

**SPARKS ADVISORY QUESTION 1****SP - 1**

**The following question is advisory ONLY.**

**Should the City Attorney remain an elected non-partisan office within Sparks's government?**

Yes..... No.....

**EXPLANATION**

The Sparks City Attorney is an elected, non-partisan office within the Executive Branch of Sparks's government. The City Attorney is elected to a four-year term of office and serves as legal counsel to the Sparks Mayor, City Council, and the various departments within the City of Sparks. The City Attorney represents the City of Sparks in municipal, criminal court proceedings, and in civil litigation before all Nevada and federal courts.

This question is intended to advise the Sparks City Council whether the voters of Sparks desire to retain their right to vote for the City Attorney or relinquish that right and allow the Sparks City Attorney to be appointed.

A "Yes" vote will be used as an indication of the preference of the Sparks voters to retain their right to vote for their City Attorney.

With voter disapproval of this question, the Sparks City Council will consider requesting that the Charter for the City of Sparks be amended to change the City Attorney from an elected, nonpartisan position to an appointive position.

This question is advisory in nature only and does not place any legal requirements on the governing body or any officer of the political subdivision or the Nevada Legislature. However, the wishes of the voters of Sparks shall be pursued with all due consideration by the Sparks City Council.

### ANTICIPATED FINANCIAL IMPACT

The direct financial impact of placing an Advisory Question on the ballot is minimal and is not anticipated to cause the City's costs for the 2018 General Election to exceed the currently budgeted \$12,000 to \$15,000 which is already contracted for with the Washoe County Registrar of Voters. Overall, the financial impact of an elected City Attorney is minimal. As an elected position, the costs of an election or re-election campaign is the responsibility of the candidate. There are no taxpayer funds involved with the election or re-election of the City Attorney (the primary costs to Sparks's voters is paying the City Attorney's annual salary and benefits - which would be paid regardless of whether the position was appointed or elected).

Presently it is difficult to determine the exact financial cost to taxpayers of an appointed City Attorney that would serve at the pleasure of the Sparks City Council. City staff time and resources would be allocated to find a suitable candidate for appointment. The process of advertising, searching, interviewing, and recommending possible appointees to the Sparks City Council would create some new cost. The City Council would presumably engage in the public process of interviewing, deliberating, and ultimately selecting what it believes to be an appropriate appointee. If an appointed City Attorney is thereafter unable to perform their duties or the City Council dismisses the City Attorney, the selection process starts over, requiring the expenditure of staff time and City resources.

Currently Article 1, Section 1.060(5) of the Sparks City Charter stipulates that an elected officer is to receive a salary in an amount fixed by the City Council. This amount is determined by City Ordinance pursuant to SMC 2.04.030 and 2.04.020. These provisions would no longer be applicable in the event the City Attorney is appointed.

Additional costs could possibly also be incurred if the candidate the City Council appoints demands contractual provisions that the currently elected City Attorney is not entitled to under the City Charter. These provisions could include: a "signing bonus" as an incentive to assume the responsibilities of the City Attorney, a higher salary than the current City Attorney, a scheduled salary raise, end-of-year-bonuses, and a contractual "buy-out" provision.

### **SP - 1 ARGUMENT FOR PASSAGE**

A yes vote will protect your right to vote for the Sparks City Attorney position. The more elected officials the city has, the more checks and balances there exist. An elected City Attorney will make certain the City Council and city management do not go astray legally.

Appointed City Attorneys work at the will of the City Council and/or city management and can be influenced or fired at any time. Appointed officials are too dependent upon the good will of those who appoint them.

An elected City Attorney can act with much more authority and freedom if the attorney responds only to the people of the City of Sparks and not to the City Council or city management.

*(The above argument was submitted by the Ballot Question Committee composed of citizens in favor of passage of this question as provided for in NRS 295.217.)*

**SP - 1 REBUTTAL TO ARGUMENT FOR PASSAGE**

A yes vote will limit the pool of qualified individuals to serve our growing city.

Checks and balances are great, however, when it comes to protecting the city, citizens should have the best qualified City Attorney.

An attorney takes an oath, is hired to protect and serve, and should serve at the will of city management. An elected attorney would have more people to please for re-election.

If an elected attorney makes bad decisions and costs the city dollars, the city would have to wait until the next election in hopes of educating the voters why this person should not be City Attorney and hope there is a better qualified candidate.

Sparks is growing and should not be limited by who currently lives in the city but should have the option of hiring the best attorney the city's budget can afford who could relocate to be within the city limits.

*(The above rebuttal was submitted by the Ballot Question Committee composed of citizens in against passage of this question as provided for in NRS 295.217.)*

**SP - 1 ARGUMENT AGAINST PASSAGE**

1. A no vote would eliminate residency requirements, and expand the pool of qualified attorneys. A limited pool often results in the election of attorneys who have little to no municipal expertise or experience. The issues facing local governments are complex and require the City Manager and City Council have the benefit of highly competent and qualified legal counsel. The City Attorney not only needs to be a qualified attorney, but needs to be a skilled leader and manager of a city department.
2. Elected City Attorneys are at risk of being partisan and/or making decisions based on the consequences for their next election or the needs of their donors. There is a stronger likelihood an elected city attorney will tailor written opinions to their own political beliefs and/or the beliefs of their donors. Sparks deserves independent, nonpartisan counsel whose only motivation is the best interests of the city they serve.
3. City Councils are citizen legislative bodies and more often than not council members do not have a legal background. One of the most important functions of a City Attorney is to render advice to the City Council to make sure their actions fall within the law.
4. Elected City Attorneys have chosen to wade into the policy arena rather than maintaining a clear boundary between the elected role and the legal counsel role which leaves councilmembers with either the perception, or the reality, that they are without counsel in contentious matters before the city.

*(The above argument was submitted by the Ballot Question Committee composed of citizens against passage of this question as provided for in NRS 295.217.)*

**SP - 1 REBUTALL TO ARGUMENT AGAINST PASSAGE**

A yes vote will retain your right to vote for the Sparks City Attorney.

1. The City Attorney is a critical advisory position within the city government, representing the views of Sparks' residents. Just like any elected official, the City Attorney should be a resident of Sparks. Sparks voters can elect a competent City Council and City Attorney.
2. City Attorneys never make policy. They only advise the elected City Council on legal issues. City Council can always hire outside legal counsel for additional opinions.
3. Because the City Council does not have a legal background, it is necessary for accountability of the City Attorney to Sparks residents.
4. The City Attorney only advises the City Council on legal matters. The City Council alone sets policy.

We again urge all voters to vote yes to retain the right to vote for our City Attorney.

*(The above rebuttal was submitted by the Ballot Question Committee composed of citizens in favor of passage of this question as provided for in NRS 295.217.)*

