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December 29, 2009

Board of Supervisors
County of El Dorado
330 Fair Lane
Placerville, CA 95667

Re: Ratification of Appointment of Manfred Kollar to Position of Sheriff

Honorable Supervisors:

Recommendation:

County Counsel recommends that the Board of Supervisors ratify its December 10, 2009, appointment of Manfred Kollar to the office of Sheriff, to serve the unexpired term of Jeff Neves, effective December 27, 2009.

Reason for Recommendation:

On December 10, 2009, the Board of Supervisors appointed Manfred "Fred" Kollar, the Undersheriff, to the office of Sheriff, effective December 27, 2009, to serve out the unexpired term of Sheriff Jeff Neves who resigned the position as of December 26, 2009. Pursuant to that appointment, Fred Kollar was sworn in as Sheriff on December 28, 2009. As the Chief Administrative Officer pointed out in her report on the December 10, 2009, action, County Counsel has stated that there is some ambiguity in the law as to whether an appointment can be made prospectively, as the Board did on December 10, 2009. There is substantial case law to the effect that such an appointment is valid. But, some ambiguity remains. Therefore, we are recommending that the Board ratify its decision of December 10, 2009, to appoint Fred Kollar as Sheriff to serve out the unexpired term of Jeff Neves, after the vacancy has occurred, just to be certain we are on firm legal ground. **It is important to note that this is not an opportunity to revisit the Board's decision of December 10, 2009.** Failure of the Board to ratify its decision of December 10, 2009, will simply mean that Fred Kollar has assumed the Sheriff's position pursuant to the

Board's appointment of December 10, 2009. The legal ambiguity would remain, but the appointment would be presumed valid and we believe the risk is low.

Actions to Be Taken After Board Approval:

None.

Fiscal Impact:

None.

We would be pleased to answer any questions the Board might have.

Respectfully submitted,



Louis B. Green
County Counsel

LBG/stl

cc: Chief Administrative Officer
Sheriff Fred Kollar

s:\Bd of Supervisors\Agenda Transmittals and Staff Reports\Ratification of Appointment of Kollar