

TO: CITY COUNCIL
FROM: SHIRLE T. EITING, ASSISTANT CITY ATTORNEY
DATE: JUNE 17, 2041
RE: Charter changes pursuant to *City of Sparks v. Sparks Municipal Court*

In *City of Sparks v. Sparks Municipal Court*, 302 P.3d 1118 (2013) the Nevada Supreme Court found that “based solely on the court's inherent authority to manage its own affairs, the legislative and executive branches are strictly prohibited from infringing on the court's incidental powers reasonable and necessary to carry out the duties required for the administration of justice.” From this broad finding the Court then went on to address the separate issues raised by the parties.

1. EMPLOYEES

As applied to the Municipal Court employees the Court held: “Sections of city charter, giving city manager authority to appoint any employee employed in a bona fide executive, administrative, or professional capacity, and requiring city manager to exercise control over all departments of the City government and its officers and employees, were invalid as violating state constitutional provision requiring separation of powers, to the extent that the charter sections permitted city to interfere with municipal court's management and control of municipal court employees.”

“Municipal court had inherent authority to manage and control court employees, and city's interference with that authority was a violation of constitutional principle of separation of powers, and thus city could be subject to preliminary injunction prohibiting it from exercising any power over municipal court employees, including their selection, promotion, or termination; ability to manage court employees was necessary to municipal court's ability to carry out its essential functions to decide controversies and enforce judgments, and management of court employees was not related to any of city's express legislative or executive functions.”

Based upon the Court’s decision, the parties jointly recommended changes to the City Charter. These recommended changes were adopted and approved by the Charter Committee. The parties did not address the Court’s ruling on the budget issues or the issue of outside council. Those matters are being addressed through different avenues.

The recommended changes appear in italics and are as follows:

Section 1.080(3): Revised to reflect that Court staff is not subject to appointment by the City Manager.

Except as otherwise provided in this Charter *and except as to Municipal Court employees*, the City Manager or the designee of the City Manager may appoint any employee employed in a bona fide executive, administrative or professional capacity.

Section 3.020(1)(c) Revised to exclude the City Manager from exercising control over the Municipal Court as a department:
and

- (c) *To the extent allowed by law exercise control over all departments of the City government and its officers and employees.*

Section 3.120: Revised to exclude Municipal Court employees from the City Manager's authority to designate salaries.

Employees in appointive positions, *other than Municipal Court employees*, are entitled to receive the salaries designated by the City Manager within the range established for each position by the City Council

Section 4.023: Revised to authorize the Court to appoint its Administrator and determine his/her salary within the Court's budget.

1. The Administrative Judge may appoint a Court Administrator and prescribe his or her duties *and salary*. The City Council may appropriate the money *the Administrative Judge* considers proper to compensate a Court Administrator.

Section 4.025: Revised to authorize the Court to appoint its judicial assistants and determine his/her salary within the Court's budget.

1. The Administrative Judge may appoint *a Judicial Assistant for each Municipal Judge and prescribe his or her duties and salary*. The City Council may appropriate the money *the Administrative Judge* considers proper to compensate a Judicial Assistant.

Section 9.190: Revise to except Municipal Court employees from the applicability of Article IX (civil service) by adding subsection (5) as follows:

5. *Employees of the Municipal Court.*

Sec. 4.027 Municipal Court: Additional Court Employees.

1. The Municipal Judges may appoint additional Court employees to assist the Municipal Court in administering its affairs, including but not limited to, Marshals, Court Clerks and Interpreters. The City Council may appropriate the money the Administrative Judge considers proper to compensate Court employees.

2. Court employees are at will employees and may be removed without cause. A decision to remove any Court employee is final. If a Court employee is removed, the money allocated for his/her compensation reverts to the Municipal General Fund as soon as all payments of money committed have been made.