

AGENDA
NOTICE OF SPECIAL CITY COUNCIL MEETING
CITY OF KEMPNER, TEXAS
May 5, 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

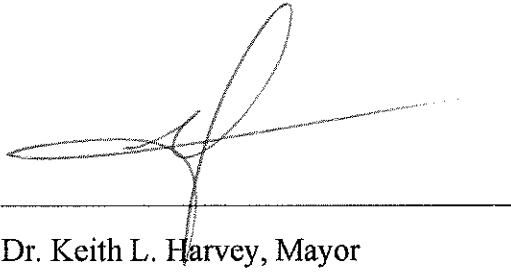
4. Citizens Comments – Must sign in and note whether Agenda or Non-Agenda items

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 Regular City Council meeting held on April 28, 2020.
 - b. Discussion and possible action concerning the Mayor to dispose of City Property, four drawer filing cabinet, two drawer filing cabinet, printer cart, small refrigerator, one Blauer long sleeve shirt light blue, seven Tru-Spec pants, 10 Blauer Short Sleeve uniform shirts, three Blauer sleeveless vest covers, one Kempner P.D. hat, one Blauer Short Sleeve polo, three desk, three rolling chairs.
6. a. Discussion and possible action of City Council to approve audit performed by Singleton, Clark & Company, PC Certified Public Accountants.
 7. a. Discussion and possible action of City Council to nominate and approve the Mayor Pro-Tem.
 8. Staff Comments.
 9. Date of the next regular meeting will be May 12, 2020.
 10. 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 1st day of May 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.

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

Media Release
April 30, 2020

Lampapas County – Beginning Friday, May 1, 2020, Lampapas County will open restaurants, retail stores, museums, and libraries at 50% of the restaurant’s, retailer’s museum’s or library’s total listed occupancy. Lampapas County Judge, Randy Hoyer said, “It is because of the quick and aggressive action, taken early by the City of Lampapas and followed by the County, to implement a *shelter in place* order and adhere to the CDC guidelines, as well as the citizens of the county to follow and adhere to the order and guidelines, we were able to mitigate the spread of the coronavirus, thus limiting the number of confirmed cases in the county to less than five and allowing our county to open restaurants and retail stores at 50% occupancy instead of only 25% occupancy.”

Under the Governor’s Report to Open Texas, rural counties may, on an individualized basis, increase capacity for restaurants, retail, shopping malls, museums, libraries, and/or movie theaters if the county judge certifies and affirms to the Department of State Health Services (DSHS) that the below listed standards have been investigated and confirmed to be met. Judge Hoyer has certified and affirm that Lampapas:

- 1. County had five or fewer COVID-19 laboratory confirmed cases on April 30, 2020 or, at a later date, five or fewer active COVID-19 cases as verified by DSHS.**
- 2. County has created a list of testing opportunities in the county or the area.**
- 3. County has been in contact with its designated regional advisory council to ensure the community is prepared for any needed health care transfers.**
- 4. The county has provided public notice to the residents of the county, including:**
 - Signs and symptoms of COVID-19**
 - Recommended health and safety protocols in line with CDC guidance.**
 - Information regarding how residents can get tested in the area.**
 - A link to the DSHS website where residents can go to learn about community spread in nearby communities, in order to help county residents understand their risk to exposure if they travel regularly outside of the county.**
- 5. County has contacted each of the following types of facilities located in the county to ensure they are complying with HHSC and CDC guidelines regarding COVID-19.**
 - Nursing homes**
 - Assisted living facilities**
 - Industrial, agricultural, or business facilities with a significant number of employees**
 - City or county jails**
- 6. County equipped and prepared to protect vulnerable populations, including nursing homes and assisted living facilities.**
- 7. County has documented procedures to be activated if a resident becomes COVID-19 positive, including procedures to take appropriate measures as necessary in line with the Governor’s Plan to open Texas.**
- 8. County has contacted DSHS in order to create a plan to ensure contact tracing will occur within 48 hours of a positive test reported to DSHS.**

Lampapas County, having met the above standards chooses to do the following:

- Increase dine-in restaurant capacity from 25% to up to 50% of the restaurant's total occupancy. All other provisions regarding restaurants still apply.
- Increase retail in-store capacity from 25% to up to 50% of the retailer's total listed occupancy. All other provisions regarding retail still apply.
- Increase movie theater capacity from 25% to up to 50% of the movie theater's total listed occupancy. All other provisions regarding movie theaters still apply.
- Increase museum and library capacity from 25% to up to 50% of the museum's or library's total listed occupancy. All other provisions regarding museums and libraries still apply.

All counties must adhere to all other provision set forth in the Governor's Report to Open Texas.

Lampasas County will continue to closely monitor reports related to the number of cases.

Counties that file the attestation and qualify for 50% occupancy will revert to the 25% occupancy limits if any of the following occurs:

1. Five consecutive testing/tracking intervals with positivity rates greater than 12% in that interval.
2. The county has more than 3 positive cases per 1,000 residents
3. Less than 15% of the surge capacity in hospitals for the catchment area is available.

Under GA-18, the Governor may, by proclamation, return any county to the essential services-only level.

Lampasas County citizens, residents, restaurant owner/operators, retail store owner/operators and museum/library manager/directors are reminded, they must adhere to all of the Governor's Orders as well as the requirements in the Governor's Report to Open Texas. This information can be found at:
<https://dshs.texas.gov/coronavirus/opentexas.aspx#attest>

While we slowly and safely begin to return to a sense of normalcy, it is strongly recommended that individuals 65 years of age or older are at a higher risk for getting very sick from COVID-19 and are encouraged to take extra precaution. Individuals with medical issues like heart disease, diabetes, cancer or a weakened immune system are also at a higher risk for getting very sick or dying from COVID-19 and strongly recommended to follow all the recommendations from the CDC guidelines.

Social distancing of a minimum of six feet is still required and wearing a face mask/covering in public is still recommended.

Lampasas County will continue to follow the directives from the Governor's Office as we continue to restart the State.



**ATTESTATION FOR RURAL COUNTIES WITH FIVE OR FEWER
LABORATORY CONFIRMED CASES OF COVID-19**

Rural counties may, on an individualized basis, increase capacity for restaurants, retail, and/or movie theaters if the county judge certifies and affirms to the DSHS that the following standards have been investigated and confirmed to be met:

1. The county had five or fewer COVID-19 laboratory confirmed cases on April 30, 2020 or on a later date, if the county had 5 or fewer active COVID-19 cases as verified by DSHS.
2. The county has created a list of testing opportunities in the county or the area.
3. The county has been in contact with your designated Regional Advisory Committee (RAC) to ensure the community is prepared for any needed health care transfers.
4. The county has provided public notice to the residents of your county, including:
 - Signs and symptoms of COVID-19.
 - Recommended health and safety protocols in line with CDC guidance.
 - Information regarding how residents can get tested in the area.
 - A link to the DSHS website where residents can go to learn about community spread in nearby communities, in order to help county residents understand their risk to exposure if they travel regularly outside of the county.
5. The county has contacted each of the following types of facilities located in your county to ensure they are complying with HHSC and CDC guidelines regarding COVID-19:
 - Nursing homes
 - Assisted living facilities
 - Industrial, agricultural, or business facilities with a significant number of employees
 - City or county jails
6. The county is equipped and prepared to protect vulnerable populations, including nursing homes and assisted living facilities.



7. The county has documented procedures to be activated if a resident becomes COVID-19 positive, including procedures to close businesses or facilities as necessary in line with the plan to open Texas.
8. The county has contacted DSHS in order to create a plan to ensure contact tracing will occur within 48 hours of a positive test reported to DSHS.

If the county meets the above standards and chooses to do so, the county may do the following:

- Increase dine-in restaurant capacity from 25% to up to 50% of the restaurant's capacity - All other provisions regarding restaurants still apply.
- Increase retail in-store capacity from 25% to up to 50% of the retailer's capacity - All other provisions regarding retail still apply.
- Increase movie theater capacity from 25% to up to 50% of the movie theater's capacity - All other provisions regarding movie theaters still apply.
- Increase museum and library capacity from 25% to up to 50% of the museum's or library's total listed occupancy. All other provisions regarding museums and libraries still apply.

All counties must adhere to all other provisions set forth on the previous pages, including the standard health protocols listed on the DSHS website, as amended by the April 27, 2020 update.

The stricter statewide restrictions to 25% of the total listed capacity for establishments listed in GA-18 will be-re-applied if:

1. Five consecutive testing / tracking intervals with positivity rates > 12% in that interval; or
2. The county has more than 3 positive cases per 1,000 residents; or
3. Less than 15% of the surge capacity in hospitals for the catchment area is available.

NOTE: Under GA-18, the Governor may, by proclamation, return any county to the essential services-only level.



TEXAS
Health and Human
Services

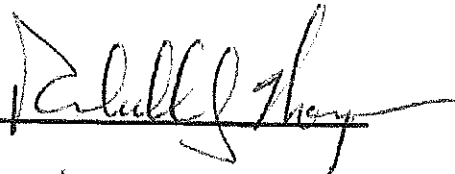
Send the signed attestation form, including the supplemental county information, to the Department of State Health Services Coronavirus Disease 2019 (COVID-19) email at: coronavirus@dshs.texas.gov. Please include the word "attestation" in the subject line for proper routing.

I hereby certify and affirm that all the foregoing conditions are met, and that I will provide all relevant county information below found in the supplemental county information section.

Name: Randall J. Hoyer

Title: County Judge

County: LAMPASAS

Signature: 

Date: 04/30/2020



Supplemental County Information

Section C – County Information:

Are there hospitals located in your county? Yes No If yes, number of hospitals:

1

Is your community considered a healthcare shortage area? Yes No

Are there licensed physicians, physician assistants, and advanced practice nurses in your county? Yes No

Is there a healthcare clinic in your county? Yes No If yes, the number of healthcare clinics: 2

Is COVID-19 testing available in your county? Yes No

Is a mobile testing site operational in your county? Yes No

Has your county requested a mobile testing site? Yes No

Section D – Vulnerable Populations

Is there a nursing home in your county? Yes No If yes, the number of facilities:

3

Is there an assisted living facility in your county? Yes No If yes, the number of facilities:

2

Section E – Large Facilities

Are there industrial, agricultural, or business facilities with a significant number of employees in your county? Yes No

Are there city or county jails in your county? Yes No

Are there any large residential state facilities in your county? Yes No

STATE OF TEXAS *

COUNTY OF LAMPASAS *

CITY OF KEMPNER *

BE IT REMEMBERED that on May 5, 2020, the City Council met in City Hall with the following members present: Charlie Gipson, Betty Parker, John Wilkerson, Mack Ruszkiewicz 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. Mr. Charlie Gipson Led the Invocation
3. Pledge of Allegiance/Pledge to the Texas Flag

Call to order: all present

Invocation: Mr. Charlie Gipson

Pledge

Certificate of appreciation presented to Mr. Devan Barkley for his road clearing efforts during the EF2 tornado.

Motion was made to move item 6a to beginning of meeting by Mr. Wilkerson. All in favor, motion carried.

6a. Mr. Robert Gattilia from Singleton, Clarke & Company, PC presented the audit findings for the council's acceptance.

- Section 1 – Local audit level – Unmodified opinion means all items are fairly stated. No weaknesses found.
- Section 2 – State Level – No finding to report for the year audited.
- Section 3 – Federal – Not applicable. Spending did not exceed \$750,000.00.
- Questions?
 - Mr. Gipson – Why was audit not presented before today?
 - Mr. Gatillia – Typically presented by March 31, not a hard and fast rule. Not uncommon to be presented in May.
- Last Item – Calculated reserves in General Reserve page 20.
 - Calculated expenditures, previous year 8 months expenses, currently 9.6 months of expenses in reserves.
 - Operating expenses has gone down.
 - The city is in a good financial status.

Mr. Wilkerson made a motion to accept item 6a. Mrs. Vandever second. All in favor, non opposed. Motion carried.

Non-Action Items

4. Citizens Comments:

- Vance Rodgers: Good evening council,

With all the latest events concerning Kempner, when are you going to hold the mayor accountable? His letter to the Lampasas Dispatch is a disgrace to our city and should not be tolerated by the governing body. His slanderous remarks have opened up opportunities for a civil lawsuit. His attacks on a personal defense attorney and the TMPA is ridiculous. He complains about being referred to as the "king of Kempner," but insinuates that Alderman Wilkerson's attorney keeps a KKK robe in his trunk.

You have all failed in your duty and at this point, and are just as responsible as the mayor. Everyone of you, including the mayor should be ashamed of yourself for allowing things to reach this level. You have all been warned by the citizens and failed to take action. You should all resign. You have lost all respect from the citizens and are a disgrace to Kempner.

Mayor Harvey: Mr. Lloyd Smith is referring to an article printed Friday in the newspaper and posted on the COK Facebook page that he is a board member of. I will not read the article but his comments following.

- Lloyd Smith: It is time for the council to do something with regard to the behavior of the Mayor. As we see in this statement, he has caused the city a lot of trouble with the **LARGEST POLICE ASSOCIATION IN TEXAS** by comparing them and a private attorney to the Ku Klux Klan. They have even pointed out that the city has potentially been made a target for civil liable proceedings due to his comments. Race was never an issue here until the Mayor made it about race. The issues people have stem from his actions, behavior, and overall performance in the position. But this is not the only lawsuit riddled minefield the city is wandering in. I have pointed out previously that the use of social media is a positive thing and that the council needs to enact a policy authorizing its use as well as the guidelines for it. You have not done anything with that recommendation. I have also pointed out directly to the Mayor and the council that the censorship by the mayor on the "Official Communications" page likely constitutes a violation of the First Amendment and potentially opens the city up to a lawsuit. Again no one seems to care. If the President of the United States must allow people on social media to respond as they see fit, then so must the Mayor of Kempner. Now is the time for action before the city is bankrupted from legal expenses.

Action Items

5. Consent Items:

- a. Consider approval of the minutes from the Council Meeting held on April 28, 2020
- b. Discussion and possible action concerning the Mayor to dispose of City Property, four drawer filing cabinet, two drawer filing cabinet, printer cart, small refrigerator, one Blauer long sleeve shirt light blue, seven Tru-Speck pants, 10 Blauer Short Sleeve uniform

shirts, three Blauer sleeveless vest covers, one Kempner PD hat, one Blauer Short Sleeve polo, three desks, three rolling chairs

Mr. Wilkerson made a motion to approve. Mrs. Parker second, all in favor, none opposed. Motion carried.

7. a. Discussion and possible action of City Council to nominate and approve the Mayor Pro-Tem

Mrs. Parker nominated Mr. Ruszkiewicz. Mr. Gipson second. 2 in favor - Mr. Gipson and Mrs. Parker. 2 opposed – Mr. Wilkerson and Mrs. Vandev eer. Mayor Harvey voted as tie breaker. Motion passed.

Mr. Ruszkiewicz thanked the council and citizens. National Day of Prayer to be held by Central Texas area churches on May 7.

Mayor Harvey and Mr. Wilkerson requested more information to be given out regarding this event. Please give information to the Assistant City Secretary.

Mr. Ruszkiewicz – Parade honoring graduates.

Mayor Harvey – There is a parade, logistics are still in the works.

Mr. Gipson – Asked about the need of special meeting with a regularly scheduled meeting next week.

Mayor Harvey – Audit approval needed to be completed. A special meeting is not because it is special in nature, it's outside the normal scheduled meeting. Also, we all should know why the audit took as long as it did. But I won't get into that right now. Next thing will be budget workshops.

Mr. Gipson – Question about the certificate presented was not on agenda.

Mayor Harvey – Non actions items do not have to be on agenda.

Mr. Gipson – Suggested businesses have more complete information listed on website as opposed to just the current slide show.

Mayor Harvey – Business names and addresses should be on slide show. Will look into it. Directed Mrs. Martin to ensure Mr. Gipson received all policies.

Mrs. Parker – Noted appointing Mayor Pro Tem was also critical for special meeting.

8. Staff Comments

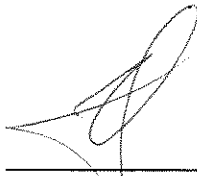
Mrs. Martin – None

Mayor Harvey – Budget workshops are coming. Will start at 6:00 and council meeting will proceed after. Asked Council members to fill out packets they received.

Mrs. Vandev eer – Needs another packet.

9. Adjournment: Mr. Wilkerson motioned to adjourn, Mrs. Vandev eer second. All in favor, non opposed. Meeting adjourned 7:46 PM.

ATTEST: _____
Tracie Martin - Interim City Secretary

APPROVED:  _____
Dr. Keith L. Harvey- Mayor