RESOLUTION - ACTION REQUESTED 2020-680

MEETING: November 17, 2020

TO: The Board of Supervisors

FROM: Rene LaRoche, Clerk of the Board

RE: Approve Application and Dates for Sheriff Application Process

RECOMMENDATION AND JUSTIFICATION:

Approve the Application Packet and Supporting Materials to fill the vacancy of the Mariposa County Sheriff-Coroner-Public Administrator pursuant to Government Code Section 25304; Set the application deadline date and time; and schedule two public hearings to consider applications and applicants.

On November 10, 2020, Mariposa County Sheriff - Coroner - Public Administrator Doug Binnewies announced his upcoming retirement, with his last day in office scheduled to be Monday, December 28, 2020. Sheriff Binnewies’ elected term runs until January 2, 2023, which leaves approximately 24 months of unexpired term. Fortunately, unexpired terms of elective offices are addressed by California State law. Specifically, Government Code (GC) Section 25304 mandates that boards of supervisors shall fill those vacancies. Additionally, Resolution 2020-619 (Process to Fill Vacancies of Elected Offices, which is included in the attached Application Packet), provides the procedure to allow for an open and transparent process, as well as citizen participation, in the appointment of the elected County offices covered by GC 25304. This item, then, will begin the process required by Resolution 2020-619, to appoint someone to fill the unexpired term of the Sheriff - Coroner - Public Administrator position.

Consequently, the Board is now being asked to start the process to fill the unexpired term of the Sheriff - Coroner - Public Administrator by doing the following:

1) Consider and approve the Application Form and Packet. (Attachment “A”)
2) Set the application deadline date and time. (Recommendations below)
3) Consider and approve a Press Release. (Attachment “B”)
4) Schedule Public Hearing #1 to consider the applications and applicants. (The process will end after the first Public Hearing if there are four or fewer applicants) and
5) Schedule Public Hearing #2 (not less than 3 days or more than 21 days after the first hearing) to consider the applications and applicants, should there be five or more applicants.
Resolution - Action Requested 2020-680

If the Board wishes to complete the process by December 22, 2020 (the last meeting of the year), staff recommends the following schedule which will allow an approximate 3 week long application period.

- **Application Period Opened:** November 18, 2020, at 8:00 AM
- **Application Deadline:** December 7, 2020 at 5:00 PM
- **Public Hearing #1:** December 15, 2020 at 2:00 PM
- **Public Hearing #2:** December 22, 2020 at 2:00 PM

The Board may also adjust those dates to provide a longer application period should they so desire, as California law also allows the duties of the office to be “temporarily discharged” by the Undersheriff “with like authority and subject to the same obligations and penalties” as the Sheriff-Coroner-Public Administrator until the vacancy in the office is filled in the manner provided by law. However, it should be noted that the time frame constituted by “temporarily discharged” is not defined.

**BACKGROUND AND HISTORY OF BOARD ACTIONS:**

10/13/2020: Approval of Policy Defining the Process to Fill Vacancies of Elected Offices, Other Than Superior Court Judge or Board of Supervisors Member (Resolution 2020-619)
12/18/2018: Vince Kehoe appointed as the Assessor/Recorder.
11/07/2017: Luis Mercado appointed Auditor.
05/02/2017: Brent Joseph appointed Assessor/Recorder.
08/21/2012: Tom Cooke appointed District Attorney.

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Negative action will prevent the process from beginning. Alternatively, the Board may alter the proposed application packet, deadline and/or public hearing dates.

**ATTACHMENTS:**

- 2020 - Sheriff Application Packet  (PDF)
- PRESS RELEASE - Start of Process  (PDF)
- Government Code 25304 - Appointment Authority  (PDF)
- Gov Code 24105 - Undersheriff may Temporarily Discharge Duties  (PDF)

RESULT:  ADOPTED [UNANIMOUS]

MOVER:  Merlin Jones, District II Supervisor
SECONDER:  Miles Menetrey, District V Supervisor
AYES: Smallcombe, Jones, Long, Cann, Menetrey
County of Mariposa

CLERK OF THE BOARD OF SUPERVISORS
5100 BULLION STREET, SECOND FLOOR, PO BOX 784, MARIPOSA, CALIFORNIA 95338

MARIPOSA COUNTY
SHERIFF – CORONER - PUBLIC ADMINISTRATOR

APPLICATION PACKET

The application packet consists of the following materials:

- Application Packet Cover Sheet
- Notice with Position Overview
- Process to Fill Vacancies of Elected Offices other than Superior Court Judge or Board of Supervisors
- Election Candidate Qualifications and Information
- Application for Appointment of the Elective Office of the Mariposa County Sheriff – Coroner – Public Administrator
- Statement of Economic Interest Form Sample (Form 700)

Applications must be received by the Clerk of the Board of Supervisors by 5 p.m., DATE

www.mariposacounty.org/cob
The Mariposa County Board of Supervisors is seeking applicants who wish to serve the unexpired term of the elected MARIPOSA COUNTY SHERIFF – CORONER – PUBLIC ADMINISTRATOR

NOTICE

The Mariposa County Sheriff – Coroner – Public Administrator is an elected county officer defined in Article XI of the California State Constitution. Duties include, but are not limited to, those mandates found in California Government Code Sections 26600 to 26616.

With the exception of federal lands, the Sheriff’s jurisdiction covers the entire county, and is bordered by Madera, Merced, Tuolumne, and Stanislaus Counties.

The Mariposa County Sheriff’s Office consists of 86 full-time and 22 part-time employees. The Sheriff manages two divisions with an annual budget of $12.3 million.

The person appointed by the Board will be expected to complete the current term that expires: January 2, 2023.

The salary for this position is $160,031.07, as set by Resolution 2019-703.

Applicants for this position must:
- be a registered voter of the County of Mariposa;
- be a citizen of the United States and a resident of the State of California;
- not have been convicted of any crime disqualifying the applicant from holding elected office;
- complete the application process;
- be able to assume the position no later than Tuesday, December 29, 2020.

Finalists will be subject to a background check. The selected candidate will be required to pass the County’s standard medical exam and full background investigation, and to file a Form 700 Statement of Economic Activities within 30 days of assuming office.

Candidates may obtain the application form from the:
Mariposa County Clerk of the Board of Supervisors
Mariposa County Government Center
5100 Bullion Street, Second Floor, Mariposa, California, 95338

Completed applications must be received by the Clerk of the Board of Supervisors by Day of the Week, Date, at 5 p.m.
www.mariposacounty.org/cob
1.0 PURPOSE
To establish a procedure for the appointment of elected County officers. (Government Code § 25304.) Elected offices covered by this policy are:
- Assessor/Recorder
- Auditor
- District Attorney
- Sheriff/Coroner/Public Administrator
- Treasurer/Tax Collector/County Clerk

2.0 POLICY INTENT
This policy is intended to provide procedures to guide staff and ensure an open and equitable process in the appointment of applicable elected county officers.

3.0 POLICY LIMITATIONS
This policy does not apply to Board of Supervisors members, or to judges of the Superior Court. (Government Code § 25304.)

4.0 DEFINITIONS
a. Board: The Board of Supervisors.
b. Clerk: The Clerk of the Board.

5.0 PROCEDURES
a. Application Form:
   1) Upon notification of the vacancy or anticipated vacancy of one of the elected positions listed in Section 1.0, the Clerk shall create a draft Application Packet specific to the position using the Application Form and the current, mandated position qualifications maintained by the Elections Official.
   2) The Application Form (Appendix A) shall consist of a Face Sheet with checklist to identify application requirements, as well as forms for the following information:
      a. Contact Information
      b. Certifications regarding election criteria
      c. Education Verification
      d. Sheet regarding Résumé, Statement of Qualifications, Written Statement, and Letters of Reference/Recommendation requirement

Policy Approved: October 13, 2020; Res. 2020-619
b. **Noticing the Vacancy:**

1) The Clerk shall prepare a Regular Agenda item for the Board to:
   a. Approve the final Application Form and Packet.
   b. Set a deadline date and time for acceptance of applications.
   c. Approve the form of the notice the Clerk will use to advertise the position, including newspaper advertisements and news releases.
   d. Schedule two (2) public hearings after the application deadline, with the second hearing taking place not less than three (3) days nor more than twenty-one (21) calendar days, following the first hearing.
   e. Adopt any additional procedures governing the appointment process, as needed.

2) The Clerk shall prepare the Regular Agenda items needed to schedule the two public hearings set above.

c. **Application Process:**

1) Application Packet.
   a. The Application Packet shall consist of:
      i. A cover sheet, with list of packet materials.
      ii. The recruitment overview with deadline and submission information.
      iii. A copy of this policy.
      iv. Current position qualifications to be obtained from the Elections Officer.
      v. The Application Form.
      vi. Any other applicable information deemed appropriate by the Board during its consideration of the application and deadline. (Section 5.0 b.)
      vii. Current Form 700 Statement of Economic Interests Cover Page, watermarked with the word “SAMPLE.”

2) Complete Application.
   a. To be considered complete, applications must contain the following:
      i. The completed Application form.
      ii. A current résumé containing, at a minimum, all employment for the previous five (5) years.

Policy Approved: October 13, 2020; Res. 2020-619
iii. A Statement of Qualifications for the position (500 words maximum).
iv. A written statement explaining the applicant’s reason for wishing to be appointed to the position.
v. At least three (3) letters of reference.
vi. Any additional information that the Board may have requested during its consideration of the application and deadline. (Section 5.0 b.)

b. Completed applications must be received by the Clerk prior to the deadline established by the Board.

c. Incomplete applications will not be accepted.

3) Additional Information.

a. At any point in the process, the Board may require additional verbal or written information from applicants including, but not limited to, responses to questions submitted by the public or members of the Board, medical certifications, or permission to conduct credit or background checks.

4) Application Withdrawal.

a. Applicants wishing to withdraw an application must supply a written request to the Clerk at the address noted on the Application Form.

b. Failure to appear at a scheduled public hearing shall also constitute a withdrawal.

d. Application Processing:

1) On the first business day after the approved application deadline, the Clerk will consolidate completed applications and supporting documents into one packet per applicant and will distribute copies to each Supervisor for their review.

a. Application packets are public records and are to be made available to the public upon request.

e. Public Hearing Procedures:

1) First Hearing

a. The Chair shall open public comment, which will be subject to the Board’s normal speaking rules and time limitations.

Policy Approved: October 13, 2020; Res. 2020-619
Process to Fill Vacancies of Elected Offices, other than Superior Court Judge or Board of Supervisors member

b. Each applicant shall be given three (3) minutes to make an oral presentation.

c. After applicant presentations, the Chair shall allow each Supervisor to ask questions of any applicant.

d. Board deliberation.

e. Four (4) or More Applicants

   i. After deliberation the Board shall, on written ballots provided by the Clerk, select finalists from among those who have submitted complete applications and appeared before the Board.

      1. Each Supervisor may vote for up to four (4) applicants.

      2. The four (4) applicants receiving the largest number of votes will be chosen as finalists to return for consideration at the second hearing.

         a. Any ties will be broken by subsequent balloting to choose between the tied applicants.

      3. The Clerk shall announce the vote of each Board member after each round of balloting.

   ii. The Chair shall announce the names of the finalists and the date of the next public hearing.

f. Three (3) or Fewer Applicants

   i. After deliberation the Board shall, on written ballots provided by the Clerk, vote for one of the finalists to fill the unexpired term.

      1. Upon any applicant receiving three (3) or more votes, the Chair shall declare that person to be the Board’s choice.

      2. Split Vote:

         a. In the event of a split vote in which no finalist receives three (3) or more votes, the lowest scoring finalist shall be eliminated.

         b. The Chair shall again allow Board deliberation regarding the qualifications and merits of the two remaining finalists.

         c. After deliberations, the Board shall vote to appoint one of the remaining two applicants.

Policy Approved: October 13, 2020; Res. 2020-619
ii. The Clerk shall announce the vote of each Board member after each round of balloting.

iii. Once a preferred applicant is determined by informal ballot, the Chair shall:
    1. Declare for the record that three (3) members of the Board have concurred in the selection of such applicant.
    2. Facilitate discussion to identify the applicant’s starting date.
    3. Invite Board action to formally appoint the finalist to the position, noting the effective date and any other conditions that might be required.
    4. Direct the Clerk to cancel the Second Public Hearing.

iv. After appointment, the Clerk shall prepare the necessary personnel forms for the Chair’s signature.

2) Second Hearing

   a. The Chair shall open public comment, which will be subject to the Board’s normal speaking rules and time limitations.

   b. Each finalist shall make an oral presentation for an amount of time to be determined by the Chair.

   c. After finalist presentations, the Chair shall allow each Supervisor to ask questions of any finalist.

   d. At the conclusion of the question period, the Board shall, on written ballots provided by the Clerk, vote for one of the finalists to fill the unexpired term.

      i. Split Vote:
         1. In the event of a split vote in which no finalist receives three (3) or more votes, the lowest scoring finalist shall be eliminated.

         2. The Chair shall allow Board deliberation regarding the qualifications and merits of the remaining finalists.

         3. After deliberation, the Board shall again vote.

         4. The Split Vote process will be repeated until one finalist is chosen by three (3) or more votes.

   e. The Clerk shall announce the vote of each Board member after each round of balloting.

   f. Upon any finalist receiving three (3) or more votes, the Chair shall:

Policy Approved: October 13, 2020; Res. 2020-619
Process to Fill Vacancies of Elected Offices, other than Superior Court Judge or Board of Supervisors member

i. Declare for the record that three (3) members of the Board have concurred in the selection of such applicant.

ii. Facilitate discussion to identify the appointee's starting date.

iii. Invite Board action to formally appoint the finalist to the position, noting the effective date and any other conditions that might be required.

g. After appointment, the Clerk shall prepare the necessary personnel hiring forms for the Chair's signature.
ELECTION CANDIDATE QUALIFICATIONS AND INFORMATION
(As of November 10, 2020.)

TERM OF OFFICE
The Sheriff/Coroner/Public Administrator is elected to a 4 year term. Elected officers take office on the first Monday in January following the General Election at noon.

QUALIFICATIONS
Government Code Section 24004.3.
(a) No person is eligible to become a candidate for the office of sheriff in any county unless, at the time of the final filing date for election, he or she meets one of the following criteria:

(1) An active or inactive advanced certificate issued by the Commission on Peace Officer Standards and Training.

(2) One year of full-time, salaried law enforcement experience within the provisions of Section 830.1 or 830.2 of the Penal Code at least a portion of which shall have been accomplished within five years prior to the date of filing, and possesses a master's degree from an accredited college or university.

(3) Two years of full-time, salaried law enforcement experience Within the provisions of Section 830.1 or 830.2 of the Penal Code at least a portion of which shall have been accomplished within five years prior to the date of filing, and possesses a bachelor's degree from an accredited college or university.

(4) Three years of full-time, salaried law enforcement experience within the provisions of Section 830.1 or 830.2 of the Penal Code at least a portion of which shall have been accomplished within five years prior to the date of filing, and possesses an associate in arts or associate in science degree, or the equivalent, from an accredited college.

(5) Four years of full-time, salaried law enforcement experience within the provisions of Section 830.1 or 830.2 of the Penal Code at least a portion of which shall have been accomplished within five years prior to the date of filing, and possesses a high school diploma or the equivalent.

(b) All persons holding the office of sheriff on January 1, 1989 shall be deemed to have met all qualifications required for candidates seeking election or appointment to the office of sheriff.
COUNTY OF MARIPOSA
APPLICATION FORM FOR
APPOINTMENT TO THE ELECTIVE OFFICE OF
SHERIFF – CORONER – PUBLIC ADMINISTRATOR

(For Official Use Only)

INSTRUCTIONS: The Application for Appointment of the Elective Office of the Sheriff – Coroner – Public Administrator is composed of the sections below. All parts must be submitted in order for the application to be considered complete.

| Last Name | First Name | Middle Initial |

Application Requirements:
The following must be attached to this form in order for your application to be considered complete:

☐ Part I: Contact information (form provided)
☐ Part II: Certifications (form provided)
☐ Part III: Education Verification (form provided)
☐ Part IV: A current résumé containing, as a minimum, all employment for the previous five years.
☐ Part V: A written Statement of Qualifications for the position (500 words maximum)
☐ Part VI: A written statement explaining your reasons for wishing to be appointed to the position.
☐ Part VII: Three (3) Letters of Reference/Recommendation
☐ Part VIII: Any additional information that the Board may request during the Board item approving the Application Form

I, ____________________________________________, as a candidate for the appointment of the County of Mariposa Sheriff – Coroner – Public Administrator declare that all information provided on this form by me, including all attachments, is true and correct. If requested, I agree to provide written responses to any questions.

I have received the application packet and have read and understand the Board of Supervisors Policy specifying the “Process to Fill Vacancies of Elected Offices, other than Superior Court Judge or Board of Supervisors member.”

I understand that finalists will be subject to a full background investigation, and that the selected candidate will be required to pass the County’s standard medical examination and must file a Form 700 for the state within thirty calendar days of taking office.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this _______ day of _____________, _______, at _____________, California.

Date    Month    Year    City/Town

Applicant’s Signature

Please submit the completed application to the address below by 5 p.m., on Month Day, Year. Please note that the application must be received prior to that deadline regardless of the mode of delivery/transfer.

Clerk of the Board of Supervisors
nlaroche@mariposacounty.org
County Government Center
5100 Bullion Street, Second Floor
Post Office Box 784
Mariposa, CA 95338
COUNTY OF MARIPOSA
APPLICATION FOR APPOINTMENT OF THE
ELECTIVE OFFICE OF THE
SHERIFF – CORONER – PUBLIC ADMINISTRATOR

PART I.
Contact Information

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<th>Middle Initial</th>
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<th>Current Street Address</th>
<th>City</th>
<th>State</th>
<th>Zip</th>
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<tr>
<td>Home Phone #</td>
<td>Business Phone #</td>
<td>Email Address</td>
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Please list your residence addresses for the past five years:

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<th>State</th>
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I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signed on this ______ day of ________________, ______, at _________________, California.

Applicant’s Signature
COUNTY OF MARIPOSA
APPLICATION FOR APPOINTMENT OF THE
ELECTIVE OFFICE OF THE
SHERIFF – CORONER – PUBLIC ADMINISTRATOR

Part II. Certifications

Please print.

Last Name ___________________________________________ First Name ___________________________ Middle Initial ___________________________

Current Street Address ___________________________________________ City ___________________________ State ___________ Zip ___________

Home Phone # ___________ Business Phone # ___________________________ Email Address ___________________________

As a candidate for appointment to the position of Mariposa County Sheriff – Coroner – Public Administrator, I declare the following:

☐ YES ☐ NO I am a registered voter of the County of Mariposa.

☐ YES ☐ NO I am a citizen of the United States and a resident of the State of California.

☐ YES ☐ NO I have not been convicted of a crime that disqualifies me from holding elected office.

If no, please explain (attach additional sheets, if necessary):

________________________________________________________________________

☐ YES ☐ NO I meet all legal qualifications to run for election to this position. (If in doubt, check with the County Elections office.)

☐ YES ☐ NO I am able to formally assume the position at a time and place to be negotiated with the Board of Supervisors.

☐ YES ☐ NO I am not involved in outside activities that may be in conflict with the functions and responsibilities of this position.

If no, please explain (attach additional sheets, if necessary):

________________________________________________________________________

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signed on this _______ day of _________________________, ______, at _________________________, California.

Applicant’s Signature ___________________________________________
Part III. Education

Please print.

Last Name
First Name
Middle Initial

Please list your educational experience:

Name of College or University
Degree Obtained
Date Graduated
Name of College or University
Degree Obtained
Date Graduated
Name of College or University
Degree Obtained
Date Graduated
Name of College or University
Degree Obtained
Date Graduated

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signed on this __________ day of __________________, ________, at __________________, California.

__________________________________________
Applicant's Signature
STOP! Your application is not complete unless you also provide the following:

- Part IV. Current résumé containing, as a minimum, all employment for the previous five (5) years.
- Part V. Statement of Qualifications for the position (500 words maximum)
- Part VI. Written statement explaining your reasons for wishing to be appointed to the position
- Part VII. Three (3) letters of reference/recommendation

Submit the completed application to the address below by 5 p.m., on Month Day, Year. Please note that the application must be received prior to that deadline regardless of the mode of delivery/transfer.

Clerk of the Board of Supervisors
rlaroche@mariposacounty.org
County Government Center
5100 Bullion Street, Second Floor
Post Office Box 784
Mariposa, CA 95338
INSERT ANY OTHER APPLICABLE INFORMATION DEEMED APPROPRIATE BY THE BOARD DURING ITS CONSIDERATION OF THE APPLICATION AND DEADLINE
INSERT CURRENT FORM 700 STATEMENT OF ECONOMIC INTERESTS COVER PAGE, WATERMARKED "SAMPLE"
PRESS RELEASE

FOR IMMEDIATE RELEASE

Board of Supervisors Seeks Applicants to Fill the Unexpired Term of the Mariposa County Sheriff – Coroner – Public Administrator

Mariposa, CA – November 18, 2020 – On November 10, 2020, current Mariposa County Sheriff Doug Binnewies announced his retirement, with his last day slated to be Monday, December 28, 2020. While the Sheriff – Coroner – Public Administrator position is an elected office required under the California State Constitution, Sheriff Binnewies will be retiring before the end of his term, which ends on January 2, 2023. In such an instance, State law provides that Boards of Supervisors consider and appoint replacements to fill the remainder of the unexpired term.

Following the Board’s approved procedures, the County will accept applications for the position beginning on Day of the Week, Month Day, Year, at 8 a.m., through 5:00 p.m. on Month Day, Year.

Following deadline closing, the Board will hold a public hearing on First Hearing Date at 2:00 PM where each applicant will make a three-minute presentation and answer questions. The Board is expected to make an appointment on that date if there are four or fewer applicants. If there are five or more applicants, finalists will be chosen on First Hearing Date to return at a second hearing scheduled for Second Hearing Date at 2:00 PM.

To qualify for the position, all candidates must meet the minimum qualifications prescribed by State law to run for a Sheriff’s election. The minimum qualifications are available on page 2 of the Application Packet, which can be downloaded from http://www.mariposacounty.org/SheriffApplication.

Completed applications must be received by the Clerk of the Board’s Office by Application Deadline and Time. For questions, please contact René LaRoche, Clerk of the Board at (209) 966-3222 or by email at rlaroche@mariposacounty.org.

Contact Information:

Clerk of the Board’s Office
County of Mariposa
Phone: (209) 966-3222
Fax: (209) 966-5147
Address:
5100 Bullion Street, 2nd Floor
Mariposa, CA 95338
State of California

GOVERNMENT CODE

Section 25304

25304. The board of supervisors shall fill by appointment all vacancies that occur in any office filled by the appointment of the board and elective county officers, except judge of the superior court and supervisors. The appointee shall hold office for the unexpired term or until the first Monday after January 1st succeeding the next general election.

(Amended by Stats. 1951, Ch. 1553.)
State of California

GOVERNMENT CODE

Section 24105

24105. If the office of any of the county officers enumerated in Section 24000 of this code is vacant the duties of such office may be temporarily discharged by a chief deputy, assistant or deputy of such officer, as the case may be, next in authority to such county officer in office at the time the vacancy occurs, with like authority and subject to the same obligations and penalties as such county officer, until the vacancy in the office is filled in the manner provided by law; provided that if the vacancy occurs in the office of sheriff, the duties of such office shall be discharged by the undersheriff, or if that position is vacant, by the assistant sheriff, or if that position is also vacant, by the chief deputy next in line of authority.

(Amended by Stats. 1973, Ch. 117.)