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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF LA PAZ

Town of Quartzsite,)
)
) Plaintiff,)
)
vs.)
)
Patricia Anderson in her capacity as a)
Member of the Common Council for the)
Town of Quartzsite, Mike Jewitt in his)
capacity as a Member of the Common)
Council of the Town of Quartzsite, Carol)
Kelley in her capacity as a Member of the)
Common Council of the Town of Quartzsite,)
Norma Crooks in her capacity as a member)
of the Common Council of the Town of)
Quartzsite, Patricia Workman in her)
capacity as a Member of the Common)
Council of the Town of Quartzsite and Mark)
Orgeron in his capacity as a Member of the)
Common Council for the Town of)
Quartzsite,)
)
) Defendants.)
)

CASE NO. CV201200108
ORDER RE: TEMPORARY
RESTRAINING ORDER
WITHOUT NOTICE

The Town of Quartzsite ("Town") filed a Complaint, Special Action and Request for a Preliminary Injunction. The Town also seeks a temporary restraining order without notice, enjoining the Town Council from: (1) discussing and/or possibly terminating the employment of Alexandra Taft, the Town Manager with cause without first giving her notice of whatever shortcomings or alleged wrongdoings will be discussed; (2) suspending, demoting, terminating or directing or requesting the suspension, demotion, or termination of the employment of Al Johnson, the Assistant Town Manager; (3) removing Jeff Gilbert, Chief of Police, from suspension and administrative leave or requesting or directing the removal of Jeff Gilbert from suspension and administrative

leave, and/or discussing alleged shortcomings or wrongdoings of Jeff Gilbert without providing him with specific notice thereof; and (4) removing Fabiola Garcia, Police Sergeant from suspension and administrative leave or requesting or directing the removal of Fabiola Garcia from suspension and administrative leave, and/or discussing alleged shortcomings or wrongdoings of Fabiola Garcia without providing her with specific notice thereof. All of the above discussions are scheduled to be heard at a Town Council Special Meeting to be held on Tuesday, August 28, 2012, at 3:00 p.m. Notice of the Special Meeting was signed by three Council members on Sunday, August 26, 2012.

Alexandra Taft

The Court finds that Alexandra Taft will not suffer immediate and irreparable injury, loss or damage before the adverse party, or that party's attorney can be heard in opposition. See Rule 65(d), Ariz. Rules Civil Proc. She serves at the pleasure of the governing body (Town Council) and may be removed without cause by a majority vote thereof. See A.R.S. § 9-303(C). Accordingly, the Town Council may discuss the vote for removal without cause and without notice to Alexandra Taft, and so remove her from office if there is a majority vote.

Al Johnson

According to the Quartzsite Town Code § 3-2-1.F, the Town Council cannot interfere with appointments or removals. Al Johnson was appointed to serve as Assistant Town Manager by Town Manager Taft. Thus, he is an "appointment" under Quartzsite Town Code § 3-2-1.F, and cannot be removed by the Town Council. Removal, pursuant to Quartzsite Town Code 3-2-1.E.1 can only be done by the Town Manager. Although the Town Council does not have the authority to remove Al Johnson as Assistant Town Manager, it may discuss the matter for discussion with the Town Manager regarding any recommendation they may make to the Town Manager.

The Court finds that Al Johnson will suffer immediate and irreparable injury, loss or damage before the adverse party, or that party's attorney can be heard in opposition because of the possible illegal termination of his employment.

Chief of Police Jeff Gilbert

Quartzsite Town Code § 3-2-1.F does not give the Town Council authority to remove or appoint officers and employees appointed by the manager. Pursuant to Quartzsite Town Code § 4-1-2, the Police Chief shall be appointed by the Town Manager with the concurrence of the Town Council. Reading the provisions of the Quartzsite Town Code *in pari materia* can only lead to the conclusion that, because the Town Manager appoints the Chief of Police with the concurrence of the Town Council, any reinstatement of the Chief of Police from administrative leave or suspension must be done by the Town Manager with the concurrence of the Town Council. Again, although the Quartzsite Town Code prohibits the Town Council from unilaterally appointing, suspending, or terminating the employment of the Chief of Police, it is allowed to discuss the matter to determine any vote that is required under the Town Code. The Court finds that Chief of Police Jeff Gilbert will suffer immediate and irreparable injury, loss or damage before the adverse party, or that party's attorney can be heard in opposition because of the possible illegal termination of his employment. Plaintiff would also suffer immediate and irreparable injury, loss or damage before the adverse party, or that party's attorney can be heard in opposition because of the possible illegal reinstatement of Chief Gilbert before the proper investigation and findings can be made to determine if he is fit and qualified to be reinstated, and the proper procedures are used pursuant to the pertinent provisions of the Quartzsite Town Code.

Sergeant Fabiola Garcia

The same analysis set out above concerning Chief of Police Jeff Gilbert applies

to Sergeant Garcia. The Court finds that Sergeant Garcia will suffer immediate and irreparable injury, loss or damage before the adverse party, or that party's attorney can be heard in opposition because of the possible illegal termination of her employment. Plaintiff would also suffer immediate and irreparable injury, loss or damage before the adverse party, or that party's attorney can be heard in opposition because of the possible illegal reinstatement of Sergeant Chief Gilbert before the proper investigation and findings can be made to determine if she is fit and qualified to be reinstated, and the proper procedures are used pursuant to the pertinent provisions of the Quartzsite Town Code.

Based on the above,

IT IS ORDERED denying the temporary restraining order without notice concerning Alexandra Taft.

IT IS ORDERED granting the temporary restraining order without notice concerning Al Johnson, and restraining the defendants from terminating the employment of Al Johnson.

IT IS ORDERED granting the temporary restraining order without notice concerning Chief of Police Jeff Gilbert, and restraining the defendants from terminating or reinstating his employment.


IT IS ORDERED granting the temporary restraining order without notice concerning Fabiola Garcia, and restraining the defendants from terminating or reinstating her employment.

IT IS ORDERED this temporary restraining order without notice shall expire on **Tuesday, September 11, 2012, at 5:00 p.m.**

IT IS ORDERED setting this matter for hearing on Plaintiff's Motion for Preliminary Injunction on **Tuesday, September 11, 2012, at 3:30 p.m.**

IT IS FURTHER ORDERED the Plaintiff serve a copy of this order on all defendants, along with a copy of the separate Notice of Hearing on Preliminary Injunction on or before 5:00 p.m. on Thursday, August 30, 2012.

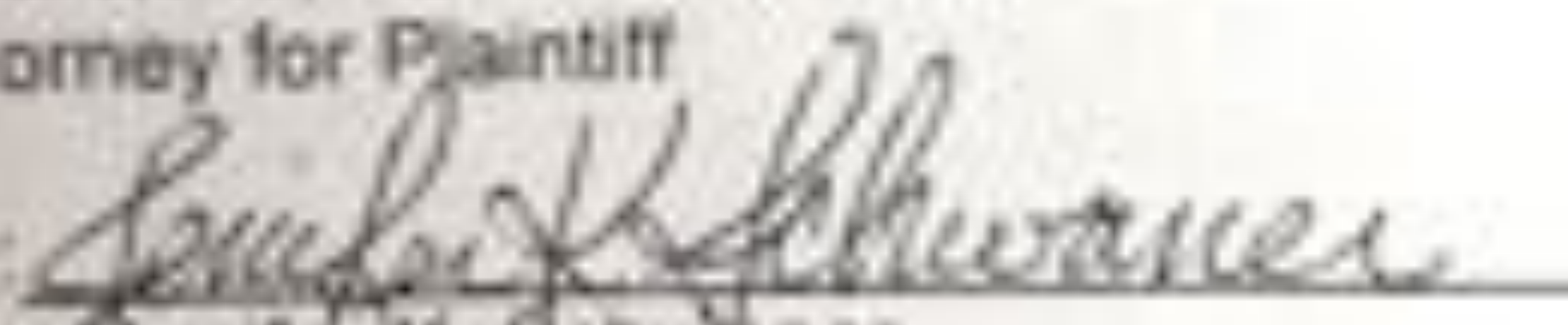
DATED this 28 day of August, 2012.



Michael J. Burke, Presiding Judge
La Paz County Superior Court

COPIES of the foregoing mailed/delivered
this 28th day of August, 2012 to:

Martin Brannan
P.O. Box 2812
Quartzsite, AZ 85346-2812
Attorney for Plaintiff

By 

Jennifer K. Schwaner
Judicial Assistant