

TAHOE REGIONAL PLANNING AGENCY  
LEGAL COMMITTEE

TRPA  
Zoom

December 14, 2022

**Meeting Minutes**

CALL TO ORDER AND DETERMINATION OF QUORUM

Chair Williamson called the meeting to order at 12:12 p.m. on December 14, 2022.

Members present: Ms. Aldean, Ms. Williamson, Mr. Hicks, Ms. Novasel and Mr. Yeates.

Members absent: Mr. Rice

I. APPROVAL OF AGENDA

Mr. Marshall stated proposed to modify the agenda to skip item 4 Litigation and Enforcement Update.

Ms. Williamson deemed the agenda approved as amended.

II. APPROVAL OF MINUTES

Ms. Aldean indicated that she submitted some corrections to Marja Ambler, TRPA Governing Board clerk. Ms. Aldean made a motion to approve the October 26, 2022 and November 16, 2022 Legal Committee meeting minutes as amended.

Motion carried unanimously.

III. DISCUSSION AND RECOMMENDATION ON GENERAL COUNSEL PERFORMANCE REVIEW AND FY2022-23 SALARAY INCREASE AND LEAVE ACCRUAL ADJUSTMENT

TRPA Director of Human Resources and Organizational Development Angela Atchley presented this item to the committee. The Agency conducted a closed review for John Marshall from July 1, 2021 to June 30, 2022. John completed a self-assessment of his accomplishments over that same time frame. That self-assessment was emailed to all Governing Board members as well as a selected group of TRPA staff. In the email that was sent out there was a confidential link to a survey that asked about John Marshall's overall attainment of TRPA Agency goals, TRPA Core Competencies, effective legal representation. We used a rating scale of Exceptional, Fully Achieved, Achieved, Partially Achieved, or Conditional. There were also three open ended questions at the end of the performance review and people left several, very positive remarks.

Of the respondents, 9 members of 41% of the Governing Board responded and of TRPA staff, 13 members of 59% responded. The overall results for both respondent groups, 22 people total, marked John Exceptional for 64% of all responses, Fully Effective/Achieved for 27%, and Effective/Achieves for 9% of the areas he was reviewed on. The open ended questions included an opportunity to comment on any core competencies evaluated; looking back at the past year, what results stand out and why; and looking forward to the next one to two years, what one idea or suggestion would you make to John based on his ratings. Slide XX shows a word cloud of

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the responses, in summary, John is very professional, calm, very knowledgeable about the [Regional] Plan, the Code, there were a lot of comments about his availability both to staff and to board members, his success with the Tahoe Keys, the Executive Director search. In terms of the last question regarding what people would like to see going forward, it was “keep up the good work”, “add legal support” since he’s a one-man band, and that was about it; very positive remarks.

Staff is requesting consideration of a base pay adjustment for John based on his performance through this time period as well as an adjustment to his paid leave accrual to reflect his overall length of service. To clarify, John left the Agency and then returned as a contract employee for a period of time so his current seniority does not reflect the full length of service (9 years vs. 18 years).

Ms. Aldean states that she went back to 2021 and noted that there was a salary adjustment but also a bonus awarded of \$10,000. Ms. Aldean would like that to be on the table again for this year since John is a “one-man band” and does not have a lot of support and TRPA is still a target. She states that a \$10,000 incentive pay bonus is well deserved.

Ms. Novasel and Ms. Williamson state their agreement. Mr. Yeates wonders if Chris Keillor, TRPA Finance Director, can confirm availability of funds. Mr. Marshall points out that he has the support of paralegal Katherine Huston and contract attorney Marsha Burch. Mr. Yeates agrees that they are both valuable employees but for what TRPA does and the responsibilities that John carries, even the County has deputy attorneys assigned to different departments. Mr. Yeates states that the Agency is prevented from reaping the benefits of John Marshall’s 18 years of experience because he’s mired down in so many issues; every single issue passes through John. Mr. Yeates encourages the Agency to raise the issue to both states because if they look at Mr. Marshall’s comparables as far as not only John’s competency but also the workload that could easily be shared with at least two other attorneys, that would be ideal. The Coastal Commission created an enforcement unit with its own attorney and that’s just part of what Mr. Marshall’s responsible for. Mr. Yeates says when we present a budget to the states, we need to point out how underfunded TRPA’s legal department is and funding it would be to the advantage of both states so we could work more closely with collaborators. Mr. Yeates is in agreement with the proposed base pay adjustment as well as the proposed bonus.

Ms. Aldean also notes that John has been hinting to retirement plans and TRPA needs to be realistic about the need to plan for succession and bring a deputy attorney on staff who can start learning the ropes. Ms. Novasel states that there are 7-8 deputy counsel in El Dorado County who serve different divisions and she believes John should be in the position of overseeing deputies rather than doing everything himself.

In his position as General Counsel, Mr. Marshall reminds the committee that discussing the hiring of additional attorneys is not on the agenda. Mr. Yeates continues to stay that there should be deputies for permitting, long range planning, and enforcement.

Ms. Aldean asks for Mr. Keillor’s confirmation that there is room in the budget to give Mr. Marshall a \$10,000 bonus. Mr. Keillor confirms that there is.

Mr. Hicks speaks from the perspective of the private sector that someone with John’s experience, abilities, and accomplishments would be making significantly more in private practice. He also agrees that the division needs to be strengthened especially as it pertains to

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enforcement work because it takes a different kind of strategic thinker given the political nature of the Lake Tahoe region.

Mr. Marshall comments that if you look at his performance review by the numbers, the rankings shifted a bit less positively in the area of interpersonal relations, with staff in particular and he wants to note that he takes that to heart. He states that this partly is inherent to the role and notes that Ms. Huston introduced the phrase "impact over intention" which he uses to realize that even if his intention is good, sometimes his words have a different impact. It's been interesting to watch the Agency shift younger or as he gets older, there's different skills involved in communicating with the range of young people coming in.

Ms. Williamson states that only someone who is very good at this job could take that self-reflection and give it back out which is all the more reason to award the raise in base pay and the bonus.

### Public Comment

None.

Ms. Aldean makes a motion to recommend the Governing Board increase John Marshall's base salary to \$197,960.30 per year, retroactively to August 7, 2022.

**Motion carried unanimously.**

Ms. Aldean makes a motion to recommend the Governing Board adjust John Marshall's paid leave accrual to reflect the total years of service (18 years) to TRPA.

**Motion carried unanimously.**

Ms. Aldean makes a motion to recommend the Governing Board approve a one-time, \$10,000 bonus to be paid in 2023 to John Marshall.

**Motion carried unanimously.**

## IV. LITIGATION AND ENFORCEMENT UPDATE

This item was removed from the meeting's agenda.

## V. CLOSED SESSION WITH COUNSEL TO DISCUSS EXISTING AND POTENTIAL LITIGATION

Ms. Aldean made a motion to move the committee to closed session.

**Motion carried.**

## VI. POTENTIAL DIRECTION REGARDING AGENDA ITEM NO. 5

No direction.

## VII. COMMITTEE MEMBER COMMENTS

None.

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VIII. PUBLIC INTEREST COMMENTS

None.

IX. ADJOURNMENT

Ms. Aldean moved to adjourn.

Meeting adjourned at 1:12 p.m.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "K. Huston", with a long horizontal stroke extending to the right.

Katherine Huston  
Paralegal

*The above meeting was recorded in its entirety. Anyone wishing to listen to the recording may find it at <https://www.trpa.gov/meeting-materials/>. In addition, written documents submitted at the meeting are available for review. If you require assistance locating this information, please contact the TRPA at (775) 588-4547 or [virtualmeetinghelp@trpa.gov](mailto:virtualmeetinghelp@trpa.gov).*