

City Attorney Performance Evaluation

By Mayor Teri Johnston

December 7, 2021

RATING SCALE DEFINITIONS (1-5)

Unsatisfactory (1) The employee's work performance is inadequate and definitely inferior to the standards of performance required for the job. Performance at this level cannot be allowed to continue.

Improvement Needed (2) The employee's work performance does not consistently meet the standards of the position. Serious effort is needed to improve performance.

Meets Job Standard (3) The employee's work performance consistently meets the standards of the position.

Exceeds Job Standard (4) The employee's work performance is frequently or consistently above the level of a satisfactory employee.

Outstanding (5) The employee's work performance is consistently excellent when compared to the standards of the job.

Not evaluated (NE) The employee's work performance was not observed during this evaluation period.

I. Performance Evaluation and Achievements

City Commission/ Boards Relationships

3 *Provides sound legal advice to the City Commission, Boards, Commissions and City staff.* When legal advice is provided, it is generally sound and in the best interest of the City. My concern continues to be that the information and advice coming from legal needs to be provided equitably to each Commissioner and the Mayor to include the City Manager so that we are all working and making decisions with the same information.

It has become increasingly important that legal provide every one of our board members with annual training on sunshine issues, professionalism on the dais as members represent the City of Key West, parliamentary procedures and general rules of good conduct. We have had a number of issues this past year with board members making discriminatory comments, sexually biased comments and generally unprofessional conversation from the dais. We can do better.

I have been disappointed with the legal advice that the Commission has sought on the resolution of Dinghy Beach/Beachside issue. This issue is of public concern and has dominated our email communications as well as required the owners of Beachside to publicly defend their position. I believe that it falls on the City's legal department to determine ownership of Dinghy

Beach with the Commission taking appropriate action after that ownership determination is made.

- 3 Reporting to the City Commission, Boards, and City staff is timely, clear, concise and thorough. With the exception of the Dinghy Beach issue and Admirals Cut, Shawn meets the performance standards in reporting to the City Commission in a timely manner. Opening up Admirals Cut to the public has been a directive to Shawn since 2009. I believe that we should expect a resolution to this long-standing issue this year and focus from our legal department for a solution.
- 3 Accepts direction/instructions in a positive manner. Shawn is generally responsive to direction/instructions. This year I have had a couple of instances where I have been required to request a response which I am sure can be improved upon.
- 4 Keeps the City Commission, Boards, and City staff informed of issues relevant to the requirements of the position. Shawn does a good job of keeping the Commission updated on legislative issues as they move through session and reports regularly at Commission meetings on requested updates. Shawn continues to be an integral part of our Tallahassee lobbying team and maintains a good professional relationship with our team at Gray Robinson. This relationship is going to take on new importance as Tallahassee continues it's preemption of local government decisions. I can not comment on city staff updates from legal since the Commission nor Mayor is part of staff meetings. I do expect legal to conduct annual training for our current board members to improve the effectiveness of our meetings.
- 4 Dedicates the time necessary to the responsibilities of the position and is readily available to Commissioners. Shawn avails himself to me via phone, email and text predominately. Shawn is spending far more time in City Hall interacting with City Staff these past 6 months which is positive to improve internal communication and effectiveness.

Legal Research and Review

- 3 Effectively identifies legal issues and performs research and investigations. With the exception of the Dinghy Beach issue this year Shawn generally provides concise research on issues and will share the legal basis for his research along with benefits and consequences while meeting the performance expectations. I do believe that many in our Community were disappointed that a proposed ordinance to address the (3) cruise ship referendum was not produced on August 3rd however this issue is moving forward now.
- 3 Effectively reviews and interprets legal instruments, reports and documents prepared by departments. Everything that I have received from Shawn to approve and sign has been thoroughly reviewed with the exception of a request to approve a debt forgiveness for the Atlantic Pines Apartments which was resolved after some additional research.

Employee/Public Relations

3 Works well with other employees.

Shawn works very effectively with the (6) City Commissioners but there continues to be an unhealthy friction with important departments and city projects such as the Planning Department and our Strategic Planning process and consultant. We must strive to work cohesively towards our strategic objectives developed with community input and it is imperative that Planning and our legal staff work effectively together. We have unfortunately had a revolving door in the past 15 years for Planning Directors which has resulted in delays in updating our Comprehensive plan and LDR's. We now have a Planning Director who is not only knowledgeable of our unique local planning issues since she was born in Key West but she is also visionary and thoughtful in her approach to Planning. The City needs these two departments to work harmoniously in the future.

3 Meeting and handling the public while recognizing ethical obligation to the City.

Shawn has a clear understanding of his ethical obligations to the City which is very clear as we move forward with the ordinance surrounding the cruise ship issue. While the Commission represents the people of our community, Shawn must advocate for the protection of the City and our assets while meeting the directives of 7 elected officials that he reports to.

I do believe that Shawn at times could take a less abrasive tone with our public and still be effective.

Communication

4 Oral communication is clear, concise and articulate.

Excellent communicator, bright and very articulate. This is a real strength for Shawn.

4 Written communications (e.g.) contracts, resolutions and other legal documents are clear, concise and accurate.

Exceeds expectations here for the contracts, resolutions and legal documents that have come in front of me as a Commissioner and Mayor. I would like the legal department to focus on reviewing contracts and leases that come up for automatic renewal to determine if the original terms are still beneficial to the City of Key West in 2021 and beyond and make recommendations to the Commission for possible action.

Quantity/Quality

4 Amount of work performed- Exceeds expectations.

4 Completion of work on time.

With the exception of some leases that have expired, the vast majority of work has been completed in a timely fashion. The hiring of a Sr. Property Manager should eliminate leases expiring.

4 Accuracy-Exceeds expectations

4 Thoroughness-Exceeds expectations

Personal Traits

- 4 Initiative- Exceeds expectations
- 3 Judgement -Meets expectations
- 3 Fairness and Impartiality- Meets expectations
- 5 Analytical Ability- Exceptional legal mind.

Litigation/Administrative Proceedings

4 Provides timely and effective representation of the City's interest in litigation. Excellent job in representing City of Key West for 300 additional BPAS units, have settled a number of legal actions against the city effectively and successfully negotiated full reimbursement for the soil contamination on College Road without a legal challenge. The cruise ship issue will continue to be an important indication of Shawn's skills with high public expectations.

5 Controls and monitors costs and performance of retained outside legal counsel.-Well within budget year after year.

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

Based on the specific objectives given to Shawn after our last review, 3 of my 4 goals have been either been met or are initiated and on-going. The area that appears to be important to many on the Commission and has not been met is the on-going training of our board members.

As the highest paid employee in the City of Key West, Shawn will continue to be held to high standards in my review. He has an important role in the City as we move forward, and his professional input is vital to the entire Commission and Senior Staff. I believe that the City Manager and Shawn are working on developing a professional, effective working relationship as she meets the demands of our City.

II. Future Goals and Objectives

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

Will be determined by the entire Commission via resolution similar to the attached goals for the past performance period.



Mayor Teri Johnson

SHAWN D. SMITH, CITY ATTORNEY

ATTEST:

CHERYL SMITH, CITY CLERK

Dated _____

Kaufman

1. Review with planning staff the City LDRs to recommend changes to promote affordable housing within the city.
2. Work with CRA staff to recommend method to maximize leveraging options to support affordable housing.
3. Continue to work with state lobbying firm to track/monitor bills that will impact the City.
4. Hold an ethics/board training once per year for advisory board members in the City.

Mayor Johnston

1. Negotiate an agreement to open Admirals Cut to provide full waterfront access to our residents and visitors. Timeframe: June 1, 2020. Agreement to come in front of the City Commission for approval.
2. Negotiate full repayment of contamination mitigation costs for College Road parcel from the parties responsible for the contamination by working with the City Manager to be approved by the City Commission by 12/1/20.
3. Bring forth a comprehensive policy via ordinance by working with the City Manager to regulate e-bicycles and scooters based on best practices and impact to the quality of life for our Community to be approved by the City Commission by July 1, 2020.
4. Accountable to place a Charter revision on the August 2020 ballot approving the emergency borrowing authority of the City Manager.

Weekly

1. Amendment to the ordinance on right-of-way storage – June 1st
2. Eliminating gas powered leaf blowers – May 4th
3. Working with the Commission to assure that through ordinances and resolutions we are able to provide the quality-of-life values that are so important to our residents

Hoover

1. Cleanup the ordinance that has to do with planters, benches, and awnings
2. "Continue the good work on legislation to protect our trees
3. Assist the Commission with affordable housing changes as needed
4. Write an effective change to ordinances to cover forms of transportation including e-bikes, e-scooters, e-cars, last mile pedal wagons, etc."

Wardlow

1. Training for Advisory Boards
2. "Shawn knows what has to be done to get his job done."

Lopez

1. Stay on the current path
2. Helping address affordable housing

