

ORDINANCE NO. 77- 16

AN ORDINANCE REPEALING ORDINANCE NO. 77-05; DECLARING THE NEED FOR THE CREATION OF A PUBLIC BODY CORPORATE KNOWN AS THE BREVARD COUNTY HEALTH FACILITIES AUTHORITY; CREATING THE BREVARD COUNTY HEALTH FACILITIES AUTHORITY; DESIGNATING AND APPOINTING THE FIVE MEMBERS OF THE GOVERNING BODY OF THE BREVARD COUNTY HEALTH FACILITIES AUTHORITY; SPECIFYING THE POWERS AND DUTIES OF SUCH BREVARD COUNTY HEALTH FACILITIES AUTHORITY; PROVIDING FOR THE DATE OF THE INITIAL MEETING OF SAID AUTHORITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Brevard County, Florida, after proper notice given and formal hearing having been held, attempted to create the Brevard County Health Facilities Authority by enacting Ordinance No. 77-05; and

WHEREAS, Ordinance No. 77-05, as filed with the Department of State, was defective in that two (2) essential paragraphs of the Ordinance, declaring the need for the Brevard County Health Facilities Authority and actually creating the Brevard County Health Facilities Authority, were inadvertently omitted from the typed document signed by the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners wishes to correct the above mentioned omission; and

WHEREAS, an Emergency exists in that the immediate enactment of this Ordinance is necessary in order to enable qualifying health facilities of Brevard County to obtain the fullest benefits of the low cost financing available through the enactment of this Ordinance; and

WHEREAS, interest rates are rising rapidly; and

WHEREAS, the Board of County Commissioners has perceived the need to provide a means to enable qualifying health facilities in Brevard County to finance construction of new facilities and structures, to expand, improve and upgrade existing facilities, and to purchase more advanced equipment; and

WHEREAS, the Board of County Commissioners believes that the creation of a Health Facilities Authority is the best

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method of satisfying the needs set out above; and

WHEREAS, the Health Facilities Authority Law (Part III of Chapter 154 of the Florida Statutes) authorizes the Board of County Commissioners to create a Health Facilities Authority to provide for the needs outlined above; and

WHEREAS, any further delay in the creation of the Brevard County Health Facilities Authority would jeopardize the Authority's ability to obtain financing for worthy projects at a reasonable rate.

NOW, THEREFORE, BE IT ORDAINED, BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1. Ordinance No. 77-05 (to be designated as Chapter 13, Article V, Sections 13-76 through 13-77 of the Code of Brevard County, Florida) is hereby repealed.

Section 2. An Emergency is hereby found and declared to exist in that any further delay in the creation of the Brevard County Health Facilities Authority will jeopardize the Authority's ability to obtain low cost financing for essential projects and thus jeopardize the purposes of this Ordinance.

Section 3. A new Ordinance of the Code of Brevard County Florida to be designated as Chapter 13, Article V, Sections 13-76 through 13-79 of said Code, is hereby adopted to read as follows:

"ARTICLE V. BREVARD COUNTY HEALTH FACILITIES AUTHORITY.

Section 13-76. Declaration of Need. The Board of County Commissioners of Brevard County, Florida, hereby finds and declares that it is essential that the people of Brevard County have access to adequate medical care and health facilities, and that it is essential that health facilities within Brevard County be provided with additional means to assist them in the development and maintenance of the public health. As a result, the Board of County Commissioners of Brevard County finds and declares that there is a need for the creation of the Brevard County Health Facilities Authority pursuant to the Health

Facilities Authorities Law (Chapter 74-323, Laws of Florida, 1974, being Part III of Chapter 154 of the Florida Statutes).

Section 13-77. The Brevard County Health Facilities Authority is hereby created and may transact the business and perform the duties and exercise the powers prescribed by the Health Facilities Law and this Ordinance.

Section 13-78. Designation and Appointment of Members:

- a. The Board of County Commissioners shall designate five (5) persons who are residents of Brevard County, as members of the Authority. Of the members first appointed, one shall serve for one (1) year, one for two (2) years, one for three (3) years and two for four (4) years; and each of said members appointed shall further serve until his successor is appointed and has qualified. Thereafter, the Board of County Commissioners shall appoint for terms of four (4) years each, a member or members to succeed those whose terms expire.
- b. Each member of the Authority, before entering upon his duties, shall take and subscribe the oath or affirmation required by the State Constitution for the State of Florida, and a record of each oath shall be filed in the Department of State of Florida and with the Clerk of the Board of County Commissioners.
- c. Each of the above-prescribed terms shall commence upon the initial meeting of the Authority after administration of the oath of office to each member.
- d. Each member of the Authority shall be eligible for reappointment.
- e. Any member of the Authority may be removed by the Board of County Commissioners of Brevard County for misfeasance, malfeasance or willful neglect of duty.

- f. The Authority at its initial meeting, and annually thereafter, shall elect one of its members as Chairman and one as Vice Chairman.
- g. The Authority shall keep a record of its proceedings and shall be custodian of all books, documents, and papers filed with it and of its Minute Book or Journal and Official Seal. The Authority shall cause copies to be made of all its Minutes and other records and documents and shall give certificates under its Official Seal to the effect that such copies are true copies, and all persons dealing with said Authority may rely upon such certificates.
- h. Three (3) members of the Authority shall constitute a quorum, and the affirmative vote of a majority of the members present at a meeting of the Authority shall be necessary for any action taken by the Authority. However, any action may be taken by the Authority with unanimous consent of all its members. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights to perform all the duties of the Authority.
- i. The members of the Authority shall receive no compensation for the performance of their duties hereunder, but each member shall be paid his necessary expenses incurred while engaged in the performance of such duties.
- j. Service as a member of the Authority by a Trustee, Director, Officer, or employee of a health facility shall not, in and of itself, constitute a conflict of interest. However, any member of the Authority who is employed by, or receives income from, a health facility under consideration by the Authority shall not vote on any matter related to such facility.

Section 13-79. Powers of the Brevard County Health

Facilities Authority: In order to properly fulfill their purpose in assisting health facilities in Brevard County in the acquisition, construction, financing and refinancing of projects in any incorporated or unincorporated area within the geographical limits of Brevard County, the Brevard County Health Facilities Authority is authorized and empowered:

- a. To adopt an Official Seal and alter the same at its pleasure;
- b. To maintain an office at such place or places in Brevard County as it may designate;
- c. To sue and be used in its own name and to plead and be impleaded;
- d. To acquire by purchase, lease, gift, or otherwise, or to obtain options for the acquisition of, any property, real or personal, improved or unimproved, for the acquisition, construction, operation or maintenance of any project;
- e. To construct, acquire, own, lease, repair, maintain, extend, expand, improve, rehabilitate, renovate, furnish and equip projects and to pay all or any part of the costs thereof from the proceeds of bonds of the Authority or from any contribution, gift, or donation or other funds made available to the Authority for such purpose;
- f. To make and execute agreements of lease, contracts, deeds, mortgages, notes and other instruments necessary or convenient in the exercise of the powers and functions conferred upon the Authority by this ordinance;
- g. To sell, lease, exchange, mortgage, transfer, or otherwise dispose of, or to grant options for any such purposes with respect to any project, or any real or personal property or interest therein;

- h. To pledge or assign any money, rents, charges, fees or other revenues and any proceeds derived from sales of property, insurance, or condemnation awards;
- i. To fix, charge, and collect rents, fees, and charges for the use of any project;
- j. To issue bonds for the purpose of providing funds to pay all or any part of the cost of any project and to issue refunding bonds;
- k. To employ consulting engineers, architects, surveyors, attorneys, accountants, financial experts, and such other employees and agents as may be necessary in its judgment and to fix their compensation;
- l. To acquire existing projects and to reimburse any health facility for the cost of such project in accordance with an agreement between the Authority and the health facility; however, no such reimbursement shall exceed the total cost of the project as determined by the health facility and approved by the Authority;
- m. To acquire existing projects and to refund outstanding obligations, mortgages, or advances issued, made, or given by a health facility for the cost of such project;
- n. To charge to, and equitably apportion among, health facilities its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this part;
- o. To mortgage any project and the site thereof for the benefit of the holders of the bonds issued to finance such project;
- p. To issue negotiable revenue bonds of the Authority for the purpose of paying all or any part of the cost of any project or projects for which a certificate of need has been obtained, or pursuant to subsections l. and m. above, for the purpose of

- paying all or any part of the cost of acquiring existing or completed health facility projects;
- q. To issue negotiable bond anticipation notes in anticipation of the sale of the revenue bonds permitted to be issued by subsection p. above, and to renew the same from time to time, but the maximum maturity of any such note, including renewals thereof, shall not exceed five (5) years from the date of issue of the original note; but, the revenue bonds and notes of every issue authorized by subsection p. above, and any anticipation notes issued pursuant to this subsection shall be issued according to the terms and provisions outlined in Section 154.219 of the Florida Statutes (1975);
- r. To do all things necessary to carry out the above powers and purposes of the Brevard County Health Facilities Authority.

Notwithstanding the powers enumerated above, nothing herein shall be construed to authorize the Authority to pledge the credit of Brevard County or incur any liabilities or obligations in the name of Brevard County without explicit approval of the Board of County Commissioners of Brevard County, Florida, nor shall the Authority incur any expenses not payable solely from revenues derived by projects undertaken by the Authority, unless specifically authorized to do so by the Board of County Commissioners of Brevard County, Florida.

Section 4. Designation and Appointment of Members: The following five (5) named persons are hereby designated and appointed as members of the Brevard County Health Facilities for the respective terms prescribed below:

1. JAMES E. HOLMES shall serve for one (1) year;
2. DAVID M. JONES shall serve for two (2) years;
3. MRS. ROSS SCHLERNITZAUER shall serve for three (3) years;

- 4. LARRY GARRISON shall serve for four (4) years;
- 5. JAMES MUSE shall serve for four (4) years;

Section 5. Date of Initial Meeting: The initial meeting of the Brevard County Health Facilities Authority shall be at 12:00 o'clock noon on April 12, 1977, at Wuesthoff Memorial Hospital in the City of Rockledge, Brevard County, Florida. If fewer than three (3) of the persons named in Section 4 above, are present at said meeting, those of said persons who are so present may adjourn the meeting from time to time until three (3) members shall be present.

Section 6. Effective Date: The Clerk of the Board of County Commissioners shall send a certified copy of this Ordinance to each of the persons named in Section 4 above, as members of the Authority, as official notice of each person's designation as such member. This Ordinance shall then constitute the Charter of said Authority, and this Ordinance shall take effect immediately upon adoption and filing as provided by law.

DONE AND ORDERED, in regular session, this 7th day of April, A.D., 1977.

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

ATTEST:

By Lee Wenner
Lee Wenner, Chairman

R. C. Winstead, Jr.
R. C. Winstead, Jr., Clerk

STATE OF FLORIDA
COUNTY OF BREVARD

This is to certify that the foregoing is a true and correct copy of Ordinance

No. 77-16 witnesses my hand and official seal this 7th day of

July 1977

BY E. M. O'Leary
E. M. O'Leary, D.C.

