

September 9, 2014

SEVENTEENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on September 9th, 2014, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Tim Payne called the meeting to order at 9:30 A.M.

Tim Payne	Commissioner	Present
Edward H. Norden	Commissioner	Present
Debbie Bell	Commissioner	Present
Katie Barr	Clerk and Recorder	Present
Brenda Jackson	County Attorney	Present

Also present: George Sugars, County Manager; Bill Giordano, Planning and Zoning Director and Jody Blauser, Chief Deputy Clerk.

The Invocation was given by Joe Garkovich, First Christian Church.

Those present recited the Pledge of Allegiance to the Flag of the United States of America.

APPROVAL OF AGENDA

Commissioner Norden moved to approve the Agenda. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

CONSENT AGENDA

1. Approval of Minutes / August 26, 2014
2. Approval of Bills September 9, 2014 / \$478,080.91
3. Adoption of Resolution #25 Series of 2014, CUP 07-001 Holcim, Inc. – Coaldale Gypsum Quarry.
4. Schedule Public Hearings – None
5. Schedule of Special Meeting September 29, 2014 at 9:00 a.m. for Consideration of bid award for Garden Park County Building remodel and Department of Human Services Building Remodel

Commissioner Bell moved to approve the Consent Agenda. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye; Commissioner Payne, aye. The motion carried. Resolution #25 is attached.

ADMINISTRATIVE/INFORMATIONAL

1. Administrative and Elected Officials
 - a. County Clerk's Monthly Report, Katie Barr, County Clerk and Recorder

County Clerk Barr presented her report for August 2014. The total collected was \$924,664.63 of which the County kept \$475,075.92 for disbursement. This is \$93,334.11 less than last August. The difference is due to a large check received from the state in the amount of \$119,901.92 for Tax Class A fees. Without the check from the state last year the amount collected for this August would have been \$26,567.81 more than last August.

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Commissioner Norden moved to accept the County Clerk's Report for August 2014. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

Commissioner Norden commented on the Commissioners Meeting being scheduled for September 23rd. Traffic Engineer Sasan Delshad and PIO Bob Wilson will be at the next meeting.

Commissioner Payne commented that the Fire District Board unanimously voted to dedicate the Governing Board Meeting Room at the new dispatch center on the fourth floor of the Judicial Building in memory of dispatcher Priscilla Samento.

2. Citizens Not Scheduled:

Ken Hill questioned what the status of the 3rd St. culvert was. Commissioner Bell commented that the status has not changed; she has been in contact with Tony Adamic who has spoken to FEMA and they are still not looking at a box culvert in that area but a concrete pan instead to alleviate the flooding. Hill stated that he is opposed to the ditch and would like clean fines to fill the ditch so he can utilize his driveway again. Mr. Hill also mentioned that there is an EMT that lives east of Bear Creek and uses 3rd St. to get to the Fire Department. If there is a flood he can't get through that way and has to go all the way around using K St. to Hwy 115 to 3rd St. and he is concerned that this may cause the loss of lives.

Commissioner Payne noted that the Conservation District is also planning on putting a dam up there and that may also help the problem.

Commissioner Bell said that Tony Adamic did speak with the Fire Chief in Penrose a few days ago and the Chief informed Tony that he no longer has an issue with their plans and told them to move forward.

Mrs. Hill questioned if the County had the funds for the maintenance and up keep for this project.

Commissioner Bell spoke to the fact that there has been ongoing flooding in Penrose and the County has looked at what they could do to fix the problem. Nothing so far has worked, so they have spoken to engineers and FEMA who have both been onsite to look at it. Everyone involved has decided this would be the best solution to the problem.

Mrs. Hill stated that about a year ago they had their third culvert put in by the County. Now when it floods the three culverts fill with debris and it floods 3rd St. and knocks out large pieces of concrete. FEMA told her that they needed to install a box culvert to fix the problem.

Commissioner Bell reminded Mrs. Hill that the report from FEMA that they have both read does not recommend a box culvert, but a pan culvert and she is unaware of any decision change that FEMA may have made.

Mrs. Hill mentioned that she has asked both Tony Adamic and Debbie Bell what the easement is for the center of the road to her property line and no one has gotten in touch with her with that information. She was wondering if they could obtain that information before leaving today.

County Attorney Jackson stated that it is probably sixty feet. Unless their title document or deed states otherwise it should be sixty feet, thirty feet on either side of the center line.

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Harry Kitchen questioned as what the material costs might be for the repairs to County Road 3A near the Royal Gorge. Would the County agree to help fix the road if the City of Canon purchased the materials needed for the repairs.

Commissioner Norden suggested talking to Tony Adamic for the figures.

Mr. Kitchen informed the Board that the County and City of Pueblo have created a board of five people strictly to deal with Marijuana issues. They write the rules, regulations and work with the County and the City. He suggested this might be beneficial to Fremont County. He thanked the County for their help with the Penrose Recreation District. He asked that all assets be put on hold until the new Board is elected.

OLD BUSINESS

None.

NEW BUSINESS

1. Consider Treasurer's request for reimbursement of two Tax Lien Certificates. Representative: Pat McFarland, County Treasurer.

Pat McFarland stated that two problems have arisen. First, there was a piece of property sold that was actually 10 feet of the Union Ditch, which was given back to the ditch company. She now has to notify and reimburse the person who thought they were purchasing it and is listed on the Tax Lien Certificate. The second issue has to do with some lots in Coal Creek. There were six lots sold on that Certificate. However, four of the six lots were sold by the prior owner and were transferred by the Assessor's Office. The new owner has been paying taxes for six lots, when he really only has two left. She will need to reimburse him for the over payment of the other four lots.

Commissioner Norden moved to approve Resolution #27 for reimbursement to Carol Trujillo in the amount of \$224.88, Tax Lien Certificate #6340. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried. Resolution #27 is attached.

Commissioner Norden moved to approve Resolution #28 for reimbursement to David Fougner in the amount of \$1089.82, Tax Lien Certificate #3795. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried. Resolution #28 is attached.

2. Consideration of a Proclamation of Gold Belt Tour Scenic and Historic Byway Day – September 22, 2014. Representative: Charlotte Bumgarner, Executive Director – Gold Belt Tour Scenic & Highway Byway.

Charlotte Bumgarner discussed the Historic Byway. She stated that they have received over 2 million dollars in grants. They have brought money into the area which helped pave Garden Park Road and funded conservation easements preserving the property along the byway. Their 25th anniversary is on September 22, 2014.

Commissioner Payne read the Proclamation into the record.

Commissioner Bell moved to approve the Proclamation and declaring September 22, 2014 as Gold Belt Scenic and Historic Byway Day. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye; Commissioner Payne, aye. The motion carried.

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3. Request: Change of Operator of CUP 01-009 Red Canyon Quarry: Request approval for a change of operator regarding Conditional Use Permit, Department file #CUP 01-009 Red Canyon Quarry, from Red Canyon Quarry Rocky Mountain Materials & Asphalt, Inc. The property is located in a portion of Section 1, Township 17 south, Range 68 West, and a portion of Section 36, Township 16 South, Range 68 West, and west of Colorado Highway 115, near the Fremont County and El Paso County line. The existing permit is for approximately 638 acres. The property is zoned Agricultural Forestry. The existing permit was issued for the operation of gravel, sand and rock quarry, blasting, screening, and crushing. Representative: Rob Mangone – Vice President, Rocky Mountain Materials & Asphalt, Inc.

Rob Mangone discussed a brief history on the Red Canyon Quarry. He explained that it was originally started by Bob and Linda Stack. After Bob and Linda both passed away they continue to operate the quarry under their agreement with Kelly Stack who is the representative of the Estate and the Quarry. The State Mining Permits and the State Lease have been transferred which gives them the right to mine there.

Planning and Zoning Director Giordano noted only the party on the Permit can operate the quarry.

Commissioner Norden moved to approve the Change of Operator request from Red Canyon Quarry to Rocky Mountain Materials and Asphalt, Inc. for CUP 01-009. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

4. Liquor License:
Holt Family Recreation, DBA Shadow Hills Golf Course
1232 County Road 143
Canon City, CO 81212
Hotel & Restaurant with Optional Premise
Representative: Bonnie D. Holt, Owner

Bonnie Holt stated that they had leased the restaurant to another party and it did not work out. They had transferred the license to that party to operate the restaurant and bar. As it did not work out they need the liquor license transferred back to them.

Commissioner Bell asked how they have been operating since taking back the restaurant. Bonnie Holt explained that they are operating under a temporary permit.

Commissioner Norden pointed out that the original license was under the name of Holt Family Recreation and it will now be going back to them.

Bonnie Holt said they now realize how valuable the liquor license is. One positive experience out of this situation was how pleasant and enjoyable it was to work with Jody Blausier during this process and expressed her gratitude.

Chief Deputy Blausier said that it will be the exact same diagram. The entire property is the licensed premise with the exception of the parking lot. She also noted that they have submitted all the required paperwork, posted the property and published in the newspaper. They will continue to operate under the temporary license until the transfer is completed. The State is running two to three months behind but they are compliant with the temporary permit.

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Commissioner Bell moved to approve the Liquor License for Holt Family Recreation DBA Shadow Hills Golf Course a Hotel and Restaurant Liquor License with Optional Premise. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye; Commissioner Payne, aye. The motion carried.

PUBLIC HEARINGS SCHEDULED FOR 10:00 A.M.

None.

Chairman Payne adjourned the meeting at 10:08 A.M.

Clerk and Recorder

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Commissioner Norden moved the adoption of the following Resolution:

RESOLUTION NO. 25
Series of 2014

RESOLUTION FOR CHANGE OF CONDITION FOR CONDITIONAL USE PERMIT
FILE NUMBER CUP 07-001 HOLCIM, INC. – COALDALE GYPSUM QUARRY

BE IT RESOLVED by the Fremont County Board of County Commissioners (hereafter “Board”)

THAT WHEREAS, **Holcim, Inc.**, (hereafter "Applicant") has made application for a change of condition for a Conditional Use Permit pursuant to Section 8.7 of the Zoning Resolution of Fremont County. The existing permit, designated as Department of Planning and Zoning (hereafter Department) file **#CUP 07-001 Holcim, Inc. – Coaldale Gypsum Quarry**; and

WHEREAS, the Board held a public hearing concerning said application for Conditional Use Permit on **July 3, 2007**, at which time comments and evidence were considered, including all materials contained as part of the application and which were in the County's file concerning the application; and

WHEREAS, Resolution Number 39, Series of 2007 authorizing the issuance of **CUP 07-001 Holcim, Inc. – Coaldale Gypsum Quarry** was declared to be duly adopted on **July 3, 2007**; and

WHEREAS, the Applicant has made application for change of conditions G from “Days of operation will be limited to Monday through Friday from 7 am to 6 pm.” to “Days of operation will be limited to Monday through Friday 7:00 am to 6:00 pm with truck hauling from 5:00 am to 8:00 pm” and H from “The number of haul truck trips shall not exceed twenty (20) per day” to “The number of haul truck trips shall not exceed thirty-two (32) trips per day.” (*A trip is considered as a single or one direction vehicle movement with either the origin or the destination [exiting or entering] inside the subject property.*) of Resolution 39, Series of 2007 authorizing the issuance of the Conditional Use Permit; and

WHEREAS, the Board held a public meeting concerning said application for change of condition on **August 26, 2014**, at which time comments and evidence were considered, including all materials contained as part of the application which were in the County's file concerning the application; and

WHEREAS, it was found that the change of conditions of the Conditional Use Permit is appropriate; and

WHEREAS, the Board added condition Z The Applicant shall be responsible to pay for the material cost of a chip seal resurface of County Road 6 in the 2016 (for one year only).

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NOW THEREFORE, BE IT RESOLVED by the Board that:

1. The Board did make the following findings with respect to the application for a Conditional Use Permit as follows:
 - a) The procedural requirements of 8.2 of the Fremont County Zoning Resolution have been met.
 - b) The location of the proposed use is compatible with other land uses in the area and does not place an undue burden on existing transportation, utilities, and service facilities in the vicinity, except as otherwise noted in these findings.
 - c) The site is of sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this resolution.
 - d) The site will be served by streets and roads of sufficient capacity to carry the traffic generated by the proposed use, and the proposed use will not result in undue traffic congestion or traffic hazards.
 - e) The proposed use, if it complies with all conditions on which this approval is made contingent, will not adversely affect other property in the vicinity or the general health, safety and welfare of the inhabitants of the county, and will not cause significant air, water, noise or other pollution.
2. A Conditional Use Permit shall be issued contingent on the acceptance and observance by the Applicant of the following specified conditions:
 - A. The term of the Conditional Use Permit shall be for a thirty-five (35) year term.
 - B. The Department shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations. The holder of a Conditional Use Permit shall submit other permits, licenses, or the like, as required in Condition E, and all other documents required as a condition of the approval of the permit to the Department of Planning and Zoning on an annual basis or as otherwise required. If the Department has to notify the permit holder that such documents have not been submitted, then a fee will be charged as per resolution of the Board. If the fee and required documents are not submitted to the Department within twenty (20) days of the Department notification to the permit holder, violation procedures will be commenced.
 - C. Applicants shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
 - D. Applicants shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments, and the United

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States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.

- E. Applicant shall obtain and keep in effect all other permits, licenses or the like required by any other governmental agency and as otherwise may be required by Fremont County. Revocation, suspension or expiration of any such other permits, licenses or the like shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
- F. All loads of material transported from the site shall comply with applicable Colorado Revised Statutes.
- G. Days of operation will be limited to Monday through Friday from 7:00 am to 6:00 pm with truck hauling from 5:00 am to 8:00 pm.
- H. The number of haul truck trips shall not exceed thirty-two (32) trips per day. (*A trip is considered as a single or one direction vehicle movement with either the origin or the destination [exiting or entering] inside the subject property.*)
- I. If a conditional use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to, or does temporarily cease the conditional use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board.
- J. If a Conditional Use Permit is to be transferred, it shall comply with all applicable Federal, State and Local regulations regarding such transfer.
- K. Fremont County shall retain the right to modify any condition of the permit if the actual use demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modification shall not be imposed without notice and a public hearing being provided to the Applicant, at which time applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit.
- L. Only the named party on the permit (and its designated contractors, subcontractors, etc.) shall be allowed to operate this Conditional Use Permit. Board approval shall be required prior to allowing any party other than the named party (and its designated contractors and subcontractors, etc.) to operate at the site under the conditions of this permit. All persons,

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entities or others conducting work under this Conditional Use Permit must abide by all terms and conditions of this Conditional Use Permit. Holcim (US) Inc. is the primary operator and accepts full responsibility and accountability.

- M. Provide a copy of the following permits or licenses, prior to mining: *(If not required provide documentation from the listed entity that the following is not required, prior to mining.)*
1. Colorado Department of Natural Resources, Division of Reclamation, Mining and Safety.
 2. Colorado Department of Public Health and Environment, Air Pollution Control Division.
 3. Colorado Department of Public Health and Environment, Water Quality Control Division.
 4. Colorado Division of Water Resources.
 5. United States Department of Labor, Mine Safety and Health Administration.
 6. United States Army Corps of Engineers.
 7. Colorado Department of Transportation access permit.
- N. Paving of Fremont County Road #6 from mine site entrance to US Highway 50, specifying a three (3) inch asphalt overlay, to be completed by September 1, 2010. Project work to be coordinated with the Fremont County Road and Bridge Department.
- O. Documentation as to compliance with any requirements of the Colorado Department of Transportation.
- P. Applicant shall be financially responsible for any speed limit signs, stop signs, truck entering signs, etc. on County Roads #6 and #45, as required by the County Road Foreman, prior to hauling. The County will prepare and install all signs.
- Q. Documentation as to issuance of a permit for an acceptable sewage disposal system for employees, from the Fremont County Environmental Health Department, prior to operation.
- R. Documentation as to the issuance of a building permit for any buildings or structures, requiring a building permit.
- S. Documentation as to compliance with the recommendations from John Grieve, Colorado State Forest Service in a letter dated April 9, 2007, which requires that the powder magazine building be located a minimum of one-hundred (100) feet from any trees and shrubs and that a defensive perimeter of thirty (30) feet, void of all vegetation, be maintained around this building, prior to operation.

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- T. Documentation as to compliance with the following recommendations from John Walker, Fire Chief, Coaldale Fire Department of the Deer Mountain Fire Protection District, in the fire protection form dated February 7, 2007:
1. No combustible materials may be stored within fifty (50) feet of the powder magazine building as the structure cannot be considered fire resistant as noted in the letter.
 2. Pile of stacked tires currently in front of the building shall be removed, prior to operation.
 3. The current detonator magazine shall be removed entirely from the site, prior to operation.
 4. The vehicular magazine shall be located in the center of the clearing, (*as noted on the drawing in the fire protection form*) which will place it equidistant and approximately one-hundred (100) feet from trees to the north, east and south, prior to operation.
 5. The area within twenty-five (25) feet of the vehicular magazine shall be maintained so that it is free of all vegetation and that no combustible materials shall be stored within fifty (50) feet of the magazine.
 6. If the vehicular magazine is to be left unattended, its wheels shall be removed, its kingpins shall be locked, or it otherwise shall be effectively immobilized, prior to operation.
 7. All trees and shrubs on the slopes west of the fuel storage area shall be removed within a distance of seventy-five (75) feet as measured from the center of the clearing, prior to operation.
 8. The area within the existing fuel tank berms shall be maintained so that it is free of all vegetation and stored combustible materials.
 9. The propane storage tank shall be relocated so that it is a minimum of twenty (20) feet from the nearest building, prior to operation
 10. The area within ten (10) feet of the propane tank shall be maintained so that it is free of all vegetation and stored combustible materials.
- U. Documentation as to compliance with any requirements now and in the future of the Fremont County Weed Control Officer.
- V. Applicant shall apply an acceptable chemical dust suppressant on the access road from Fremont County Road #6 to site and on other portions of the site as needed, prior to operation and thereafter as needed.

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- W. Applicant shall install wind monitoring and wind recording equipment prior to operation, and shall make all records available, upon request, to the County and other regulatory agencies.
- X. Applicant shall maintain a list of all blasting reports, as required by the Colorado Division of Mining, Reclamation and Safety and such lists shall be made available, upon request, to the County and other regulatory agencies.
- Y. Applicant shall be limited to no more than ten (10) blasts per year and shall develop a plan which provides a location where the notice is to be posted, the date and time blasting will occur.
- Z. Applicant shall be responsible to pay for the material cost of a chip seal resurface of County Road 6 in the year 2016 (for one year only).

Commissioner Bell seconded the adoption of the foregoing Resolution and upon a vote of the Board as follows:

Commissioner Bell: Aye / Nay / Abstain / Absent

Commissioner Norden: Aye / Nay / Abstain / Absent

Commissioner Payne: Aye / Nay / Abstain / Absent

The Resolution was declared to be duly adopted.

DATE: August 26, 2014



 CHAIRMAN, BOARD OF COUNTY COMMISSIONERS

ATTEST: 

 FREMONT COUNTY CLERK AND RECORDER

September 9, 2014

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF FREMONT
STATE OF COLORADO

RESOLUTION NO. 27

BE IT RESOLVED by the Board of County Commissioners of Fremont County:

RE: Treasurer- Reimbursement of Taxes on Schedule # 99927002 Account No. R040071
Tax Lien-6340

Property known as unknown

Owner of Record: Four Square Church International
Tax Purchaser: Carol Trujillo

Resolved that the Board of County Commissioners hereby approves reimbursement to the tax purchaser of the 2010 taxes that were erroneously assessed and subsequently sold at the tax lien sale together with interest from the date of purchase at the rate of 10% per annum.

The 2010 taxes erroneously assessed must be reimbursed to the Tax Purchaser in the amount of \$ 224.88 (base tax \$43.90 plus interest and fees and costs) good through October 30, 2014.

Commissioner Norden
Moved for the adoption of the foregoing resolution:

Commissioner Bell
Seconded the adoption of the foregoing resolution:

And upon the vote of the Commissioners as follows:

Mr. Commissioner: Tim Payne Tim Payne ;
Mr. Commissioner: Ed Norden Ed Norden ;
Ms. Commissioner: Debbie Bell Debbie Bell ;

WHEREUPON the resolution was declared to be duly adopted.

Dated :September 9, 2014

Katie E. Barr
Katie Barr
Fremont County Clerk and Recorder

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THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF FREMONT
STATE OF COLORADO

RESOLUTION NO. 28

BE IT RESOLVED by the Board of County Commissioners of Fremont County:

RE: Treasurer- Reimbursement of Taxes on Schedule # 99304720 Account No. 032548
Tax Lien-3795

Property known as unknown

Owner of Record: USALANDSALE.COMLLC

Tax Purchaser: David A. Fougner

Resolved that the Board of County Commissioners hereby approves reimbursement to the tax purchaser of the 2006 taxes that were assessed and subsequently sold at the tax lien sale together with interest from the date of purchase at the rate of 15% per annum.

Reason for the reimbursement:

The subsequent years of taxes endorsed by the lien holder after 2006 were double assessed. The double assessment resulted from the transfer of four lots to new owners by the Fremont County Assessor's Office with no research for tax liens. This is a reimbursement to the 2006 Tax Lien Purchaser in the amount of \$1089.82 for the endorsements (payment of taxes on lien) when the taxes were being paid on four of the lots by other individual property owners.

Commissioner Norden
Moved for the adoption of the foregoing resolution:

Commissioner Bell
Seconded the adoption of the foregoing resolution:

And upon the vote of the Commissioners as follows:

Mr. Commissioner: Tim Payne _____;
Mr. Commissioner: Ed Norden Ed Norden _____;
Ms. Commissioner: Debbie Bell Debbie Bell _____;

WHEREUPON the resolution was declared to be duly adopted.

Dated: September 9, 2014

Katie E. Barr

Katie Barr
Fremont County Clerk and Recorder

