DEPARTMENT: County Counsel       BY: Jeffrey G. Green     PHONE: 209/966-3222

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes___ No X_)

Adopt this resolution approving the attached Resolution Relative to Policy Regarding Work Weeks and Overtime of County Employees and Rescinding Resolution No. 92-279 Relative to Policy Regarding Overtime of County Employees.

BACKGROUND AND HISTORY OF BOARD ACTIONS: Per Minute Order and Resolution No. 93-473, the Board of Supervisors approved the attached 9/80 flex schedule for all clerical staff in the Assessor's Office. The affected Assessor's Office staff members have all indicated their desire to implement this work schedule, and this position has been supported by the Field Representative of SEIU, Local 752.

The Board has approved alternative work week schedules in the past for the Assessor's Office, Human Services and Public Works.

The Department of Labor's Fair Labor and Standards Act (FLSA) requires legislative bodies to define work weeks. The Board of Supervisors has previously defined work weeks and overtime policies in Resolutions 92-279, 85-387, 85-377, and 85-234.

Adoption of this resolution will not affect salary or benefit costs to the County in any way.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Mariposa County may be found to be out of compliance regarding the Department of Labor's Fair Labor and Standards Act.
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Hours will be 7:30 to 5:00 with a half hour lunch except on 8 hour days.

When an employee takes a vacation and/or sick day while on the 9/80 they are charged with 9 hours.

9/80 people are charge 1 hour vacation for holidays, unless we use that as their 8 hour day.
WHEREAS, the United States Supreme Court has dictated to all local governments, pursuant to Garcia vs. San Antonio Metropolitan Authority, that all local governments must pay overtime for all hours worked by employees in excess of forty (40) hours per work week, and

WHEREAS, Congress has adopted legislation to relieve County governments from some of the requirements of the Garcia decision, and

WHEREAS, it is the desire of the Board of Supervisors to avoid any and all unnecessary charges and/or claims against the County which comes within its jurisdiction;

NOW THEREFORE, BE IT RESOLVED by the Board of Supervisors of Mariposa County that a policy regarding overtime of County employees shall be as follows:

1. No employee of the County shall earn overtime after the effective date of this Resolution, unless it is the judgment of the Department Head that the overtime work is absolutely necessary to perform the functions of the Department.


3. If, in the opinion of the Department Head, an employee earns overtime as a result of necessity, then in that
event, the employee may, at the discretion of the employee, be
given comp time, at the rate of time and one-half in lieu of pay.

4. Department Heads shall be charged with the
responsibility of monitoring and regulating the provisions of
this Resolution relative to all County employees working under
their supervision.

5. The County employee's work week is hereby
established to commence at 12:01 a.m., Sunday and end at 12:00
(midnight) Saturday of each week during the year.

6. Notwithstanding Paragraph 5 above, with prior
approval of the Board of Supervisors, a Department Head may allow
an alternative work schedule to be assigned to certain employees
within their Department. The following alternative work weeks
may be noticed through and with payroll:

Alternate Work Week #1 - Work week begins at 12:00
noon each Monday and ends at 11:59 a.m. the following Monday.
The first Monday of each two week period is a flex day off.

Alternate Work Week #2 - Work week begins at 12:00
noon each Monday and ends at 11:59 a.m. the following Monday.
The second Monday of each two week period is a flex day off.

Alternate Work Week #3 - Work week begins at 12:00
noon each Friday and ends at 11:59 a.m. the following Friday.
The first Friday of each two week period is a flex day off.

Alternate Work Week #4 - Work week begins at 12:00
noon each Friday and ends at 11:59 a.m. the following Friday.
The second Friday of each two week period is a flex day off.
All employees working on an alternate work week schedule shall sign a recognition of such schedule in the form attached hereto as Exhibit "A".

7. The above-mentioned work weeks shall not apply to the Sheriff's Office, which shall be adopted by separate resolution.

8. Resolution No. 92-279, which was adopted by the Board of Supervisors on May 26, 1992 is hereby rescinded and replaced in its entirety by this Resolution.

PASSED AND ADOPTED this 28th day of September, 1993 by the Board of Supervisors of Mariposa County by the following vote:

ABSENT: BAGGETT, BALMAIN, ERICKSON, PARKER, TABER
AYES: NONE
NOES: NONE
ABSTAINED: NONE

Eric J. Erickson, Chairman
Board of Supervisors

ATTEST:                      APPROVED AS TO FORM
Margie Williams             AND LEGAL SUFFICIENCY:
Clerk of the Board          Jeffrey G. Green
County Counsel
The Fair Labor Standards Act (29 U.S.C. sections 201 and following) requires that a covered employee receive overtime compensation at a rate of one and one-half times the employee's regular rate of pay for each hour worked over forty (40) in the employee's designated work week. The Fair Labor Standards Act regulations require employers to keep a record of the particular work week designated for each employee. (29 C.F.R. section 516.2(a)(5).) The Fair Labor Standards Act work week designated for __________________________ (Employee name) shall be the seven consecutive day period that begins on __________________________ (day of week and time) and ends on __________________________ (day of week and time).

Acknowledged:

(Employee signature)  (Date)