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STAFF REPORT

Date: December 13, 2023

To: TRPA Governing Board

From: TRPA Staff

Subject: General Counsel Performance Review and Proposed Compensation

Summary and Staff Recommendation:

The performance review process for the Agency's General Counsel John Marshall is from July 2022 through June 2023 and consists of the following: a summary of Agency accomplishments, a brief self-assessment of performance, and an evaluation from Governing Board members and selected members of Staff.

Staff requests consideration of a proposed base pay adjustment for the General Counsel based on performance through this time period.

Required Motions:

In order to approve this motion, the Board must make the following motion, based on the staff report:

- 1) A motion to increase John Marshall's base pay to \$205,871.71 per year.

In order for motion to pass, an affirmative vote of any eight Board members is required.

Discussion:

Accomplishments for fiscal year 2022 to 2023 are set forth in the self-evaluation of Attachment A and include the handling of an extensive litigation load (both overseeing outside counsel and litigating inhouse cases), providing advice to Board and staff on Project Review matters (e.g. the Tahoe Keys Controls Methods Test, the Tahoe South Events Center, and seven appeals of permit decisions), providing advice to Board and staff on Long Range Planning items (e.g., adoption of the Transportation and Sustainable Communities threshold standard, adoption of affordable housing Code provisions, and adoption of the Washoe County Area Plan), maintaining legal compliance (e.g. Open Meeting laws, public record requests), and guiding the Compliance team on violation resolutions.

Recommendation for a 4% salary increase is in line with TRPA's compensation policy and most recent distribution of increases to the senior level staff.

Contact Information:

For questions regarding this agenda item, please contact Angela Atchley, Human Resources Director, at (775) 589-5238 or aatchley@trpa.gov. To submit a written public comment, email

publiccomment@trpa.gov with the appropriate agenda item in the subject line. Written comments received by 4 p.m. the day before a scheduled public meeting will be distributed and posted to the TRPA website before the meeting begins. TRPA does not guarantee written comments received after 4 p.m. the day before a meeting will be distributed and posted in time for the meeting.

Attachments:

- A. Summary of Performance Review Results

Attachment A

Summary of Performance Review Results

SUMMARY OF PERFORMANCE REVIEW RESULTS

**Mr. John L. Marshall, General Counsel
Tahoe Regional Planning Agency
Presented December 13, 2023 in Legal Committee**

Process:

Feedback on Mr. Marshall's performance this year is based on the fiscal year of July 2022 to June 2023. Mr. Marshall wrote a self-assessment of his 2022-2023 results which was e-mailed to respondents consisting of two groups: all Governing Board members, Agency Senior Leadership and a select group of TRPA Staff members. These respondents were then sent a confidential, anonymous survey link which asked for feedback on his level of overall goal attainment and his performance on TRPA Core Competencies and Effective Legal Representation. Respondents rated his performance using a scale of *Exceptional, Fully Effective/Achieved, Effective/Achieved, Partially Effective/Achieved, Conditional Achievement/Needs Improvement*. In addition, there were three open ended questions (one asked for feedback on the ranked competencies, one was reflective of the past review period, and one focused on the future).

Response Groups and participation rates:

Governing Board: 7 (24%)

TRPA Staff: 22 (76%)

Overall Results: Both Respondent Groups

Both groups – representing 29 respondents – marked Mr. Marshall *“Exceptional”* for 47% of all responses, *Fully Effective/Achieved* for 37% of all responses, *Effective/Achieved* for 12% of all responses, *Partially Effective/Achieved* for 1% of all responses, and *Needs Improvement* for 3% of all responses.

Specific Results: Both Respondent Groups

Question 1: Referring to both your own experience and Mr. Marshall's written summary, please rate his level of goal attainment for July 1, 2022, to June 30, 2023:

48% ranked Mr. Marshall Exceptional, 38% ranked him Fully Effective/Achieved, 10% Effective/Achieved, and 3% Needs Improvement.

Rankings based on TRPA's Core Competencies:

- **Self-Development:** Committed to personal growth and self-reflection. Self-regulates emotions and understands motivations of self and others. Constant learner; curious. Seeks, receives, and incorporates feedback. Demonstrates strong social skills. Is able to empathize with others. Has a strong public service orientation and is committed to success.

45% ranked Mr. Marshall as Exceptional, 31% Fully Effective/Achieved, 21% Effective/Achieved, and 3% Partially Effective/Achieved.

- **Critical Thinking and Continuous Improvement:** Understands and aligns actions with the Agency's vision and mission. Can think and execute both strategically and tactically. Maintains focus on the "big picture". Takes intelligent risks. Connects the dots: recognizes important information and interprets and organizes ambiguous data into successful recognizes important information and interprets and organizes ambiguous data into successful approaches.

62% ranked Mr. Marshall as Exceptional, 31% Fully Effective/Achieved, 3% Effective/Achieved, and 3% Needs Improvement

- **Collaborative Relationships and Teamwork:** Maintains positive relationships even under difficult circumstances. Builds and strengthens constructive internal and external coalitions; demonstrates collaborative leadership. Treats others with respect. Engages in constructive conflict resolution and problem solving.

68% ranked Mr. Marshall as Exceptional, 27% Fully Effective/Achieved, and 14% as Effective/Achieved

- **Initiative and Results Focus:** Produces quality products, processes and outcomes that are complete, on time, and thorough. Effectively and proactively manages the resources of the Agency to optimize results.

38% ranked Mr. Marshall as Exceptional, 48% as Fully Effective/Achieved, 10% as Effective/Achieved, and 3% Needs Improvement

- **Communication:** Has excellent written and oral communication skills. Delivers high quality written work and presentations. Demonstrates active listening and a positive outlook. Strives first to hear, then to be heard. Takes initiative to communicate.

52% ranked Mr. Marshall as Exceptional, 31% Fully Effective/Achieved, 10% Effective/Achieved, 3% Partially Effective/Achieved, and 3% Needs Improvement.

- **People Leadership:** Recognizes strong talent; assembles strong teams with necessary complementary knowledge and skills; builds bench strength. Manages people well; mentors, shares knowledge and resources, promotes a sense of belonging, removes obstacles to success, finds creative ways to make work challenging and rewarding, and delegates appropriately.

24% ranked Mr. Marshall as Exceptional, 48% Fully Effective/Achieved, 24% Effective/Achieved, and 3% Needs Improvement.

- **Agency Leadership:** Focuses on priorities, identifies critical goals, shapes successful strategy and drives execution. Translates goals into practical strategy and action plans. Anticipates risks and obstacles and adjusts appropriately.

45% ranked Mr. Marshall as Exceptional, 38% Fully Effective/Achieved, and 14% Effective/Achieved, and 3% Needs Improvement

- **Effective Legal Representation:** Demonstrates accuracy and thoroughness of legal advice, knowledge of Agency plans and regulations, and understanding of relevant case law. Ensures the best legal outcomes for the Agency, represents the Agency in a professional and ethical manner, effectively manages legal resources, is timely in meeting legal deadlines, and proactively identifies potential legal issues.

69% ranked Mr. Marshall as Exceptional, 24% as Fully Effective/Achieved, 3% Effective/Achieved, and 3% Partially Effective/Achieved.

Open Ended Questions:

Themes from the optional “Comments” based on the rankings of the core competencies can be summarized as follows: “I appreciate that John is now providing specific office hours for Agency staff; appreciate direct communication with counsel on emergent issues; good at working with staff to bring the code and rules of procedure to life and how to understand it; deft handling of legal issues and guidance of staff and decision makers; provides exceptional service as legal counsel; surely knows the law and TRPA; even handed approach to challenging complex issues.” And one commenter mentioned they were concerned about the information being provided to the governing board.

When asked to comment on which results stand out from the year, themes were positive crediting him with being available to staff and board members alike for review and guidance, providing unwavering support of staff in complicated code interpretations and at public meetings, drawing the board into the “right” conversations based on facts and on the law.

When asked to make suggestions for the next one to two years, responses ranged from “keep up the good work, add additional legal staff, impart knowledge to others, increase focus on enforcement”.