDER OF DETERMINATION
March 28, 2020**

DATE DECISION ISSUED
February 5, 2020

CASE TITLE – Anonymous v. City Attorney Dennis Herrera (File No. 19108)

FACTS OF THE CASE

The following petition/complaint was filed with the Sunshine Ordinance Task Force (SOTF):

File No. 19108: Complaint filed by Anonymous against City Attorney Dennis Herrera, Elizabeth Coolbrith and the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.25, 67.27, 67.29-5, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner, failing respond to a public records request in a timely manner and/or complete manner. Failing to justify withholding of records and failing to maintain a Proposition G Calendar.

HEARING ON THE COMPLAINT

On November 26, 2019, the Compliance and Amendments Committee acting in its capacity to hear petitions/complaints heard the matter.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that the City Attorney's Office should maintain a Prop G calendar and a Non-Prop G calendar. Anonymous stated that the Prop G calendar should have been provided timely and was not. Anonymous stated that City Attorney does not maintain a Non-Prop G calendar. Anonymous maintains that the Respondent did not respond in a timely manner. Anonymous stated that upon review of the calendars submitted by the City Attorney, there were no time or location entries which is a violation. Anonymous stated that the City Attorney's Office did not provide legal justifications for not including this information in their response.

City Attorney's Office (Respondent), was unavailable for the hearing.

Action: Moved by Member Wolfe, seconded by Member Hinze, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing.

On February 5, 2020, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that on October 8, 2019, a request was submitted for City Attorney Herrera's calendar and what was received appears to be incomplete. Anonymous stated that the locations of the meetings were not listed in the calendar or the generic location of City Hall was listed.

John Cote, Office of the City Attorney (Respondent), provided a summary of the department's position. Mr. Cote noted the many requests were submitted by Anonymous in the same timeframe and described the various requests types. Mr. Cote stated that the request was received on October 8, 2020, a request for extension was requested on October 9, 2020, due to the need to consult with other city departments, and the response was provided on October 15, 2020. Mr. Cote stated that clarification regarding meeting location was provided via email and that the City Attorney does not have other calendars.

FINDINGS OF FACT AND CONCLUSION OF LAW


Based on the testimony and evidence presented, the SOTF found that City Attorney Dennis Herrera violated Administrative Code (Sunshine Ordinance), Section 67.29-5, by failing to note the location of meetings on the calendar and failing to note the issues to be discussed on the calendar.

DECISION AND ORDER OF DETERMINATIONS

Action: Moved by Member Yankee, seconded by Member Martin, to find that City Attorney Dennis Herrera violated Administrative Code (Sunshine Ordinance), Section 67.29-5, by failing to note the location of meetings on the calendar and failing to note the issues to be discussed on the calendar.

The motion PASSED by the following vote:

Ayes: 7 - Yankee, Hyland, Hinze, LaHood, J. Wolf, Martin, B. Wolfe
Noes: 0 - None
Absent: 1 - Tesfai


Bruce Wolfe, Chair
Sunshine Ordinance Task Force

cc. Anonymous (Petitioner/Complainant)
Dennis Herrera (Respondent)

Feitelberg, Brittany K

Subject: Herrera/Norby
Location: GM's Office

Start: Tue 11/2/2021 1:30 PM
End: Tue 11/2/2021 2:00 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Organizer: Herrera, Dennis J
Required Attendees: Norby, Greg

Feitelberg, Brittany K

Subject: Herrera/Sandler
Location: GM's Office

Start: Tue 11/2/2021 4:00 PM
End: Tue 11/2/2021 4:30 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Organizer: Herrera, Dennis J
Required Attendees: Sandler, Eric

Please provide your agenda by COB Monday – November 1.

Feitelberg, Brittany K

Subject: Herrera/Ordikhani
Location: GM's Office

Start: Tue 11/2/2021 1:00 PM
End: Tue 11/2/2021 1:30 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Organizer: Herrera, Dennis J
Required Attendees: Ordikhani, Masood

Please provide your agenda by COB Monday – November 1.

Feitelberg, Brittany K

Subject: Treasure Island Housing Ferry Ride, Tour, Speaking Program (Press Event)
Location: Gate A, Ferry Building, 1 Ferry Building, San Francisco, CA

Start: Wed 11/3/2021 11:30 AM
End: Wed 11/3/2021 1:30 PM
Show Time As: Out of Office

Recurrence: (none)

Organizer: Herrera, Dennis J

11:30: Meet at Gate A at Ferry Building

EVENT: Treasure Island Housing Ferry Ride, Tour, Speaking Program (Press Event)

EVENT DATE: Wednesday, November 3, 2021

STAFF ADVANCE/CELL #: Jeff Cretan, 415.308.6781 and Judson True

LOCATION: Gate A, Ferry Building, 1 Ferry Building, San Francisco, CA

EVENT START/END: 11:30 AM – 12:30 PM

MLB START/END: 11:30 AM – 12:30 PM

PROJECTED ATTENDANCE: 20

AUDIENCE DESCRIPTION: Press, staff, and project team

PRESS ATTENDANCE: Yes

PROGRAM/TIMELINE

11:30 AM Mayor Breed arrives to Ferry Building and departs on Ferry from Gate A
11:45 AM Mayor Breed disembarks ferry at Treasure Island Landing
11:50 AM Mayor Breed remarks, introduces Supervisor Haney (5 minutes)
11:55 AM Supervisor Haney remarks
12:00 PM Press question and answer session
12:10 PM Mayor Breed drives to visit Maceo May Apartments (Outside only, not inside the building.)
12:15 PM Mayor Breed and group visit Maceo May and hear about progress of the development by CCDC
12:30 PM Mayor Breed drives to visit old neighborhood (Neighborhood you previously lived in.)
12:45 PM Mayor Breed departs

INVITED NOTABLES/ELECTEDS

Participating in the Ferry Ride With You

Carmen Chu, City Administrator

Supervisor Matt Haney

Dennis Herrera, General Manager, SFPUC

Carla Short, Interim Director, DPW

Anne Taupier, Director of Development, OEWD

Tilly Chang, Executive Director, SFCTA

Elaine Forbes, Executive Director, Port of SF

Seamus Murphy, Executive Director, WETA

Chris Meany, Principal, Wilson Meany

PJ Johnston, PJ Johnson Communications (Consultant for developers)

Peter Bartelme, Profile Strategies (Consultant for the developers)

Press will also be on this ride.

Feitelberg, Brittany K

Subject: GM Direct Reports Meeting
Location: Conf, 525GG, 13th, Hetch Hetchy (28) AV, VC
Start: Mon 11/1/2021 9:00 AM
End: Mon 11/1/2021 10:00 AM
Recurrence: (none)
Organizer: Herrera, Dennis J

Feitelberg, Brittany K

Subject: Herrera/Hale
Location: GM's Office

Start: Tue 11/2/2021 4:30 PM
End: Tue 11/2/2021 5:00 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Organizer: Herrera, Dennis J
Required Attendees: Hale, Barbara

Please provide your agenda by COB Monday – November 1.

Feitelberg, Brittany K

Subject: Herrera/Johanson
Location: GM's Office

Start: Tue 11/2/2021 2:30 PM
End: Tue 11/2/2021 3:00 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Organizer: Herrera; Dennis J
Required Attendees: Johanson, Alan

Please provide your agenda by COB Monday – November 1.

Feitelberg, Brittany K

Subject: Agenda Review Mtg
Location: Conf, 525GG, 13th, Hetch Hetchy (28) AV, VC
Start: Mon 11/1/2021 10:00 AM
End: Mon 11/1/2021 11:00 AM
Recurrence: (none)
Organizer: Herrera, Dennis J

Feitelberg, Brittany K

Subject: Herrera/Hale
Location: GM's Office

Start: Tue 11/2/2021 4:30 PM
End: Tue 11/2/2021 5:00 PM


Recurrence: (none)

Meeting Status: Meeting organizer

Organizer: Herrera, Dennis J
Required Attendees: Hale, Barbara

Please provide your agenda by COB Monday -- November 1.

Leger, Cheryl (BOS)

From: Anonymoose (@journno_anon)  <arecordsrequestor@protonmail.com>
Sent: Friday, November 19, 2021 3:59 PM
To: SOTF, (BOS)
Subject: Re: SOTF - Complaint Filed with the Sunshine Ordinance Task Force - File No. 21153
Attachments: signature.asc

Ms. Leger, the caption here is incorrect, I alleged 67.34 and 67.29-5.

" 67.34 willful violation constituting official misconduct, 67.29-5 failing to keep or cause to be kept a daily calendar with general statements of issues discussed"

Thanks.

Regards,

Anonymous
Twitter [@journno_anon](https://twitter.com/journno_anon)

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2. If you are NOT a public official: This communication is confidential and may contain unpublished information or confidential source information, protected by the California Shield Law, Evidence Code sec. 1070. I am a member of the electronic media and regularly publish information about the conduct of public officials.
3. I am not a lawyer. Nothing herein is legal, IT, or professional advice of any kind. The author disclaims all warranties, express or implied, including but not limited to all warranties of merchantability or fitness. In no event shall the author be liable for any special, direct, indirect, consequential, or any other damages whatsoever.
4. The digital signature (signature.asc attachment), if any, in this email is not an indication of a binding agreement or offer; it merely authenticates the sender.

Sent with [ProtonMail](#) Secure Email.

----- Original Message -----

On Friday, November 19th, 2021 at 3:53 PM, SOTF, (BOS) <sotf@sfgov.org> wrote:

Good Afternoon:

Dennis Herrera and the Public Utilities Commission have been named as Respondents in the attached complaint filed with the Sunshine Ordinance Task Force (SOTF). In an effort to provide the SOTF information in an easy to understand format the SOTF has prepared a revised request format for responding to complaints (attached). The SOTF encourages you to use the attached "Respondent – Requested Information and Format" in preparing your response to the attached complaint. Your input into the requested information would be appreciated as the SOTF evaluates the request response format to streamline the complaint process. **The SOTF is requesting that you submit your response to the allegations including any and all supporting documents, recordings, electronic media, etc., to the Task Force within five (5) business days of receipt of this notice.** In developing and submitting your response, please use

the attached instructions, "Preparing San Francisco Sunshine Ordinance Task Force Respondents Materials," to address your defense of this complaint. This is your opportunity to provide a detailed explanation to allow the Task Force to be fully informed in considering your response prior to the meeting.

Please refer to the File Number when submitting any new information and/or supporting documents pertaining to this complaint.

The Complainant alleges:

Complaint Attached.

Cheryl Leger

Assistant Clerk, Board of Supervisors

Tel: 415-554-7724



Click to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

Leger, Cheryl (BOS)

From: Anonymoose (@journno_anon) 🐼 🔍 <arecordsrequestor@protonmail.com>
Sent: Tuesday, December 14, 2021 8:36 PM
To: Ruski Augusto Sa, Mayara (PUC); Herrera, Dennis (PUC)
Cc: SOTF, (BOS)
Subject: Re: SOTF - Complaint Filed with the Sunshine Ordinance Task Force - File No. 21153
Attachments: SOTF_ORDER_19108.pdf; Commitment-1.pdf; signature.asc

Dear SOTF:

Per the request of the Committee and its motion for recommendation for violation of 67.29-5(a) for general statements of issues discussed and consideration of 67.34 for willful violation:

- SOTF Order 19108 is attached, in which this Task Force found that Herrera violated Admin Code 67.29-5 for location and issues
- The prior commitment is attached:
 - On February 6, 2020 I ask "*What about the "(for meetings not otherwise publicly recorded) the general statement of issues discussed" part? And is this a binding commitment on behalf of Mr. Herrera?"*
 - On February 8, 2020 cityattorney@sfcityatty.org responds "*Yes, we will include the general statement of issues as well. Both will be part of our prop G calendar process going forward.*"

As discussed by the Committee, the law for calendars does not bind *departments* PUC or Office of City Attorney - it binds the *public official* Dennis Herrera who served as City Attorney and now PUC department head.

Regards,

Anonymous
Twitter [@journno_anon](https://twitter.com/journno_anon)

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2. If you are NOT a public official: This communication is confidential and may contain unpublished information or confidential source information, protected by the California Shield Law, Evidence Code sec. 1070. I am a member of the electronic media and regularly publish information about the conduct of public officials.
3. I am not a lawyer. Nothing herein is legal, IT, or professional advice of any kind. The author disclaims all warranties, express or implied, including but not limited to all warranties of merchantability or fitness. In no event shall the author be liable for any special, direct, indirect, consequential, or any other damages whatsoever.
4. The digital signature (signature.asc attachment), if any, in this email is not an indication of a binding agreement or offer; it merely authenticates the sender.

Sent with [ProtonMail](#) Secure Email.

----- Original Message -----

On Tuesday, November 30th, 2021 at 2:00 PM, Ruski Augusto Sa, Mayara <MRuskiAugustoSa@sfwater.org> wrote:

Dear Ms. Leger,

Attached is SFPUC's response to Complaint No. 21153 and supporting documentation.

Thank you,

Mayara Ruski Augusto Sa

SFPUC Public Records Senior Analyst, External Affairs

Cell: 415-680-6683

Pronouns: she, her, hers



San Francisco
Water Power Sewer
Department of Public Works

From: [CityAttorney](#)
To: [Anonymous](#), [CityAttorney](#)
CC: [Cote John \(CAT\)](#)
Date: Sat, 8 Feb 2020 00:30:54 +0000
Subject: RE: Offer to Withdraw SOTF 20007 / Violation Ruling in SOTF 19108
AttachmentList: 3

Yes, we will include the general statement of issues as well. Both will be part of our prop G calendar process going forward.

Thanks,



Elizabeth A. Coolbrith
Paralegal
Office of City Attorney Dennis Herrera
(415) 554-4685 Direct
www.sfcityattorney.org
Find us on: [Facebook](#) [Twitter](#) [Instagram](#)

From: Anonymous <arecordsrequestor@protonmail.com>
Sent: Thursday, February 6, 2020 4:25 PM
To: CityAttorney <cityattorney@SFCITYATTY.ORG>
Cc: Cote, John (CAT) <John.Cote@sfcityatty.org>
Subject: RE: Offer to Withdraw SOTF 20007 / Violation Ruling in SOTF 19108

What about the "(for meetings not otherwise publicly recorded) the general statement of issues discussed" part?

And is this a binding commitment on behalf of Mr. Herrera?

NOTE: Nothing herein is legal, IT, or professional advice of any kind. The author disclaims all warranties, express or implied, including but not limited to all warranties of merchantability or fitness. In no event shall the author be liable for any special, direct, indirect, consequential, or any other damages whatsoever. The digital signature (signature.asc attachment), if any, in this email is not an indication of a binding agreement or offer; it merely authenticates the sender. Please do not include any confidential information, as I intend that these communications with the government all be disclosable public records.

Sincerely,

Anonymous

----- Original Message -----

On Thursday, February 6, 2020 4:22 PM, CityAttorney

<cityattorney@SFCITYATTY.ORG> wrote:

Thank you for your message. We have appreciated the SOTF's feedback and will be making it our practice to include the locations in each prop g calendar entry going forward.

Thanks,



Elizabeth A. Coolbrith

Paralegal

Office of City Attorney Dennis Herrera

(415) 554-4685 Direct

www.sfcityattorney.org

Find us on: [Facebook](#) [Twitter](#) [Instagram](#)

From: Anonymous <arecordsrequestor@protonmail.com>

Sent: Wednesday, February 5, 2020 11:57 PM

To: CityAttorney <cityattorney@SFCITYATTY.ORG>; Cote, John (CAT) <John.Cote@sfcityatty.org>

Subject: Offer to Withdraw SOTF 20007 / Violation Ruling in SOTF 19108

City Attorney Dennis Herrera,

As Mr. Cote knows, SOTF found tonight (in SOTF 19108) the City Attorney himself (but not Elizabeth Coolbrith nor the Office of the City Attorney as an agency) violated SFAC 67.29-5 for not recording in the Prop G calendar the places and (for meetings not otherwise publicly recorded) the general statement of issues discussed. (As was noted by various SOTF members during the hearing: a general 'City Hall' note would not be sufficient, nor is answering questions after-the-fact about meetings because

it does not serve the historical purpose of *recording* this information in the Prop G Calendar.)

I am willing to withdraw the similar SOTF 20007 (Prop G calendar violations proven over a much longer time period) IF:

- your most recent Prop G calendars starting with Feb 6 comply completely with the 67.29-5 requirements (which I will verify starting 3 business days after Feb 6, 2020),
- I get the signed SOTF Order 19108 in hand, and
- Mr. Herrera specifically agrees in a signed letter (or signed by his representative and under Herrera's name) to comply with SFAC 67.29-5 and to waive any kind of challenge to SOTF Order 19108.

If you are amenable to the above, please let me know. I don't need two hearings and two sets of violations if you are willing to comply, without caveats or word-games, with this one. I'm sure SOTF will monitor your compliance whenever 19108 circles back to Compliance committee.

SFAC 67.29-5 appears to be an extremely simple requirement that almost every other agency head does correctly (including with names or numbers of their City Hall rooms), and that you advise the rest of the City to do in your Good Govt Guide (which, even when it supports my position, has no legal authority), and I hope you can simply comply exactly as stated.

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Sincerely,

Anonymous

Respondent's Document Submission

Leger, Cheryl (BOS)

From: Ruski Augusto Sa, Mayara <MRuskiAugustoSa@sfwater.org>
Sent: Tuesday, November 30, 2021 2:01 PM
To: SOTF, (BOS)
Cc: Anonymoose (@journos_anon) 🐘 🔍
Subject: SOTF - Complaint Filed with the Sunshine Ordinance Task Force - File No. 21153
Attachments: Complaint 21153 Response.pdf; 11.1.21 GM Direct Reports Mtg.pdf; 11.2.21 Hale.pdf; 11.2.21 Johanson.pdf; 11.2.21 Norby.pdf; 11.2.21 Ordikhani.pdf; 11.2.21 Ritchie.pdf; 11.2.21 Sandler.pdf; 11.2.21 SEP Tour.pdf

Dear Ms. Leger,

Attached is SFPUC's response to Complaint No. 21153 and supporting documentation.

Thank you,

Mayara Ruski Augusto Sa
SFPUC Public Records Senior Analyst, External Affairs
Cell: 415-680-6683
Pronouns: she, her, hers



**San Francisco
Water Power Sewer**
Services of the San Francisco Public Utilities Commission



Cheryl Leger, Assistant Clerk
 Sunshine Ordinance Task Force
 1 Dr. Carlton B. Goodlett Place, Room 244
 San Francisco, CA 94102
 sotf@sfgov.org

November 30, 2021

Re: Sunshine Ordinance Task Force Complaint File N. 21153
Anonymous v. Dennis Herrera

Dear Honorable Members of the Sunshine Ordinance Task Force:

We write in response to Complaint No. 21153 filed by Anonymous ("Complainant") on November 18, 2021 with the Sunshine Ordinance Task Force ("Task Force"). The Task Force sent the complaint to the San Francisco Public Utilities Commission's General Manager on November 19, 2021.

Complaint No. 21153 pertains to the Complainant's public records request received by the SFPUC on November 9, 2021 ("Request"), which requested that the SFPUC:

1. Produce, without any modifications and as they exist at this time, each individual entry with all details (whether required to be recorded by law, or not) in Outlook (or whatever other calendar system you use) for all calendars kept or caused to be kept by you for all meetings on November 1, 2, and 3, 2021 . . .

. . .

2. As a separate request (do not delay the first request for this), produce the ICS/iCalendar metadata for the above entries (which show last modified dates) . . .

In response to the Request, on November 17, 2021 SFPUC produced twelve records of calendar events with a statement that "the calendar events have not been modified in any way (other than the redaction mentioned above) after your request was received."

Contention: The Complainant alleges that SFPUC's General Manager Dennis Herrera violated Section 67.29-5 of the Administrative Code by failing to keep or cause to be kept a daily calendar with general statements of issues discussed.

London N. Breed
 Mayor

Anson Moran
 President

Newsha Ajami
 Vice President

Sophie Maxwell
 Commissioner

Tim Paulson
 Commissioner

Ed Harrington
 Commissioner

Dennis J. Herrera
 General Manager



Specifically, the Complainant alleges that eight of the records provided in response to the Request violate this provision of Section 67.29-5. Further, the Complainant alleges that “Dennis Herrera is committing official misconduct by willfully violating SF Admin Code 67.29-5(a), requiring him to keep or cause to be kept a calendar with certain minimum information about his business meetings, and to disclose them as public records.”

Response: Section 67.29-5 of the San Francisco Administrative Code requires department heads to maintain daily calendars, which must include the time and place of each meeting attended by the department head, as well as “a general statement of issues discussed” at each meeting.

SFPUC acknowledges that general statements of issues discussed at each of the eight meetings referenced in the Complaint—all of which occurred on either November 1 or 2—were not included in the calendar events produced to the Complainant on November 17, 2021. This omission, however, was unintentional and not “willful,” as alleged in the Complaint. It was a lapse while the General Manager was transitioning to his new position at the SFPUC, which he started on November 1. We apologize for this error and are attaching updated copies of these calendar events that contain a general statement of the issues discussed at each meeting.

As SFPUC has now produced compliant copies of the calendar events that form the subject of the Complaint, the SFPUC respectfully requests that Complaint No. 21153 be dismissed.

Sincerely,

Mayara Ruski Augusto Sa
SFPUC Custodian of Records

cc: Complainant

Attachments

- Updated Calendar Events

Feitelberg, Brittany K

Subject: Herrera/Sandler re: Introduction to Finance Team - Organization, Budget Processes and Personnel Issues
Location: GM's Office
Start: Tue 11/2/2021 4:00 PM
End: Tue 11/2/2021 4:30 PM
Recurrence: (none)
Meeting Status: Meeting organizer
Organizer: Herrera, Dennis J
Required Attendees: Sandler, Eric

Please provide your agenda by COB Monday – November 1.

Feitelberg, Brittany K

Subject: GM Direct Reports Meeting re: Water/Power/Sewer/Personnel Issues
Location: Conf, 525GG, 13th, Hetch Hetchy (28) AV, VC
Start: Mon 11/1/2021 9:00 AM
End: Mon 11/1/2021 10:00 AM
Recurrence: (none)
Organizer: Herrera, Dennis J

Feitelberg, Brittany K

Subject: Southeast Water Treatment Plant (SEP) Tour - Norby/Herrera
Location: 750 Phelps Street, San Francisco, CA 94124

Start: Tue 11/2/2021 8:00 AM
End: Tue 11/2/2021 10:30 AM
Show Time As: Out of Office

Recurrence: (none)

Organizer: Herrera, Dennis J

Feitelberg, Brittany K

Subject: Herrera/Hale re: Introduction to Power Team - Organization, Supply/Generation Briefing, & Budget
Location: GM's Office
Start: Tue 11/2/2021 4:30 PM
End: Tue 11/2/2021 5:00 PM
Recurrence: (none)
Meeting Status: Meeting organizer
Organizer: Herrera, Dennis J
Required Attendees: Hale, Barbara

Please provide your agenda by COB Monday – November 1.

Feitelberg, Brittany K

Subject: Herrera/Johanson re: Introduction to Infrastructure Team - Organization, Major Projects and Budget
Location: GM's Office
Start: Tue 11/2/2021 2:30 PM
End: Tue 11/2/2021 3:00 PM
Recurrence: (none)
Meeting Status: Meeting organizer
Organizer: Herrera, Dennis J
Required Attendees: Johanson, Alan

Please provide your agenda by COB Monday – November 1.

Feitelberg, Brittany K

Subject: Herrera/Norby re: Introduction to Wastewater Team - Organization, Operations and Budget
Location: GM's Office
Start: Tue 11/2/2021 1:30 PM
End: Tue 11/2/2021 2:00 PM
Recurrence: (none)
Meeting Status: Meeting organizer
Organizer: Herrera, Dennis J
Required Attendees: Norby, Greg

Feitelberg, Brittany K

Subject: Herrera/Ordikhani re: Introductory briefing on External Affairs Team - Organization and Budget
Location: GM's Office
Start: Tue 11/2/2021 1:00 PM
End: Tue 11/2/2021 1:30 PM
Recurrence: (none)
Meeting Status: Meeting organizer
Organizer: Herrera, Dennis J
Required Attendees: Ordikhani, Masood

Please provide your agenda by COB Monday – November 1.

Feitelberg, Brittany K

Subject: Herrera/Ritchie re: Introduction to Water Team - Operations, Policy and Budget
Location: GM's Office

Start: Tue 11/2/2021 3:00 PM
End: Tue 11/2/2021 3:30 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Organizer: Herrera, Dennis J
Required Attendees: Ritchie, Steve

Please provide your agenda by COB Monday – November 1.

From: SOTF, (BOS)
Sent: Friday, November 19, 2021 3:53 PM
To: 'DJherrera@sfgwater.org'; 'Bfeitelberg@sfgwater.org'
Cc: 'Anonymoose (@journon_anon)'
Subject: SOTF - Complaint Filed with the Sunshine Ordinance Task Force - File No. 21153
Attachments: SOTF - Complaint Procedure 2019-10-02 FINAL.pdf; Preparing SOTF Respondent Materials FINAL for PILOT.pdf; 21153 Complaint.pdf

Good Afternoon:

Dennis Herrera and the Public Utilities Commission have been named as Respondents in the attached complaint filed with the Sunshine Ordinance Task Force (SOTF). In an effort to provide the SOTF information in an easy to understand format the SOTF has prepared a revised request format for responding to complaints (attached). The SOTF encourages you to use the attached "Respondent – Requested Information and Format" in preparing your response to the attached complaint. Your input into the requested information would be appreciated as the SOTF evaluates the request response format to streamline the complaint process. **The SOTF is requesting that you submit your response to the allegations including any and all supporting documents, recordings, electronic media, etc., to the Task Force within five (5) business days of receipt of this notice.** In developing and submitting your response, please use the attached instructions, "Preparing San Francisco Sunshine Ordinance Task Force Respondents Materials," to address your defense of this complaint. This is your opportunity to provide a detailed explanation to allow the Task Force to be fully informed in considering your response prior to the meeting.

Please refer to the File Number when submitting any new information and/or supporting documents pertaining to this complaint.

The Complainant alleges:
Complaint Attached.


Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724



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From: SOTF, (BOS)
To: LIZA murawski; Padilla, Cristina (DPH); KWART, JEN (CAT); Anonymoose (@journos_anon)  Q; Jarmee; Pang, Ken (HSA); Wynship Hillier; Grier, Geoffrey (DPH - Contractor); Ruski Augusto Sa, Mayara (PUC); FEITELBERG, BRITTANY (CAT); Herrera, Dennis (PUC)
Subject: SOTF - Notice of Appearance - Education, Outreach and Training Committee: December 14, 2021, 5:30 p.m.-REMOTE MEETING

Good Morning:

Notice is hereby given that the Education, Outreach and Training Committee (Committee) of the Sunshine Ordinance Task Force (Task Force) shall hold hearings on the complaints listed below to: 1) determine if the Task Force has jurisdiction; 2) review the merits of the complaints; and/or 3) issue a report and/or recommendation to the Task Force.

Date: December 14, 2021

Location: Remote Meeting

Time: 5:30 p.m.

Complainants: Your attendance is required for this meeting/hearing.

Respondents/Departments: Pursuant to Section 67.21 (e) of the Ordinance, the custodian of records or a representative of your department, who can speak to the matter, is required at the meeting/hearing.

Complaints:

File No. 21125: Complaint filed by Liza Murawski against the Department of Public Health (DPH) for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a public records request in a timely and/or complete manner.


File No. 21153: Complaint filed by Anonymous versus Dennis Herrera for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.29-5(a) by failing to keep or cause to be kept a calendar with certain minimum information about his business meeting, and to disclose them as public records and willful failure to discharge any duties imposed by the Sunshine Ordinance, Brown Act or the Public Records Act and 67.34 willful violation constituting official misconduct.

File No. 21152: Complaint filed by Jarmee Thieu against Ken Pang and the Human Services Agency Investigation Division for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to public records request in a timely and/or complete manner.

File No. 20100: Complaint filed by Wynship Hillier against the Behavioral Health Commission, formerly known as the Mental Health Board, for allegedly violating, Section 67.7(a) failing to post the Agenda 72 hours in advance and failure to provide a description of each item of business; 67.7(b) failing to post documents on the website or make available to the public; 67.7(d) failure to take action on any item not on the Agenda; 67.7(g) failing to allow public comment; 67.9(a) failure to post relevant documents on the internet.

For a document to be considered, it must be received at least two (2) working days before the hearing. ***For inclusion into the agenda packet, supplemental/supporting documents must be received by 5:00 pm, December 9, 2021.***

Cheryl Leger
Assistant Clerk, Board of Supervisors
Tel: 415-554-7724

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Leger, Cheryl (BOS)

From: Ruski Augusto Sa, Mayara <MRuskiAugustoSa@sfgwater.org>
Sent: Friday, December 10, 2021 4:29 PM
To: SOTF, (BOS)
Cc: Scarpulla, John (PUC)
Subject: RE: SOTF - Education, Outreach and Training Committee; December 14, 2021; 5:30 PM; REMOTE MEETING

Dear Ms. Leger,

John Scarpulla (cc'ed) will appear on behalf of the SFPUC (Complaint 21153). Please let us know if agency representatives should use the call in information included in the agenda to join the meeting or if further instructions on how to join will be shared with us later on.

Thank you,

Mayara Ruski Augusto Sa
SFPUC Public Records Senior Analyst

From: SOTF, (BOS) <sotf@sfgov.org>
Sent: Friday, December 10, 2021 11:05 AM
To: LIZA murawski <lizamurawski@yahoo.com>; Padilla, Cristina (DPH) <cristina.padilla@sfdph.org>; Anonymoose (@journos_anon) <arecordsrequestor@protonmail.com>; FEITELBERG, BRITTANY (CAT) <Brittany.Feitelberg@sfcityatty.org>; Ruski Augusto Sa, Mayara <MRuskiAugustoSa@sfgwater.org>; Jarmee <jthieu@yahoo.com>; Pang, Ken (HSA) <ken.pang@sfgov.org>
Cc: CASTILLO, HELEN (CAT) <Helen.Castillo@sfcityatty.org>; WOLF, MARC (CAT) <Marc.Price.Wolf@sfcityatty.org>; Young, Victor (BOS) <victor.young@sfgov.org>
Subject: SOTF - Education, Outreach and Training Committee; December 14, 2021; 5:30 PM; REMOTE MEETING

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.

Good Morning:

The agenda and packet for the of the Education, Outreach and Training Committee December 14, 2021 5:30 p.m. meeting is online at the following link:

https://sfgov.org/sunshine/sites/default/files/eotc_121421_agenda.pdf

The packet material is linked to each item listed on the agenda marked with an "attachment". Click anywhere on the title of the item to open the link to the pdf of the packet material in question.

Cheryl Leger
Assistant Clerk, Board of Supervisors
Cheryl.Leger@sfgov.org
Tel: 415-554-7724
Fax: 415-554-5163
www.sfbos.org



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