

RESOLUTION NO. 68 OF 2013

A RESOLUTION BY THE GOVERNING AUTHORITY OF THE CITY OF SHREVEPORT TO PUBLICLY COMMENT ON ISSUES INVOLVED IN THE **KEITH V. GLOVER LAWSUIT (SUIT NO: 567,251-C)**, FIRST JUDICIAL DISTRICT COURT, CADDOPARISH), AND TO OTHERWISE PROVIDE WITH RESPECT THERETO

BY: COUNCIL CHAIRMAN MICHAEL CORBIN

WHEREAS, the lawsuit *Cynthia Keith v. Cedric Glover* has been filed by a non-public entity to compel the Mayor of the City of Shreveport to execute a Cooperative Endeavor Agreement between the City of Shreveport and the Red River Waterway District relative to the construction of a dog park; and

WHEREAS, the Mayor, in his official capacity, has filed an exception of no cause of action in the lawsuit advancing and urging a position with which the Shreveport City Council disagrees; and

WHEREAS, Section 4.33 of the Charter of the City of Shreveport states that the City Council is the Governing Authority of the City of Shreveport; and

WHEREAS, the Mayor is using resources of the City of Shreveport to advance a position that the Governing Authority believes to be contrary to the *Plan of Government* adopted by the Citizens of Shreveport; and

WHEREAS, therefore, the Governing Authority has a duty and an obligation to publicly comment on this matter, to state its position, and to clearly state the reasons and the authorities for that position.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Shreveport, in due, regular and legal session convened, that the City Council, as Governing Authority of the City of Shreveport, disagrees with the assertion of Mayor Glover (found in his memorandum in support of his exception of no cause of action in the *Keith v. Glover* lawsuit) that "his decision as to whether or not to sign a cooperative agreement between the CITY OF SHREVEPORT and the Shreveport Regional Dog Park (sic) is strictly a discretionary decision and non-ministerial duty."

It is the position of the Governing Authority that the Mayor is authorized and **required** by Resolution 133 of 2012 to sign the agreement, and therefore the performance of this duty is ministerial and non-discretionary, for the following reasons:

1. On May 13, 1978, Citizens of the City of Shreveport adopted the Charter of the City of Shreveport, as "*The Plan of Government of the City of Shreveport*".
2. That Charter was adopted in accordance with law; it became effective on November 28, 1978; it was amended by the Citizens of Shreveport on November 6, 1990 and on October 25, 1994, and it is the present plan of government for the City of Shreveport.
3. The City Council introduced Resolution No. 133 of 2012 on July 10, 2012, which "authorized and REQUIRED" (emphasis added) the Mayor to sign a cooperative endeavor agreement with the Red River Water Way District to construct a dog park.
4. After extensive discussion and debate by the Mayor, Council Members and the public over the next several months, and after several amendments, Resolution No. 133 was adopted on September 25, 2012.
5. Resolution No. 133 of 2012 was introduced, amended and adopted in accordance with Section 4.17 of the Charter and State law.
6. Resolution No. 133 was vetoed by Mayor Glover on October 4, 2012; the veto was overridden and Resolution No. 133 was readopted by a unanimous vote (a 2/3<sup>rd</sup> vote is required) of the City Council on October 9, 2012, all in accordance with Section 4.21 of the Charter.
7. Resolution No. 133 of 2012 became effective on October 20, 2012; it has not been repealed or amended, and it is a valid resolution of the City of Shreveport today.
8. The Mayor has a non-discretionary, ministerial duty and obligation to sign the agreement authorized by Resolution No. 133 of 2012, because Resolution 133 states that "the Mayor is authorized and required (emphasis added) to sign the agreement"; and because Section 5.02 of the Charter reads in pertinent part as follows:

...

**It shall be the duty of the mayor to see that the provisions of this Charter, the ordinances and resolutions (emphasis added) of the City, and all laws of the municipality are enforced.**

Specifically, but not by way of limitation of the other provisions herein made, the mayor **shall** (emphasis added):

(c) Sign all contracts, bonds or other instruments or documents requiring the assent of or execution by the City, except those which some other officer is authorized hereunder to sign, and be the custodian of the corporate seal;

9. No other officer is authorized to sign the agreement authorized by Resolution 133 of 2012.

10. In this Nation of laws, all persons, including public officials, are subject to, and are compelled to obey those laws. The Mayor of the City of Shreveport is no exception. He must obey the Charter, and carry out his ministerial duty to sign and execute the agreement authorized by Resolution No. 133 of 2012.

BE IT FURTHER RESOLVED that if any provision or item of this Resolution or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this Resolution which can be given affect without the invalid provisions, items or applications and to this end the provisions of this Resolution are hereby declared severable.

BE IT FURTHER RESOLVED that all Resolutions or parts thereof in conflict herewith are hereby repealed.

APPROVED AS TO LEGAL FORM:

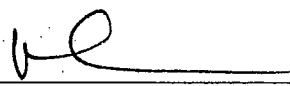
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City Attorney's Office

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**May 3, 2013**

Read by title and as read motion by Councilman O. Jenkins seconded by Councilman Everson for adoption. Approved by the following vote: Ayes: Councilmen Rose Wilson-McCulloch, Jeff Everson, Oliver Jenkins, Michael Corbin, Ron Webb, Joe Shyne, and Sam Jenkins. 5. Nays: None. Absent: Councilwoman Rose Wilson-McCulloch and Councilman Ron Webb. 2.



Michael Corbin, Chairman

Approved:

\_\_\_\_\_  
Cedric B. Glover, Mayor

Approved by the City Council \_\_\_\_\_

Approved by the Mayor \_\_\_\_\_

And Effective on \_\_\_\_\_

at 12:01 O'clock A.M."

\_\_\_\_\_  
Arthur G. Thompson, Clerk of Council