

DEPARTMENT: Administration

BY: Rick Benson

PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION: Appointment of Doug Binnewies as Sheriff effective October 1, 2010.

On September 14, 2010 Sheriff Muller announced his retirement effective September 30, 2010. Your Board is charged with making an appointment to fill this vacancy pursuant to Government Code Section 25304. The individual you appoint will serve out the remainder of the Sheriff's term which expires in January 2011.

The individual you appoint must meet the mandated qualifications for the office. Essentially, this individual must be a properly trained and sworn law enforcement officer as spelled out in Section 24004.3 of the Government Code. Other than ensuring that the individual meets the qualifications set down by law, your Board has a great deal of latitude in making this appointment. You are able to select a retired individual or an active-duty officer of most any rank. The individual you select does not necessarily have to be a member of the Mariposa County Sheriff's Department. You could appoint a member of the Highway Patrol, another Sheriff's Department or an individual serving on a municipal police department.

On June 8, 2010 the citizens of Mariposa County elected Undersheriff Doug Binnewies to the office of Sheriff effective January 3, 2011. Since Sheriff-elect Binnewies is qualified and willing to accept the position, it is recommended that your Board appoint Doug Binnewies to serve as the Sheriff/Coroner commencing October 1, 2010 through the unexpired term of the current Sheriff/Coroner.

BACKGROUND AND HISTORY OF BOARD ACTIONS: When the position of Sheriff was vacated previously in 2007 the Board made the appointment of Brian Muller as Sheriff.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION: The position of Sheriff/Coroner would remain vacant. Undersheriff Binnewies would be charged with performing the duties of Sheriff until such time as a replacement appointment is made by your Board or his term commences.

Financial Impact? () Yes (x) No	Current FY Cost: \$	Annual Recurring Cost: \$
Budgeted In Current FY? () Yes () No () Partially Funded		
Amount in Budget: \$		List Attachments, number pages consecutively
Additional Funding Needed: \$		Government Code Sec. 25304 & 24004.3
Source:		
Internal Transfer		
Unanticipated Revenue	_____ 4/5's vote	
Transfer Between Funds	_____ 4/5's vote	
Contingency	_____ 4/5's vote	
() General () Other		

CLERK'S USE ONLY:

COUNTY ADMINISTRATIVE OFFICER:

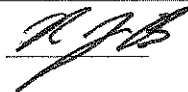
Res. No.: 10-465 Ord. No. _____
 Vote - Ayes: 5 Noes: _____
 Absent: _____
 Approved
 Minute Order Attached () No Action Necessary

Requested Action Recommended
 No Opinion
 Comments:

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____
 Attest: MARGIE WILLIAMS, Clerk of the Board
 County of Mariposa, State of California

By: _____
 Deputy

CAO: 

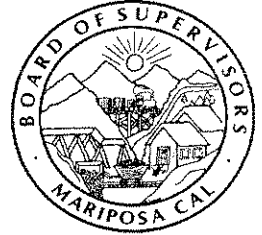


COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

KEVIN CANN, CHAIR
JIM ALLEN, VICE-CHAIR
BRAD ABORN
LYLE TURPIN
JANET BIBBY

DISTRICT IV
DISTRICT V
DISTRICT I
DISTRICT II
DISTRICT III



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: RICHARD J. BENSON, CAO
FROM: MARGIE WILLIAMS, Clerk of the Board
SUBJECT: Appointment of Doug Binnewies as Sheriff-Coroner Effective October 1, 2010
RES. 10-465

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on September 28, 2010

ACTION AND VOTE:

5 **Administration**
Appointment of Doug Binnewies as Sheriff-Coroner Effective October 1, 2010
BOARD ACTION: Discussion was held. Supervisor Allen clarified that the title of the position is Sheriff-Coroner-Public Administrator. Board members commended Brian Muller/Sheriff for his service, and congratulated Doug Binnewies. (M)Allen, (S)Aborn, Res. 10-465 was adopted appointing Doug Binnewies as Sheriff-Coroner-Public Administrator effective October 1, 2010/Ayes: Unanimous. Doug Binnewies thanked the Board and his family for their support.

cc: *Doug B. SO*
Joel Bibby, Sheriff's Office
File

25303.4. (a) If, pursuant to another provision of law, a bank account has been authorized for the use of the officer, he shall deposit in that account as soon as practicable any negotiable paper accepted by him pursuant to this chapter.

(b) If a bank account has not been authorized for the use of such officer, he may deposit negotiable paper accepted pursuant to this chapter as soon as practicable with a bank for collection and receive from the bank cashier's checks in an amount equal to the total deposit. The cashier's checks shall be deposited in the county treasury like cash received for the same purpose. The officer accepting negotiable paper may at his option deposit such negotiable paper daily in the county treasury instead of in a bank; and the county treasurer shall handle such negotiable paper like any other negotiable paper accepted by him.

If any negotiable paper is returned unpaid to the bank with which it was deposited, the bank shall return it to the officer who deposited it and, if its amount has been included in any cashier's check given by the bank, the bank is entitled to a refund in the amount of the unpaid negotiable paper. Any negotiable paper redeemed by or charged back to the county treasurer by reason of nonpayment shall be returned to the officer who deposited it with him. A memorandum charging the officer making the deposit and crediting the treasurer shall be issued by the county auditor on the fund into which the original deposit was made.

25303.5. If any negotiable paper is not paid on due presentment for any reason, any record of payment made on any official record or in cash and fee book of the officer shall be canceled. Any receipt issued likewise shall be deemed to be canceled. The assessment, license, permit, fee, fine and other money is a lien as though no payment has been attempted.

The officer accepting negotiable paper shall make any memoranda necessary to enable him to make proper cancellation on its return without payment. The officer shall be discharged from accountability for collection on the dishonored paper only upon order of the board of supervisors.

25303.6. When cancellation is made, the officer making it shall record it on the roll or on his cash and fee book. He shall immediately send a notice to the person who attempted payment by the negotiable paper of the cancellation of the payment.

The validity of any assessment, license, permit, fee, fine or other money is not affected by failure or irregularity in giving this notice.

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.

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unless he has been admitted to practice in the Supreme Court of the State.

24002.5. (a) A person may not exercise the powers and duties of the office of assessor unless he or she holds a valid appraiser's certificate issued by the State Board of Equalization pursuant to Article 8 (commencing with Section 670) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code.

(b) Notwithstanding subdivision (a), a duly elected or appointed person may exercise the powers and duties of assessor, for a period not to exceed one year, if he or she acquires a temporary appraiser's certificate from the State Board of Equalization no later than 30 days after taking office.

(c) This section does not apply to any person holding the office of assessor on January 1, 1997.

24003. The county veterinarian shall at the time of his or her appointment be a qualified veterinary surgeon having a certificate issued to him or her by the Veterinary Medical Board.

24004. (a) Except as otherwise provided in this section and Section 24004.5, a sheriff or clerk, or any of their deputies, shall not do any of the following:

(1) Practice law or have as a partner a lawyer or anyone who acts as a lawyer for a collection agency.

(2) Act as a collector or for any collection agency or have as a partner a collector or anyone who acts as a collector for a collection agency in the county where he resides and holds office.

(b) Paragraph (1) of subdivision (a) shall not apply to a reserve or auxiliary deputy sheriff who is admitted to practice law in this state. However, a reserve or auxiliary deputy sheriff may not represent any person in any matter concerning an event or transaction if the reserve or auxiliary deputy sheriff has performed or knows he will perform any act relating to the event or transaction in performance of his or her duties as a reserve or auxiliary deputy sheriff.

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

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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.

24004.5. Nothing in Section 24004 shall be construed to prohibit a deputy sheriff who is otherwise qualified to practice law from: (a) giving legal advice to his or her employer when directed to do so within the course and scope of his or her employment, or (b) representing any person; provided, that the deputy shall not represent any person in any criminal matter, in any matter concerning an event or transaction if the deputy has performed or has reason to know he or she will perform any act relating to such event or transaction in the performance of his or her duties, or in any matter adverse to his or her employing agency.

Nothing in this section shall prohibit the employing agency from taking appropriate disciplinary action against any deputy sheriff whose practice of law exceeds the above limitations.

24005. County officers and employees are entitled to a vacation with pay for each year of full-time service. Elected county officers under bond are not subject to the provisions of this section.

24006. Notwithstanding any other provision of law, appointments may be made by the authorized appointing power, including the board of supervisors, to fill any vacancy occurring by reason of the absence of the incumbent on military service from which he has a right to return to his office or position pursuant to the Military and Veterans Code until whichever of the following first occurs: (a) the resigning officer returns to and re-enters the office from which he resigned, or (b) the term expires for which he was elected or appointed.

24007. If any officer, deputy, assistant, or employee of a county or judicial district was required by law to file an oath of office or to execute a bond prior to his original entry upon the duties of the office or employment, he shall file an oath and execute a bond in like manner and form prior to his re-entry upon the duties of the office or employment pursuant to the Military and Veterans Code.

24008. (a) The board of supervisors may appoint a county fire

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