City Attorney Performance Evaluation Submitted by: Commissioner Johnston

Key West City Attorney

September 30, 2011

RATING	SCALE	DEFINITION	NS (1 <u>-5)</u>

<u>K</u> A	TING SCALE DI	EFINITIONS (1-5)								
Un	Unsatisfactory (1) -The employee's work performance is inadequate and definitely inferiors to the standards of performance required for the job. Performance at this level cannot be allowed to continue.									
	provement (2) eded	The employee's work performance.	mance de erious ef	oes no ffort is	t cons neede	istentl d to in	y meet nprove	t the		
	ets Job (3) andard	The employee's work perforthe position.	mance c	onsiste	ently n	neets t	he sta	ndards of		
	ceeds Job (4) andard	The employee's work perfor the level of a satisfactory en	mance is nployee.	frequ	ently c	r cons	istent	ly above		
Οü	itstanding (5)	The employee's work performance is consistently excellent when compared to the standards of the job.								
No	t evaluated (NE)The employee's work perfor evaluation period.	mance w	as not	obsei	ved dı	ıring t	his		
l.	<u>Performar</u>	nce Evaluation and Achie	<u>vement</u>	<u>s</u>						
1.	City Commissi	on/ Boards Relationships	_1_	_2_	_3_	_4_	<u>5</u>	<u>NE</u>		
A.		legal advice to the City Commi ssions and City staff.	ssion,				_√_			
В.	Reporting to the and City staff is	e City Commission, Boards, timely, clear, concise & thoroug	gh		<u></u>		__			
C.	Accepts direction	on/instructions in a positive man	iner		_ _					
D.	Keeps the City staff informed o of the position.	Commission, Boards, and City f issues relevant to the requirer	ments ——			_√				
E.	Dedicates the ti of the position a Commissioners	me necessary to the responsib and is readily available to	ilities				_√			

Note: 2009/2010 Comments in Grey. Updates and 2011/2012 objectives in White:

Comments: One of Shawn's strengths is his guidance and direction to the Commission on all litigious issues and a clear interpretation of the law. He continues to be accessible to me at all times and responds to all of my requests in a timely, concise manner. This continues to be strength for Shawn. I would like to see Shawn complete the requests that remain on our Task Matrix. Since the Task Matrix has been removed from our Commission agenda it is somewhat difficult to track unaddressed items requiring City Attorney and City Manager response. We do have some lingering outstanding issues such as bicycle safety ordinances and predatory towing legal recommendations which I would like Shawn to address in the 2011/12 timeframe.

As far as input and guidance to our current growing number of Boards, I would like Shawn and his department to provide stronger legal direction to the HARC board. Through the advice and direction of Ron Ramsingh, the HARC Board has become much more consistent operating within its jurisdiction and adhering to its own guidelines. For 2010 Shawn will need to provide solid legal guidance to the Bahama Village Redevelopment Committee to maximize the effectiveness of this important Committee. There has continued to be much stronger and more consistent direction from Assistant City Attorney Ron Ramsingh to our current sitting HARC Board. The on-going issue of allowing homes in the HARC district to effectively utilize new technology to "hurricane harden" their homes and also incorporate sustainable, energy efficient devices while maintaining the integrity of our historic district will continue to require astute legal guidance. The legal department continues to advise our growing number of boards adding the Sustainability Board, Strategic Planning Committee and the Charter Review Committee to their list of responsibilities without adding staff.

Would expect to see Shawn keep a running list of my legal outstanding issues and provide a monthly progress report to assure that all issues are addressed in a timely manner.

2.	Legal Research and Review	1	_2_	_3_	4_	_5_	<u>NE</u>
A.	Effectively identifies legal issues and performs research and investigations.			_1/			
B.	Effectively reviews and interprets legal instruments, reports and documents prepared by departments.				_√_		

Comments:

Employee/Public Relations		_1_	_2_	_3_	_4_	_5_	<u>NE</u>	
A.	Works well with other employees.					_\		
В.	Meeting and handling the public while recognizing ethical obligation to the City.							

Comments: Shawn provided excellent representation for the City during the recent Duck Tours litigation. He effectively presented options to me, expressed realistic opinions on the outcome and closely monitored our outside counsel's efforts and invoicing. Shawn was able to bring this long standing litigation to a conclusion for the city and is in the process of crafting guidelines to assure that the City does not get into this vulnerable position again. Shawn is now effectively representing the City in the Neary litigation. He has displayed an excellent rapport with the press, staff and the public and has instilled a sense of confidence in all 3 groups. Shawn continues to represent the City in a professional, articulate manner. He works to find middle ground to meet the needs of the organizations negotiating with the City while keeping the Cities exposure at a minimum.

3.	Communication	1_	_2_	3	4_	_5_	<u>NE</u>	
A.	Oral communication is clear, concise and articulate.	<u></u>					<u></u>	
	Written communications (e.g.) contracts, resolutions, and other legal documents are clear, concise and accurate.				-			

Comments: In my opinion, Shawn has significantly improved the quality and effectiveness of our contractual agreements with outside vendors reducing the City's potential liability. Would like him to continue to incorporate performance standards and measurements as well as warranty protection for the City in all future contracts. Need to continue to improve on our RFP process also. Excellent work here from Shawn. He has rejected a number of RFP's due to procedural issues; Departments are required to utilize budgets for only appropriate expenditures and has steadfastly required personal guarantees from new lease holders as additional protection for the City. Would now like Shawn to incorporate our non-discrimination policy into all of our appointed Committees such as the BVRC and place greater legal emphasis on eliminating even the perception of conflicts of interest within City Government. Shawn and his legal department have taken great strides this past year to negotiate an equitable contract/lease with the Assisted Care Coalition and Family Pride. He has remained steadfast in his obligation to protect the city and our assets while under a great deal of public pressure and has kept the Commission updated on progress and obstacles. We are still seeing RFP's being rejected due to incomplete documentation which legal has not allowed to proceed. This due diligence will continue to strengthen our bid process and provide the tax payers with the most responsive bidder. Would still like to see this "2 packet" bid procedure incorporated to completely eliminate incomplete, non-responsive bids given consideration. This is my 3rd year requesting a change in our RFP award process which I believe could be initiated by Shawn. Requiring each bidder to fully meet our <u>documentation</u> requirements prior to reviewing their <u>bid</u> would eliminate unqualified bidders from the process..

•		4	2	2	4	E	NO
4.	Quantity/Quality	_1_	<u>Z</u>	3	_4_	_3	<u>NE</u>
A.	Amount of work performed.					_	
В.	Completion of work on time.					<u></u>	
C.	Accuracy.				_√_	<u></u>	
D.	Thoroughness.					_√_	
Co	mments:						
6.]	Personal Traits	_1_	2	_3_	_4_	_5_	<u>NE</u>
A.	Initiative.				/		
В.	Judgement.						
C.	Fairness and Impartiality.				_1/		
D.	Analytical Ability.				_1		<u>. </u>
	mments: Shawn has done an excellent job identi						
Cit	y. He has been very responsive to me in every iss	ue tha	t I have	e identi	fied. V	Vould I	ke to see
Sh	awn and his staff now focus on reducing and contr	olling o	our Wo	rkman'	s Com	pensat	ion claims
thn	oughout the City staff.						
Sh	awn possess' good common sense, is fair and has	exhib	ited ex	cellent	judgen	nent.	
7.	Litigation/Administrative Proceedings	_1_	_2_	_3_	4_	_5_	<u>NE</u>
A.	Provides timely and effective representation of the City's interest in litigation.				_√		
В.	Controls and monitors costs and performance of retained outside legal counsel.				_√	- —	

Comments: Shawn has effectively utilized an intern program these past 2 years helping him clear up some backlog without incurring additional departmental expense.

II. Summary Rating

Overall Performance Rating – Considering the results obtained against established performance standards as well as overall job performance, the following rating is provided (circle one):

Unsatisfactory Improvement Needed Meets Job Standards Exceeds Job Standards Outstanding

III. Future Goals and Objectives

Specific goals and objectives to be achieved in the next evaluation period:

1. Development and City land conveyances: Would like Shawn to provide guidance to the Commission to make sure that we are not conveying valuable city land to special interests-reducing the benefit to the maximum number of Citizens of Key West. Do not believe that we had complete enough information prior to making key decisions regarding the Assisted Care Facility such as appraised value of the land provided to the Coalition at \$1 per yr.

a. This will continue to be a priority for legal as we negotiate a lease committing several

acres of city property at the Truman Waterfront.

2. Sightseeing/Tours/Limousine//Taxi Ordinances: Craft equitable guidelines to allow all of these entities to operate under the free enterprise system while protecting the quality of life for all residents of Key West. Feel that Shawn has accomplished this with the CityView franchise agreement. Would have preferred that we had found an avenue to rewrite all sightseeing franchise agreements to run concurrently with the same parameters. Want Shawn to continue to recommend ways that the City can retain control of our streets with a focus on residential quality of life and to provide guidance during the upcoming Duck Tours negotiations that will accomplish this goal.

a. The Duck Tours franchise was negotiated after settlement of a lengthy legal issue. I believe that the franchise was handled effectively by Shawn adhering to the requirements of the settlement while protecting as many quality of life issues for our residents as permitted.

Storm water fees: Resolve unpaid Storm water fees with the Airport and the FKCC. Not
complete and situation has actually been intensified with negative impacts to the City. Can
not continue to sit on this issue without direction much longer.

a. Shawn is monitoring on-going litigation to make a recommendation to us re: the stormwater fee issue.

4. Admirals Cut: Craft documentation to either build the bridge or finally drop the issue. - Still on-going without resolution.

a. Remains an outstanding issue although with the appointment of a Park Design Firm,

this issue should be resolved in this next year.

5. Truman Waterfront: Provide the legal guidance to move forward with the development of the Waterfront this year. Will continue to need strong legal guidance with (2) leases working their way through the process to assure that these long term commitments meet the needs of taxpayers.

6. Monroe County School Board: Review all current agreements with the School Board and advise the Commission regarding whether the agreements are still in the best interest of the

City of Key West.- Not completed

a. Shawn took a very pro-active role in the negotiations with the School District requiring them to follow our LDR's and Comprehensive Plan when it was discovered that the

student stations reported to the DOE exceeded the allowable 5%. The subsequent ILA developed by Shawn should eliminate this type of development/re-development by the School District without City input and concensus.

7. Health & Safety issues: Continue to recommend and craft documentation to reduce the

liability of Key West. Excellent job continuing to keep this a priority.

a. Shawn is steadfast in making health and safety issues a priority.

8. Craft documentation to eliminate the public display of obscene materials on all public areas

of Key West. Not done.

- 9 Current City Ordinances and Resolutions: Recommend at least one current ordinance or resolution that is obsolete and needs to be sunset. Contact a City Commission to sponsor removal from our books. Has not been done.
 - a. This is my 3rd year requesting that this task be taken on by legal. I would hope that future interns could tackle this critical task. We continue to add hundreds of new ordinances annually without removing antiquated ordinances that are no longer germane. We need to cull through the current (2) volumes of the Code of Ordinances to keep and strengthen those ordinances that we intend on enforcing and remove obsolete ordinances that are clogging our system.

10. Contribute legal guidance to staff and the Commission to successfully negotiate a new Solid

Waste Contract incorporating a long range waste plan for Key West.

a. In February of 2011 we should have the recommendations from Kessler to negotiate a long term solid waste contract. I anticipate that Shawn and his team will take the lead in those negotiations.

11. Research and recommend new legislation to make Key West a safer environment for both residents and our visitors.

COMMISSIONER TERTJOHNSTON:		y Ah	n S		
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ATTEST:					
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