

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 17 – SERIES 2014**

**A RESOLUTION EXPRESSING THE INTENT OF THE TOWN TO DEVELOP THE
BOLTS LAKE WATER RIGHT AND INTENT TO EXERCISE ITS POWERS OF
EMINENT DOMAIN TO ACQUIRE NECESSARY PROPERTY INTERESTS**

WHEREAS, the Town of Minturn is a home rule town organized pursuant to Article XX, Section 6 of the Colorado Constitution; and

WHEREAS, the Town operates a water utility that provides water for domestic, irrigation, fire protection, stock watering, commercial, municipal, power, recreation, fish and wildlife, and other purposes within the Town's water service area; and

WHEREAS, the Town acquired a conditional water right for Bolts Lake in the amount of 320 acre-feet pursuant to the decree entered in Case No. 96CW324, Water Court for Water Division No. 5; and

WHEREAS, the Bolts Lake water right is an important component in the Town's water rights portfolio needed to provide reliable water service to the Minturn water service area as such service area may be expanded to accommodate future growth; and

WHEREAS, the Town filed an Application in Water Court for Water Division No. 5, Case No. 12CW77, on May 23, 2012, seeking a finding of reasonable diligence toward the development of the Town's conditional Bolts Lake water right for 320 acre-feet as further described in the Application; and

WHEREAS, the Town is not the owner of the land upon which Bolts Lake is decreed to be located; and

WHEREAS, in conjunction with obtaining a decree for the conditional Bolts Lake water right, the Town Council adopted Resolution No. 2, Series 1996 (dated January 25, 1996) expressing the Town's intent and authorization to acquire the property on which Bolts Lake is located, either by purchase or pursuant to the Town's eminent domain powers; and

WHEREAS, in Case No. 12CW77 the Water Court entered a Corrected Case Management Order dated August 19, 2014, determining that the Town "must prove that [it] can and will use said power [of eminent domain] to obtain access or ownership to the property underlying the structure"; and

WHEREAS, as a home-rule municipality, the Town has broad eminent domain authority pursuant to Article 20 of the Colorado Constitution. *See* COLO. CONST. ART XX § 1; and

WHEREAS, the Town Council desires to re-affirm the purpose and intent expressed in Resolution No. 2, Series 1996.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN AS FOLLOWS:

1. The Town hereby affirms that the Bolts Lake water right is an important component of its water rights portfolio which is required for the Town to have an adequate water supply to meet the water needs of its current and future water service area.

2. The Town hereby reaffirms the purpose and intent of Resolution No. 2, Series 1996 such that if the Town cannot obtain the necessary property interests required to construct and operate the Bolts Lake water right from the owner(s) of the land upon which Bolts Lake is decreed to be located, the Town can and will exercise its right of eminent domain in light of the Town's need for this facility.

3. The Town Manager, or other designated representative of the Town, is authorized to testify at trial in Case No. 12CW77 consistent with this Resolution and Resolution No. 2, Series 1996.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 3rd day of September, 2014.

By: *Hankups Fleberly*
Mayor

ATTEST

By: *[Signature]*
Town Clerk

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**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 2 - SERIES 1996**

A RESOLUTION APPROVING THE ACQUISITION OF A PORTION OF PARCELS H.E.S. 40 AND H.E.S. 41 ALSO KNOWN AS BOLTS LAKE AND BOLTS DITCH AND ASSOCIATED WATER RIGHTS FOR RECREATION AND WATER STORAGE USE BY THE TOWN OF MINTURN, COLORADO.

WHEREAS, the Town of Minturn is a Home Rule Municipality under the Colorado Constitution; and

WHEREAS, the Town of Minturn has good and senior adjudicated water rights on Cross Creek; and

WHEREAS, on occasion, the water available on Cross Creek is less than current or anticipated Town needs for municipal purposes; and

WHEREAS, additional water storage is necessary for the Town of Minturn's provision of a continuous and reliable water supply to development within its boundaries; and

WHEREAS, Bolts Lake is located in an advantageous proximity and at such elevation as to be suitable for Town of Minturn water storage and treatment needs; and

WHEREAS, use of Bolts lake for municipal water storage and treatment is more cost effective for the Town of Minturn and its residents and more environmentally sound than construction of additional above ground water storage facilities; and

WHEREAS, the bolts Ditch water right supplies water to Bolts Lake and is integrally related to the maintenance of water levels in Bolts Lake and to the efficient operation of the Town of Minturn's municipal water rights, and

WHEREAS, the Town of Minturn is needful of nature trails, picnic areas, multi-season flat water recreation and other all-season recreational amenities; and

WHEREAS, the Town of Minturn can, and is willing to, provide a multi-use recreational and park amenity for Town residents and others visiting and enjoying the Eagle River Valley; and

WHEREAS, the Town Council finds that the acquisition of those portions of Parcels H.E.S. 40 and H.E.S. 41 and the Bolts Ditch water rights for the above described purposes is necessary and in the best interests of the Town of Minturn.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO THAT:

- (1) the Mayor and Town Administrator and their designees are authorized and directed to enter into negotiations to purchase those portions of parcels H.E.S. 40 & H.E.S. 41 as further identified in Appendix A attached hereto, for recreation and water storage use and to purchase Bolts Ditch water rights for recreation and water storage use. AND that

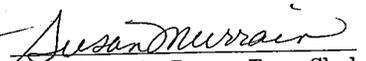
(2) the Mayor and Town Administrator or their designees, if unsuccessful in negotiations for purchase, shall proceed under the provisions of Colorado Constitution and Colorado Revised Statutes as amended to acquire the properties and rights by eminent domain. AND that

(3) the Mayor and Town Administrator shall regularly update the Town Council concerning the negotiations and any legal proceedings.

Resolved and passed this twenty fifth day of January, 1996.


Michael Gallagher, Mayor

ATTEST:


Susan Murrain, Deputy Town Clerk