

**City Attorney Performance Evaluation  
Submitted by: Commissioner Johnston**

**Key West City Attorney**

**October 16, 2012**

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 (2) Needed The employee's work performance does not consistently meet the standards of the position. Serious effort is needed to improve performance.
- Meets Job (3) Standard The employee's work performance consistently meets the standards of the position.
- Exceeds Job (4) Standard 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**

<b><u>1. City Commission/ Boards Relationships</u></b>	<b><u>1</u></b>	<b><u>2</u></b>	<b><u>3</u></b>	<b><u>4</u></b>	<b><u>5</u></b>	<b><u>NE</u></b>
A. Provides sound legal advice to the City Commission, Boards, Commissions and City staff.	___	___	___	___	_√_	___
B. Reporting to the City Commission, Boards, and City staff is timely, clear, concise & thorough.	___	___	___	___	_√_	___
C. Accepts direction/instructions in a positive manner.	___	___	_√_	___	___	___
D. Keeps the City Commission, Boards, and City staff informed of issues relevant to the requirements of the position.	___	___	_√_	___	___	___
E. Dedicates the time necessary to the responsibilities of the position and is readily available to Commissioners.	___	___	___	___	_√_	___

Note: 2009/2010 Comments in Grey. Updates and 2011/2012 objectives in White: I have retained any outstanding issues from 2009 to date:

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 (not completed to date) and predatory towing legal recommendations (Completed in 2012) 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 (complete). 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 (Need to continue to address). With the recent reduction in the mitigation credits allowed by Citizens Property Insurance, HARC will need to re-address issues of hurricane hardening allowable in the Historic District which will require 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**

	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>NE</u>
A. Effectively identifies legal issues and performs research and investigations.	___	___	√	___	___	___
B. Effectively reviews and interprets legal instruments, reports and documents prepared by departments.	___	___	___	√	___	___



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. Shawn is now overseeing the contractual agreements with Jeff Sharkey and the Wendover Housing Partners. 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 3<sup>rd</sup> year requesting a change in our RFP award process which I believe could be initiated by Shawn. Requiring each bidder to fully meet our documentation requirements prior to reviewing their bid would eliminate unqualified bidders from the process..

<b>4. <u>Quantity/Quality</u></b>	<b><u>1</u></b>	<b><u>2</u></b>	<b><u>3</u></b>	<b><u>4</u></b>	<b><u>5</u></b>	<b><u>NE</u></b>
A. Amount of work performed.	___	___	___	___	√___	___
B. Completion of work on time.	___	___	√___	___	___	___
C. Accuracy.	___	___	___	√___	___	___
D. Thoroughness.	___	___	___	___	√___	___

Comments:

<b>6. <u>Personal Traits</u></b>	<b><u>1</u></b>	<b><u>2</u></b>	<b><u>3</u></b>	<b><u>4</u></b>	<b><u>5</u></b>	<b><u>NE</u></b>
A. Initiative.	___	___	___	√___	___	___
B. Judgement.	___	___	___	√___	___	___
C. Fairness and Impartiality.	___	___	___	√___	___	___
D. Analytical Ability.	___	___	___	√___	___	___

Comments: Shawn has done an excellent job identifying potential health and safety issues for the City. He has been very responsive to me in every issue that I have identified. Would like to see Shawn and his staff now focus on reducing and controlling our Workman's Compensation claims throughout the City staff. (On-going goal)

Shawn possess' good common sense, is fair and has exhibited excellent judgment.

<b>7. <u>Litigation/Administrative Proceedings</u></b>	<b><u>1</u></b>	<b><u>2</u></b>	<b><u>3</u></b>	<b><u>4</u></b>	<b><u>5</u></b>	<b><u>NE</u></b>
--	-----------------	-----------------	-----------------	-----------------	-----------------	------------------

- A. Provides timely and effective representation of the City's interest in litigation. \_ \_ \_ √ \_ \_ \_
- B. Controls and monitors costs and performance of retained outside legal counsel. \_ \_ \_ √ \_ \_ \_

Comments: Shawn has effectively utilized an intern program these past 3 years helping him clear up some backlog without incurring additional departmental expense. His budget request for additional departmental funding was approved by the Commisison for the 2012-2013 budget cycle.

**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 with the Wendover Housing Partners..
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.(While the Duck Tours negotiations are complete, all sightseeing franchise agreements must be re-written to eliminate unrestricted numbers of vehicles on our community streets by any one competitor)
  - 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.
3. 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.(Issue is still ongoing)
  - a. Shawn is monitoring on-going litigation to make a recommendation to us re: the storm water fee issue. (On going into 2012-2013)
4. Admirals Cut: Craft documentation to either build the bridge or finally drop the issue. - Still on-going without resolution. (Ongoing into 2012-2013)



- a. Remains an outstanding issue although with the appointment of a Park Design Firm, this issue should be resolved in this next year. (Truman Waterfront design firm approved in 2012)
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( All MOU's are now posted on the City website and have been actively reviewed by the Commission.)
  - 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 consensus. (completed)
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. (Now actively working on providing sidewalks on George St. to allow safe passage of students to HOB.)
8. Craft documentation to eliminate the public display of obscene materials on all public areas of Key West. Not done. ( Ongoing issue through 2013- no progress).
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.(No progress to date)
  - a. This is my 4th 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. (Received Kessler's Phase I, Phase II and Phase III recommendations with a strong recommendation from Kessler to go out for RFP to assure that the City of Key West is receiving the most competitive pricing available. Shawn was very instrumental as we successfully negotiated a new Ambulance contract saving the Community over \$600,000.
11. Research and recommend new legislation to make Key West a safer environment for both residents and our visitors. (ongoing through 2012-2013)

Commissioner Teri Johnston: \_\_\_\_\_

*Teri Johnston* 10-16-12

Shawn D. Smith, City Attorney: \_\_\_\_\_

Attest:

Cheryl Smith, City Clerk : \_\_\_\_\_

Dated \_\_\_\_\_