

AGENDA
NOTICE OF REGULAR CITY COUNCIL MEETING
CITY OF KEMPNER, TEXAS
February 25, 2020
7:00 PM
12288 E. Hwy 190 Kempner, Texas 76539

NOTICE IS HEREBY GIVEN that the City Council of the City of Kempner, Texas will hold its regular meeting at the above-named date, time and location for the consideration and action on all the items listed below:

1. CALL TO ORDER, CALL OF ROLL/IDENTIFICATION OF A QUORUM
2. Invocation
3. Pledge of Allegiance/Pledge to the Texas Flag

NON-ACTION ITEMS

4. Citizens Comments – Must sign in and note whether Agenda or Non-Agenda items
5. Reports
 - Any Additional City Hall Repairs and Costs– Mayor

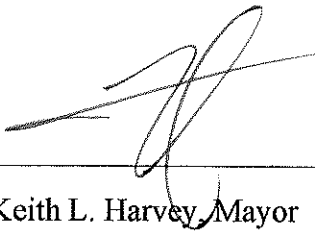
ACTION ITEMS

6. Consent Items:

All items listed under the Consent Agenda are routine and will be enacted by one motion. There will be no separate discussion of these items unless requested by a Council member in which event, the item will be removed from the consent agenda and considered separately

- a. Consider approval of the minutes from the Council meeting held on February 18, 2020.
- b. Consider approval of the Accounts Payable for payment dated February 17, 2020.
- c. Consider approval of the Agreement for Lonestar Paving estimate for CR3300.

7. Staff Comments.
8. Date of the next regular meeting will be March 10, 2020.
9. Adjournment



Dr. Keith L. Harvey, Mayor

I, Keith Harvey, Mayor of the City of Kempner do hereby certify that the above notice of the REGULAR Meeting of the City of Kempner City Council was posted at City Hall, 12288 East Highway 190, Kempner, Texas on the 21st day of February 2020 before 3:30 p.m.

The City council may convene into executive session on any matter related to any of the above agenda items for a purpose, such closed session is allowed under Chapter 551, Texas Government Code.

This building is wheelchair accessible. Any requests for Interpretive Services must be made 48 hours in advance of the scheduled meeting.

* The Citizen Comments: This portion of the agenda is reserved to provide citizens an opportunity to address the City Council on issues affecting the City. Citizens must sign in with City Secretary prior to meeting. Each citizen's comments are limited to a total of three (3) minutes; a total of 30 minutes has been allotted. You may speak on Agenda and Non-Agenda Items. Non-Agenda Items portion of the agenda is the citizen's opportunity to be heard at the City Council meeting and will be reserved for comments concerning city related issues not otherwise appearing on the meeting agenda.



LONE STAR PAVING

5513 Taylors Valley Rd
Temple, TX 76502

ESTIMATE

Date: January 21, 2020
Estimate #: 15000630

Estimator: Kris Bauer
Phone: 254-613-1370
Fax: 254-613-1603
Cell: 512-563-0215
Email: kbauer@lspaving.com

Customer: City of Kempner

Project: Kempner CR 3300
CR 3300
Kempner Tx 76539

Contact: Mayor Harvey
mayorharvey@embarqmail.com
512-932-2180

Description	Qty	U/M	Unit Price	Total
Tack / Prime / Pave 1.5" Ty. D-HMAC TxDot 340 w/Rap (134 tons)	1,617.00	Sq Yd	9.90	\$16,011.65

Total: \$16,011.65

Pricing includes (1) mobilization. Any additional mobilizations will be \$5,500 Each.

Terms and Conditions

EXCLUDES - BONDING, PERMITS, UTILITY ADJUSTMENTS, TESTING, LAYOUT OR SURVEYING, SAFETY SLOPE INSTALL/REMOVAL, TEMP TAPERS FOR UTILITIES, EXCAVATION, SAWCUTTING, TRAFFIC CONTROL OR FLAGMEN, LANE CLOSURE FEES OR PERMITS, TEMPORARY OR PERMANENT STRIPING, NIGHT OR WEEKEND WORK, SWEEP/CLEAN PRIOR TO PAVING AND ANY ITEMS OF WORK NOT SPECIFICALLY QUOTED.

LONE STAR PAVING ("LSP") WILL EXECUTE ONLY THOSE ITEMS OF WORK LISTED IN THE "SCOPE OF WORK" ABOVE. ANY ADDITIONAL ITEMS OF WORK WILL REQUIRE A WRITTEN CHANGE ORDER IN ADVANCE. LSP IS NOT RESPONSIBLE FOR DRAINAGE ISSUES ON SLOPES LESS THAN 2%. ALL QUANTITY OVERRUNS WILL BE VERIFIED IN PLACE UPON COMPLETION AND BILLED AT UNIT PRICES SHOWN ABOVE. THE ABOVE QUOTED PRICES ARE SUBJECT TO CHANGE IF NOT ACCEPTED WITHIN SIX MONTHS FROM THE PROPOSAL DATE. All agreements must be made in writing. This quote will become part of the subcontract agreement, and shall supersede any other conflicting language in the subcontract agreement, if any, between the parties. Asphalt paving standards for newly constructed areas are proposed to comply with the Texas Department of Transportation hot mix standards. Other paving specifications must be specifically outlined. All permits and fees are excluded unless otherwise noted. LSP is not responsible for utility lines less than 12 inches deep. Customer/Owner is responsible for protecting the work site from tenants, customers, other work activities, and will bear any additional costs of repairing work. LSP will carry Workers Compensation, General Liability, and Auto Insurance for labor provided in the performance of this contract. The amounts included in this estimate are based on information provided to-date, and are subject to change if new information is provided or differing site conditions are encountered. LSP is only responsible for its asphalt work, and expressly excludes injury, warranty, damages, and remediation to business or property if there are deficiencies with the subgrade or base, which shall meet or exceed the governing specifications, and shall also meet or exceed the ride specifications. From time to time, the paving surface may have areas whereby additional hotmix must be applied to achieve desired results, and the fees for these additional amounts of materials will be discussed and agreed to prior to commencement of work. All changes in the scope of the work must be agreed prior to the commencement of work. Full payment for LSP's services is due 30 days from the date of the invoice. No retainage shall be withheld from any payments due LSP. If payment and/or performance bonds are required and the cost of such bonds is not included in LSP's quote, 1.5% shall be added to the overall bid price. Testing for HMAC QCQA items only. LSP shall retain all production, ride, and placement bonus/penalty on HMAC item(s) according to specification where applicable. The bonus/penalty calculations shall be based on LSP's unit prices or the unit bid prices, whichever is greater. Payments should be remitted to Asphalt Inc., LLC d/b/a Lone Star Paving, PO Box 200608, Austin, TX 78720. Interest shall accrue for all amounts past due at the rate of eighteen percent (18%) compound interest per annum or highest legal limit. Customer agrees to pay attorneys' fees, expert fees, all costs of court, and any other expenses incurred by LSP in the collection of any sums due under the performance of this contract. The venue for any legal action under this contract shall be Travis County, Texas. The parties expressly agree to waive the right to a jury trial. Pricing based on a mutually agreeable contract.

The above prices, specifications, and conditions are satisfactory and are hereby accepted. Payment will be made as outlined above.

Accepted By: _____ Date: _____

ACCOUNTS PAYABLE 14 February 2020

<u>NAME OF COMPANY</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
KNIGHTS LAW FIRM	Legal Fees	\$2625.00
BANK OF AMERICA	City of Kempner-Mayor	
	AMZN MKTP \$37.79	
	Hampton Inn (CT)\$691.10	
	SmartSign \$67.73	
	ADOBE \$16.00	
	Discount Tire \$1,100	
	Finance Charge \$1.00	\$1,912.62
BANK OF AMERICA	City of Kempner-Chief	
	GT Distributor \$57.35	
	Finance Charge \$1.00	
	WM Supercenter \$24.87	
	WM Supercenter \$6.40	
	Lampasas county \$1.00	
	Lampasas county \$7.50	
		\$127.09
BANK OF AMERICA	City of Kempner-Off. Pena	
	Shell \$33.61	
	Shell \$38.96	
	Shell \$28.48	
	Shell \$35.15	
	Shell \$31.61	
	Shell \$29.74	
	Finance Charge \$1.18	\$197.55
WELLS FARGO	Leasing Agreement	\$123.28
FRAMES & THINGS	Picture Restoration (Harris Kempner)	\$250.00
FANS AUTOMOTIVE	Vehicle State Inspection	\$7.00
CENTURYLINK	Services	\$235.17
BBVA USA	Loan	\$4,011.45
LAMPASAS BOOKKEEPING	Accounting services	\$450.00
VERIZON	Services	\$75.00
HAMILTON ELECTRIC	Services	\$394.62
PERSONNEL CONCEPTS	Compliance Material	\$200.39

Total

\$10,609.17

APPROVED:

Dr. Keith L. Harvey-Mayor

ATTESTED:

Monica Pena – City Secretary

STATE OF TEXAS *

COUNTY OF LAMPASAS *

CITY OF KEMPNER *

BE IT REMEMBERED that on February 18, 2020, the City Council met in City Hall with the following members present: David Richardson, Betty Parker, John Wilkerson, Mack Ruskiewicz and Melba Vandever.

The meeting was called to order at 6:00 P.M. and the following business was conducted:

1. Roll Call - All Present
2. Council Member Mr. David Richardson Led the Invocation
3. Pledge of Allegiance/Pledge to the Texas Flag

Non-Action Items

4. Citizens Comments

- Mr. Lloyd Smith-
 - Last meeting was a heated exchange about when the next meeting was going to be and in the end the Mayor apologized to Mr. Richardson. Stated the next regular meeting would be on the 25th.
 - Understands that the Mayor can call a special meeting but looked at the agenda and did not see anything time sensitive that could not wait until the next regular meeting.
 - Meetings should be consistent for the citizens and council members to attend
 - Official Facebook page for the city could be a positive thing but found a couple of concerns.
 - Not approved by council
 - Citizens are not happy about the deletion of the comments.
 - Good things have been posted: frost warning and Kempner VFD.
 - More clarification on the posts on the Facebook page.
 - Disturbed that the petition was posted with personal information
 - Texas Law requires certain individuals are to be exempt from information being shared.
 - Information about the candidates running for council was not posted due to not wanting the information to be exposed.
- Mr. Wayland Allen-
 - Be careful on 3300 since due to the weather, the road can be slippery.
 - Thanks to Mr. Maupin and his wife for what they will be doing in Kempner.

5. Reports

Any Additional City Hall Repairs and Costs

Mayor Harvey:

- Transformer blew, originally missed by adjuster from TML. Has been identified and will taken care of.
- Official Communication Page is for the official communication page of the Mayor to put out factual information to the city.

- The former page was taken down due to threats to the Mayor of some expressing to come to City Hall and harm the Mayor, racial disparaging remarks, cyber bullying and language being posted.
- Everything the Mayor does is ran through the attorneys.
- To be considered exempt from personal information being shared, it is the individual's responsibility to ensure they are exempt.
- Picture of Mr. Harris Kempner has been restored and has been hung.

ACTION ITEMS

6. Consent Items

- a. Consider approval of the minutes from the Council meeting held on February 4, 2020.
- b. Consider approval of the Amended City of Kempner Burn Ordinance and Burn Permit 2020-02-18-001.
- c. Consider approval of the Agreement for Tax Abatement and Incentives for The Shoppes At Kempner and Rock River Homes, Inc.
- d. Consider approval of the \$2,500 to the Volunteer Fire Department for Wall Lockers presented to the council on February 4, 2020.

Mr. Wilkerson made a motion to approve the consent items but pull consent item c to discuss separately.

Mr. Richardson second.

All in favor Mr. Richardson, Mrs. Parker, Mr. Wilkerson, and Mrs. Vandever.

All opposed Mr. Ruskiewicz.

Mr. Wilkerson made a motion to approve consent item c but with the correction on section 5 the spelling be changed from counsel to council.

Mrs. Parker second.

All in favor, motion carried.

7. Staff Comments

Mr. Wilkerson:

- His job takes him out of town. He had advised his work that on the 2nd and 4th of each month he cannot have meetings.
- Spoke with the developer of the property and the property does not close until April.
- Asked for consideration to be given, if he (Mayor) asked Mr. Allen to compose himself and not make facial expressions to also ask Judge Mahoney the same thing.

Mayor Harvey

- There are things that must be taken care of due to letters needing to be sent.

- Mr. Wilkerson has been in the city all week between the hours of 8:00 and 12:00 noon. Why is it impossible for Mr. Wilkerson to come to City Hall and retrieve his council packet?
- Does not believe that Mr. Wilkerson is too busy to pick up council packet or make meetings due to his ability to take pictures of Hickory Street, meet with residents and hang around the Brick Oven Restaurant.
- Will take into consideration the 2nd and 4th Tuesday of each month for the meetings but will call for a special meeting as needed.
- Addressed Mr. Lowe about the calls he has made to the City Hall regarding the election. We wanted to get it right the first time. Was in constant communication with Mr. Bishop to ensure the city did just that.

Mr. Richardson

- Regarding the council meetings, to be held at 7 PM to allow citizens time to eat dinner and attend.
- Mr. Richardson made a request for the meetings to be held at 7 PM. Mrs. Vandever agreed.

Mrs. Parker

- Would like the minutes to be proofread.

Mayor Harvey

- Attorney advised council members are not allowed to advocate for or against the election on adopting a city manager.
- Council members are only allowed to put out facts and let the citizens decide.

Mr. Wilkerson

- Asked for written documentation from the attorney that council members cannot advocate for or against. He spoke to TML, advised him they cannot expand or utilize the city resources, but a council member can obtain the right to either speak out for or against.
- Mayor Harvey addressed Mr. Wilkerson, if he does not believe him to call the city attorney.
- Mr. Richardson asked if the information could be provided in an email from the city attorney to avoid fee's from calling.

Mayor Harvey

- Emails have been communicated to council members in the past yet council members called the City Attorney's to verify.
- Stated it is the right of every councilmember, and they allowed to contact the City Attorney's.

Mr. Ruskiewicz

- He did not see a time frame on the Burn Ordinance.
- Judge Mahoney stated it is listed on the Ordinance and it indicates 1 hour after sunrise and one hour prior to sunset.
- Mrs. Parker stated she did not see anything about a burn barrel.

8. Date of the next regular meeting will be February 25, 2020 at 7:00 PM.

9. Adjournment - Mr. Ruskiewicz made a motion to adjourn and Mr. Richardson second. All in favor, motion carried.

ATTEST: _____
Monica Pena - City Secretary

APPROVED: _____
Dr. Keith L. Harvey- Mayor

STATE OF TEXAS *

COUNTY OF LAMPASAS *

CITY OF KEMPNER *

BE IT REMEMBERED that on February 25, 2020, the City Council met in City hall with the following members present: Council Members David Richardson, Betty Parker, John Wilkerson, Mack Ruskiewicz, Melba Vandever.

The meeting was called to order at 7:00 P.M. and the following business was conducted:

1. Roll Call
2. Council Member Mr. Ruskiewicz Led the Invocation
3. Pledge of Allegiance/Pledge to the Texas Flag

Non-Action Items

4. Citizens Comments

- Mr. Lloyd Smith-
 - Last week's discussion on whether council members could openly endorse one way or another in the coming City Manager election. The mayor had his guidance from his attorney and Mr. Wilkerson from TML and wanted to know if there was any cohesion from both opinions.
 - Last meeting notes there was a discussion about proofreading. Mr. Smith recommended Grammarly to be used.
 - Mr. Smith made a research about getting better internet due to not having good options. Spoke with Rollcall Communications from Lampasas and they have run fiber lines run through Kempner and can put fiber internet out to the citizens.
 - Tearing up of CR 3300 to repave and tracked through different media postings, citizens have reached out to county and apparently, there was an arrangement between the Mayor and the county to get it done. CR 3300 was not one of the roads originally considered or approved by the council.
- Mrs. Anelicia Cheney-Campbell-
 - Addressed the council regarding the Mayor refusing the right for the council members or the citizens the right to speak during the Staff Comment section. According to House Bill Section 2840 the governing body must allow the public the right to speak on agenda items either at the beginning of the meeting or during the meeting.

- Citizens have the right to speak at any time during the meeting. If the Mayor refuses the citizens to speak from items that are listed on the agenda, then that item should be removed from the agenda.
- If a public official does not want to hear the citizens' comments, then that person should not be a public official.
- Mr. Wayland Allen-
 - He does not understand how three of the council members were not aware of the situation going on with CR 3300.
 - The last meeting brought up that CR 3300 was slippery and was not addressed.
 - Reached out to the county commissioner.
 - On the Official Facebook, he would like to see the detour route that citizens must take to avoid CR 3300 when it is being worked on.
 - He stated he has still not seen the total cost of repairs from the previous streets. Two residents that live on Hickory stated that there is grass in the middle of the streets.
- Mr. Frank Potter-
 - Thanked the council members and the Mayor for the donation that was given to the fire department for the lockers.
 - Once the lockers are put up, they will invite the council members and the mayor to look at the lockers.

5. Reports

- Any Additional City Hall Repairs and Costs- Mayor
 - Currently waiting on the gutters to come in. Once they come in, they will be installed. All the transformers were blown and will be replaced. The bulbs are being installed and each bulb costs \$52.
 - On CR 3300, Mr. Allen in previous council meetings stressed issues concerning the road that needed to be repaired. The mayor informed the city there is an inter-local agreement with the county. The commissioner and the mayor talked and agreed it is a troubled road. People are driving in a 30mph zone at 60-70mph. This matter concerning CR 3300 was discussed with the previous mayors and cost of repair was the sole reason of nothing being done.
 - The petition about Rollcall Communication, if people want a fiber line, they can get it. Start the petition, get the required signatures for the company and let the process begin.
 - Judge Mahoney- If Century Link tells you they are the only ones that can go through Kempner, it is partially true. There is no current Franchise agreement

with anyone besides Time Warner. Century Link Franchise agreement expired in 2009.

- Mayor spoke with Lone Star and they are fixing the issue on Hickory. Lone Star stated it is not uncommon when you do overlay for grass to go up. All council members received estimates about what the streets cost, and it is not accurate. One of the streets that were repaired ended up costing less.
- Mayor spoke with Jeff Ulmann and stated he was contacted by Mr. Wilkerson requesting information in writing regarding being able to advocate for or against the petition for the City Manager (Political Advertising and Use of City Resources). The city attorney will send a letter in writing to the City Secretary and will be emailed to the council members and the Mayor.
- Mayor asked Mrs. Cheney-Campbell to control her department/comments or will be asked to leave the council chambers.
- Mrs. Cheney-Campbell asked the Mayor, rather than hearing his opinion can he read the letter from the city attorney. Mayor responded when the city receives the email from the city attorney, the letter will be emailed to the council members.
- Mayor stated based on what he was told from two attorney's, they cannot advocate for or against the petition for the City Manager.
- Mrs. Cheney-Campbell stated the last meeting the Mayor advised Alderman Wilkerson that he contact the city attorney and she would like to know if Alderman Wilkerson received a response from Jeff Ulmann.
- Mr. Wilkerson stated he sent an email to the city attorney asking if a council member or Alderman can advocate for or against the City Manager petition without using the city resources. Stated he did receive an email from the city attorney, stating yes Alderman can go out in public and advocate for or against as long as no city resources are used and there are a lot of considerations to give on what city resources are.

ACTION ITEMS

6. Consent Items.

- a. Consider approval of the minutes from the Council meeting held on February 18, 2020.
 - b. Consider approval of the Accounts Payable for payment dated February 17, 2020.
 - c. Consider approval of the Agreement for Lonestar Paving estimate for CR 3300.
- Mayor stated all items are to be considered as one unless one is pulled out by a council member with the motion being made.
 - Mr. Wilkerson made a motion for 6c to be pulled out.

- Mr. Richardson asked if they are voting for what Mr. Wilkerson just asked.
- Mayor stated they are not voting due to Mr. Wilkerson making a motion.
- Mr. Richardson made a motion for 6b to be pulled out.
- Mayor stated the motion from Mr. Wilkerson dies due to no second. Asked if there is a second for 6b.
- Mrs. Parker made a motion for approval of 6a and for 6b and 6c to hold out. Mr. Wilkerson second. All in favor: Mr. Richardson, Mrs. Parker, Mrs. Vandever. All opposed: Mr. Ruszkiewicz. Motion carries.
- 6a all in favor, motion carries.
- Mayor asked if 6b and 6c will be postponed to the next council meeting since Mrs. Parker made a motion to hold out.
- Mrs. Parker wants to make a motion to hold 6b and 6c for discussion tonight. Mr. Wilkerson second. All in favor: Mr. Richardson, Mrs. Parker, Mrs. Vandever. All opposed: Mr. Ruszkiewicz. Motion carries.
- 6b is open for discussion.
- Mr. Richardson asked for clarification from 6b on Hampton Inn and Discount Tire charges. Mayor stated Hampton Inn (CT) was for Chief training/lodging in Huntsville, Texas. The Discount Tire charge was for eight tires that needed to be replaced from both service vehicles. Mr. Richardson would like more clarification when it comes to abbreviations. Mayor stated he will spell out the words and avoid abbreviations or if they have any questions, they can call the City Hall and get answers pertaining to any question they might have concerning agenda verbiage for clarification. Mr. Ruszkiewicz made a motion to approve 6b, Mrs. Vandever second. All in favor Mr. Richardson, Mrs. Parker, Mr. Ruszkiewicz, Mrs. Vandever. All opposed, Mr. Wilkerson. Motion carries.
- 6c is open for discussion.
- Mr. Wilkerson stated he is all for spending money to repair the roads. His only concern right now is that he knows what we had on the streets and repairs account when the budget was talked about and he knows there was not enough to complete all the roads. Mr. Wilkerson knows the money needed to be pulled out from somewhere and would like to know from where that money was pulled from. Mayor stated that part of the money for the roads was never moved for the roads from the Savings Account to the Street Account. If people want to know what the salaries for the City Hall employees are, they can go online. The only salary that is not online is the Municipal Court Judge. The city accountant had stated the budget needed to be amended because the Judge was voted in during the month of October, after the budget approval. Mayor stated we are in the middle of an ongoing audit and Mr. Wilkerson has called the auditor.
- Mayor stated he was informed the council members were not getting the council packets. The council packets are first emailed, and hard copies are made for pick up from city hall.

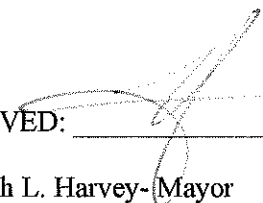
- Mayor stated a petition was turned in to the city. The petition was sent to attorneys and was advised by the Secretary of State Election Department the only information that needed to be redacted was the date of birth.
- Mayor stated people come to his office and tell him that they are getting attacked by members of the COK, they do not like the Mayor, and everything is the Mayors' fault.
- Mrs. Cheney-Campbell insisted on talking without being recognized, the Mayor asked Mrs. Cheney-Campbell to exit the council chambers. Mrs. Cheney-Campbell replied "NO" and requested for the council to vote for her removal. Mr. Allen was also asked to be removed from the council chambers for standing to his feet shouting an outburst towards the Mayor after Mrs. Cheney-Campbell was asked to leave the council chambers. Mrs. Vickie Whitis stood to her feet and stated to the Mayor "you have been a disgrace since you moved to our town" and she was asked to be removed as well. The Mayor stood and stated to Mr. Allen "you like to attack volunteers and people on social media, attack me" and to Mrs. Whitis, "why don't you say what you really want to say, you say it behind closed doors, it's the color of my skin".
- The Mayor called a recess of 10 minutes.
- Mrs. Vandever walked out of the city council meeting.
- The Mayor stated CR 3300 was not on the initial estimate and different streets have been brought up for repair.
- Mr. Ruskiewicz made a comment stating if the county had not helped with the repair of CR 3300, the repair would have cost more to the city. Mr. Ruskiewicz made a motion to approve 6c.
- Mrs. Parker asked if any of the residents of CR 3300 have complained that they do not want the road fixed. Mayor stated the county commissioner spoke with the residents who live on CR 3300 and no one expressed or opposed road repaired. Mrs. Parker second the motion to approve 6c. Mr. Richardson asked if Mrs. Vandever will come back to the forum. The Mayor stated no. Mrs. Mahoney was asked to leave the forum for making an outburst.
- All in favor to approve 6c Mr. Richardson, Mrs. Parker, Mr. Ruskiewicz. Abstained Mr. Wilkerson.
- Mr. Wilkerson wanted to explain the reason he abstained for 6c. Stated Mr. Ruskiewicz is correct that it is a good thing the county commissioner is helping. He also stated he is all for CR 3300 to be repaired but first wants to know what the balance of the account for the road repair is before voting. The Mayor stated to Mr. Wilkerson "you received the financials from the City Accountant in a meeting you requested, why don't you know what the City have available."

7. Staff Comments- None

8. The date of the next regular meeting will be March 10, 2020 at 7:00 PM.

9. Adjournment- Mr. Richardson made a motion to adjourn, Mr. Wilkerson second. All in favor, motion carries.

ATTEST: Monica Pena
Monica Pena – City Secretary

APPROVED: 
Dr. Keith L. Harvey- Mayor