



CITY COMMISSION OF THE CITY OF PAHOKEE

WORKSHOP

Tuesday, April 9, 2019 6:00 p.m.

360 East Main Street, Pahokee, Florida

This Workshop of the City Commission of the City of Pahokee is being held to discuss the April 9, 2019 Agenda.

A. INVOCATION & PLEDGE OF ALLEGIANCE

B. ROLL CALL

C. TOPIC

D. DISCUSSION, COMMENTS, CONCERNS

E. ADJOURN



AGENDA
CITY COMMISSION OF THE CITY OF PAHOKEE
REGULAR COMMISSION MEETING
TUESDAY, APRIL 9, 2019 6:30 P.M.

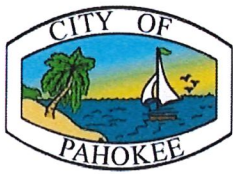
- A. INVOCATION & PLEDGE OF ALLEGIANCE
- B. ROLL CALL:
- C. ADDITIONS, DELETIONS, AND APPROVAL OF AGENDA ITEMS:
- D. CITIZEN COMMENTS (AGENDA ITEMS ONLY):
- E. PUBLIC SERVICE ANNOUNCEMENTS (FILL OUT PUBLIC COMMENT CARD):
- F. APPROVAL OF MINUTES:
 - 1. **January 22, 2019 – Regularly Scheduled Commission Meeting Minutes**
- G. CONSENT AGENDA:
- H. ORDINANCE:
- I. RESOLUTIONS:
 - 1. **Resolution 2019 – 17 A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA, AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF PAHOKEE AND PROPERTY REGISTRATION CHAMPIONS, LLC, DBA PROCHAMPS.**
- J. PUBLIC HEARINGS:
- K. PROCLAMATIONS (approval):
- L. PRESENTATIONS:
 - 1. **Mayor’s Gold Nail & Hammer Award– Jose A Castro**
- M. REPORT OF THE MAYOR:
- N. REPORT OF THE CITY MANAGER:
- O. REPORT OF THE CITY ATTORNEY:
 - 1. **200 S Barfield Hwy – Notice of Cancellation**
- P. OLD BUSINESS:
 - 1. **Marina Lease Update**
 - 2. **Audit Selection Committee**
- Q. NEW BUSINESS:
- R. CITIZEN COMMENTS/GENERAL CONCERNS:
- S. CORRESPONDENCE/COMMENTS AND CONCERNS OF THE CITY COMMISSIONERS:
- T. ADJOURN:

NOTICE

If a person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting or hearing, he or she will need a record of the proceedings, and he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

SUBJECT TO CHANGE





**CITY COMMISSION OF THE CITY OF PAHOKEE
REGULARLY SCHEDULED COMMISSION MEETING MINUTES
Tuesday, January 22, 2019**

Pursuant to due notice, the Regularly Scheduled Commission Meeting was held in the Commission Chambers at 360 East Main Street, Pahokee, Palm Beach County, Florida on January 22, 2019.

The meeting was called to order by Mayor Babb at 6:41p.m.

Official attendance was recorded as follows:

<u>Roll Call:</u>	Mayor Keith W. Babb, Jr.	Present
	Commissioner Benny L. Everett, III	Present
	Commissioner Felisia C. Hill	Present
	Vice Mayor Clara M. Murvin	Present
	Commissioner Diane L. Walker	Present
	Chandler Williamson, City Manager	Present
	Gary Brandenburg, City Attorney	Present
	Lieutenant Picciolo, Sergeant At Arms	Present
	Nylene Clarke, Interim City Clerk	Present

Additions, Deletions, and Approval of Agenda Items:

Mr. Williamson added the **Ratification of Proclamation – Proclaiming January 20 2019 as Belle Glade-Pahokee Alumni Chapter of Kappa Alpha Psi Fraternity, Inc. Day**, and three (3) Businesses of the Month to the agenda.

Mayor Babb added a proclamation for Pastor James White’s 20th Pastoral Anniversary to the agenda.

Approval of Agenda with additions

Motion by Vice Mayor Murvin. Seconded by Commissioner Everett.

Motion carried unanimously.

Citizen Comments (Agenda Items Only):*(none)*

Public Service Announcements:*(none)*

Approval of Minutes:

1. **October 23, 2018 – Regularly Scheduled Commission Meeting Minutes**
2. **October 26, 2018 – Commission Retreat Minutes**
3. **October 29, 2018 – Workshop/Town Hall Minutes**
4. **November 13, 2018 – Workshop Minutes**
5. **November 13, 2018 – Regularly Scheduled Commission Meeting Minutes**
6. **November 27, 2018 – Workshop Minutes**
7. **November 27, 2018 – Regularly Scheduled Commission Meeting Minutes**
8. **December 11, 2018 – Workshop Minutes**
9. **December 11, 2018 – Regularly Scheduled Commission Meeting Minutes**

Approval of Minutes

Motion by Commissioner Everett. Seconded by Vice Mayor Murvin.

Motion carried unanimously.

Consent Agenda:*(none)*

Ordinance:*(none)*

Resolutions:

1. **RESOLUTION 2019 – 05A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA, APPROVING BUDGET AMENDMENT No. 2 IN THE AMOUNT OF \$635,000.00, TO THE 2018 - 2019 FISCAL YEAR BUDGET.**

Mr. Brandenburg read Resolution 2019 - 05 into the record and explained the purpose of the resolution.

Commissioner Walker inquired about the reason for the resolution.

Mr. Williamson provided an explanation in light of the budget amendment.

Approval of Resolution 2019 - 05

Motion by Commissioner Everett. Seconded by Vice Mayor Murvin.

Motion carried unanimously.

Public Hearing:*(none)*

Proclamations (approval):

1. **Ratification of Proclamation – Deacon Japeth Brown**

Mr. Brandenburg read the proclamation into the record.

Approval of Ratification of Proclamation – Deacon Japeth Brown

Motion by Commissioner Everett. Seconded by Vice Mayor Murvin.

Motion carried unanimously.

2. **Ratification of Proclamation – Proclaiming January 20 2019 as Belle Glade-Pahokee Alumni Chapter of Kappa Alpha Psi Fraternity, Inc. Day**

Mr. Brandenburg read the proclamation into the record.

Approval of Ratification of Proclamation – Proclaiming January 20 2019 as Belle Glade-Pahokee Alumni Chapter of Kappa Alpha Psi Fraternity, Inc. Day

Motion by Vice Mayor Murvin. Seconded by Commissioner Hill.

Motion carried unanimously.

3. Mayor Babb requested that a proclamation be prepared for Pastor James White's 20th Pastoral Anniversary.

Approval of Proclamation for Pastor James White's 20th Pastoral Anniversary

Motion by Vice Mayor Murvin. Seconded by Commissioner Hill.

Motion carried unanimously.

Presentations:

1. **Business of the Month – Irvin's Tire Shop** (A representative was not present)
2. **Business of the Month – Carmen's Cafe**
3. **Business of the Month – San Rafael Mexican Store**

Commissioner Walker provided a brief overview of the three (3) businesses she selected.

The City Commission presented the certificates to the respective recipients.

Report of the Mayor:

Mayor Babb discussed the following:

- A potential 24 hour Manufacturing Plant coming to the City
- Martin Luther King Jr Parade and Extravaganza
- Social media comments and the impact they are having on the City
- Participation in various recent events

Report of the City Manager:

Mr. Williamson discussed the following:

- Martin Luther King Jr. Parade and Extravaganza, and sponsorship

Report of the City Attorney:

Mr. Brandenburg provided updates on the following:

- Technomarine lawsuit
- Pahokee vs. Perez case
- Marina Lease

1. Potential Foreclosure – 484 E Jordan Blvd

Mr. Brandenburg provided an overview of the item and advised he received the Title Report. He provided information from the title report and advised it is not profitable or in the City's best interest to try to foreclose on the property. Mr. Brandenburg recommended that the item be postponed until further comments from him.

2. Memo – Audit Committee

Mr. Brandenburg provided an overview of the item and mentioned the City Commission's request to advertise more widely for members of the committee, prior to proceeding. He stated that a motion to authorize the City Manager to advertise the position and bring back the applicants possibly for the next meeting would be appropriate.

The City Commission and City Manager discussed ways of advertising.

Approval to Advertise for the Audit Committee and be prepared for decision making at the February 12, 2019 Commission Meeting

Motion by Commissioner Everett. Seconded by Commissioner Hill.

Motion carried unanimously.

Old Business: *(none)*

1. Marina Lease Update

New Business: *(none)*

Citizens Comments:

1. Joan Culberson commented in regards to Dollar General being sold, and the truck parking issue.

Mr. Williamson advised he has not heard anything of the nature and no one has contacted the City regarding Dollar General. He advised he would look into the matter.

- Discussion ensued.

Correspondence/Comments and Concerns of the City Commissioners

Commissioner Everett requested clarity for when the ordinance for truck parking will be brought back.

Mr. Brandenburg provided clarity.

Approval to bring back Ordinance 2018- 04, advertise, and be prepared for a public meeting during the Workshop on February 26, 2019 at 5:30 p.m.

Motion by Commissioner Everett. Seconded by Commissioner Hill.

Motion carried unanimously.

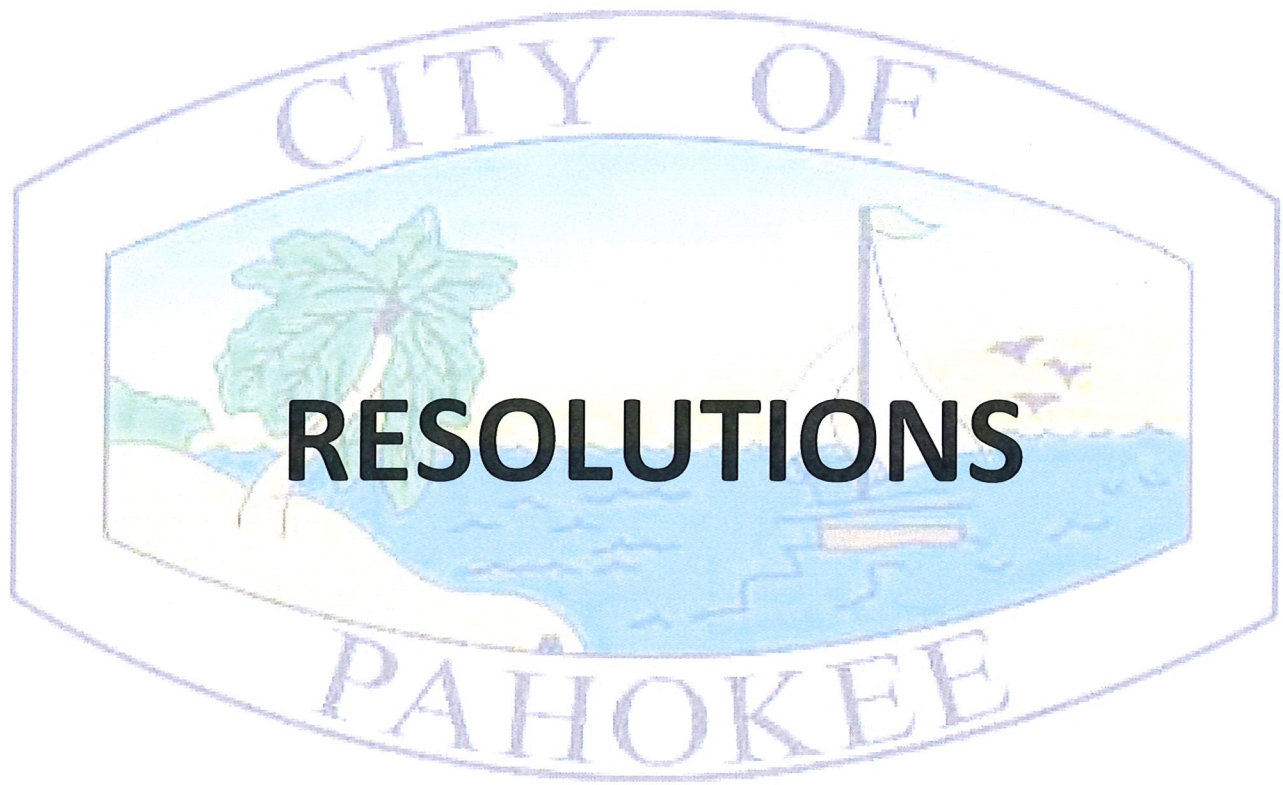
Commissioner Walker advised she requested the duties of the City Manager and City Clerk at the last Commission Meeting.

Mr. Williamson advised he will print it out and provide it to the City Commission.

There being no further business to discuss, Mayor Babb adjourned the meeting at 7:46 p.m.

Keith W. Babb, Jr., Mayor

ATTEST: Nylene Clarke, Interim City Clerk



RESOLUTION 2019 - 17

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA, AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF PAHOKEE AND PROPERTY REGISTRATION CHAMPIONS, LLC, DBA PROCHAMPS.

WHEREAS, the City created Ordinance 2010 – 07 because of the overwhelming number of mortgage foreclosures on residential and commercial properties; and

WHEREAS, the City of Pahokee desires to enter into the Agreement with Property Registration Champions in order to define the expectations of each party pursuant to the Ordinance, identify the services to be provided by Property Registration Champions, and outline the process to be allowed.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF PAHOKEE, THAT:

Section 1. The Agreement is hereby approved.

Section 2. The Mayor is hereby authorized and directed to execute the attached Agreement with Property Registration Champions, LLC.

PASSED AND ADOPTED this 9th day of April, 2019.

ATTESTED:

Keith W. Babb, Jr., Mayor

Nylene Clarke, City Clerk

APPROVED AS TO LEGAL SUFFICIENCY:

Gary M. Brandenburg, City Attorney

Mayor Babb

Vice Mayor Murvin

Commissioner Bohlen

Commissioner Everett

Commissioner Hill

**AGREEMENT BETWEEN
CITY OF PAHOKEE
AND
PROPERTY REGISTRATION CHAMPIONS, LLC**

This Agreement is made as of this ___ day of _____, 2019 (“Effective Date”) by and between Property Registration Champions, LLC, dba PROCHAMPS, a Florida Limited Liability Company, with offices at 2725 Center Place, Melbourne, FL 32940 (“PRC”), and _____, a _____ municipal corporation, with an address at _____ (“COMMUNITY”).

WITNESSETH:

WHEREAS, because of an overwhelming number of mortgage foreclosures on residential and commercial properties that are in violation of Property Registration Ordinance _____, (the “Ordinance”) the care of neglected lawns and exterior maintenance of structures is becoming a health and welfare issue in the COMMUNITY; and

WHEREAS, in order to promptly and efficiently address the issues related to the maintenance of foreclosed residential and commercial properties; the COMMUNITY adopted the Ordinance; and

WHEREAS, pursuant to the Ordinance the COMMUNITY desires to enter into this Agreement with PRC in order to provide services authorized pursuant to the Ordinance, to register vacant, abandoned, and foreclosed properties (the “Properties”), so that the COMMUNITY can properly address violations of the COMMUNITY’s property maintenance codes; and

WHEREAS, PRC will also provide an electronic registration process that is cost-free and revenue neutral for the COMMUNITY; and

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for other valuable consideration received, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows.

1. PRC RESPONSIBILITIES.

- a. PRC will cite the COMMUNITY’s Ordinance to mortgagees and proactively contact those who file a public notice of default, lis pendens, or any foreclosure action, or take title to real property via foreclosure or other legal means. PRC will electronically provide for registration of Properties in violation of Ordinance.
- b. PRC will pay for all expenses, administrative costs and fees related to registration of Properties, except as provided in 1(c). PRC will monitor publicly recorded foreclosure filings for properties located within the jurisdictional area of the COMMUNITY. PRC will review and confirm the obligation to register properties pursuant to the Ordinance. PRC will monitor any changes to the obligation to register.
- c. PRC will charge a fee (“Fee”) as directed by the COMMUNITY to each registering party (“Registrant”) to register all mortgagees who comply with the Ordinance. PRC shall retain one hundred dollars (\$100) of each collected Fee and remit the balance to the COMMUNITY. PRC shall forward payment of the COMMUNITY’s portion of

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the Fee to the COMMUNITY's finance department no later than the fifteenth (15th) day of the following month. Should there be a fee required for public/official record data acquisition integral to the performance of the scope of work required under the terms and provisions of this contract, those charges shall be deducted from the remittance for the actual costs of said charges or subscriptions.

- d. In the event the COMMUNITY's Ordinance requires payment of late fees as part of the registration requirements, PRC shall collect all applicable late fees, retaining twenty percent (20%) of the fee, and remit the balance to the COMMUNITY pursuant to the monthly remittance schedule. All fees related shall be taken out of the COMMUNITY's remittance provided in 1(c).
- e. PRC agrees to provide a website for the registration of the Properties in order to enable compliance with the COMMUNITY's ordinances. The website will direct Registrants to a hyperlink, www.PROCHAMPS.com. The website found at www.PROCHAMPS.com will automatically allow lenders and/or responsible parties to comply with the COMMUNITY's property registration codes.
- f. PRC responsibilities will commence on the Effective Date of this agreement.

2. INDEMNIFICATION.

- a. **INDEMNIFICATION BY PRC.** PRC shall defend, indemnify, and hold harmless the COMMUNITY and its officers, employees, and agents, from and against all losses, expenses (including attorneys' fees), damages, and liabilities of any kind resulting from or arising out of a breach of this Agreement by PRC and/or PRC's performance hereunder.
- b. **INDEMNIFICATION BY COMMUNITY.** COMMUNITY shall defend, indemnify, and hold harmless PRC and its officers, employees, and agents, from and against all losses, expenses (including attorneys' fees), damages, and liabilities of any kind resulting from or arising out of a failure by COMMUNITY to timely respond to a public records request.

3. TERM and TERMINATION. This Agreement shall terminate two (2) years from the Effective Date. This Agreement will automatically renew at the end of each term for a further term of one (1) year unless either party gives the other written notice of termination at least thirty (30) days prior to the end of the relevant term.

- a. **TERMINATION FOR DEFAULT.** In the event that either party (the "Defaulting Party") shall breach or fail to comply with any provision of this Agreement and such breach or failure shall continue for a period of thirty (30) days after the giving of written notice to the Defaulting Party, such other party may terminate this Agreement immediately providing written notice of such termination to the Defaulting Party.

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- b. **TERMINATION FOR INSOLVENCY.** This Agreement may be terminated by the COMMUNITY in the event of the insolvency of PRC or the commencement by or against the PRC of any case or proceeding under any bankruptcy, reorganization, insolvency or moratorium law or any other law or laws for the relief of debtors or the appointment of any receiver, trustee or assignee to take possession of the properties of the PRC, unless such petition or appointment is set aside or withdrawn or ceases to be in effect within thirty (30) days from the date of said commencement or appointment or the liquidation or dissolution of the PRC.
4. **CONTRACT DOCUMENTS.** The following list of documents which are attached hereto as exhibits to this Agreement shall be incorporated into this Agreement, as if fully set forth herein by reference:
- a. COMMUNITY Ordinance No. _____,
entitled “ _____ ”,
dated: _____.
5. **INSURANCE.** PRC shall maintain Errors and Omissions Insurance limits of liability provided by such policy shall be no less than one million dollars (\$1,000,000.00) to ensure COMMUNITY the indemnification specified herein.
6. **OWNERSHIP AND USE OF DOCUMENTS.** All information collected by PRC from registering parties in connection with the registration of a property pursuant to this Agreement shall be the property of the COMMUNITY, and shall be provided to COMMUNITY upon request. PRC shall be permitted to retain copies, including reproducible copies, of drawings and specifications for information, reference and use in connection with PRC’s endeavors.
7. **AUDIT, INSPECTION RIGHTS, AND RETENTION OF RECORDS.** PRC shall maintain records pertaining to this agreement for a period of three years (3) from final payment. Such records shall be subject to audit by the COMMUNITY on reasonable advanced, written notice. The audit shall be conducted at the premises of the COMMUNITY on business days only and during normal working hours. PRC shall comply with all Florida Public Records Act (Chapter 119, Florida Statutes) requirements.
8. **INDEPENDENT CONTRACTOR.** This Agreement creates no relationship of joint venture, partnership, limited partnership, agency, or employer-employee between the parties, and the parties acknowledge that no other facts or relations exist that would create any such relationship between them. Neither party has any right or authority to assume or create any obligation or responsibility on behalf of the other party except as provided by written instrument signed by both parties.
9. **NOTICES.** Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by registered United States mail, with return receipt requested, hand

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delivery or facsimile transmission with receipt of delivery, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. Notice shall be deemed to have been given upon receipt. For the present, PRC and the COMMUNITY designate the following as the respective places for giving of notice:

COMMUNITY: _____

Attention: _____

PRC: David Mulberry, President/CTO
2725 Center Place
Melbourne, FL 32940
Telephone No. (321) 421-6639
Facsimile No. (321) 396-7776

10. AMENDMENTS.

- a. **AMENDMENTS TO AGREEMENT.** It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.
- b. **AMENDMENT OF FEES.** In the event there are amendments to the Fees, PRC will apply the fee that was in place for the registration period in question.

11. **COMMUNITY DATA.** COMMUNITY acknowledges prior to this Agreement registering Properties governed by the original ordinance. On a date, agreed upon by PRC, prior to the Effective Date of this Agreement, the COMMUNITY will provide PRC a digital file, in format agreeable to PRC, containing all of the information of all Properties registered by the COMMUNITY. All registrations and fees received by the COMMUNITY during the period from the data delivery date to the Effective Date will be submitted to PRC and considered registrations by PRC under the terms of this Agreement. If the COMMUNITY is unable to provide the agreed upon digital file then the COMMUNITY will provide PRC all property registration information, including but not limited to registration forms, to PRC for manual entry into the PRC database. If manual entry of this information is required of PRC the COMMUNITY agrees to compensate PRC five dollars (\$5.00) per property.

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12. **ORDINANCE VIOLATION DATA.** COMMUNITY shall provide PRC with all Ordinance violation data.
13. **PUBLICITY.** PRC may include COMMUNITY's name and general case study information within PRC's marketing materials and website.
14. **COMMUNITY LOGO.** COMMUNITY shall provide the COMMUNITY's logo to PRC for the purposes as set forth in 1(a).
15. **FORCE MAJEURE.** Neither party to this Agreement shall be responsible for any delays or failure to perform any provision of this Agreement (other than payment obligations) due to acts of God, strikes or other disturbances, war, insurrection, embargoes, governmental restrictions, acts of governments or governmental authorities, or other causes beyond the control of such party.
16. **LIMITATION OF LIABILITY.** NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF PROFITS, REVENUE, DATA, OR DATA USE.
17. **BINDING AUTHORITY.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.
18. **LAWS AND ORDINANCES.** PRC shall observe all laws and ordinances of the COMMUNITY, county, state, federal or other public agencies directly relating to the operations being conducted pursuant to this Agreement.
19. **EQUAL EMPLOYMENT OPPORTUNITY.** In the performance of this Agreement, PRC shall not discriminate against any firm, employee or applicant for employment or any other firm or individual in providing services because of sex, age, race, color, religion, ancestry or national origin.
20. **WAIVER.** Any failure by COMMUNITY to require strict compliance with any provision of this Agreement shall not be construed as a waiver of such provision, and COMMUNITY may subsequently require strict compliance at any time, notwithstanding any prior failure to do so.
21. **SEVERABILITY.** If any provision of this Agreement or application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

**AGREEMENT BETWEEN
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22. **GOVERNING LAW.** This Agreement shall be governed by the laws of the State of Florida with venue lying in Brevard County, Florida.
23. **ATTORNEY'S FEES AND COSTS.** In the event of a dispute arising out of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees, paralegal expenses, and costs, including fees and costs incurred at all pretrial, trial and appellate levels.
24. **CONTINGENCY.** This Agreement is contingent upon the Ordinance being passed by the COMMUNITY within forty-five (45) days of the Agreement date. If the Ordinance is not passed by that date or PRC does not consent to the Ordinance provisions then PRC can declare this Agreement null and void without any further demands by the COMMUNITY.
25. **ENTIRE AGREEMENT.** This Agreement represents the entire and integrated agreement between the COMMUNITY and the PRC and supersedes all prior negotiations, representations or agreements, either written or oral.

[Remainder of this page intentionally left blank.]

**AGREEMENT BETWEEN
CITY OF PAHOKEE
AND
PROPERTY REGISTRATION CHAMPIONS, LLC**

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals the day and year first above written.

CITY OF PAHOKEE, FLORIDA

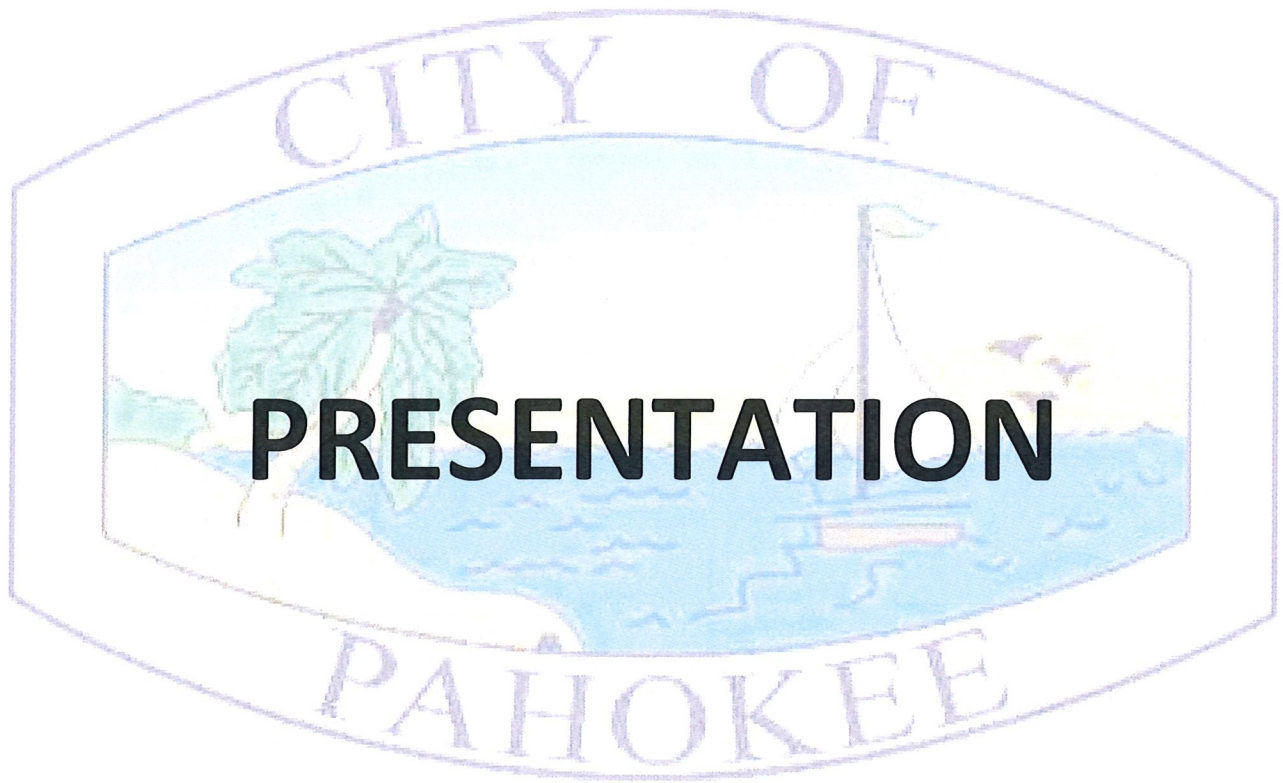
_____ Date: _____

Name, Title

PROPERTY REGISTRATION CHAMPIONS, LLC


_____ Date: 4/4/19
David Mulberry, President/CTO

Property Registration Champions, LLC
2725 Center Place
Melbourne, FL 32940



Mayor's Gold Nail & Hammer Award



PRESENTED TO:

JOSE A CASTRO

819 BACOM POINT RD, PAHOKEE, FL 33476

In recognition of Home Renovations & Beautification

Presented this 9th day of April 2019

Keith W. Babb, Jr.

Mayor Keith W. Babb, Jr.

Regina Bohlen

Commissioner Regina Bohlen

Felicia C. Hill

Commissioner Felisia C. Hill



Clara Murvin

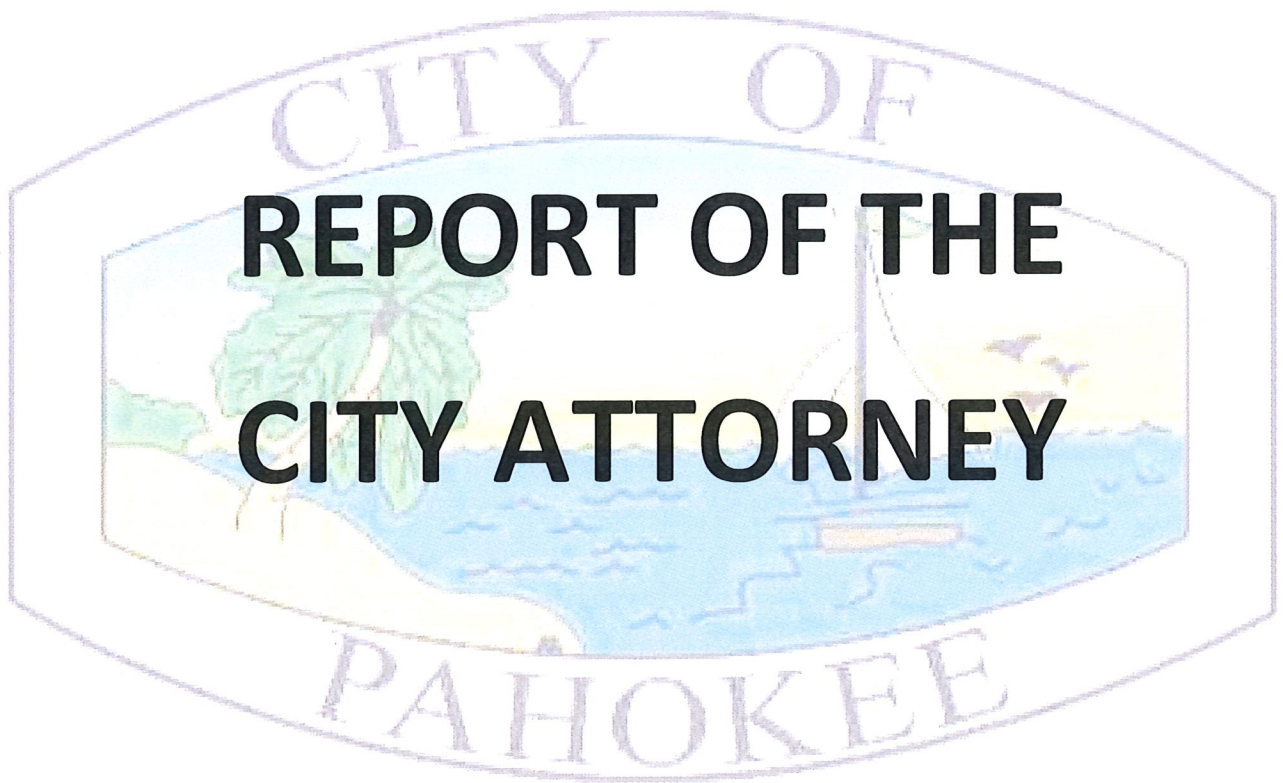
Vice Mayor Clara Murvin

Benny L. Everett, III

Commissioner Benny L. Everett, III

Chandler F. Williamson

Chandler F. Williamson, City Manager



**REPORT OF THE
CITY ATTORNEY**



SUNDARSINGH LAW
P L

4440 PGA Blvd., Suite 502
Palm Beach Gardens, Florida 33410
Phone: (561) 4752295 | Fax: (561) 584-7634
www.creativelaw.net

Leanna L. Lalla, Esq.

Leanna@creativelaw.net

March 27, 2019

Sent via Email

Gary Brandenburg, Esq.
Brandenburg & Associates, P.A.
11891 U.S. Highway One, Suite 101
North Palm Beach, FL 33408
Gary@brandenburgpa.com

Re.: 200 Barfield Highway – Purchase and Sale Notice of Cancellation and Request for Return of Deposit

MADE FOR CONFIDENTIAL SETTLEMENT PURPOSES ONLY

Dear Mr. Brandenburg:

I represent the buyer, Santa Rosa ALF, LLC (“Buyer”), in the “As-Is Contract for Sale and Purchase” of the property located at 200 South Barfield Highway, Pahokee, FL. Please consider this the Buyer’s official cancellation of contract before the closing date (i.e. March 28, 2019) and demand for refund of its deposit of \$20,000.

It was a dismay to witness the misrepresentations made by you to the City of Pahokee (“the City”) during the March 26, 2019 council meeting. You made several false allegations against my client as well as misstatements of the law during this time, including:

1. That the closing date is next week;
2. That an “as-is” contract relieves a realtor or the seller of a duty to disclose material defects and that there were no misrepresentations made to us as the Buyer;
3. That the intent of the Buyer was to “flip” the contract and it never was to develop it into an ALF; and
4. That my client was suggesting an “illusory” offer with a “first right of refusal” which was never stated.

None of the above statements are correct or founded in fact or law. You further advised the council that the Buyers should not be entitled to any additional time to further investigate the property or secure a survey.

DUTY TO DISCLOSE/FRAUDULENT REPRESENTATIONS: It is completely incorrect to state that a seller has no duty to disclose defects of a property. The Florida Supreme Court case of *Johnson v. Davis*, 480 So.2d 625 (Fla. 1985) created such a duty and cases such as *Held v. Trafford Realty Co.*, 414 So.2d 631, (Fla. 5th DCA 1982) and *Besett v. Basnett*, 389 So.2d 995 (Fla. 1980) have made it clear that a buyer can rely on statements of the seller if justified in commercial transactions.

In this instance, the Buyer has been relying in good faith on the representations of the broker, Samuel J. Martiello, Jr. of Unified Property Sales, Inc., who, regardless of what the City's position is at this time, held himself out to be the agent of the City of Pahokee from the beginning of this transaction. The City was aware that Mr. Martiello was marketing the property. The City, as well as yourself, were copied on emails with Mr. Martiello where he made statements about the condition of the property dating back to December of 2018. The City even agreed to pay him a commission of 5% for selling the property. So it is reasonable to assume that there is a listing agreement between the City and him, whether written or verbal. No one ever notified the Buyer that Mr. Martiello was not an agent working on behalf of the City, and that they should not rely on his representations as their own. Instead, Mr. Martiello was used by the City as an agent to negotiate the terms of the contract and provide responses to questions about the condition of the property which he claimed came directly from the City. From the communications we have access to, it appears as though he was in constant communication with the City. Without question, the City was aware of what he was representing to the Buyer. The Buyer had no reason not to believe the representations of Mr. Martiello and had no reason to believe that he was not working as an agent of the City.

Some of the material misrepresentations made included: (1) that there was no asbestos report ever done or on file with the City, (2) that the entire structure was made of concrete block, (3) that there were other Buyers who had looked at the building and who were going to bid because they allegedly saw no problem with the structure, (4) that the entire structure could be salvaged with very little work, (5) various misrepresentations about the opinions of engineers and construction contractors about the viability of the structure, and (5) the amount and location of asbestos on the property (including a prior lawsuit between the City and a prior owner relating to asbestos on the property).

Not only did Mr. Martiello fail to disclose this, but so did the City. The City was aware that the Buyer was interested in the property since December of 2018, and the Buyers requested reports regarding the structure, the layout, asbestos reports, prior disclosures, etc. Yet, the City never offered accurate answers. Emails dating back to December 19, 2018 do not reveal any disclosures by the City or the City's attorney of material defects in the property. It appears that the City was acting in bad faith or in an effort to conceal these facts from the Buyer along with Mr. Martiello. Additionally, the City took down asbestos warning signs from the property prior to listing it for sale.

The sole reason that the Buyer entered into the "as-is" contract is because of their reliance on the representations of the Seller and Mr. Martiello on behalf of the Seller.

THE BUYER: I am not sure what you have based your misrepresentations about the Buyer on. The first contract submitted in 2018 included the investor's portfolio of similar ALFs created on vacant lots in small towns like Pahokee so your statements are misleading. These investors are doctors in the business of creating ALFs, and they have made every effort to do so in Pahokee. They are not in the business of "flipping" contracts as was stated at the meeting last night.

That being said, the Buyer acted in good faith throughout the transaction. When the City had to rescind its first contract because it did not properly market the property, the Buyer patiently waited, did not seek to enforce it, and even increased its offer amount from \$150,000 to \$200,000 in an effort to make the deal work. The Buyer was looking forward to being part of the City of Pahokee by creating a beautiful property that would provide needed care and jobs to its residents. After the contract was signed, the adjacent rehabilitation center called and asked whether the Buyer would continue to allow the center to use parking spaces on the subject property and my client agreed to do so without question or hesitation.

In addition, the Buyer has come out of pocket for thousands of dollars trying to move this project forward. It seems that this expense could have been avoided had the City disclosed everything from the onset when such information was requested.

The Buyer has been met with bad faith business dealings from the City and cannot possibly develop a business in these conditions. From representations made at the council meeting, it is apparent that the best solution for both parties is to walk away from this project. It is not the Buyer's intent to further hinder the property or the City.

As such, the Buyer requests that the contract be cancelled, the parties bear their own attorney's fees and costs, and the deposit of \$20,000.00, be returned to the Buyer within 5 days of the cancellation. The City has no claim to it as damages because, in addition to our position stated above, no other party made any offer on the property during the time frame in question.

I have attached a proposed cancellation agreement for the parties to sign. My hope is that this termination will allow the parties to go their separate ways without any further disagreements. We enjoyed witnessing the City's investitures and wish nothing but success for them as they move forward. Please present this offer to your client as a good faith effort to settle this matter fairly and without any further delay.

All the best,

A handwritten signature in black ink, appearing to read 'Leanna L. Lalla', with a stylized flourish at the end.

Leanna L. Lalla, Esq.

NOTICE OF CANCELLATION

The Parties, City of Pahokee (“Seller”) and Santa Rosa ALF, LLC (“Buyer”), of the As-Is Contract for Sale and Purchase (“Contract”) dated February 26, 2018 on the property located at 200 South Barfield Highway, Pahokee, Florida hereby agree as follows:

1. The Parties hereby terminate the Contract and any obligations of the Parties therein.
2. That the Deposit amount of \$20,000, currently held in escrow by Gary M. Brandenburg, Esq., shall be refunded in full to the Buyer within 5 days of execution of this agreement.
3. That both Parties shall be forever released of any liabilities stemming from the Contract.
4. That each Party shall bear their own attorney’s fees and costs.

BUYER
SANTA ROSA ALF, LLC

By: Mandell Sundarsingh, Manager

Date

SELLER
CITY OF PAHOKEE

By: Keith W. Babb, Jr., Mayor

Date

SELLER
CITY OF PAHOKEE

By: City Clerk

Date