



# MARINA COAST WATER DISTRICT

11 RESERVATION ROAD, MARINA, CA 93933-2099

Home Page: [www.mcwd.org](http://www.mcwd.org)

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**DIRECTORS**  
KENNETH K. NISHI  
*President*

WILLIAM LEE  
*Vice President*

THOMAS P. MOORE  
HOWARD GUSTAFSON  
DAN BURNS

## Agenda

### Special Board Meeting, Board of Directors Marina Coast Water District

11 Reservation Road, Marina, California  
Thursday, May 27, 2010, 6:30 p.m.

*This meeting has been noticed according to the Brown Act rules.*

**Mission:** *Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.*

**Vision:** *The Marina Coast Water District will be the leading public supplier of integrated water and wastewater services in the Monterey Bay Region.*

#### 1. Call to Order

#### 2. Roll Call

#### 3. Closed Session

- A. Pursuant to Government Code Section 54957  
Public Employee Performance Evaluation  
Title: General Manager
- B. Pursuant to Government Code Section 54957.6  
Conference with Labor Negotiators  
Agency designated representatives: Kenneth K. Nishi and William Lee  
Unrepresented employee: General Manager

#### Reconvene Open Session

**4. Possible Action on Closed Session Items** *The Board will report out on any action taken during Closed Session, and may take additional action in Open Session, as appropriate. Any closed session items not completed will be discussed at the end of the meeting.*

- A. Consider Action on the General Manager's Contract

#### 5. Pledge of Allegiance

**6. Oral Communications** *Anyone wishing to address the Board on matters not appearing on the Agenda may do so at this time. Please limit your comment to three minutes. The public may comment on any other items listed on the agenda at the time they are considered by the Board.*

## **7. Action Items**

- A. Consider Adoption of Ordinance No. 53, an Ordinance Adding Chapter 2.10 to the District Code to Promote Local Hiring For District Public Works

*Action: The Board of Directors will consider adopting Ordinance No. 53 to add chapter 2.10 promoting local hiring for District Public Works.*

## **8. Directors Comments**

- 9. Adjournment**    *Set or Announce Next Meeting(s), date(s), time(s), and location(s):*

*Regular Meeting:    Tuesday, June 22, 2010, 6:45 p.m.,  
11 Reservation Road, Marina*

Marina Coast Water District  
Agenda Transmittal

Agenda Item: 7-A

Meeting Date: May 27, 2010

Submitted By: Carl Niizawa

Presented By: Carl Niizawa

Agenda Title: Consider Adoption of Ordinance No. 53, an Ordinance Adding Chapter 2.10 to the District Code to Promote Local Hiring For District Public Works

Detailed Description: The Board of Directors is requested to consider adopting Ordinance No. 51 to add Chapter 2.10 to the District Code promoting local hiring for District Public Works.

Unemployment in Monterey County has risen significantly in the recent economic downturn to exceed most other areas of the State. Construction jobs have been particularly impacted by the recession and longer term holds on construction.

A policy that encourages public works contractors to hire residents of the Monterey Bay Tri-County area including Monterey, Santa Cruz and San Benito Counties will benefit the local economy and the District. Reducing local unemployment generally and among District water users will promote the financial health of the District. It is important to the District and the public served by the District that this policy takes effect immediately to promote the economic recovery of the area.

The policy specifically requires that public works contractors (for projects where there is no conflict with funding requirements) use good faith efforts to hire 80% of the work force to be residents of the tri-county area. The ordinance is similar to that in place with the City of Marina. The City of Salinas and the City of Monterey also have similar local hire provisions with a 50% good faith goal.

Environmental Review Compliance: None required.

Prior Committee or Board Action: None.

Board Goals/Objectives: *2007/2008 Strategic Plan, Mission Statement - Providing high quality water, wastewater and recycled water services to the District's expanding communities through management, conservation and development of future resources at reasonable costs.*

Financial Impact: \_\_\_\_\_ Yes  X  No

Funding Source/Recap: N/A

Material Included for Information/Consideration: Ordinance No. 53.

Staff Recommendation: The Board of Directors adopt Ordinance No. 53 adding Chapter 2.10 to the District Code to promote local hiring For District Public Works.

Action Required:     Resolution     Motion     Review     Ordinance

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Board Action

Resolution No     Motion By     Seconded By

Ayes     Abstained

Noes     Absent

Reagendized     Date     No Action Taken

MARINA COAST WATER DISTRICT  
ORDINANCE NO. 53  
AN ORDINANCE ADDING CHAPTER 2.10 TO THE DISTRICT CODE  
TO PROMOTE LOCAL HIRING FOR DISTRICT PUBLIC WORKS

Be it ordained by the Board of Directors of  
Marina Coast Water District  
as follows:

Section 1. Authority. This ordinance is enacted pursuant to Sections 30000 and following of the California Water Code.

Section 2. Findings. The Board finds as follows:

- A. This ordinance is considered for action by the Board of Directors at a regularly scheduled and noticed meeting. The agenda was posted in accordance with law with opportunity for public review in advance of the meeting and public comment during consideration of the ordinance by the Board. The District's legal counsel advises and the Board finds that there is no newspaper of general circulation printed, published and circulated in the District, and the District therefore should comply with the requirements of Section 31027 of the Water Code by posting the full text of this Ordinance within 10 days after adoption in three public places within the District.
- B. Unemployment in Monterey County has risen significantly in the recent economic downturn to exceed most other areas of the State. Construction jobs have been particularly impacted by the recession and longer term restrictions on construction.
- C. A policy that encourages public works contractors to hire residents of the Monterey Bay Tri-County area including Monterey, Santa Cruz and San Benito Counties will benefit the local economy and the District. Reducing local unemployment generally and among District water users will promote the financial health of the District. It is important to the District and the public served by the District that this policy take effect immediately to promote the economic recovery of the area.
- D. The district's legal counsel advises, and the Board finds, that adoption of this ordinance is not subject to the California Environmental Quality Act ("CEQA"), pursuant to Public Resources Code Section 21065 and Section 15378(b)(2) of the State CEQA Guidelines codified at 14 CCR §15378.

Section 3. Purpose Of Ordinance. The purpose of this ordinance is to adopt a policy to promote local hiring for public works. This ordinance adds Chapter 2.10 to the District Code.

Section 4. Local Hiring for Public Works. Chapter 2.10 is added to the District Code to read in full as follows:

2.10.010 Local hiring for public works. All District contracts for public works or other new construction not performed by District personnel shall contain provisions which require the contractor to make a good faith effort, to include but not limited to requesting the assistance of community resources designated by the District, to hire qualified individuals who are residents of the Monterey Bay area. All such contractors shall strive to hire no less than eighty percent of their employees from the pool of qualified workers who reside in Monterey, Santa Cruz or San Benito Counties. Only persons who are domiciled in one of these counties at the time of the bid shall be considered "local" for the purpose of this resolution. This requirement also applies to subcontractor employees under such contracts.

2.10.020 Binding on Subcontractors. The good faith local hiring provisions of this chapter shall bind the contractor both with regard to persons hired directly and to all persons hired by the contractor's subcontractors. The contractor shall include the following in all contracts with subcontractors:

"This contract is for labor for a MCWD public works project. As subcontractor on a District project you are required to comply with all of the provisions of Ordinance 53 Local Hiring. Failure to comply with the local hiring ordinance may subject the subcontractor herein with disqualification from any future MCWD public works contracts."

2.10.030 Required Documentation. The contractor shall keep an accurate record on a standardized form showing the name, place of residence, classification, hours employed, per diem wages and benefits of each person employed by the contractor on specific public works projects.

2.10.040 Noncompliance. If the MCWD manager with responsibility for the contract believes that any contractor or subcontractor has not made a good faith effort to comply with this provision, the manager shall conduct an investigation. If the investigation reveals non-compliance, the manager shall make a report to the General Manager or his designee. The report shall be provided to the contractor who shall have an opportunity to appeal any negative finding to the General Manager. Appeals must be made within ten days of receipt of the negative finding. The General Manager, after due consideration of any appeal, may disqualify any contractor or subcontractor declared to be non-compliant with this ordinance disqualified from eligibility for providing services to the District for a period of one year.

2.10.050 Definitions. The following definitions shall apply to this ordinance:

"Contractor" means any person or entity which, pursuant to a written agreement, provides labor services on a public works project to MCWD.

"Monterey Bay Area" means Monterey County, San Benito County and Santa Cruz County.

"Resident of the Monterey Bay area" means an individual who is domiciled within the boundaries of the three counties and who can provide reliable evidence that verifies resident status. A worker who is

a building trade journeyman or apprentice whose local hiring hall has jurisdiction over the Monterey Bay area is also deemed a resident of the Monterey Bay area.

"Subcontractor" means any person or entity who provides labor services under an agreement with a contractor who is contracted to provide such services on a public works project for the District.

2.10.060 Exceptions The provisions of this Ordinance shall not apply under the following circumstances:

Whenever a state, federal or local law or regulation applicable to a particular grant or contract for public works prohibits a local hire requirement;

Whenever the District in accordance with the requirements of its rules, determines that the contract is necessary to respond to an emergency which endangers the public health, safety or welfare;

Whenever the District determines that a suitable pool of persons providing specialized skills does not exist locally for a specific public works project;

When such an exception is invoked, the basis of the exception shall be included in a staff report to the Board.

Section 5. Effective Date. This Ordinance shall be in full force and effect immediately upon adoption, in accordance with section 31027(a) of the Water Code.

Section 6. Publication and Posting. Within 10 days after adoption, the district shall post in three public places within the district a certified copy of the full text of this ordinance as adopted along with the names of those directors voting for and against adoption and shall publish within 15 days after adoption, in a newspaper published in Monterey County and circulated within the district, a summary of this ordinance with the names of those directors voting for and against adoption.

Section 7. Notice of Public Hearing. The Secretary is authorized and directed to mail notice of the rates, fees and charges (excluding capacity charges) proposed for adoption by this ordinance to the record owners or other persons directly liable to pay the rate, fees or charge in question, at the addresses shown on the billing records of the District. The district shall hold a public hearing not less than 45 days and not more than 60 days after mailing the notice, to consider all protests against the proposed rates, fees and charges (excluding capacity charges).

Section 8. Notice of Exemption Notice of Determination. The Secretary is authorized and directed to give due notice of exemption of this ordinance from the provisions of CEQA, pursuant to Title 14, California Code of Regulations, section 15062.

Section 9. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid, or superseded by some other provision of law, such provisions shall be severed from and shall not affect the validity of the remaining provisions of this ordinance. The Board hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any other part thereof be unconstitutional or invalid, or superseded by some other provision of law. The parts of this ordinance which are not unconstitutional, invalid, or superseded shall remain in full force and effect and shall be enforced according to their terms.

Section 10. Interpretation. Words and Phrases used in this ordinance shall be read conjunctively with and shall have the same meaning as in prior district ordinances and the district Code, unless specifically changed by this ordinance or unless the context requires some other construction. If there is any inconsistency between this ordinance and prior provisions, this ordinance shall control.

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On motion of Director \_\_\_\_\_, seconded by Director \_\_\_\_\_, the foregoing Ordinance is enacted and shall take effect on \_\_\_\_\_ by the following roll call of the Board:

Ayes: \_\_\_\_\_  
Nays: \_\_\_\_\_  
Absent: \_\_\_\_\_  
Abstained: \_\_\_\_\_

By \_\_\_\_\_  
Kenneth K. Nishi, President

ATTEST:

\_\_\_\_\_  
Jim Heitzman, Secretary

CERTIFICATE OF SECRETARY

The undersigned hereby certifies that the foregoing Ordinance was adopted and approved by the Board of Directors at a special meeting on May 27, 2010.

\_\_\_\_\_  
Jim Heitzman, Secretary