

**Jefferson County, Tennessee
Board of Commissioners**

RESOLUTION 2023-53

**A RESOLUTION OPPOSING JEFFERSON CITY'S EMINENT DOMAIN ACTION AGAINST
JEFFERSON COUNTY HMA, LLC (A/K/A TENNOVA JEFFERSON MEMORIAL HOSPITAL)
AND ITS PARENT COMPANY**

AND

**URGING THE TENNESSEE GENERAL ASSEMBLY TO AMEND EMINENT DOMAIN LAW,
PART DEFINITION, TO EXCLUDE RECREATIONAL FACILITIES FROM THE "PUBLIC
USE" DEFINITION UNDER T.C.A. § 29-17-102 AND TO INCLUDE ADDITIONAL
PROVISIONS AS DESCRIBED HEREIN**

Prime Sponsor, Commissioner Terry Dockery

**Commission Co-Sponsors: Ronny Coleman, Joe Coleman, Austin Brooks, Paul Lowe,
Katy Huffaker, Rob Blevins, Jim Carmichael, Janet Norton, Marcus Reed, A.J. Walker, Jimmy
Dale Patterson, Ransom Douglas, John Neal Scarlett, Jim Snodgrass and Tim Seals**

WHEREAS, the foundation of capitalism, constitutional governance, and the proliferation of American business enterprise are, in part, based on secure property rights; and

WHEREAS, respecting private property rights provides individuals and businesses alike with the confidence to create wealth, capital, prosperity, and to provide communities with vital services such as medical care; and

WHEREAS, Jefferson County HMA, LLC and its parent company provide 4-Star medical services including emergency care to the region and community, employ hundreds of local people, and serve the needs of senior citizens and the residents of Jefferson County, Tennessee, who would otherwise be required to travel long distances for comparable medical care; and

WHEREAS, Jefferson City, Tennessee (hereinafter the "City") and Jefferson County, Tennessee (hereinafter the "County") jointly own the real property, buildings, appurtenances, etc. located at or about 110 Hospital Drive, Jefferson City, Tennessee, Parcel # 023-029.01 and more particularly described in a Second Amendment to Memorandum of Lease, recorded in Book 1206, Pages 709-719 in the Jefferson County Register of Deeds Office (hereinafter referred to as the "Hospital").

WHEREAS, the City and County lease the Hospital to Jefferson County HMA, LLC.

WHEREAS, Jefferson County HMA, LLC owns real property (approximately 95+ acres), Parcel #s 023-029.04 and 023-029.05, upon information and belief, more particularly described in a Special Warranty Deed, recorded in Book 1097, Pages 66-71, in the Jefferson County Register of Deeds Office, which directly adjacent to the Hospital (hereinafter referred to as the "Subject Property");

WHEREAS, the Jefferson City Council passed Resolution 2023-25, which states in part:

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Jefferson City, as follows:

1. Authorize the City Manager to acquire by eminent domain the 95.04 acre tract of land located on Old AJ Highway W., presently owned by Jefferson County HMA LLC, for public use for recreational purposes.

WHEREAS, Jefferson County HMA, LLC has advised the County that it vehemently opposes City Resolution 2023-25, and the City's attempt to forcibly take by eminent domain its private property as said taking affects, limits, restricts, and hinders Jefferson County HMA, LLC's potential expansion of the buildings and services it provides at the Hospital and could effectively limit and restrict the medical, health, and hospital services it provides the citizens of Jefferson County, Tennessee to the detriment of their health and well-being;

WHEREAS, The Board of Commissioners of Jefferson County, Tennessee (hereinafter referred to as the "Board") has a direct claim and interest in the Subject Property as it could be used to expand medical, health and hospital services to the citizens of the County and could benefit the health and well-being of the citizens of the County and it is directly adjacent to the Hospital;

WHEREAS, the Board strongly opposes City Resolution 2023-25 and the City's attempt to forcibly take by eminent domain the Subject Property in which the county has a direct claim and interest; and

WHEREAS, the arbitrary and forceful taking of the Subject Property by the City, for an undefined, unexplained, ambiguous "public use for recreational purposes" under the alleged power of eminent domain, will violate the above-mentioned principles, discourage and limit expansion of medical, hospital, and health services for the citizens of the County, damage confidence in local government, potentially affect the health and well-being of the citizens of Jefferson County, Tennessee, and should not be undertaken.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Jefferson County, Tennessee, meeting this 11th day of December 2023, as follows:

SECTION 1. That the City Council of Jefferson City, Tennessee is strongly urged to abandon its arbitrary and forceful taking of the Subject Property owned by Jefferson County HMA, LLC and its parent company and in which the County has a direct claim and interest.

SECTION 2. That in the event the City files or initiates any legal action against Jefferson County HMA, LLC to forcibly take the Subject Property by eminent domain, the Jefferson County Attorney, on behalf of the County, is authorized and directed to intervene in any such action and to defend and/ or prosecute any and all legal actions and remedies in opposition to the filing of any action in this regard by the City and in opposition to the City's attempted taking of the Subject Property;

SECTION 3. That the General Assembly of the State of Tennessee is urged to pass a bill to amend T.C.A. § 29-17-102 (Eminent Domain Part Definition) to exclude "recreational facilities," "recreational purposes," and "parks" from the definition of "Public Use" and to amend any other statutes as necessary that might conflict with such an exclusion; and

SECTION 4. That the General Assembly of the State of Tennessee is urged to pass a separate bill to amend title 29, Chapter 17 of the *Tennessee Code Annotated* to reflect the following:

(a) The government body or condemning authority bears the burden of proving by the preponderance of the evidence that:

(1) the land, real estate, premises, or other property the condemning authority seeks to acquire is required for a public use;

(2) the condemning authority has a plan that reflect a reasonable schedule to complete the public use after the condemning authority takes ownership of the property;

(3) the condemning authority has access to funding to complete the public use;

and

(4) the public use cannot be accomplished by using or acquiring other property with the consent of the owner of the other property without an unreasonable increase in cost or delay.

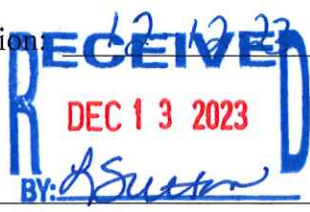
(b) When a government body or condemning authority approves a prospective or actual taking, the property owner has a right to have a court of competent jurisdiction determine if the taking is necessary to accomplish the public use. The property owner may raise this section's required determination of necessity as a defense or in a separate cause of action.

(c) Excluded from this section are projects or uses of a government body or condemning authority, regarding streets, highways, roads, bridges, transportation, utilities, utility water, public water projects, sewer, and electricity.

And, the General Assembly is urged to amend any other statutes as necessary that might conflict with such a provision.

SECTION 5. That upon approval and signing of this resolution, the Jefferson County Clerk is requested to transmit a copy of this resolution to Jefferson City Mayor Mitch Cain, each member of the Jefferson City Council, the state senator, and the state house members that represent Jefferson County in the Tennessee General Assembly.

Date of Adoption by County Commission: _____

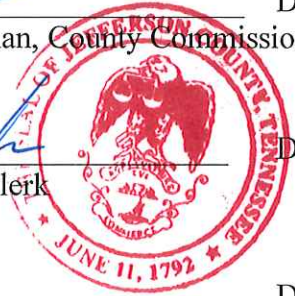


Date Received by County Mayor: _____

Votes: 17 1 0 3
Yes No Abstain Absent

Approved: James E. Carmichael Date: 12/17/23
James E. Carmichael – Chairman, County Commission

Attest: Frank C. Herndon Date: 12/12/23
Frank C. Herndon – County Clerk



Approved: Mark Potts Date: 12/13/23
Mark Potts – County Mayor

Vetoed: _____ Date: _____
Mark Potts – County Mayor

Veto Override Votes: _____
Yes No Abstain Absent

Veto Override: _____ Date: _____
James E. Carmichael – Chairman, County Commission