

Mayor Joshua Garcia

City of Holyoke

Law Department

December 19, 2022

Holyoke City Council  
536 Dwight Street  
Holyoke, MA 01040

RE: Council Access to Legal Opinions

Dear Councilors:

Please accept the following legal opinion in response to questions raised by the Council member Jourdain regarding potential access to legal advice and opinion(s).

After review of the applicable Charter provision, it is my opinion that the body may request legal advice in the following fashion:

1. A request from the Mayor;
2. A request from the City Council; or
3. A request from a city agency upon prior approval from the Mayor.

See Ordinance Section 2-162.

In addition, Section 39 of the Holyoke City Charter provides that “The city solicitor shall perform all legal services in which the city is interested and attend to all proceedings at law or in equity to which the city is a party, and to all claims made to the city council. For these purposes he shall have sole charge of all such matters and proceedings. He shall give in writing his legal opinion upon any of the municipal affairs of the city, upon the request of the mayor or city council, and in addition shall give his opinion upon the law relating to municipal affairs in any department, upon request made by the head of such department.” (emphasis added).

Accordingly, there are three ways upon which a legal opinion may be rendered. Firstly and as the Executive, the mayor may request it. Secondly, the city council as a legislative body may request it. Thirdly and should the request be sounded upon a law relating to a particular department, the department head may make such a request upon receiving prior approval from the Mayor. Here, the language plainly states the “city council” may make a request. Where the Charter sets forth that the council is a unit, or a legislative body, it does not address single or minority requests for opinions and commands that the council as a unit make the request. As this is the majority, it is silent upon the minority or individual members of the council. However, it should be noted that at a City Council meeting, the attorney in attendance shall work with the City Council regarding legal questions posed to the law department by the City Council or individual members. See Ordinance at Section 2-159. Therefore, a verbal legal opinion can be given to individual members at a City Council meeting, however if a formal written opinion is



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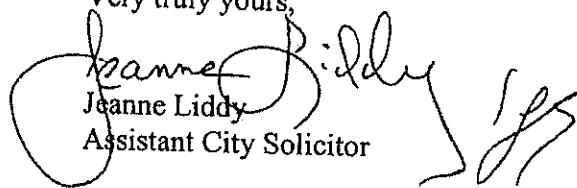
Law Department

required, then the request would come from the full City Council. See Ordinances Section 2-162.

Any ordinances that are inconsistent with the aforementioned are specifically repealed. See Ordinances Section 2-163.

I trust the above addresses your concerns, and if I can be of further assistance, please let me know.

Very truly yours,

  
Jeanne Liddy  
Assistant City Solicitor