



## MAYOR & COUNCIL COMMUNICATION

DATE: 7/16/2013

**REGULAR**

ITEM #: 11

**MOTION**

**AGENDA ITEM:** A Resolution Accepting Resignation and Declaring a Vacancy

**SUBMITTED BY:** Adam Bell, City Clerk

**THROUGH:** Dean Zuleger, City Administrator

**REVIEWED BY:** Dean Zuleger, City Administrator

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### **SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item ..... City Staff
- Report/Presentation..... City Staff
- Questions from Council to Staff.....Mayor Facilitates
- Public Input, if Appropriate.....Mayor Facilitates
- Call for Motion.....Mayor & City Council
- Discussion.....Mayor & City Council
- Action on Motion.....Mayor Facilitates

### **SUMMARY AND ACTION REQUESTED:**

Due to the resignation of Council Member Nicole Park from her Council seat, the City Council is required by Minnesota law to pass a resolution accepting the resignation and declare a vacancy on the Council. The Council is respectfully asked to adopt the resolution by taking the following action:

***“Move to Adopt Resolution No. 2013-55, A Resolution Accepting Resignation  
And Declaring A Vacancy”***

### **BACKGROUND & STAFF REPORT:**

Nicole Park was elected to the office of Council Member for the period of January 3, 2011 to January 5, 2015. According to Minnesota Statute § 351.02(2) a resigning elected public official must submit a written resignation to the council. On June 18, 2013, Council Member Nicole Park announced her resignation from her elected office to Mayor Pearson. This resignation creates a vacancy on the Council. Minn. Stat. § 351.01, subd. 1 states that after receiving a resignation, a council should pass a resolution stating it has received and accepted the resignation, and declaring that a vacancy exists.

Unless the resignation expressly states it is to take effect at a future date, the resignation will be effective when received by the council. If the resignation states it takes effect on a specified date, the vacancy occurs on that date if it has been received by the council or other official authorized

by the council to receive documents on its behalf even if the council has not formally accepted it at a council meeting. Minn. Stat. § 351.01, subds. 2, 3, 4 (2013). Ms. Park's resignation stated that her resignation would be effective July 16, 2013.

### **RECOMMENDATION:**

The City Council is respectfully requested to adopt a resolution pursuant to state statute accepting Council Member Park's resignation and declaring a vacancy on the City Council by making the following recommended motion:

***“Move to Adopt Resolution No. 2013-55, A Resolution Accepting Resignation  
And Declaring A Vacancy”***

### **ATTACHMENTS:**

- 1) Resolution 2013-55: A Resolution Accepting Resignation and Declaring a Vacancy
- 2) Council Member Park's Written Resignation

### **AUTHORITY:**

#### **2012 Minnesota Statutes:**

#### **§ 351.01 RESIGNATIONS.**

##### **Subdivision 1. To whom made.**

Resignations shall be made in writing signed by the resigning officer:

- (1) By incumbents of elective offices, to the officer authorized by law to fill a vacancy in such office by appointment, or to order a special election to fill the vacancy;
- (2) By appointive officers, to the body, board, or officer appointing them, unless otherwise specially provided.

##### **Subd. 2. When effective.**

Except as provided by subdivision 3 or other express provision of law or charter to the contrary, a resignation is effective when it is received by the officer, body, or board authorized to receive it.

##### **Subd. 3. Contingent resignations prohibited; exception.**

- (a) Except as provided in paragraph (b), no resignation may be made to take effect upon the occurrence of a future contingency. Statements explaining the reasons for a resignation must not be considered to be contingencies unless expressly stated as contingencies.
- (b) A resignation may be made expressly to take effect at a stated future date. Unless it is withdrawn as provided under subdivision 4, a resignation is effective at 12:01 a.m. on the stated date.

##### **Subd. 4. Withdrawal of resignation.**

A prospective resignation permitted by subdivision 3 may only be withdrawn by a written statement signed by the officer and submitted in the same manner as the resignation, and may only be withdrawn before it has been accepted by resolution of the body or board or before a written acceptance of the resignation by an officer authorized to receive it.

#### **§ 351.02 VACANCIES.**

Every office shall become vacant on the happening of either of the following events, before the expiration of the term of such office:

- (1) the death of the incumbent;
- (2) the incumbent's resignation;