



Office of the City Clerk

The City of Morgantown

Linda L. Tucker, CMC
389 Spruce Street, Room 10
Morgantown, West Virginia 26505
(304) 284-7439 Fax: (304) 284-7525
ltucker@morgantown.gov

AGENDA
MORGANTOWN CITY COUNCIL
SPECIAL MEETING
City Hall - Council Chambers
March 29, 2016
6:00 p.m.

1. **CALL TO ORDER**
2. **ROLL CALL BY CITY CLERK**
3. **CORRESPONDENCE: Proclamation for Vietnam Veterans Day**
4. **UNFINISHED BUSINESS:**
 - A. **Interview for FIRE CODE APPEALS BOARD: (to fill five vacancies)**
 - 6:10 pm Patrick Esposito – Professional Engineers
 - 6:20 pm Mark Lambert – Fire Department Operations
 - 6:30 pm Mike Wolfe – General Public
5. **EXECUTIVE SESSION: Pursuant to WV State Code Section 6-9A-4(b) (2) (A)
In Order to Discuss Personnel Matters in considering new appointments for the
FIRE CODE APPEALS BOARD.**
6. **ADJOURNMENT**

If you need an accommodation contact us at 284-7439

Application to Serve on City Boards and Commissions

THE CITY OF MORGANTOWN HAS NUMEROUS COMMITTEES, BOARDS, AND COMMISSIONS COMPRISED OF CITIZENS WHO GIVE OF THEIR TIME IN VERY IMPORTANT CAPACITIES. STATE LAWS PRESCRIBE THAT SOME OF THOSE BODIES RETAIN MEMBERS WHO HAVE CERTAIN EXPERIENCE, EDUCATION OR PROFESSIONAL CERTIFICATIONS. WE ASK THAT YOU PROVIDE THE FOLLOWING BASIC INFORMATION SO WE MAY EVALUATE PROSPECTIVE APPOINTEES' QUALIFICATIONS IN AN EXPEDIENT MANNER. A RESUME OR OTHER PERTINENT INFORMATION MAY BE SUBMITTED ALONG WITH THIS FORM.

MR/MS: Patrick R. Esposito WORK/CELL PHONE: 304.599.1384
Ph.D., P.E.

ADDRESS: 1257 Fairlawns Ave. HOME PHONE: 304-599-5073

Morgantown WV ZIP: 26505

EMAIL ADDRESS: pesposito@whitmanaugusta.com

CITY RESIDENT? YES NO YEARS OF CITY RESIDENCY 45 WARD 4th

WHO IS YOUR EMPLOYER? (If Retired, Answer "Retired"): Whitman Augusta

WHAT TYPE OF BUSINESS ARE (were) YOU EMPLOYED IN? Technology Development

JOB TITLE or JOB DESCRIPTION: President

PROFESSIONAL CERTIFICATIONS/LICENSES: Professional Engineer

SPECIAL INTERESTS: _____

PLEASE CHECK THE COMMISSIONS YOU ARE INTERESTED IN SERVING:

- | | |
|---|---|
| <input type="checkbox"/> BOCA BOARD OF APPEALS | <input type="checkbox"/> MUSEUM COMMISSION |
| <input type="checkbox"/> BOARD OF PARKS AND RECREATION | <input type="checkbox"/> PARKING AUTHORITY |
| <input type="checkbox"/> BOARD OF ZONING APPEALS | <input type="checkbox"/> PERSONNEL BOARD |
| <input type="checkbox"/> BUILDING COMMISSION | <input type="checkbox"/> PLANNING COMMISSION |
| <input type="checkbox"/> FIRE CIVIL SERVICE | <input type="checkbox"/> POLICE CIVIL SERVICE |
| <input type="checkbox"/> HISTORIC LANDMARKS | <input type="checkbox"/> SISTER CITIES COMMISSION |
| <input type="checkbox"/> HUMAN RIGHTS | <input type="checkbox"/> TRAFFIC COMMISSION |
| <input type="checkbox"/> LIBRARY BOARD | <input type="checkbox"/> TRANSIT AUTHORITY |
| <input type="checkbox"/> MET BOARD | <input type="checkbox"/> TREE BOARD |
| <input type="checkbox"/> MORGANTOWN HOUSING ADVISORY COMMISSION | <input type="checkbox"/> URBAN LANDSCAPE COMMISSION |
| <input type="checkbox"/> MORGANTOWN UTILITY BOARD | <input type="checkbox"/> WARD & BOUNDARY |
| <input checked="" type="checkbox"/> FIRE CODE BOARD OF APPEALS | |
| <input type="checkbox"/> WOODBURN REDEVELOPMENT COMMISSION | |

SUBMIT TO: CITY CLERK, 389 SPRUCE STREET, RM.10, MORGANTOWN, WV, 26505.

APPLICATIONS WILL REMAIN ON FILE IN THE CITY CLERK'S OFFICE FOR 6 MONTHS UPDATED: 7/15

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MR/MS: Mark R. Lambert WORK/CELL PHONE: 304 687-7228

ADDRESS: 507 Burroughs St., Apt 505 HOME PHONE: Same

Morgantown, WV ZIP: 26505

EMAILADDRESS: mlambe13@gmail.com

CITY RESIDENT? YES NO YEARS OF CITY RESIDENCY 2 WARD

WHO IS YOUR EMPLOYER? (If Retired, Answer "Retired"): WVU

WHAT TYPE OF BUSINESS ARE (were) YOU EMPLOYED IN? Fire Education

JOB TITLE or JOB DESCRIPTION: Director, WV State Fire Academy

PROFESSIONAL CERTIFICATIONS/LICENSES: Certified Fire Investigator

SPECIAL INTERESTS:

PLEASE CHECK THE COMMISSIONS YOU ARE INTERESTED IN SERVING:

- | | |
|---|---|
| <input type="checkbox"/> BOCA BOARD OF APPEALS | <input type="checkbox"/> MUSEUM COMMISSION |
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MARK R LAMBERT

SUMMARY OF QUALIFICATIONS

February 2015 – Present – Program Leader/Director of the WVU Fire Service Extension/Fire Academy.

February 1992 – January 2015 West Virginia State Fire Marshal's Office, Charleston, WV

- Jan. 2014 – Present – Field Deputy in charge of Investigations Division and the Public Education Division. Supervising 10-12 Field Investigators and 2 secretaries.
- Dec. 2011 Jan. 2014 – Field Supervisor for the Fire Marshal's Office, supervising 5-6 investigators around the state.
- Feb. 1992 – Dec. 2011 Assistant State Fire Marshal – Criminal Investigation Division
- Jan. 2011 – Created, implemented & oversee the SFMO drug testing policy. Created after analyzing several policies from state and local agencies both in and out of West Virginia.
- Co-created and implemented comprehensive training policy for newly hired sworn personnel of the SFMO.
- Created & implemented the FOIA Policy for the SFMO after analyzing multiple law enforcement agency policies.
- Worked on administrative rules & policies for the current WV explosives & arson related laws.
- Investigation and enforcement of Fire and Explosives related laws, expert opinion and advice on state policy on the subject matter.
- As past President of the WV- IAAI have analyzed and crafted policies with regard to arson related statutes in West Virginia
- Adjunct Faculty WVU Fire Service Extension (Arson/Explosives Instructor) have crafted and reorganized the training policies in this area as a subject matter expert. Part of course involves instructing students on why current laws and policies were implemented.
- Analyzed the policies & practices of the WV State Fire Commission as part of graduate school training.
- Spent 10 years on WVSFM Bomb Squad as a Hazardous Device Technician. Government dignitary protection details and device calls.
- Testified as an Expert in State & Federal Court
- WV Fire & Police Instructor and have also worked as a substitute teacher in WV Public school system.

EDUCATION

2009 – 2011 West Virginia University

Morgantown, WV

MA – Public Administration

- Policy analysis, administrative rules, budgeting & quantitative/qualitative analysis.

1986 - 1991 West Virginia University Morgantown, WV
BA – International Relations/History
■ Minor – Political Science/East Asian Policy/Affairs

PROFESSIONAL MEMBERSHIPS

Member – MENSA

Member - Boone Co. WVU Alumni

Member – Pi Alpha Alpha

AWARDS RECEIVED

2000 Award US Attorney's Office for Public Service

2003 Award US Attorney's Office for Public Service

2005 Award US Attorney's Office for Public Service

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MR/MS: MICHAEL "MIKE" WOLFE
ADDRESS: 546 JUNCTION STREET
 MORGANTOWN

WORK/CELL PHONE: 304-216-0035
HOME PHONE: 304-212-4795
 26505

EMAIL ADDRESS: mike.wolfe304@gmail.com

CITY RESIDENT? YES X NO YEARS OF CITY RESIDEN: 5 (total) WARD 3

WHO IS YOUR EMPLOYER? (If Retired, answer "Retired") MONONGALIA COUNTY COMMISSION

WHAT TYPE OF BUSINESS ARE (were) YOU EMPLOYED IN? EMERGENCY SERVICES

JOB TITLE OR JOB DESCRIPTION: DIRECTOR OF HOMELAND SECURITY EMERGENCY MANAGEMENT AGENCY & MECCA 911

PROFESSIONAL CERTIFICATIONS/LICENSE: LEVEL III WV EMERGENCY MANAGER

SPECIAL INTERESTS: EMERGENCY SERVICES, COMMUNITY DEVELOPMENT, VOLUNTEERING

PLEASE CHECK THE COMMISSIONS YOU ARE INTERESTED IN SERVING:

- | | |
|--|--|
| <input type="checkbox"/> BOCCA BOARD OF APPEALS | <input type="checkbox"/> MUSEUM COMMISSION |
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| <input type="checkbox"/> BUILDING COMMISSION | <input checked="" type="checkbox"/> PLANNING COMMISSION |
| <input checked="" type="checkbox"/> FIRE CIVIL SERVICE | <input checked="" type="checkbox"/> POLICE CIVIL SERVICE |
| <input checked="" type="checkbox"/> FIRE CODE BOARD OF APPEALS <i>General Public</i> | <input type="checkbox"/> SISTER CITIES COMMISSION |
| <input type="checkbox"/> HISTORIC LANDMARKS | <input checked="" type="checkbox"/> TRAFFIC COMMISSION |
| <input type="checkbox"/> HUMAN RIGHTS | <input checked="" type="checkbox"/> TRANSIT AUTHORITY |
| <input type="checkbox"/> LIBRARY BOARD | <input type="checkbox"/> TREE BOARD |
| <input checked="" type="checkbox"/> MET BOARD | <input type="checkbox"/> URBAN LANDSCAPE COMMISSION |
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Updated: 2/15/2016 HC

1.7.15 Stop Work Order. The AHJ shall have the authority to order an operation, construction, or use stopped when any of the following conditions exists:

- (1) Work is being done contrary to provision of this *Code*.
- (2) Work is occurring without a permit required by Section 1.12.
- (3) An imminent danger has been created.

1.7.16 Imminent Dangers and Evacuation.

1.7.16.1 When, in the opinion of the AHJ, an imminent danger exists, the AHJ shall be authorized to order the occupants to vacate, or temporarily close for use or occupancy, a building, the right-of-way, sidewalks, streets, or adjacent buildings or nearby areas.

1.7.16.2 The AHJ shall be authorized to employ the necessary resources to perform the required work in order to mitigate the imminent danger.

1.7.16.3 Costs incurred by the AHJ in the performance of emergency work shall be the responsibility of the property owner or other responsible party creating such imminent danger.

1.7.17 Standby and Fire Watch Personnel.

1.7.17.1 The AHJ shall have the authority to require standby fire personnel or an approved fire watch when potentially hazardous conditions or a reduction in a life safety feature exist due to the type of performance, display, exhibit, occupancy, contest, or activity; an impairment to a fire protection feature; or the number of persons present.

1.7.17.2 The owner, agent, or lessee shall employ one or more qualified persons, as required and approved, to be on duty.

1.7.17.2.1 The cost of standby fire personnel shall be at no cost to the AHJ.

1.7.17.3* Such standby fire personnel or fire watch personnel shall be subject to the AHJ's orders at all times and shall be identifiable and remain on duty during the times such places are open to the public, when such activity is being conducted, or as required by the AHJ.

1.7.18 Public Fire Education.

1.7.18.1 The AHJ shall have the authority to develop and implement a public fire safety education program as deemed necessary for the general welfare with respect to the potential fire hazards within the jurisdiction.

1.7.18.2 The AHJ shall have the authority to ensure duly authorized public fire safety education programs or public fire safety messages are disseminated to the general public.

1.8 Duties and Powers of the Incident Commander.

1.8.1 Authority. The incident commander conducting operations in connection with the extinguishment and control of any fire, explosion, hazardous materials incident, natural disaster, rescue, and/or other emergency shall have authority to direct all operations of fire extinguishment, mitigation of a hazardous materials incident, natural disaster, rescue, and/or control and to take necessary precautions to save life, protect property, and prevent further injury or damage.

1.8.2 Controlling Scene. During any emergency described in 1.8.1, including the investigation of the cause of such emergency, the incident commander or authorized representative shall be permitted to control or prohibit the approach to the scene of such emergency by any vehicle, vessel, or person.

1.8.3 Obstruction of Operations. Persons shall not obstruct the operations of the fire department or disobey any command of the incident commander or authorized representative or any part thereof, or any order of a police officer assisting the fire department.

1.8.4 Scene Barrier. The incident commander or authorized representative in charge of an emergency scene shall have the authority to establish barriers to control access in the vicinity of such emergency and to place, or cause to be placed, ropes, guards, barricades, or other obstructions across any street or alley to delineate such emergency scene barrier.

1.8.5 Persons, except as authorized by the incident commander in charge of the emergency, shall not be permitted to cross barriers established in accordance with 1.8.4.

1.9 Liability.

1.9.1 The AHJ, and other individuals charged by the AHJ, or the incident commander of emergency operations, charged with the enforcement of this *Code* or any other official duties, acting in good faith and without malice in the discharge of their duties, shall not thereby be rendered personally liable for any damage that could accrue to persons or property as a result of any act or by reason of any act or omission in the discharge of their duties.

1.9.2 The fire department and AHJ, acting in good faith and without malice in the discharge of the organizations' public duty, shall not thereby be rendered liable for any damage that could accrue to persons or property as a result of any act or by reason of any act or omission in the discharge of such duties.

1.9.3 Any suit brought against the AHJ, the incident commander, or such individuals because of such act or omission performed in the enforcement of any provision of such codes or other pertinent laws or ordinances implemented through the enforcement of this *Code* or enforced by the code enforcement agency shall be defended by this jurisdiction until final termination of such proceedings, and any judgment resulting therefrom shall be assumed by this jurisdiction.

1.9.4 This *Code* shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or its parent jurisdiction be held as assuming any such liability by reason of the inspections authorized by this *Code* or any permits or certificates issued under this *Code*.

1.10 Fire Code Board of Appeals.

1.10.1 Establishment of Fire Code Board of Appeals. A Board of Appeals shall be established to rule on matters relating to the fire code and its enforcement.

1.10.1.1 Membership.

1.10.1.1.1 The members of the Board of Appeals shall be appointed by the governing body of the jurisdiction.

1.10.1.1.2 The Board of Appeals shall consist of five or seven principal members and one ex officio member representative of the AHJ. Each principal member shall be permitted to have an alternate with similar experience to serve in his or her stead when necessary.

1.10.1.1.2.1 The jurisdiction governing body shall have the authority to appoint alternates who shall serve when a principal member is unable to fulfill their obligations. Alternates

shall have the full authority and responsibility of principal members when serving in place of a principal member.

1.10.1.1.3 Members and alternate members shall be appointed based on their education, experience, and knowledge.

1.10.1.1.4 Members and alternates shall be appointed to a 3-year term.

1.10.1.1.5 Members and alternates shall be composed of individuals experienced in the following fields or professions:

- (1) Engineering or architectural design
- (2) General contracting
- (3) Fire protection contracting
- (4) Fire department operations or fire code enforcement
- (5) Building code enforcement
- (6) Legal
- (7) General public

1.10.1.1.5.1 Members and alternates shall not be employees, agents, or officers of the jurisdiction.

1.10.1.1.5.2 Members and alternates shall be residents of the jurisdiction.

1.10.1.1.5.3 No more than one member shall represent the same field or provision listed in 1.10.1.1.5.

1.10.1.1.6 The representative of the AHJ shall be an ex officio member and shall be entitled to participate in all discussions. The ex officio member shall not be entitled to a vote.

1.10.1.1.7 No member of the Board of Appeals shall sit in judgment on any case in which the member holds a direct or indirect property or financial interest in the case.

1.10.1.1.8 The board shall select one of its members to serve as chair and one member to serve as vice chair.

1.10.2 Rules and Procedures of the Board of Appeals. The Board of Appeals shall have the authority to establish rules and regulations for conducting its business that are consistent with the provisions of this *Code*.

1.10.3 Authority of the Board of Appeals.

1.10.3.1 The Board of Appeals shall provide for the reasonable interpretation of the provisions of this *Code* and issue rulings on appeals of the decisions of the AHJ.

1.10.3.2 The ruling of the Board of Appeals shall be consistent with the letter of the *Code* or when involving issues of clarity, ensuring that the intent of the *Code* is met with due consideration for public safety and fire fighter safety.

1.10.3.3 The Board of Appeals shall have the authority to grant alternatives or modifications through procedures outlined in Section 1.4 of the *Code*.

1.10.3.4 The Board of Appeals shall not have the authority to waive the requirements of the *Code*.

1.10.3.5 The Board of Appeals decisions shall not be precedent setting.

1.10.4 Means of Appeals.

1.10.4.1 Any person with standing shall be permitted to appeal a decision of the AHJ to the Board of Appeals when it is claimed that any one or more of the following conditions exist:

- (1) The true intent of the *Code* has been incorrectly interpreted.
- (2) The provisions of the *Code* do not fully apply.

- (3) A decision is unreasonable or arbitrary as it applies to alternatives or new materials.

1.10.4.2 An appeal shall be submitted to the AHJ in writing within 30 calendar days of notification of violation. The appeal shall outline all of the following:

- (1) The *Code* provision(s) from which relief is sought
- (2) A statement indicating which provisions of 1.10.4.1 apply
- (3) Justification as to the applicability of the provision(s) cited in 1.10.4.1
- (4) A requested remedy
- (5) Justification for the requested remedy stating specifically how the *Code* is complied with, public safety is secured, and fire fighter safety is secured

1.10.4.3* Documentation supporting an appeal shall be submitted to the AHJ at least 7 calendar days prior to the Board of Appeals hearing.

1.10.5 Meetings and Records.

1.10.5.1 Meetings of the Board of Appeals shall be held at the call of the chair, at such other times as the board determines, and within 30 calendar days of the filing of a notice of appeal.

1.10.5.2 All hearings before the Board of Appeals shall be open to the public.

1.10.5.3 The Board of Appeals shall keep minutes of its proceedings showing the vote of each member on every question or, if the member is absent or fails to vote, these actions shall be recorded.

1.10.5.4 The Board of Appeals shall keep records of its examinations and other official actions.

1.10.5.5 Minutes and records of the Board of Appeals shall be public record.

1.10.5.6 A quorum shall consist of not less than 5 members or alternates.

1.10.5.7 In varying the application of any provision of this *Code*, or in modifying an order of the AHJ, a two-thirds vote of the quorum shall be required.

1.10.6 Decisions.

1.10.6.1 Every decision of the Board of Appeals shall be entered in the minutes of the board meeting.

1.10.6.2 A decision of the Board of Appeals to modify an order of the AHJ shall be in writing and shall specify the manner in which such modification is made, the conditions upon which it is made, the reasons therefore, and justification linked to specific code sections.

1.10.6.3 Every decision shall be promptly filed in the office of the AHJ and shall be open for public inspection.

1.10.6.4 A certified copy shall be sent by mail or delivered in person to the appellant, and a copy shall be publicly posted in the office of the AHJ for 2 weeks after filing.

1.10.6.5 The decision of the Board of Appeals shall be final, subject to such remedy as any aggrieved party might have through legal, equity, or other avenues of appeal or petition.

1.10.6.6 If a decision of the Board of Appeals reverses or modifies a refusal, order, or disallowance of the AHJ, or varies the application of any provision of this *Code*, the AHJ shall take action immediately in accordance with such decision.