

**REGULAR COUNCIL MEETING**  
**January 5, 2021**

The first monthly meeting of Mansfield City Council met on  
Tuesday, January 5, 2021 at 8:00 PM in the  
Council Chambers of the City Building.

The Pledge of Allegiance was recited by the audience.

Councilman Lawrence led the audience in prayer.

**ROLL CALL:** The following answered present at roll call: Burns, Meier, Van Harlingen, Davenport, Lawrence, Moton, Scott, Falquette, and Mears.

There being no objections, the reading of the Journal and Correspondence was dispensed with.

**PUBLIC COMMENTS:**

**PRESIDENT MEARS:** Are there any public comments at this point? I believe I did see one that came out of Councilman Davenports Ward, and that's the one I saw.

**ALOMAR DAVENPORT:** Yes, I do have, I believe I have two public comments. So, its... *"Councilman Davenport with City Council, I was surprised to learn that city council members have managed to give themselves retroactive raises. These raises were not supposed to happen until 2022 and would only impact those members who were elected that year. This is disappointing on many levels. First that council would go behind the backs of the community to give themselves raises early without emergency clauses. This is a huge disrespect to the citizens of Mansfield who expect city council members to act in accordance with the legislation that they vote on. Additionally, the Mansfield community has watched as various members of the Mansfield government say there's no money to for improvements in parks, no money to approve snow removal and who cut safety departments in the middle of a pandemic. So, while there never seems to be any money for community improvement, council has managed to find, not just enough money for future raise, but enough to pay raises for the council for the last two years. This is a shame and failure and a slap in the face to the people of Mansfield. Respectfully Sarah Fernandez 119 Lasalle St Mansfield."*

**PRESIDENT MEARS:** Councilman if I may, Id like to be so bold and take the liberty to maybe clarify what Ms. Fernandez is feeling right now. Because I was there when that vote was taken and I was part of that vote. What she's referring to is bill #19-247. Which was voted on December 17<sup>th</sup> of 2019, over a year ago. The vote at that time did propose pay increases for the mayor, law director, finance director, president of council and members of council. When the vote was taken of the 8 members, the 3 departing members, in other words the three councilmembers that were not going to be returning in 2020, which was Butch Jefferson, Jeff Rock and Donnie Bryant, all voted no. The remaining voted to pass the legislation. So, it passed 5 to 3. It did pass, the raise did pass but not as an emergency as the legislation pointed out. In order to get the raises for those effective individuals an affirmative vote with two thirds of the members was required. Well 5 to 3 is not two thirds so it didn't pass as an emergency, but it did pass as the majority. And it took us a year with outside legal counsel to interpret the intent of that bill. So it took a year to...for the lawyers to identify that in fact yes these individuals should have gotten the raise and its retroactive because we waited for a legal opinion to make sure we were doing the right thing. So, Ms. Fernandez if your listening I hope that clarifies things for you and make you feel a little bit better about it. That we really didn't go behind anybody's back, that it was public record, it did pass by a majority. But not by two thirds and that's

why it took a while to get an opinion and it took a while for the raises to take effect. So I did want to clarify that. Are there any other comments on that comment that somebody wanted to make?

**JOHN SPON:** Mr. President...Mr. President

**PRESIDENT MEARS:** Yes, Director Spon

**JOHN SPON:** I think another important fact is that those public officials that would receive a raise had not received a raise for ten years.

**PRESIDENT MEARS:** Good point, excellent point. Thank you.

**ALOMAR DAVENPORT:** President Mears?

**PRESIDENT MEARS:** Yes?

**ALOMAR DAVENPORT:** I do have a brief comment. Now of course I was not on council at the time of that vote and I do know that it did pass, as you mentioned, 5 to 3. My concern with what transpired is not in regard to the vote, in regard to whether it passed or not or whether people were supposed to receive raises. My concern is the precedence that it appears was created. Being that we had no knowledge of what this legal opinion was, and I'm just speaking for myself, it kind of feels like the administration has figured out a way to side step an emergency clause. And my concern is future, going forward. *(someone clears their throat)* That was not me, but because I don't quiet, I mean because no one has told me what this legal opinion is, I feel like next year if council votes on an emergency clause and it comes down 5 to 3. Which means it does not go into effect immediately and administration feels that we got the vote wrong, based on this legal opinion, they can come in and make it go into effect immediately. So that's my concern and I'm not sure if this is the form for that question to be answered but that is my concern with what has transpired is the precedence it appears it has been created.

**PHIL SCOTT:** Mr. President?

**PRESIDENT MEARS:** Yes, councilman Scott?

**PHIL SCOTT:** Might I ask that maybe Director Remy and/or Director Spon clarify as to the difference between legislation passing as an emergency or passing non-emergency. I think that would...I kind of know the difference but I think their legal aspect...

**JOHN SPON:** I can explain that...

**PHIL SCOTT:** Thank you

**JOHN SPON:** When legislation passes as emergency legislation it means it takes effect immediately on the day that it passed as emergency legislation. If it passes as legislation but not as emergency legislation then it takes effect roughly 30 days after the mayor signs the legislation. So, I think what's important to note here is that the legislation in fact passed. The only remaining question was when does it take effect. And outside legal counsel on a solid basis did the legal research and it was their very strong opinion that the city had the authority to not only pass the legislation but to give effect to it roughly 30 days after the mayor signed the legislation.

**PHIL SCOTT:** Thank you Director, that was my understanding of the difference but I figured a legal counsel...a legal explanation would be better than mine. Thank you.

**PRESIDENT MEARS:** I thank you as well Director because I'm glad you pointed out it was outside legal counsel that determined what the right thing to do was here.

**ALOMAR DAVENPORT:** I fully understand the difference between a non-emergency and emergency clause but my question is, next year if there is a piece of legislation that comes down and it does not pass with an emergency, meaning it does not go into effect immediately, will the administration be able to take the legal opinion that they just received and side step that vote. That's the concern and that's my question. Its not about what's happening now, its about can this legal opinion be used as a precedence to in the future do the same thing.

**JOHN SPON:** If I can answer that again. There was no side stepping. This was all done transparently. It was brought before city council publicly at a regularly scheduled council meeting. The ordinance was explained to council and to the public. And council decided not to pass it as an emergency legislation but passed it never the less as regular legislation. So when your referring to something being side stepped I'm not sure what you mean because there was nothing done that would involve side stepping. What was done was a vote in the orderly course of the law and then the law was applied appropriately.

**PRESIDENT MEARS:** Thank you Director.

**ALOMAR DAVENPORT:** And again, that was my question because it hasn't been explained. From my understanding it was passed December 17<sup>th</sup>, which means that it shouldn't have gone into effect until the middle of January. And initially we were saying that no one would receive a raise until 2022. And...but based on this legal opinion you were able to you know...that's not what happened. So, the people who were elected in 2020 actually got a raise. So...so...and again that's where my question is. In the future will this legal opinion be able to be used if a vote is...if a piece of legislation is voted on non-emergency and then you can use this to make it an emergency. That's the question.

**JOHN SPON:** Yes, it's still applicable law, the law hasn't changed. This was based upon law decided several years ago in a separate court of law. It was applicable to the 5<sup>th</sup> district court of appeals. Which is our Appellate District and the losing party tried to appeal it to the supreme court of Ohio but the supreme court of Ohio declined to hear it. Which temperantial means the supreme court of Ohio agreed with the lower courts. So, your question whether or not it applies in the future, it applied in the past for several years, it applied now and then until the laws changed it would continue to apply in the future.

**PRESIDENT MEARS:** Thank you Director. I think that's a very clear explanation. Councilman Davenport I hope that clarifies things for you. And now Id would like to move on. I think we've got as much of an explanation on that as we can possibly get. Are there any other public comments that have come through from constituents? Ok hearing none, are there any committee reports from council? Ok, moving on would the Mayor Theaker like to address council?

**MAYOR THEAKER:** No Mr. President I have nothing.

**PRESIDENT MEARS:** Thank you. Safety Service Director Cope anything for us? Director Cope I think your muted right now. Are you there Director Cope? Ok I think we'll need to move on. Public Works Director Remy anything for council?

**DAVE REMY:** No, no nothing sir. I occupied enough of your time during caucus.

**PRESIDENT MEARS:** For good cause, thank you. Law Director Spon anything else for council.

**JOHN SPON:** No, I do not.

**PRESIDENT MEARS:** Ok thank you very much.

END OF DISCUSSION

**PRESIDENT MEARS:** We'll now proceed with legislation. I'll now call on Councilwoman Burns.

### **SUSPEND RULES**

**LAURA BURNS:** Thank you I move with respect to all bills that come before council this evening that the rule requiring reading on three different days be suspended and that each bill be read one time by title only, seconded by Mr. Falquette. The vote was taken and resulted as follows: Ayes: 8, Nays: 0

**PRESIDENT MEARS:** Ok we have a motion and a second. Are we prepared for a vote James and Amy?

**JAMES WEINER:** Yes sir.

**PRESIDENT MEARS:** Ok wonderful, I'll call for the vote for the suspension of rule. And measure passes 8 to 0. Thank you very much, that worked great ok. We will move in to legislation now. The first bill for council is bill #21-001. Councilwoman Burns and Councilman Scott.

**PHIL SCOTT:** Thank you Mr. President I move that bill 21-001 be read and placed up on the floor for discussion.

**DAVID FALQUETTE:** Second.

**PRESIDENT MEARS:** The clerk will now read bill 21-001.

**AMY YOCKEY:** Declaring the year of 2021 to be a year of growth, diversity, education and community cooperation.

### **DECLARING 2021 TO BE A YEAR OF GROWTH**

BY: MR. SCOTT/MRS. BURNS

BILL #21-001

RESOLUTION #21-001

Declaring the year of 2021 to be a year of growth, diversity, education and community cooperation.

Upon motion by Mr. Scott/Mrs. Burns, that Bill 21-001 be read and placed upon the floor for final consideration, seconded by Mr. Falquette. The bill was placed upon the floor for final passage, seconded by Mr. Falquette. The vote was taken and resulted as follows: Ayes: 8, Nays: 0

The bill was declared passed, signed by the President, approved by the Mayor and attested by the Clerk.

**PRESIDENT MEARS:** Is there any discussion on this? Ok hearing none, again Councilwoman Burns and Councilman Scott.

**DISCUSSION:** NONE

**PHIL SCOTT:** Thank you Mr. President I move bill 21-001 be placed upon the floor for final consideration.

**DAVID FALQUETTE:** Second.

**PRESIDENT MEARS:** Council now cast their vote for passage of bill 21-001. Oh sweet that was quick. The measure passes 8 to 0. Excellent.

END OF DISCUSSION

**PRESIDENT MEARS:** Next bill 21-002. Councilman Van Harlingen.

**JON VAN HARLINGEN:** Thank you Mr. President. I move that bill 21-002 be read and placed upon the floor for discussion.

**DAVID FALQUETTE:** Second.

**PRESIDENT MEARS:** The clerk will now read bill 21-002.

**AMY YOCKEY:** Authorizing the Safety-Service Director to accept and appropriate a grant from FM Global in the aggregate amount of two thousand and 00/100 dollars (\$2,000.00) to be used for the purchase of Fire Investigation Equipment.

**PRESIDENT MEARS:** Ok thank you. Is there any discussion on the bill? Alright hearing none, Councilman Van Harlingen.

### **GRANT FROM FM GLOBAL**

BY: MR. VAN HARLINGEN

BILL #21-002

ORDINANCE #21-002

Authorizing the Safety-Service Director to accept and appropriate a grant from FM Global in the aggregate amount of two thousand and 00/100 dollars (\$2,000.00) to be used for the purchase of Fire Investigation Equipment.

Upon motion by Mr. Van Harlingen, that Bill 21-002 be read and placed upon the floor for final consideration, seconded by Mr. Falquette. The bill was placed upon the floor for final passage, seconded by Mr. Falquette. The vote was taken and resulted as follows: Ayes: 8, Nays: 0

The bill was declared passed, signed by the President, approved by the Mayor and attested by the Clerk.

**DISCUSSION:** NONE

**JON VAN HARLINGEN:** Thank you Mr. President I move bill 21-002 be placed upon the floor for final consideration.

**DAVID FALQUETTE:** Second.

**PRESIDENT MEARS:** Council now cast their vote for passage of bill 21-002. And the measure passes 8 to 0.

END OF DISCUSSION

**PRESIDENT MEARS:** Moving onto bill #21-003 which is no longer caucus only, Councilman Van Harlingen.

**JON VAN HARLINGEN:** Thank you Mr. President. I move that bill 21-003 be read and placed upon the floor for discussion.

**DAVID FALQUETTE:** Second.

**PRESIDENT MEARS:** The clerk will now read bill 21-003.

**AMY YOCKEY:** Authorizing the Safety-Service Director to accept, on behalf of the Police Department, an Ohio Attorney General's Office Grant in the total amount of eight thousand five hundred, fourteen and 38/100 dollars (\$8,514.38), and declaring an emergency.

**ORDINANCE MAKING TEMPORARY ANNUAL APPROPRIATIONS: CURRENT EXPENSES: 2021**

BY: MR. VAN HARLINGEN

BILL #21-003

ORDINANCE #21-003

Authorizing the Safety-Service Director to accept, on behalf of the Police Department, an Ohio Attorney General's Office Grant in the total amount of eight thousand five hundred, fourteen and 38/100 dollars (\$8,514.38), and declaring an emergency.

Upon motion by Mr. Van Harlingen, that Bill 21-003 be read and placed upon the floor for discussion, seconded by Mr. Falquette. The bill was placed upon the floor for final passage, seconded by Mr. Falquette. The vote was taken and resulted as follows: Ayes: 8, Nays: 0

The bill was declared passed, signed by the President, approved by the Mayor and attested by the Clerk.

**PRESIDENT MEARS:** Is there any discussion? Hearing none, Councilman Van Harlingen.

**DISCUSSION:** NONE

**JON VAN HARLINGEN:** Thank you Mr. President I move bill 21-003 be placed upon the floor for final consideration.

**DAVID FALQUETTE:** Second.

**PRESIDENT MEARS:** Council will now cast their vote for passage of bill 21-003. Measure passes 8 to 0. Thank you all very much.

END OF DISCUSSION

**PRESIDENT MEARS:** 21-004 and 21-005 were caucus only. We will move onto bill 21-006, and that is Councilman Van Harlingen.

**JON VAN HARLINGEN:** Thank you Mr. President. I move that bill 21-006 be read and placed on the floor, be re-read.

**DAVID FALQUETTE:** Second.

**PRESIDENT MEARS:** The clerk will now read bill 21-006.

**AMY YOCKEY:** Authorizing the Mayor and Safety-Service Director to accept funding from the Ohio Office of Criminal Justice Services under the Paul Coverdell Forensic Science Improvement Grant (FY2020) in the amount of twenty-eight thousand, two hundred five and 02/100 dollars (\$28,205.02), and declaring an emergency.

**PAUL COVERDELL FORENSIC SCIENCE IMPROVEMENT GRANT**

BY: MR. VAN HARLINGEN

BILL #21-006

ORDINANCE # 21-004

Authorizing the Mayor and Safety-Service Director to accept funding from the Ohio Office of Criminal Justice Services under the Paul Coverdell Forensic Science Improvement Grant (FY2020) in the amount of twenty-eight thousand, two hundred five and 02/100 dollars (\$28,205.02), and declaring an emergency.

Upon motion by Mr. Van Harlingen, that Bill 21-006 be placed upon the floor for final consideration, seconded by Mr. Falquette. The bill was placed upon the floor for final passage, seconded by Mr. Falquette. The vote was taken and resulted as follows: Ayes: 8, Nays: 0

The bill was declared passed, signed by the President, approved by the Mayor and attested by the Clerk.

**PRESIDENT MEARS:** Thank you Amy. Is there any discussion? Ok hearing none, Councilman Van Harlingen.

**DISCUSSION:** NONE

**JON VAN HARLINGEN:** Thank you Mr. President. I move that bill 21-006 be placed on the floor for final consideration.

**DAVID FALQUETTE:** Second.

**PRESIDENT MEARS:** Council will now cast their vote for final passage of bill 21-006. The measure passes 8 to 0. Very nice.

END OF DISCUSSION

**PRESIDENT MEARS:** Ok and another bill we moved on to tonight 21-007, Councilman Lawrence. I'm sorry that is caucus only. My mistake, my mistake. That is caucus only and 21-008 is caucus only.

**PRESIDENT MEARS:** We'll move onto bill 21-009. Thank you, Amy, you already have it on the screen. And that is Councilman Davenport. Councilman Davenport are you there?

**ALOMAR DAVENPORT:** I'm sorry I was speaking when I was muted. Thank you, Mr. President. I move that bill 21-009 be read and placed upon the floor for discussion.

**DAVID FALQUETTE:** Second.

**PRESIDENT MEARS:** The clerk will now read bill 21-009.

**AMY YOCKEY:** Authorizing the Mayor and the Public Works Director to enter into a Community Reinvestment Area Agreement with Niss Aviation FBO, LLC, for certain tax incentives under Ohio Revised Code Chapter § 3735.66 for constructing a new facility at 1990 Harrington-Memorial Road, Mansfield, Ohio 44903, and declaring an emergency.

#### **COMMUNITY REINVESTMENT AREA AGREEMENT WITH NISS AVIATION FBO, LLC**

BY: MR. DAVENPORT

BILL #21-009

ORDINANCE # 21-005

Authorizing the Mayor and the Public Works Director to enter into a Community Reinvestment Area Agreement with Niss Aviation FBO, LLC, for certain tax incentives under Ohio Revised Code Chapter § 3735.66 for constructing a new facility at 1990 Harrington-Memorial Road, Mansfield, Ohio 44903, and declaring an emergency.

Upon motion by Mr. Davenport, that Bill 21-009 be read and placed upon the floor for discussion, seconded by Mr. Falquette. The bill was placed upon the floor for final passage, seconded by Mr. Falquette. The vote was taken and resulted as follows: Ayes: 8, Nays: 0

The bill was declared passed, signed by the President, approved by the Mayor and attested by the Clerk.

**PRESIDENT MEARS:** Is there any discussion on this very important bill? Ok hearing none, Councilman Davenport.

**DISCUSSION:** NONE

**ALOMAR DAVENPORT:** Thank you President Mears I move bill 21-009 be placed on the floor for final consideration.

**DAVID FALQUETTE:** Second.



**PRESIDENT MEARS:** Council will now cast their vote for the passage of bill 21-009. How are we doing on the vote here? I don't see anything.

**AMY YOCKEY:** Mr. Davenport you need to vote.

**ALOMAR DAVENPORT:** Um...I don't know where my thing went. Sorry...I have no clue where it has gone.

**JAMES WEINER:** Mr. Davenport if you escape out...did you? Ok

**ALOMAR DAVENPORT:** Yea

**PRESIDENT MEARS:** Thank you very much, bill 21-009 passes 8 to 0.

END OF DISCUSSION

**PRESIDENT MEARS:** Next bill 21-010, again Councilman Davenport.

**ALOMAR DAVENPORT** Thank you President. I move that bill 21-010 be read and placed on the floor for discussion.

**DAVID FALQUETTE:** Second.

**PRESIDENT MEARS:** The clerk will now read bill 21-010.

**AMY YOCKEY:** Authorizing the Mayor and Public Works Director to enter into a Community Reinvestment Area School Compensation Agreement with Niss Aviation FBO, LLC and Crestview Local Schools to authorize general compensation and income tax revenue sharing on new municipal income tax revenues, and declaring an emergency.

#### **CRESTVIEW REINVESTMENT AREA SCHOOL AGREEMENT WITH NISS AVIATION FBO, LLC**

BY: MR. DAVENPORT

BILL #21-010

ORDINANCE # 21-006

Authorizing the Mayor and Public Works Director to enter into a Community Reinvestment Area School Compensation Agreement with Niss Aviation FBO, LLC and Crestview Local Schools to authorize general compensation and income tax revenue sharing on new municipal income tax revenues, and declaring an emergency.

Upon motion by Mr. Davenport, that Bill 21-010 be read and placed upon the floor for discussion, seconded by Mr. Falquette. The bill was placed upon the floor for final passage, seconded by Mr. Falquette. The vote was taken and resulted as follows: Ayes: 8, Nays: 0

The bill was declared passed, signed by the President, approved by the Mayor and attested by the Clerk.

**PRESIDENT MEARS:** Thank you Amy. Is there any discussion on this? Ok hearing none, Councilman Davenport.

**DISCUSSION: NONE**

**ALOMAR DAVENPORT:** Thank you Mr. President I move bill 21-010 be placed upon the floor for final consideration.

**DAVID FALQUETTE:** Second.

**PRESIDENT MEARS:** Council will now cast their vote for final passage of bill 21-010.

**PRESIDENT MEARS:** Ok measure passes 8 to 0.

END OF DISCUSSION

**PRESIDENT MEARS:** The last bill for tonight is 21-011, Councilman Davenport.

**ALOMAR DAVENPORT:** Thank you Mr. President. I move that bill 21-011 be read and placed upon the floor for discussion.

**DAVID FALQUETTE:** Second.

**PRESIDENT MEARS:** The clerk will now read bill 21-011.

**AMY YOCKEY:** Authorizing the Mayor and Public Works Director to enter into a Community Reinvestment Area School Compensation Agreement with Niss Aviation FBO, LLC and Pioneer Career and Technology Center to authorize general compensation and income tax revenue sharing on new municipal income tax revenues, and declaring an emergency.

**PIONEER REINVESTMENT AREA SCHOOL AGREEMENT WITH NISS AVIATION FBO, LLC**

BY: MR. DAVENPORT

BILL #21-011

ORDINANCE # 21-007

Authorizing the Mayor and Public Works Director to enter into a Community Reinvestment Area School Compensation Agreement with Niss Aviation FBO, LLC and Pioneer Career and Technology Center to authorize general compensation and income tax revenue sharing on new municipal income tax revenues, and declaring an emergency.

Upon motion by Mr. Davenport, that Bill 21-011 be read and placed upon the floor for discussion, seconded by Mr. Falquette. The bill was placed upon the floor for final passage, seconded by Mr. Falquette. The vote was taken and resulted as follows: Ayes: 8, Nays: 0

The bill was declared passed, signed by the President, approved by the Mayor and attested by the Clerk.

**PRESIDENT MEARS:** Is there any discussion? Ok hearing none, Councilman Lawrence.

**DISCUSSION: NONE**

**PHIL SCOTT:** Thank you Mr. President I move bill 21-011 be placed upon the floor for final consideration.

**DAVID FALQUETTE:** Second.

**PRESIDENT MEARS:** Ok I will now make a call for the voice vote on bill 21-011. Measure passes 8-0.

END OF DISCUSSION

**CLOSING COMMENTS:**

**PRESIDENT MEARS:** Now that is our last piece of legislation. Is there anything further to come before council tonight?

**CARL HUNNELL:** Mr. Mears?

**PRESIDENT MEARS:** Yes, Mr. Hunnell

**CARL HUNNELL:** Quick question, and I asked this in the chat and I didn't see an answer. With regard to what Mr. Davenport was asking about in terms of the outside legal opinion and the raises that were passed 5-3 as a non-emergency. I don't, and I just wanted to see if anyone else recalls it, I don't recall this outside legal opinion being discussed at any council meeting since that vote took place. Did I miss one? Because I think I have been at most the meetings and I'm just curious in terms of transparency if this was discussed at any council meetings publicly.

**PRESIDENT MEARS:** Uh Carl to my knowledge this was not discussed at a council meeting.

**CARL HUNNELL:** Thank you.

**PRESIDENT MEARS:** You're welcome. Anything further to come before council tonight? Ok before I ask for a motion of adjournment, hope you all had a happy New Years. Welcome 2021 its gotta be a step up from 2020, as our first bill indicated. So could I have a motion for adjournment?

**DAVID FALQUETTE:** I move to close.

**COUNCIL MEMBERS:** Second.

**PRESIDENT MEARS:** I think that was a second there. All in favor?

**COUNCIL MEMBERS:** I

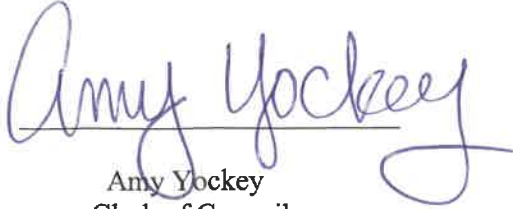
**PRESIDENT MEARS:** All opposed? At, what time is it here, at 8:25 Mansfield City Council is adjourned. Thank you all very much. Stay safe.

END OF DISCUSSION

**COUNCIL MEMBERS:** Thank you. Good night.

**COUNCIL MEMBERS:** Thank you. Good night.

**ADJOURN:** Upon motion by Mr. Falquette, seconded by Mr. Scott, and passed by voice vote, the meeting was adjourned.

A handwritten signature in blue ink that reads "Amy Yockey". The signature is written in a cursive style and is positioned above a horizontal line.

Amy Yockey  
Clerk of Council

A handwritten signature in blue ink that reads "Cliff Mears". The signature is written in a cursive style and is positioned above a horizontal line.

Cliff Mears  
President