PURISSIMA HILLS WATER DISTRICT
MINUTES OF THE REGULAR MEETING
OF THE BOARD OF DIRECTORS

November 13, 2019 Minutes

1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE President Evans called the
   regular meeting to order at 6:30 p.m. in the District office.

Directors Present: President Evans, Directors Ernie Solomon, Brian Holtz, Steve Jordon, and Kathy Knopoff
   (teleconference)

Staff Present: Patrick Walter, General Manager; Phil Witt, Assistant General Manager; Brandon Laurie,
   Engineer, Pakpour Consulting Group; Catherine Groves, Attorney, Hanson Bridgett; and
   Ray Collins, Office Manager/District Secretary

The Pledge of Allegiance was recited.

2. COMMENTS FROM THE PUBLIC None

3. CONSENT CALENDAR It was moved by Director Jordan, seconded by Director Solomon, to approve the
   Consent Calendar. Motion approved – voice vote (4-0).

4. FINAL AUDIT REPORT AND PRESENTATION OF FY 2018-2019 David Becker, CPA and Partner at
   James Marta & Co. LLP, summarized the financial aspects of the audit and stated that the District is in a
   good net position and has no operational deficiencies. It was moved by Director Solomon, seconded by
   Director Holtz, to accept the auditor’s report. Motion approved – voice vote (4-0).

5. VARIANCE TO BILL ADJUSTMENT POLICY FOR 12630 VISCAINO COURT The customer
   explained that he is requesting a variance to the bill adjustment policy to allow two adjustments, one in 2014
   and one in 2019, within the seven-year limitation. The customer said that in 2014 he did not know of the
   limitation. It was moved by Director Jordan, seconded by Director Solomon, to grant the variance. Motion
   approved - voice vote (4-0).

6. TAAFFE/ELENA/MOODY MAIN REPLACEMENT FINANCING PLAN AGREEMENTS;
   CONSIDER TOTAL AMOUNT OF FINANCING The GM explained that the agreements from the three
   loan advisors were expanded to a loan amount between $4M - $8M with a 10 – 15 year term. The loan was
   increased to $8M to include the Concepcion Road Main Replacement that has an estimated cost of $2.8M. It
   was moved by Director Jordan, seconded by Director Holtz, to approve management’s proposal to seek a
   loan for up to $8 million with a 10-15 year term to fund capital improvements. Motion approved – voice
   vote (4-0)

7. CONSIDER AND APPROVE DIRECTOR STEVE JORDAN TO SERVE AS A DISTRICT
   REPRESENTATIVE ON THE ENVIRONMENTAL AND WATER RESOURCE COMMITTEE
   (EWRC) AND WATER STORAGE SUBCOMMITTEE OF VALLEY WATER AND RECEIVE
   COMPENSATION FOR MEETINGS AND EXPENSES. It was moved by Director Holtz seconded by
   Director Solomon to approve compensation and expenses for Director Jordan’s past and future attendance at
   Valley Water’s EWRC and Water Storage Subcommittee. Motion approved - voice vote (3-0)
   Director Jordan abstaining.
8. APPROVE RESCHEDULING REGULAR BOARD MEETING ON JANUARY 8, 2020 TO JANUARY 15, 2020. It was moved by Director Solomon, seconded by Director Jordan, to move the January 8, 2020 regular board meeting to January 15, 2020. Motion approved – voice vote (4-0)

9. ENGINEER’S REPORT The Engineer discussed charts he prepared that showed the District’s water bills with usage of 10 CCF, 25 CCF and 40 CCF compared with other agencies’ water bills. The charts illustrated that the District’s water bills continue to be among the lowest in the area because of low rates and readiness to serve charges. The Engineer also reported that bid advertisement for the Elena/Taaffe/Moody rd. main replacement had occurred and that the mandatory pre-bid meeting will be held on Tuesday Nov 20, 2019 at the District office. Bids are due Wed. Dec. 18, 2019. He will provide a contractor recommendation for the Board’s consideration at the January 15, 2020 meeting.

10. ATTORNEY’S REPORT Nothing to report.

11. MANAGER’S REPORT

A. FIELD REPORT

➢ **PSPS Events.** Most of the District remained in power during the two shut off events. Page Mill was the only tank site without power, but operated successfully on a backup generator. The Assistant GM is looking into a more robust back up power source that will only run SCADA radio communication

➢ **La Cresta Emergency Communication.** The Assistant GM met with a representative of the Town’s Emergency Operations Committee (EOC) and discussed the District’s preferred installation location. He continues to work with the EOC to ensure they can communicate with both locations for successful connection??

➢ **Ethics Training.** On Nov. 4, 2019 the Assistant GM attended an ethics training class that included discussion of the Brown Act. The class was taught by Hanson & Bridgett.

➢ **Adobe Creek bank repair.** The District will move forward with a winterization of the creek bank rather than a permanent fix due to the expected rainy season. The temporary repair made last year was partially undermined and needs to be addressed. The contractor will finish this temporary repair by November 30th, 2019.

➢ **Hydrant hit on Horseshoe.** On Nov. 6th, 2019, a hydrant was hit on Horseshoe Lane that caused water turbidity to be elevated.

B. CUSTOMER COMMUNICATIONS None to report.

12. DIRECTORS’ REPORT

A. **BAWSCA, ACWA/JPIA, SCVWD, AND OTHER AGENCY ISSUE** Director Jordan reported that SCVWD and BAWSCA continue to work on storage projects that may eventually provide backup treated supply to the District if needed during a drought. Director Jordan continues work with the Town on a new joint lease agreement for the EOC antenna location.

B. DIRECTORS’ COMMENTS

13. AGENDA ITEMS FOR DECEMBER 11, 2019 BOARD MEETING

- Tank site communications lease
- Valley water drought supply
- Operation Center Lease
- Los Altos Hills County Fire District
14. CLOSED SESSION The meeting went into closed session at 8:18 p.m.

CONFERENCE WITH LABOR NEGOTIATOR
Government Code section 54957.6
Agency designated representative: Directors Brian Holtz and Kathleen Knopoff
Unrepresented Employee: Assistant General Manager

15. RECONVENE TO OPEN SESSION The meeting returned to open session at 8:30 p.m. No action taken.

16. CONSIDER AND APPROVE APPOINTMENT OF GENERAL MANAGER AND EMPLOYMENT CONTRACT It was moved by Director Evans, seconded by Director Holtz, to approve the appointment of Phil Witt to the General Manager position and his employment contract. The General Manager’s contract is attached. Motion approved roll call vote:

AYES: Directors Solomon, Holtz, Jordan, Evans, and Knopoff

NOES: None

ABSENT: None

17. ADJOURNMENT It was moved by Director Holtz, seconded by Director Evans, to adjourn the meeting at 8:40 p.m. Motion approved unanimously – voice vote.

Respectfully submitted

Raylene Collins, District Secretary

Approved: Peter Evans, President
EMPLOYMENT AGREEMENT

THIS AGREEMENT is made and entered into as of November 13, 2019, by and between Purissima Hills Water District ("District"), and Phillip Witt ("Employee").

RECITALS

WHEREAS, The District desires to employ Employee as General Manager of the District;

WHEREAS, Employee desires employment with the District in the position of General Manager pursuant to the terms and conditions of employment set forth in this Employment Agreement;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties do agree as follows:

1. TERM OF EMPLOYMENT

1.1 Term. The District hereby appoints Employee to serve as General Manager, and Employee agrees to serve in this capacity beginning November 14, 2019 and continuing until either the District or Employee terminate the employment relationship.

2. DUTIES OF EMPLOYEE

2.1 Description of Services as General Manager. Employee’s specific responsibilities shall include, but shall not be limited to, the job description attached hereto as Exhibit A.

2.2 Devotion of Time. Employee shall devote such time, effort, ability and attention to the business of the District during the Term as may be required to perform faithfully and fully the duties of General Manager of the District. Employee shall not be employed by any person or any other entity while employed as General Manager of the District.

2.3 Loyalty; Ethical Standards. Employee agrees that, to the best of his ability and experience, he will at all times loyally and conscientiously perform all of the duties and obligations required of him, either expressly or implicitly by the terms of this Agreement, in accordance with the highest ethical standards of public service. Employee shall comply with the California Fair Political Practices Act (including the completion and filing of a Statement of Economic Interests within ten (10) days of assuming office), shall avoid acquiring any prohibited interest in a contract with the District, and shall not accept any position which would be incompatible with his office as General Manager, all as provided by California law.

3. COMPENSATION

3.1 Salary. The District agrees to pay Employee a salary at the annualized rate of $160,000 Dollars for Employee’s faithful and diligent performance of the duties and obligations of General Manager, payable in installments in accordance with the District’s customary payroll
practices. Employee’s performance and salary shall be reviewed at least once annually, at or near the employment anniversary with the District.

3.2 District Vehicle. The Employee shall be provided with a vehicle for Employee’s use as General Manager, which may be used for Employee’s personal use as well but only within the State of California. In addition, all automobile insurance and repairs will be paid by the District. Employee shall be responsible for any other costs associated with the use of the District’s vehicle, including but not limited to gas, parking and tolls, except in cases where such expenses are incurred for a business purpose for travel outside the greater Bay Area and are eligible for cost reimbursement by the District for that purpose. Employee shall comply with all applicable state and federal income tax laws and regulations related to this District-provided vehicle benefit.

3.3 Retirement Benefits. Employee shall be entitled to participate in any retirement plan generally made available to employees of the District that is in effect during the Term of this Agreement, subject to the terms and conditions of any such plan.

4. EMPLOYEE BENEFITS

4.1 Health and Welfare Benefits. In addition to Employee’s salary, Employee shall be eligible to participate in the employee benefits generally made available to full-time employees of the District. Employee’s participation in the employee benefits is subject to the terms and conditions of any such benefit plan and any applicable District policies. The District may modify its employee benefit plans and policies, including the scope of and/or provider of benefits, in its sole discretion.

4.2 Paid Time Off.

4.2.1 Vacation. Employee shall accrue no more than six weeks (30 days) of vacation per year. Employee shall be entitled to accrue and use paid vacation in accordance with the policy applicable to full-time employees of the District.

4.2.2 Sick Leave. Employee shall be entitled to accrue ten paid sick days per year, in accordance with the prevailing District policy and applicable law. Such policies may be modified from time to time in the District’s sole discretion.

4.2.3 Holidays. Employee shall be entitled to paid holidays in accordance with the District’s established holiday schedule for all of its employees.

4.3 Other Benefits. Except as otherwise modified by this Agreement, Employee shall be entitled to all other benefits, if any, accorded to other full-time employees of the District.

5. TERMINATION AND SEVERANCE PAY

5.1 Termination upon Notice by Either Party. Employee shall serve at the pleasure of the District. Except as limited by the other paragraphs of this Section, nothing in this Agreement shall prevent or otherwise interfere with the right of the District or Employee to sever the employment relationship evidenced by this Agreement at any time or for any reason.
Employee shall be entitled to receive at termination all compensation and benefits earned through the date of termination plus all benefits accrued and payable under the District’s policies. No other compensation, payment or benefits of any kind will be provided by the District upon termination of Employee’s employment with the District except as otherwise provided in subsection 5.2.

5.1.1 *Termination for Cause.* The District may terminate this Agreement immediately for Cause. “For Cause” is defined as the following:

a. Employee’s willful breach of the material duties, obligations or policies of the District;

b. Employee’s material neglect of duties or obligations required of the General Manager;

c. Employee’s material violation of written rules and policies of the District;

d. Employee’s commission of any criminal act (without regard to criminal prosecution) that the District determines affects its business interests or that amounts to a felony while employed as General Manager;

e. Employee’s commission of any dishonest act in a public or private capacity such as theft, fraud, misappropriation or embezzlement of funds;

f. Employee’s engagement in acts of disruption or violence or any other activity which would constitute grounds for immediate dismissal of any employee by the District under existing policies or as may be subsequently enacted;

g. Conduct in conflict of interest with the District.

5.2 *Severance Pay Upon Termination Other Than for Cause.* Upon termination of Employee’s employment by the District for any reason other than for permanent disability (where Employee is unable to perform the essential functions of the position with or without reasonable accommodation), for death or for Cause as defined in subsection 5.1.1, the District shall pay to Employee severance pay of six (6) months of Employee’s then current salary, less required payroll deductions. The District shall also cover COBRA payments for 6 months. Employee’s receipt of the severance pay is conditioned on signing a release of all claims effective as of the termination date, in substantially the same form as attached hereto as Exhibit B. Employee understands and agrees that a release of all claims must be signed to receive any severance pay.
6. **DISPUTE RESOLUTION**

6.1 **Agreement To Mediate In Good Faith.** The parties agree that their interests are best served by mutually resolving any disputes about the terms of this Agreement. They further agree that early resolution of any disputes that may arise between them as a result of the employment relationship is in the best interests of both parties. To that end, the parties agree that any and all disputes arising under this Agreement shall be submitted to mediation prior to the submission of a claim, lawsuit or cause of action to any third party.

6.2 **Time Limits For Initiating Mediation.** The mediation shall be initiated by service of written notice of intent to mediate on all other parties within thirty (30) days of the date on which the dispute arises. Thereafter, the parties shall agree to the selection of a mediator to hear the dispute and shall proceed in good faith to schedule a mediation. Cost of the mediation shall be paid by the District. The parties further agree to participate in good faith in the mediation to attempt resolution of the dispute. The Employee and the District understand that they will forfeit all rights to file any claim, lawsuit or cause of action against the other if they fail to initiate mediation.

6.3 **Agreement To Arbitrate.** To the extent necessary after the mediation process, the parties agree to arbitrate all disputes and claims between them relating to the Employee’s employment. This means that arbitration shall be the sole and exclusive method of resolving any and all existing and future disputes or claims arising out of Employee’s employment with the District or the termination thereof.

6.3.1 As part of this agreement to arbitrate, each party waives the right to a trial by jury or to participate in a class action for damages for all claims, including but not limited to those based in contract, common law, tort, statute, administrative action, equity or any other legal theory. It includes, but is not limited to, claims under the California Labor Code, the California Fair Employment and Housing Act, the California Family Rights Act, the California Business & Professions Code and any similar or complementary federal statutes. Unless such waiver is inconsistent with state law, the parties also agree to waive any right to bring a representative action.

6.3.2 An arbitration is an alternative dispute resolution process that avoids the costs of court for both the Employee and the District. Together the parties will choose a mutually acceptable arbitrator, who is not necessarily a judge, who listens to the evidence and makes a decision based on the law and application of the law to this Agreement and any facts either side believes are relevant.

6.3.3 Any demand for arbitration by either party shall be filed within the statute of limitation that is applicable to the claim(s) upon which arbitration is sought or required. Any failure to demand arbitration within this period shall constitute a waiver of all rights to raise any claims in any forum arising out of any dispute that was subject to arbitration.

6.3.4 The arbitration will be governed by the Employment Arbitration Rules of the American Arbitration Association ("AAA"). The arbitration will be administered by the AAA. The AAA Rules are available online at [www.adr.org](http://www.adr.org), or by calling the AAA at 1-800-778-
7879. The AAA can provide information about the arbitration process that is designed for non-layers.

6.3.5 To initiate an arbitration, either the District or the Employee must file a Notice of Arbitration, which is available on the AAA website. Whichever party initiates the arbitration will need to pay the initial filing fee. Under this arbitration agreement, the Employee will not have to pay any more for the arbitration than he would pay in court to press his claim.

6.3.6 The arbitrator will be chosen under the process set forth in AAA Rules. The arbitrator is bound by the terms of this Agreement. All issues are for the arbitrator to decide, except that issues relating to the scope and enforceability of the arbitration provision are for a court to decide.

6.3.7 Unless the Employee and the District agree otherwise, any arbitration hearings will take place in the county of the Employee’s home address. If the claim is for $10,000 or less, the parties agree that the party initiating arbitration may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing as established by the AAA Rules. If the claim exceeds $10,000, the right to a hearing will be determined by the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator shall issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based.

6.3.8 If the arbitrator finds in the Employee’s favor in any respect on the merits of the Employee’s claim, the arbitrator will determine the amount of damages or other remedies, if any, that the Employee is entitled to receive. Damages and remedies shall be determined consistent with the applicable law and any additional provisions contained in this Agreement.

6.3.9 Although under some laws the District may have a right to an award of attorneys’ fees and expenses if it prevails in an arbitration, the District agrees that it will not seek such an award.

6.3.10 Unless both the Employee and the District agree otherwise, the arbitrator may not consolidate more than one person’s claims, and may not otherwise preside over any form of a representative or class proceeding. If this specific provision is found to be unenforceable, then the entirety of this Arbitration Agreement shall be null and void.

6.3.11 The arbitrator’s decision shall be conclusive and binding, and it may thereafter be confirmed as a judgment by the court of applicable jurisdiction, subject only to challenge on the grounds under applicable California law.

7. GENERAL PROVISIONS

7.1 Entire Agreement. This Agreement contains all of the covenants and agreements between the parties with respect to the employment by the District of Employee as General Manager of The District in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made which are not embodied herein and that no other agreement, statement or promise not contained
in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if in writing signed by both parties.

7.2 **Provisions Severable.** If any provision of this Agreement is held to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

7.3 **Construction.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

7.4 **Waiver of Breach.** The waiver by one party to this Agreement of a breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of a subsequent breach by the other party.

7.5 **Assignment.** This Agreement shall inure to the benefit of the successors and assigns of The District. Except as expressly provided in this Agreement, Employee may neither sell, transfer, assign, nor pledge any of their rights or interests, pursuant to this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first indicated above.

Employee

[Signature]

Phillip Witt

Purissima Hills Water District

[Signature]

Peter Evans, Board President
Exhibit A

Job Description

Duties & Responsibilities Administration:

- The General Manager shall manage all activities of the District, and serve at the discretion of the Board of Directors. The General Manager shall assure the Board of Directors that all authority, relationships & responsibilities of the position are understood & accepted.

Controls:

- Review reports of receipts, disbursements, & cash balances needed to keep Board constantly informed regarding financial position of the District.

- Perform analysis of monthly & annual financial & operating reports with interpretations, compare actual income to date with the budget & initiate corrective action when necessary.

- Review & analyze customer complaints & initiate action necessary in rendering satisfactory & efficient service.

- Periodically audit performance to assure compliance with District policies.

- Review progress reports & determine necessary action to meet budget & time schedule.

- Review auditors financial report with Board & report any remedial action.

- Attend and represent the District at meetings and conferences conducted by the Association of California Water Agencies (ACWA), ACWA JPIA, Bay Area Water Supply & Conservation Agency, Santa Clara Valley Water District, Los Altos Hills County Fire District, Town of Los Altos Hills, as well as any other industry groups, private entity, or agency pertaining to the business of the District.

- Periodically analyze operating practices to assure compliance with local, state & federal laws & regulations – with assistance of attorney.

- Review personnel reports & accident reports. Observe results of training & safety programs to determine changes & improvements needed.

Organization:

- Periodically review all activities of the District such that Board of Directors can determine whether the management services carry out the basic administrative &
control functions. Do so with a general plan approved by the Board and see that all responsibilities for District operations are met.

- Initiate & promote appropriate training & safety programs for all personnel.

**Planning:**

- Initiate & foster the development of operating efficiencies, and customer service programs. Review & determine the utilization of existing facilities, equipment & physical arrangements.

- Direct the planning of long-range programs for capital expenditures & operations cost estimates. Recommend to Board long-range plans, review current plans for revision & approval by the Board.

- Direct planning, development & preparation of the annual operating & capital budget for approval by Board.

- Participate with Board in the determination of objectives & policies on finance, organization, public relations, construction, maintenance, procurement, credit & collections, investments & personnel. Interpret policy to personnel & see that interpretations are extended through appropriate channels.

- Review insurance coverages of the District for conformity with Board policy.

**Accountable to: Board of Directors**

- Internal relationships: Board of Directors, Staff

- External relationships: Inter-industrial Authorities, Attorney, Consulting Engineer, Auditors, Financial Institutions, Suppliers, Contractors, Insurance Companies, Public and Community, other State/Federal Agencies.

Job Type: Full-time
Exhibit B

Release of Claims

Employee, on behalf of himself, his heirs, executors, successors and assigns, hereby generally and completely releases the District, and each of its predecessors, successors, assigns, directors, officers, employees, agents, representatives, employees, attorneys, and insurers ("Released Parties") from any and all causes of action, claims (including attorneys' fees and costs), judgments, indebtedness, damages, losses, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions occurring prior to your signing this Agreement. This general release includes, but is not limited to: (1) all claims arising out of or in any way related to your employment with the District or the termination of that employment; (2) all claims related to your benefits or any alleged unpaid wages or penalties related thereto; (3) all claims for breach of contract, wrongful termination and breach of the implied covenant of good faith and fair dealing; (4) all tort claims, including claims for fraud, defamation, emotional distress, and discharge in violation of public policy; and (5) all federal, state, and local statutory claims, including claims for discrimination, harassment, retaliation, attorneys’ fees, or other claims arising under the federal Civil Rights Act of 1964 and 1991 (as amended); the California Fair Employment and Housing Act ("FEHA"), as amended; the federal Age Discrimination in Employment Act of 1967 (as amended) ("ADEA"); the Family and Medical Leave Act ("FMLA"); the California Family Rights Act ("CFRA"); the federal Americans with Disabilities Act of 1990 ("ADA"); the Equal Pay Act, of 1963, as amended; California Business and Professions Code 17200; any and all protections pursuant to California’s Labor Code; privacy rights; whistleblower protections; and constitutional protections. This Agreement specifically excludes any claims that cannot lawfully be released by private agreement, such as claims subject to California Labor Code Section 2800, et. seq., any workers’ compensation claim, and any claims for unemployment insurance.