

Holyoke City Council again fails to strike ordinance banning city employees from serving

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HOLYOKE — The City Council has again rejected striking language from a 2017 ordinance that bans municipal employees from serving on the council.

The order failed to garner the necessary supermajority vote.

As it reads, the ordinance would prevent Councilor-elect Israel Rivera, a School Department employee, from serving on the body come Jan. 3. The council also voted on the order during the Dec. 7 meeting, but that vote resulted in an 8-5 outcome.

Before the Dec. 7 vote, Ward 1 Councilor-elect Jenny Rivera revealed she would resign as a paraprofessional with the Holyoke Public Schools effective Jan. 2, the day before the City Hall inaugural ceremony.

Jenny and Israel Rivera are not related.

During public comment, Israel Rivera thanked the councilors who supported the order to strike the ordinance's language forbidding him from serving on the body. However, he said he was not asking any councilor to "bend over backward" or create special rules or regulations.

"I am just asking to be able to serve that have voted me in," Rivera said, "and be able to take care of my family at the same time." He added that resigning from his School Department position was still a possibility.

"It's my life, it's my situation, and I'll handle it like I should handle it. No one should tell me what I should do and shouldn't do with my life and how I should take care of my family moving forward," he said.

Israel Rivera stated that conflict of interest should not apply only to him. Councilors At-large Howard Greaney and James Leahy cast "no" votes. The veteran councilors' reelection bids fell short in November.

Also, Councilors Rebecca Lisi's and Michael Sullivan's mayoral bids precluded them from running for City Council. In addition, Councilors Libby Hernandez, Terence Murphy, and Gladys Lebron-Martinez did not run for reelection.

If Israel Rivera cannot serve, the council must nominate and elect a new member. He placed second overall in the City Council races, with Kevin Jourdain taking the top spot. Jourdain called for enforcing the ordinance that would block Israel Rivera from serving.

Lisi, the Ordinance Committee's chair, said some councilors considered striking the language in its entirety was an "overly broad approach" and wanted more restrictions.

The newest amendment excluded Holyoke Public School employees from the ban, as the council has "neither line item nor policy control." So even if Israel Rivera forgoes his council pay, the ordinance still prevents him from serving, Lisi said.

However, the council reverted to the order's original intent, striking the ban language altogether.

Lisi said the next City Council to determine how restrictive or nonrestrictive the ethics and conflict-of-interest ordinance should be.

Greaney requested clarification from the city's Law Department if he could vote on the order, considering he was defeated in the last election.

Greaney added that being a School Department employee and a city councilor presents several issues, such as budgets appropriations, a school construction proposal, union affiliation, and relocating the School Department headquarters. “There is a possibility for conflict, and I want to point that out,” he said.

Assistant City Solicitor Kathleen Degnan was unsure if Greaney’s vote presented a conflict, as he has a chance of being seated in January if Israel Rivera could not serve. “I’m not sure if that’s true,” she said. “Just with the facts that I know of, I can’t say definitively if you (Greaney) can vote.”

Greaney said the public raised the matter of potential conflict, and he wanted assurances his “integrity was clear.”

McGee clarified that no rule exists that the person who placed seventh on the November councilor at-large ballot would be next in line. However, councilors hold the right to nominate anyone for a vacant seat.

McGee noted the city’s Law Department did not render an opinion either way. Councilor Joseph M. McGiverin said whether Greaney or any of the affected councilors could vote on the amendment was a matter for the state’s ethics commission.

Ward 5 Councilor Linda Vacon, a “no” vote, said it was her understanding the incoming City Council must address if a city employee could take their seat, especially when a municipal election was not in play. “We appear to be changing the law for one individual,” she said.

Vacon said the clause exempting school employees from the proposed amendment underwent no legal review. She motioned for the legal department to review the order before any vote.

A follow-up motion returned the order to the Ordinance Committee for further consideration. Tuesday’s meeting was the final one for 2021, leaving the order in limbo until the new council is sworn in and subcommittees are formed.

Ward 6 Councilor Juan Anderson-Burgos, who spoke after the vote, said as the holidays approach realize the decisions forced on Israel Rivera, the father of three children. As they celebrate with their families, he asked councilors to think of Rivera’s commitment to the community.

“Now the people we call Makers of Law, the makers of history, are closing the door on this individual and his family,” Anderson-Burgos said. “I hope we reconsider. I’m a good person. He’s a good person. And I believe there’s good in everyone’s heart. But please think about these decisions you’re making.”

Though Israel Rivera can be sworn in on Jan. 3, the council could take up challenges to the councilor’s qualifications to serve during the organizational meeting, according to Assistant City Solicitor Michael Bissonnette.

If the challenge proves unsuccessful, the council would seat all 13 members, Bissonnette said. Subsequent challenges would follow the same procedure, allowing the affected member to cast a vote on their fate.

If a vacancy occurred, no provisions call for an automatic vote to fill the seat. The council’s next meets Jan. 4. McGiverin wants the state to rule on any challenges and not the City of Holyoke.

Bartley said a conflict would occur whereby the councilor would be able to serve while the council ignored a standing ordinance. He doubted such a conflict could be legally defended. “On its face, it makes zero sense,” he said.

Voting “yes” were Councilors Juan Anderson-Burgos, Libby Hernandez, Rebecca Lisi, Todd McGee, Joseph McGiverin, Michael Sullivan and Peter Tallman. Voting “no” were Councilors David Bartley, Howard Geaney, James Leahy, Terence Murphy and Linda Vacon.