

DEPARTMENT: County Counsel BY: Jeffrey G. Green PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes\_\_\_ No\_\_)

Discussion relative to the duties of the Constable and the salary commensurate with those duties subsequent to January 1, 1997 if the majority of the voters choose to retain the elected Constable position in the March 1996 primary. Included in this package is an opinion letter to the Board from Counsel relative to this issue.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

On November 20, 1995, the Board requested that Counsel provide them with the duties and responsibilities of the elected Constable position should the position not be eliminated by a majority vote of the electors in the March primary.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

N/A.

<b>COSTS:</b> (X) Not Applicable A. Budgeted current FY \$ _____ B. Total anticipated costs \$ _____ C. Required additional funding \$ _____ D. Internal transfers \$ _____  <b>SOURCE:</b> ( ) 4/5ths Vote Required A. Unanticipated revenues \$ _____ B. Reserve for contingencies \$ _____ C. Source description: _____ Balance in Reserve for Contingencies, _____ if approved: \$ _____	<b>SPECIAL INSTRUCTIONS:</b> List the attachments and number the pages consecutively:  Letter from Counsel to Board.  _____ _____ _____
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<b>CLERK'S USE ONLY:</b> Res. No.: <u>95-522</u> Ord. No. _____ Vote - Ayes: _____ Noes: _____ Absent: _____ Abstained: _____ ( ) Approved ( ) Denied (X) Minute Order Attached ( ) No Action Necessary  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	<b>ADMINISTRATIVE OFFICER'S RECOMMENDATION:</b> This item on agenda as: <input checked="" type="checkbox"/> Recommended <input type="checkbox"/> Not Recommended <input type="checkbox"/> For Policy Determination <input type="checkbox"/> Submitted with Comment <input type="checkbox"/> Returned for Further Action  Comment: _____  A.O. Initials: <u>MC / [Signature]</u>
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MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

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TO: JEFF GREEN, COUNTY COUNSEL  
FROM: MARGIE WILLIAMS, Clerk of the Board *mw*  
SUBJECT: DUTIES AND SALARY FOR CONSTABLE SUBSEQUENT TO 1/1/97

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THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on December 5, 1995

ACTION AND VOTE:

1:39 p.m. Discussion Relative to the Duties of the Constable and Salary Commensurate with those Duties Subsequent to January 1, 1997 (County Counsel)

BOARD ACTION: Following discussion with Jeff Green/County Counsel and Mike Coffield/County Administrative Officer, (M)Balmain, (S)Stewart, Res. 95-522 adopted setting an hourly salary range and duties for Constable position, effective January 1, 1997, as recommended/Ayes: Unanimous.

cc: Bill Hibpshman, Constable  
Ken Hawkins, Auditor  
Roger Matlock, Sheriff  
Nancy Kyle, Personnel Analyst  
File

OFFICE OF



**JEFFREY G. GREEN**  
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*The County Counsel*

MARIPOSA COUNTY

December 5, 1995

To: Board of Supervisors

From: Jeffrey G. Green, County Counsel 

Re: Mandatory Duties and Responsibilities of Constable

Dear Board Members:

Pursuant to the Board's direction on Monday, November 20, 1995, County Counsel has been requested to provide the Board of Supervisors with the mandatory duties and responsibilities of the elected Constable position should a majority of the voters in the March primary not vote to eliminate the elected Constable position.

As the Board knows, the Constable's primary duty in the past has been bailiffing for the Justice Court. Upon the passage of Proposition 191, an agreement was reached between the Court, Sheriff, and Constable whereby the bailiff duties were relegated to the Sheriff's Office when the Mariposa County Justice Court was converted to a Municipal Court. The Constable began serving legal process delivered to the Sheriff to free up deputy time to allow the Sheriff to begin bailiff duties. Additionally, the Constable performed the duties of large animal control, however, pursuant to Board direction, those duties have also been assigned to the Sheriff's Office.

At the present time, the duties of the Constable are to serve process in the County. Government Code section 71264 states the powers and duties of the Constable's office which are required pursuant to State law. Pursuant to section 71264, the one function remaining for the Constable to perform since the adoption of Proposition 191 is to "execute, serve, and return all writs, processes, and notices directed or delivered to them [Constable] by Municipal and Justice Courts or other competent authority." Therefore, commencing January 1, 1997, the only mandatory duties required of the Constable will be the execution, service, and return of writs, processes, and notices directed or delivered to the Constable by a Municipal Court or other competent authority, such as the Superior Court. The duties of the Constable would rest solely upon the request of Municipal or Superior Courts to serve process and the Courts have the option of using any of several other legitimate sources for these services.

It is, therefore, my opinion that effective January 1, 1997, the Constable position will have virtually no duties.

# Mariposa County Board of Supervisors



MIKE COFFIELD  
County Administrative Officer

MARGIE WILLIAMS  
Clerk of the Board


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District 2.....DOUG BALMAIN  
District 3.....ROBERT C. STEWART  
District 4.....GARRY R. PARKER  
District 5.....GERTRUDE R. TABER

December 5, 1995

To: Board of Supervisors

From: Mike Coffield   
County Administrative Officer

Subj: **Constable salary recommendation**

Pursuant to your Board's direction on November 20, 1995, and based on County Counsel's opinion that virtually no duties will reside with the Constable's position if the electorate fails to approve the ordinance deleting it on March 26, 1996, I recommend that the Board set an hourly salary for the Constable equivalent to an entry level Deputy Sheriff, which is currently \$13.23 per hour. As the position will be hourly, no benefits will be paid.

This will equate the position to an extra-help Bailiff which is paid at that rate. If the public fails to approve deleting the position, the Constable will only work if the Courts direct the Constable to serve legal papers, rather than using their other options. Otherwise, there will be no cost to the County for the position.

