

VIRGINIA:

IN THE CIRCUIT COURT OF WARREN COUNTY

PAUL LAURITZ ALDRICH)	
)	Case No. _____
Plaintiff)	
vs.)	
THE TOWN COUNCIL OF THE TOWN)	
OF FRONT ROYAL, VIRGINIA, and)	
JACOB LOUIS MEZA)	
)	
Defendants)	
)	
Serve: Douglas W. Napier, Esquire)	
Town Attorney)	
102 East Main Street)	
Front Royal, Virginia 22630)	
)	
Serve: Jacob Louis Meza)	
1300 Imboden Drive)	
Front Royal, Virginia 22630)	

**COMPLAINT FOR DECLARATORY JUDGMENT
AND PETITION FOR INJUNCTIVE RELIEF**

COMES NOW, the Plaintiff, Paul Lauritz Aldrich (“Aldrich”), by counsel, and in support of his Complaint for Declaratory Judgment and Injunctive Relief, requests for relief against the Town Council of the Town of Front Royal, Virginia (“Town Council”) and Jacob Louis Meza (“Meza”) set forth herein, and his Petition for Injunctive Relief, avers as follows:

SUMMARY

This Plaintiff seeks to nullify the appointment of Meza, a former town councilman, as town councilman on January 4, 2021, as *ultra virus* and unconstitutional, stay any and all actives in his official capacity as “councilman” by issuing a *writ of mandamus* to prohibit any appointments to him under the jurisdiction of the Town Council until after January 1, 2022.

THE PARTIES

1. Paul Lauritz Aldrich is a resident of the Town of Front Royal, Warren County, Virginia, a tax payer in the Town of Front Royal, and candidate for the appointment as councilman to the Town Council to fill the vacancy created by former town councilman who was elected as Mayor.
2. The Town Council is the legally constituted body governing the Town of Front Royal, Virginia.
3. Jacob Louis Meza is a resident of the Town of Front Royal, Warren County, Virginia.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this proceeding pursuant to Virginia Code §§ 2.2-3809 and 8.01-184.
5. Venue is appropriate in this Court pursuant to Virginia Code §8.01-257 because this Court has jurisdiction of this matter where Aldrich and Meza are residents of Warren County and the government entity is located and operates within Warren County.

STATEMENT OF FACTS

6. In January of 2015, Meza was appointed as councilman to fill a vacancy on the Town Council. In November of 2016, Meza won election for a four term as councilman on the Town Council. His term as councilman ended on December 31, 2020.
7. On December 31, 2020, Aldrich timely notified the Clerk of the Town Council that he wanted to be considered for the appointment of councilman arising from the vacancy created by the election of former councilman, Christopher Holloway, to the office of Mayor of Front Royal.
8. Aldrich took time away from his employment to be interviewed by the Town Council on January 4, 2021, and continues to have a sincere and vested interest in this appointment.

9. Jacob Louis Meza was also considered by the Town Council for appointment even though he did not run for office in the general election.
10. On January 4, 2021, the Town Council held a meeting where Meza was appointed as councilman to fill the vacancy of the former councilman's office who was elected mayor.

COUNT I – DECLARATORY JUDGMENT

11. Paragraphs 1 through 10 are incorporated herein by reference.
12. Virginia Code § 8.01-184 provides the following:

In cases of actual controversy, circuit courts within the scope of their respective jurisdiction shall have power to make binding adjudications of right, ***whether or not consequential relief is, or at the time could be, claimed*** and no action or proceeding shall be open to objection on the ground that a judgment order or decree merely declaratory of right is prayed for. ***Controversies involving the interpretation of*** deeds, wills, and other instruments of writing, ***statutes, municipal ordinances and other governmental regulations, may be so determined,*** and this enumeration does not exclude other ***instances of actual antagonistic assertion and denial of right.*** (emphasis added)

13. The matter is pleaded herein is a case in actual controversy within the jurisdiction of this Court and ripe for decision.
14. The controlling statute that prohibits the appointment of a former town councilman to the office under the jurisdiction of the Town Council, e.g, town councilman, is set forth in § 47 of the Front Royal Town Charter:

“No member of the council of the Town of Front Royal shall be appointed or elected to any office under the jurisdiction of the council while he is a member of the council, or for one year thereafter, except that the council may appoint one of the members of the council as town treasurer with all or any part of the duties, powers, obligations and responsibilities of the town treasurer provided by this act.”

15. Virginia statutory interpretation is governed by the following well established principle:

If [a statute's] language is clear and unambiguous, there is no need for construction by the court; the plain meaning and intent of the enactment will be given it. When an enactment is clear and unequivocal, general rules for construction of statutes of doubtful meaning do not apply. Therefore, when the language of an enactment is free from ambiguity, resort to legislative history and extrinsic facts is not permitted because we take the words as written to determine their meaning. And, when an enactment is unambiguous, extrinsic legislative history may not be used to create an ambiguity, and then remove it, where none otherwise exists. Brown v. Lukhard, 229 Va. 316, 321, 330 S.E.2d 84, 87 (1985)(citations omitted).

16. The phrase, “*under the jurisdiction of the council*”, in this context clearly and

unambiguously refers to and modifies “*any office*” that the Town Council may appoint or elect. Town Charter § 6(D) specifically grants the Town Council the jurisdiction to appoint councilman: “*The council may fill any vacancy that occurs in the membership of the council for the unexpired term*”, provided the appointment is not for one year thereafter holding his office. In fact, § 9 of Town Charter specifically grants the jurisdiction to the Town Council to fill the vacancy created when a member of council is chosen to serve as mayor. “*Should a member of the council be chosen to serve as mayor until the next municipal election such councilman shall be deemed to have surrendered his office as councilman forthwith upon his qualification as mayor and his office of councilman shall thereupon be vacant. The vacancy thereby created in the council shall be filled by the council as provided in § 6 hereof.*” (emphasis added).

17. Section 11 of the Town Charter also makes it clear that the office of councilman is under the jurisdiction of the Town Council where it states, “*If any member of the said council shall be voluntarily absent from three regular meetings of the council consecutively, **his seat may be deemed vacant by resolution of the council** and thereupon his unexpired term shall be filled according to the provisions of this act.*” (emphasis added)

18. Furthermore, the Town Charter grants the Town Council jurisdiction over itself.

'[E]xcept as prohibited by the Constitution of Virginia or restricted by this charter, the Town of Front Royal shall have and may exercise all municipal powers, functions, rights, privileges and immunities which are now, or may be hereafter, conferred upon or delegated to incorporated towns under the Constitution and laws of Virginia, as fully and completely as if herein enumerated in detail, and no enumeration of particular powers in this charter shall be held exclusive.' Front Royal Town Charter § 1

19. The Town Charter creates the Town and enables the Town Council the authority to create its own unique rules and laws that are granted to towns as a whole in Virginia. However, Dillon's Rule of strict construction renders void municipal actions that exceed the reasonable scope of powers so granted through enabling legislation.

20. If the appointment of the office of town councilman was not under the jurisdiction of the Town Council, the appointment of Meza the appointment by the Town Council of a councilman on January 4, 2020, would be void because the appointment would exceed of the jurisdiction of the Town Council to make such an appointment.

21. The position of "town council" is an "office" in the context of Section 47 of the Town Charter because Section 9 of the Town Charter specifically refers to the "office" as councilman, the Charter defines councilmen as "officers":

*"The municipal **officers** of said town shall, beginning with the effective date of this act and thereafter, consist of a mayor, **four councilmen**, a town manager, a town treasurer, and a town clerk, who shall also serve as the clerk of town council, and such other officers as may be designated by ordinance duly enacted from time to time. The town treasurer may additionally, by ordinance duly enacted, serve as the town's finance director. Beginning July 1, 1994, and thereafter, the number of councilmen shall be six."*

Front Royal Town Charter § 4

22. On January 5, 2021, the Town Council issued a press release asserting, *inter alia*, that § 47 of the Front Royal Town Charter did not apply to the appointment of Meza because it was found under the caption "Chapter 6 Town Officers". See attached

23. However, “Captions are intended as mere catchwords to indicate the contents of the subtitles”, Virginia Code § 1-244, Jones v. DCSE, 19 Va. App. 184, 450 S.E.2d 172 (1994). As an example, the Virginia Court of Appeals rejected defendant’s argument that Virginia Code § 18.2-96 did not define “*petit larceny*” even though the caption to the Virginia Code section specifically stated, “*Petit larceny defined*”. Foster v. Commonwealth, 44 Va.App. 574, 606 S.E.2d 518 (2004), affirmed 271 Va 235, 623 S.E.2d 902 (2006).
24. There is no ambiguity in the phrase, “*or for one year thereafter*” in the Town Charter. This is a period of time that councilmen are prohibited from appointment or election by the town council to an office under their jurisdiction. Four days is less than one year. The legislative intent, while unnecessary to interpret this section, is furthered by prohibiting a councilman’s appointment within one year of holding the office as councilman by minimizing nepotism and appearances of impropriety.
25. The Town Council’s argument that the statute was to avoid “double dipping” or a “conflict of interest” ignores that there is no “double dipping” if the councilman is a former councilman. The “conflict of interest” remains applicable due to the recent appointment by his colleagues.
26. Furthermore, the Town Council’s reliance on Virginia Code § 15.2-1535 to assert that there is no time restriction on appointments is misplaced. Virginia Code § 15.2-1535(A) enables appointment to Town Council of a previous Town Council member. This is a correct, but incomplete, statement of law. The Virginia General Assembly permits “a member of a governing body may be named a member of such other boards, commissions, and bodies **as may be permitted by general law**”. Where the Town Charter precludes appointment for one year after serving as councilman, the Virginia Code does **NOT** permit appointment by general law. Consequently, the Town’s assertion the Code allows appointment “without any time restrictions” is contradicted by the statute which the Town relies upon.

27. Historically, this clear meaning of Section 47 was also followed by the Town Council when former Mayor James Eastham was found ineligible for appointment to the EDA (2009), when Councilman Bret Hrbek was found ineligible for appointment for committee appointment (2011), and when the current Town Attorney distinguished the interim Town Mayor as **not** a member of Town Council to enable him to serve in the office of interim town manager (2019) within one year after their respective terms of office.
28. The appointment of council members is under the jurisdiction of the Front Royal Town Council and the Town Charter specifically precludes appointment or election of a council member to an office under the jurisdiction of the Town Council for one year.
29. The only exception is appointment for the office of Town Treasurer and the Founding Fathers are presumed to have not intended to include the office of councilman since they chose not to add that office as an exception in § 47 of the Town Charter.

WHEREFORE, the Plaintiff, Paul Lauritz Aldrich, respectfully requests this Honorable Court as follows:

- (1) Undertake jurisdiction over this matter and enter its decree declaring that the action of the Town Council appointment of Jacob Louis Meza as councilman on January 4, 2021, exceeded their legal authority.
- (2) Enter a Writ of Mandamus to the Town Council prohibiting Jacob Louis Meza from holding the office of councilman by appointment until after January 2, 2022.
- (3) Such other relief as the Court deems necessary or property pursuant to Virginia Code §8.01-186.

COUNT II – PETITION FOR INJUNCTIVE RELIEF

30. Paragraph 1 through 29 are incorporated herein by reference as though set forth at length.
31. Aldrich has been aggrieved by the actions of the Town Council of the Town of Front Royal, Virginia, as set forth hereinabove.
32. The likelihood of irreparable harm to the Plaintiff if preliminary injunctive relief is denied is substantial where a void councilman jeopardizes the legitimacy of all Town Council decisions that have a direct bearing on him as a taxpayer and Front Royal resident who is subject to the laws and rules promulgated by this Town Council.
33. The likelihood of harm to the Defendant is minimal since there are currently five qualified councilmen serving on the Town Council and are able to conduct the affairs of the Town Council.
34. The merits of this case arising from the clear and unambiguous language of the Town Charter and the context of the phrase “*under the jurisdiction the council*” modifies the word “*office*” which the Town Council has the authority to appoint or elect a former town councilman within one year of his holding said office.
35. The public interest in the litigation is substantial. All Town Council business is in jeopardy of being rendered void if passed by unauthorized councilman. Moreover, the legal uncertainty of all legislative functions by the local government will remain in doubt until this matter is resolved.
36. On January 11, 2021, at 7:00 p.m., Meza is anticipated to act as councilman at the scheduled Town Council Meeting where “Appointment of Vice Mayor” is the #12 Agenda item. The delay in imposing a temporary injunction after that date will most likely affect the outcome of which councilmen will be selected.

37. Protecting the citizens confidence in their elected officials' compliance with the law is of paramount concern in protecting the institutional integrity of our community.

38. Where, due to the aggrievement caused by the Town Council, Aldrich is entitled, under the common law of the Commonwealth of Virginia, to the issuance of a *writ of mandamus* directing the Town Council to find their appointment of Meza as void.

WHEREFORE, the Plaintiff, Paul Lauritz Aldrich, respectfully requests this Honorable Court to grant the following relief:

- (1) Issuance of Preliminary Injunction that would prohibiting Meza from performing any official capacities as a town councilman subject to a full hearing.
- (2) Set a hearing date upon which evidence and testimony can be heard for a full hearing on the injunction.
- (3) Issue a *writ of mandamus* directing the Town Council to find their appointment of Meza is void.
- (4) Award to the Plaintiff his costs in this action together with reasonable attorneys' fees as determined by the court.

RESPECTFULLY SUBMITTED,

PAUL LAURITZ ALDRICH
Plaintiff

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