

DEPARTMENT: CAO

BY: Rick Benson
PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION: Resolution granting an exception to policy regarding vacation payoff when assuming a department head position.

Prior to assuming the office of Sheriff, Brian Muller is scheduled to receive a payoff of his accumulated vacation pay. Since this is a significant balance, Undersheriff Muller has requested that the payoff be apportioned over a three-year period. This vacation balance payoff was unanticipated, therefore, fashioning the payoff in this manner benefits the county by allowing for the item to be budgeted and avoids the possible need to use contingency funds.

BACKGROUND AND HISTORY OF BOARD ACTIONS: The Board of Supervisors addressed the procedure for an employee to become a department head in March of 1993. Resolution 93-143 set a policy that, "all accumulated vacation shall be the paid upon promotion...immediately prior to the promotion."

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION: Undersheriff Muller will receive a lump sum pay out of his vacation balance negatively impacting the county's Accrued Benefits designation.

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: \$ _____	Formal Resolution _____	
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:

Res. No.: 07-586 Ord. No. _____
Vote - Ayes: 4 Noes: Bibby
Absent: _____
Approved _____
Minute Order Attached () No Action Necessary

COUNTY ADMINISTRATIVE OFFICER:

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: *MJB*

MARIPOSA COUNTY RESOLUTION NUMBER 07-586

**PROPOSED RESOLUTION OF
MARIPOSA COUNTY BOARD OF SUPERVISORS
REGARDING ACCRUED VACATION TIME FOR SHERIFF BRIAN MULLER**

WHEREAS, this Board adopted Resolution 93-143 on March 9, 1993 establishing policy regarding the promotion of an employee to a department head position.

WHEREAS, said policy states; "In the case of the promotion of an employee from a regular employee of the County to department head status, all accumulated vacation shall be paid upon promotion at the employee's rate of pay immediately prior to the promotion..."

WHEREAS, Undersheriff Brian Muller, has been appointed Sheriff, effective January 1, 2008.

WHEREAS, Undersheriff Muller has significant vacation time accrued with a value exceeding \$80,000.

WHEREAS, a vacation payoff of this size will significantly impact the Accrued Benefits designation and may require drawing upon contingency funds.

WHEREAS, Undersheriff Muller has requested that the payoff take place over a three-year period.


WHEREAS, granting said request will benefit Undersheriff Muller and will benefit Mariposa County.

NOW THEREFORE, BE IT RESOLVED that the Board of Supervisors of Mariposa County grants, subject to the County Auditor determining that said distribution method is allowable under Internal Revenue Service regulations, an exception to resolution 93-143 and authorizes the County Auditor to distribute Undersheriff Muller's vacation payoff over a term not to exceed three years.

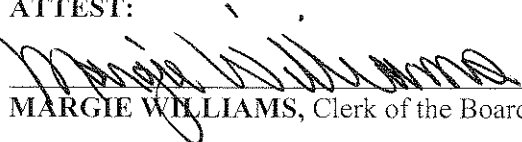
BE IT FURTHER RESOLVED that the Board of Supervisors finds that said exception will benefit Mariposa County by not depleting the Accrued Benefits designation.

PASSED AND ADOPTED by the Mariposa County Board of Supervisors this 18th day of December, 2007, by the following vote:

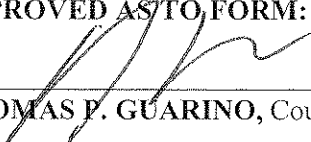
AYES:	ABORN, TURPIN, FRITZ, PICKARD
NOES:	BIBBY
ABSENT:	NONE
ABSTAINED:	NONE



JANET BIBBY, Chair
Board of Supervisors

ATTEST:


MARGIE WILLIAMS, Clerk of the Board

APPROVED AS TO FORM:


THOMAS P. GUARINO, County Counsel



COUNTY OF MARIPOSA

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

JANET BIBBY, CHAIR
LYLE TURPIN, VICE CHAIR
BRAD ABORN
DIANNE A. FRITZ
BOB PICKARD

DISTRICT III
DISTRICT II
DISTRICT I
DISTRICT IV
DISTRICT V



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: RICHARD J. BENSON, CAO
FROM: MARGIE WILLIAMS, Clerk of the Board
SUBJECT: Resolution Granting an Exception to Policy Regarding Vacation Payoff when Assuming a Department Head Position

RESOLUTION 07-586

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on December 18, 2007

ACTION AND VOTE:

Resolution Granting an Exception to Policy Regarding Vacation Payoff when Assuming a Department Head Position (County Administrative Officer/Personnel/Risk Manager)

BOARD ACTION: Discussion was held with Rick Benson, and he advised that there are some questions as to whether this conforms to the IRS regulations; and a legal opinion is being sought. County Counsel stated he agrees with moving forward with this item; but there are two concerns: 1) the IRS implication; and 2) he does not want to allow any use of the 457 program (deferred compensation) to be in violation of PERS regulations. He recommended that the Board adopt a finding if this is approved, that it is being done on the basis that it is a benefit to the County due to the large sum that is involved. Chris Ebie, Auditor, provided input on his research and his concerns with this matter and whether the action could be justified in an audit. County Counsel concurred with the comments from the Auditor and advised that is the reason for his recommended findings. County Counsel further advised that this action would give an opportunity to review whether an exception to the policy could be granted.

Input from the public was provided by the following:

Ruth Catalan questioned whether income averaging is still available to a taxpayer and commented on other options.

Paul Chapman suggested that the Auditor write three different checks.

Doug Binnewies, Sheriff's Captain, advised that Undersheriff Muller was unable to be present as something came up at the last minute; and he advised that this request came about as a way to help the County and the interest is not self-motivating.

Further discussion was held. Chris Ebie noted that he is trying to protect the County and Undersheriff Muller. (M)Pickard, (S)Aborn, Res. 07-586 was adopted, with the inclusion of a finding that this is being done on the basis that it is a benefit to the County as discussed/Ayes: Aborn, Turpin, Fritz, Pickard; Noes: Bibby.

Cc: Chris Ebie, Auditor
Brian Muller, Sheriff
File