



City Hall  
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## City Council

### Approval of Pro Tem Hearing Examiners List

**Agenda Date:** 8/14/2012  
**Agenda Item Number:** 4.H  
**File Number:** 12-0404

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**Type:** decision **Version:** 1 **Status:** Passed

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**Agenda Item:**

Approval of Pro Tem Hearing Examiners List

**Issue:**

Presently, Olympia is down to just one Pro Tem Hearing Examiner to serve as a substitute when the Examiner is not available.

**Committee Recommendation:**

Not referred to a committee.

**City Manager's Recommendation:**

Move to approve the Pro Tem Hearing Examiner list and authorize the City Manager, or designee, to sign service contracts with individuals and/or firms.

**Staff Contact:**

Cathie Butler, Communications Manager, 360.753.8361

Darren Nienaber, Deputy City Attorney, 360.753.8044

**Presenter(s):**

None - Consent Calendar Item

**Background and Analysis:**

Olympia Municipal Code (OMC) 18.82.040 and the City's contract with Examiner Tom Bjorgen provides that the Council shall identify a list of pre-approved examiners to hold hearings when Mr. Bjorgen is not available. The specific Hearing Examiner Pro Tem for each case is selected from this list by the Director of Community Planning & Development. At present, the City has only one Examiner Pro Tem.

A public request for qualifications was issued and three individuals or firms responded:

- Jacqueline Brown Miller
- James Driscoll
- Sound Law Center.

Hearing Examiner Tom Bjorgen, Planning Commissioner Larry Leveen, City Attorney Tom Morrill, and City Manager Steve Hall reviewed the applications. Mr. Bjorgen indicated that, in his opinion, each of the three applicants is qualified under the criteria of OMC 18.82.060, with Mr. Driscoll the most experienced in this field. Mr. Hall and Mr. Morrill also determined that the three applicants meet the qualification criteria for the Pro Tem list. Mr. Leveen recommended rejecting Mr. Driscoll's application because of failure to

proofread his application (it contained an irrelevant reference to Tumwater), which Mr. Leveen viewed as lack of attention to detail - a key criteria for a Hearing Examiner, in his opinion.

**OMC 18.82.060 - (Hearing Examiners) Qualification and Removal.**

"Hearing Examiners shall be appointed solely with regard to their qualifications for the duties of their office and will have such training and experience as will qualify them to conduct administrative or quasi-judicial hearings on regulatory enactments and to discharge the other functions conferred upon them. Hearing Examiners shall hold no other elective or appointive office or position with the City of Olympia. A Hearing Examiner may be removed from office for cause by majority vote of the Council as recommended by the Joint Committee."

**Neighborhood/Community Interests (if known):**

None known.

**Options:**

1. Approve the list as recommended.
2. Reject the list and seek new applicants.
3. Approve some, but not all, of the applicants.

**Financial Impact:**

Cost for Pro Tem services is included in the Community Planning & Development budget.