

AGENDA
NOTICE OF REGULAR CITY COUNCIL MEETING
CITY OF KEMPNER, TEXAS
April 28, 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

ACTION ITEMS

5. 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 Special City Council meeting held on April 22, 2020.
 - b. Consider approval of the Resignation Letters for Officer Gabriela Pena, Alderman Place I, David Richardson, and City Secretary, Monica Pena.
6. a. Discussion and possible action of City Council to approve the Mayor's selection of Mr. Charlie Gibson for the position of, Alderman Place I.
 7. Staff Comments.
 8. Date of the next regular meeting will be May 12, 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 24th day of April 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.

APRIL 19TH, 2020

CITY OF KEMPNER
12288 US HWY 190
KEMPNER TX, 76539

DEAR COUNCIL, MAYOR HARVEY

PLEASE ACCEPT THIS LETTER OF FORMAL NOTICE OF MY RESIGNATION AS A POLICE OFFICER AT KEMPNER POLICE DEPARTMENT, EFFECTIVE IMMEDIATELY.

I APPRECIATE THE OPPORTUNITY TO HAVE SERVED THIS COMMUNITY. IT WAS NOT EASY TO MAKE THE DECISION OF LEAVING THIS AGENCY. AS YOU ALL KNOW I BEEN WITH THIS AGENCY AND LOMETA POLICE DEPARTMENT FOR ONE YEAR ALREADY. THE MAIN REASON FOR WORKING FOR BOTH AGENCIES HAS BEEN TO GAIN AS MUCH EXPERIENCE AS I CAN IN ORDER TO PERFORM MY JOB EFFECTIVELY. HOWEVER, I DON'T WANT TO BE PART OF A POLICE DEPARTMENT THAT DOES NOT HAVE A CHIEF OF POLICE OR HAS AN ADMINISTRATOR THAT IS LITTLE TO NOT ANY KNOWLEDGEABLE IN THE POLICE DEPARTMENT AREA. I AM NOT READY TO STEP UP TO A CHIEF OF POLICE POSITION WITH ONLY ONE YEAR AND FIVE MONTHS ON THE POSITION OF PATROL POLICE OFFICER. I AM NOT WILLING TO BE ASSOCIATED WITH A MAYOR THAT KEEPS LYING TO COVER HIS ILLEGAL ACTIONS AND TRIES TO BLAME IT ON HIS CITY SECRETARY WHO IS A MOTHER OF TWO BEAUTIFUL GIRLS. I WILL NOT STAND BY AN ELECTED OFFICIAL THAT HAS DONE WRONG. I CAN HONESTLY SAY THE MAYOR WAS DOING GREAT THINGS TRYING TO DO GOOD FOR THE CITY, BUT HE HAS CROSSED THE LINE AND HE IS DIGGING HIMSELF IN A DEEPER HOLE TRYING TO FIX WHAT IS UNFIXABLE. MAYOR YOU LOOKED ME IN THE EYES TODAY AND PRETENDED THAT YOU WILL TAKE CARE OF ME BUT IN THE OTHER HAND YOU ARE TRYING TO BLAME MY SISTER FOR AN OFFENSE THAT YOU COMMITTED AND YOU LOST MY RESPECT FOR THAT.

I CAN NO LONGER SERVE THE CITY IF MAYOR HARVEY CONTINUES IN ANY CAPACITY OF THE CITY OF KEMPNER. IF, IN THE NEAR FUTURE MAYOR HARVEY LEAVES HIS POSITION AND THERE IS A CHIEF OF POLICE I WOULD WITHOUT A DOUBT COME BACK AND CONTINUE TO SERVE THIS COMMUNITY.

SINCERELY,



GABRIELA PENA
Gabypena11.gp@icloud.com
Ph: 9563134088

4/22/2020
12288 Hwy-190
Kempner Tx, 76539

Dear Mayor and Council,

Please accept this letter of formal notice of resignation as the City Secretary at Kempner City Hall effective immediately.

I appreciate the opportunity that was given to me to serve this community. As we all know I started as the Court Clerk in September and then was moved up to City Secretary in late October. I thank the Mayor and the city council for trusting and believing in me.

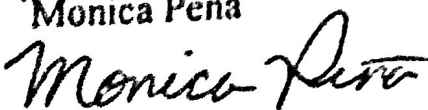
As much as it saddens me to be leaving the city of Kempner, I believe it is in my best interest to protect myself. I do not want to be involved in the current situation going on with the City of Kempner. I do not feel comfortable working in a place that I am being accused of something I clearly did not do, and the video will show this. The Municipal Court Judge Keith Mahoney told me that I will not be in any trouble since Mayor Harvey gave me instructions to open the door and retrieve the flags from inside of the Chief's office. All I did was open the door as Mayor Harvey instructed me to do. As I clarified to Judge Kenneth Mahoney that I only opened the door and did not touch or retrieve any flags, Judge Mahoney then asked me "then who was it?" I laughed because I knew exactly what they were trying to get me to say and agree to and because I knew that they both knew the answer to that question. The judge then asked me not to answer. Municipal Court Clerk Tracie Martin asked Judge Mahoney where the DVR was at. Judge Mahoney responded that the DVR was inside the Mayor's office and turned towards Tracie Martin and said and I quote, "tampering."

Mayor Harvey keeps asking me questions about this "flag" incident all the time. He keeps trying to question me to see if I say something that will incriminate me or the former officers when I haven't done anything wrong. I cannot take this stress anymore.

I only wanted to explain this situation to the council and the reasons why I cannot continue to work for the City of Kempner.

V/r

Monica Pena



April 24, 2020

City Of Kempner
12288 US HWY 190
Kempner, Tx. 76539

Dear Mayor Harvey and Council

Please accept this letter as my resignation of Alderman #1 and Mayor Pro-Tem effective immediately.

Respectfully,

A handwritten signature in black ink that reads "David Richardson". The signature is written in a cursive style with a large, looping initial "D".

David Richardson

STATE OF TEXAS *

COUNTY OF LAMPASAS *

CITY OF KEMPNER *

BE IT REMEMBERED that on April 22, 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 7:00 P.M. and the following business was conducted:

1. Roll Call - All Present
2. Mayor Keith Harvey Led the Invocation
3. Pledge of Allegiance/Pledge to the Texas Flag

Call to order: all present

Invocation: Mayor Keith Harvey

Pledge

Non-Action Items

4. Citizens Comments:

- Angie Carswell: I am deeply embarrassed, once again, by your choice to treat the veteran who replaced the tattered American flag as a criminal rather than a valued, contributing member of our community. Your lack of cooperation and repeatedly refusing to work alongside members of the Kempner community continue to cause division rather than unity. Your new city sign is an embarrassment to our community. It cannot even be easily read by those passing through town. You wasted \$5,000 of city money rather than working with the Boy Scouts to refurbish the proud existing sign.

As for the flag, you should have apologized for the torn flag left to fly at the park. Then thanked those who took initiative to replace it. That would have been the right thing to do. That would have created good public relations. It would have shown a genuine desire to serve Kempner citizens. Instead you have chosen to escalate this event into some sort of personal vendetta against Alderman Wilkerson. Again, creating even more division and embarrassment for the City of Kempner. Please, save the city further embarrassment and money, resign immediately.

- Vance Rodgers: Citizens and Council Members,
Sec. 22.005., Local Government Code states: "A person who is elected or appointed to a municipal office under this code must take and sign the official oath of office before beginning to perform the duties of the office. Furthermore, The Texas Constitution requires that all appointed and elected officers in the state must take an oath of office. TEX. CONST. Art. XVI, §1. This includes elected officials, such as city council members and mayors. This oath contains the requirement that the officer ".... will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this

State, so help me God." I do not think some of you realize the responsibilities that come with this oath.

Texas Penal Code (Sec. 39.02.) states a criminal violation has occurred involving ABUSE OF OFFICIAL CAPACITY when "A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:(1)violates a law relating to the public servant's office or employment.

The key phrase I want you all to pay attention to is to "harm or defraud another." I want you all to realize that it is in fact a criminal offense and I will do whatever is possible to hold these types of officials accountable. This includes interference from a group of officials working together to formulate a plan on how to "harm or defraud another."

- Paul Miceli: I am sending this email do to not being able to attend meetings in person and would appreciate my comments being read during the citizen comments section of the meeting. As you can see it has been sent to the Secretary, the Mayor and the News.

my Although I am not a voter within the city limits of Kempner, I still feel the need to voice opinion. I am tired of watching this saga unfold and instead of getting realistic answers from the Mayor in meetings we are subjected to hearing you, Mayor Harvey get on a soap box and preach your defensive logic from your self-proclaimed platform.

The issue with the current legal actions involving the American FLAG are despicable. You should be ashamed of yourself. Drop it and say thank you to BOTH parties concerned.

Now the latest is a police officer seems to have been put in the middle of something and has resigned due to ethics and morals. There seems to be a re-occurring theme of people NOT being able to work with you or deal with your belittlement and condescending treatment of employees as well as citizens.

I feel the best action to remedy this would be for you the Mayor to resign. This you undoubtedly will not do so the next best thing is to ask the council to stand up to you. Please do what you should do as elected officials. Council members please, stop allowing Kempner to be the laughingstock of Texas because of the Mayors actions.

- Lonny and Sherry Cartwright: This email is being sent to express our dissatisfaction and anger at how the City of Kempner's business is being conducted since you, Mayor Keith Harvey, have taken office.

As long-term residents of Kempner, we are upset at the very visible upheaval and disarray since you have attained the Office of Mayor. It is very evident that your tenure has been both a failure in leadership and civility.

From our personal observations of how you have conducted yourself and the business of our town, it is our strongly held belief that your continued presence in the Mayor's Office should cease. IT IS TIME FOR YOU TO RESIGN.

- Tammy Carroll Martin: The Lampasas City Council voted unanimously April 20 to adopt an order stating that city rules related to COVID-19 will match orders by Governor Greg Abbott. I strongly suggest the Kempner City council do the same, to vote ensures

consistency with state requirements. I believe that this will keep the Kempner City Council from having to vote for a new order each time the governor updates state rules related to COVID-19.

I also recommend that the Sylvia Tucker Memorial Park remain open if other Public parks within Lampasas County are open. I believe this is in the best interest of local citizens to promote health and well-being, consistently throughout Lampasas County.

- Shelly Harp: Who are the following city officials?

Park Supervisor?

Park Events Coordinator?

Police Chief?

Thank you in advance for the information.

- Anelicia Cheney-Campbell: I would like to address the members of the council. We have had three city employees that resigned recently, now we have three more than have been fired or resigned. At this point, almost every position in city hall has had to be replaced, some more than once since Keith Harvey was put in as Mayor.

When the last round of resignations happened not one of you stood up to address the hostile work environment that Harvey has created. Now we have another round of employees gone and I wonder if you are going to stand up for the city you represent and hold Harvey accountable.

You have let Harvey do whatever he wants regardless of rules, policies, and what you tell the public outside of the council meetings. But then you come to the meetings and sit there and take whatever Harvey wants to dish out. All of you on the council, elected or appointed have taken an oath to serve this community. How is sitting back and letting our city be destroyed following that oath? It comes to a point where you are just as responsible for the destruction of our city as Harvey is because you idly sit back and let everything happen.

If you are not going to use the voice the citizens are entrusting you to have, then you serve no point on this council and should turn in your resignations immediately.

Thank you.

- Wayland Allen: I am sending this email due to not being able to speak in person at this SPECIAL called meeting. I expect my comment to be read. It is being sent to the City Secretary, Mayor and the News.

Mr Harvey the first thing I would like to know is why you continue to use city council meetings as your personal time to lecture the entire council and citizens of Kempner? Second this Flag situation is an absolute disgrace to our Community! I cannot figure out why you are doing this! A VETERAN for Goodness Sake saw a flag in distress and replaced the US flag and took them both down. The VETERAN asked an Alderman who is part of the governing body! Flags were given to the Alderman and then to the mayor Pro-Tem who turned them into city hall. Sir this is nothing but a vendetta against this alderman and this city sees it!

Third I am appalled that our police force has been put in the middle of your actions! You fired our Chief, and officer Pena has resigned over your corrupt actions! Sir why are you still here when most citizens of this community have absolutely no trust in you?

- Lloyd Smith: What is the cost to the taxpayers that the mayor is willing to spend in the pursuit of this malicious prosecution of a city ordinance violation?

I highly recommend that the council demand the city attorney to separate all billing related to this prosecution. It is extremely important for the council and the citizens to see what is being spent on this action.

Action Items

5. Consent Items:

- a. Consider approval of the minutes from the Council Meeting held on April 6, 2020
 - b. Consider approval of the Accounts Payable for payment dated April 6, 2020.
- Mr. Wilkerson made a motion to approve consent items. Mr. Richardson second. Motion passed all in favor.

6. a. Convene into executive session pursuant to Section 551.074, Texas Government Code, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the City's TCOLE certified peace officers. Convened at 7:20pm.

b. Reconvene into open session to act as determined appropriate in the City Council's discretion regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the City's TCOLE certified peace officers. Reconvened 7:34pm.

- Mr. Wilkerson made a motion to approve candidate for interim police chief. Mrs. Parker second. All in favor, none opposed. Motion passed.

7. Staff Comments

- No staff comments.

10. Date of next regular meeting will be April 28, 2020 @ 7:00pm

11. Adjournment – Mr. Wilkerson made a motion to adjourn and Mrs. Parker second. All in favor, motion carried.

ATTEST: _____
Tracie Martin -Assistant City Secretary

APPROVED: _____
Dr. Keith L. Harvey- Mayor

STATE OF TEXAS *

COUNTY OF LAMPASAS *

CITY OF KEMPNER *

BE IT REMEMBERED that on April 28, 2020, the City Council met in City Hall with the following members present: Betty Parker, John Wilkerson, Mack Ruskiewicz and Melba Vandever.

The meeting was called to order at 7:11 P.M. and the following business was conducted:

1. Roll Call - All Present
2. Ms. Betty Parker Led the Invocation
3. Pledge of Allegiance/Pledge to the Texas Flag

Call to order: all present

Invocation: Ms. Betty Parker

Pledge

Non-Action Items

4. Citizens Comments:

- Office received anonymous comment via email. Put to vote to be read or given to council members after. Comment did not follow protocol of name, address and phone number. All in favor for copy after meeting, comment was not read.
- Shelly Arp: Thank you for reading this in its entirety at the meeting. On the agenda from the April 14, 2020 meeting the invoice from the city's attorney (invoice #2054) was attached as part of the Accounts Payable.

The attorney's invoice reflected the attorney reviewed an email "from Mayor Harvey re: salary of Mayor."

I was under the impression the salary of the Mayor was \$0.00. If that is true (the mayor receiving a salary of \$0.00), is the Mayor now requesting a salary? If so, why?

Thank you for your time.

Action Items

5. Consent Items:

- a. Consider approval of the minutes from the Special Council Meeting held on April 22, 2020
- b. Consider approval of the Resignation Letters for Officer Gabriela Pena, Alderman Place I, David Richardson, and City Secretary, Monica Pena.

Mr. Ruskiewicz made motion to approve a and b. Mr. Wilkerson second. All in favor. Motion carried.

6. a. Discussion and possible action of City Council to approve the Mayor's selection of Mr. Charlie Gipson for the position of, Alderman Place I.

Mr. Ruskiewicz made motion to approve Mr. Charlie Gipson "upon reading his resume he seems very qualified for the position." Mrs. Parker second. In favor Mr. Ruskiewicz, Mrs. Parker, Ms. Vandever. Opposed Mr. Wilkerson. Motion carried.

Mrs. Vandever corrected spelling of Mr. Gipson's name. Gipson not Gibson.

Mr. Charlie Gipson sworn in as Alderman Place I.

Mrs. Vandever requested to make a recommendation of Mayor Pro tem. It will be on next meeting agenda on May 12.

7. Staff Comments

Mrs. Martin had no comments

Next regular meeting scheduled May 12, 2020 at 7:00 pm.

Mayor Harvey: The City's copier was down and could not scan and email council members items in a timely matter. We had to use another way of scanning to get it to the members. It has been rectified and we will be able to scan and update the website appropriately.

Mr. Lowe: Is there an agenda item to accept resignations?

Mayor Harvey: It was under the consent items.

Mr. Wilkerson: Would like to inform the community on Friday, between 3:45 and 4:30, funeral procession for Bell County Deputy John Rhoden, killed in the line of duty, will be going through Kempner. Show support as procession comes through.

Mayor Harvey: Following council meeting we will get the information out. City has been made aware.

Place 3, Mr. Wilkerson made motion to adjourn. Mr. Ruskiewicz second. All in favor, none opposed.

Mayor Harvey: One more thing, I apologize, I do not want to close and have to say this. Last week in our meeting.

Mr. Wilkerson exited meeting due to motion passed to adjourn.

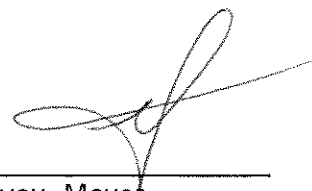
Mayor Harvey: Last week we made a motion to close but there was information passed out from the auditors. I wanted to ensure everyone had this in their possession. Another thing that we need to ensure as council members is that we stick to city business. In the city it is not about sides, it is about the city. Remember why you are council members for the city, it is all for the city. So, when you are sitting here and stuff comes through here, whose side are you on. Are you on this person's side or that persons side? It is not about sides, it is about the city. The moment we lose sight of

what it is really about is the moment we no longer need to be in these positions. It is about the city, the city will go on with or without us. I need us all to understand that, I hope I've made it very clear. So please take that to heart when you took your oath. It is about the city not the sides. And if we have a side you do not need to be in here. I am sorry if you have a side, if you have chosen a side you need to resign. I do not mind having a special election, but it is about the city.

Mr. Gipson: Getting prepared for the meeting this evening I have been reading up on some of the recent history and I see that several people were interested in what side I would be on. I just want to make it perfectly clear that the side that I am on is the side of the citizens. The residents of Kempner, not a group of anybody but the residents as individuals.

8. Adjournment: Mayor Harvey: With that being said, adjourn. All in favor, non opposed. We are adjourned.

ATTEST: 
Tracie Martin - Interim City Secretary

APPROVED: 
Dr. Keith L. Harvey- Mayor