

**AGENDA**  
**NOTICE OF REGULAR CITY COUNCIL MEETING**  
**CITY OF KEMPNER, TEXAS**  
**May 12, 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**

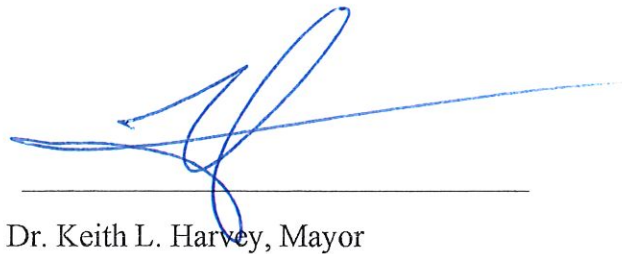
4. Citizens Comments – Must sign in and note whether Agenda or Non-Agenda items

**ACTION ITEMS**

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 May 5, 2020.
  - b. Consider approval of the Accounts Payable for payment dated May 6, 2020.
  - c. Consider approval of the Destruction of body camera recordings and in-car video older than 90 days and applications older than two years and previous police officers Texas Commission on Law Enforcement files older than five years in accordance with the State of Texas Retention Schedule – Revised 4<sup>th</sup> Edition, RSIN 3.1.001 and RSIN 3.1.002. The Texas Occupation Code, 1701.655(b)(2) and Texas Retention Schedule for Records of Public Safety Agencies, PS4125-04(a): Video or Audio recordings from police vehicles of persons on whom charges are not filed by law – Code of Criminal Procedure 2.135(b).
7. Staff Comments.
  8. Date of the next regular meeting will be April 14, 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 8<sup>th</sup> 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.

**ACCOUNTS PAYABLE 6 May 2020**

<u>NAME OF COMPANY</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
BANK OF AMERICA	<b>City of Kempner- Jesus Cerda</b> Shell Oil - \$29.65 Badgeandwallet.com – \$254.00 Galls - \$243.93 ID cards - \$195.00 Spring Cleaners Walnut - \$10.83	\$733.41
BANK OF AMERICA	<b>City of Kempner – Gabriela Pena</b> Shell Oil - \$33.15 Shell Oil - \$28.49 Shell Oil - \$27.76 Shell Oil - \$24.24 Shell Oil - \$24.68 Shell Oil - \$30.40	\$168.72
BANK OF AMERICA	<b>City of Kempner – Mayor</b> Design Print Banner - \$4.25 DNH Domain Hosting - \$20.17 Amazon.com – \$56.66 Adobe - \$16.00	\$97.08
THE KNIGHTS LAW FIRM	Legal Services- City Hall/Municipal	\$3840.10
LAMPASAS BOOKKEEPING	Monthly Retainer	\$450.00
KEMPNER WATER	Water Services	\$173.35
HAMILTON ELECTRIC	Electric Service	\$215.15
POST OFFICE BOX SERVICE FEE	Annual Fee	\$94.00
<u>Total</u>		<u>\$5,771.81</u>

APPROVED:  
Dr. Keith L. Harvey-Mayor

ATTESTED:  
Interim – City Secretary

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. Ruskiewicz. Mr. Gipson second. 2 in favor - Mr. Gipson and Mrs. Parker. 2 opposed – Mr. Wilkerson and Mrs. Vandever. Mayor Harvey voted as tie breaker. Motion passed.

Mr. Ruskiewicz 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. Ruskiewicz – 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. Vandever – Needs another packet.

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

ATTEST: \_\_\_\_\_  
Tracie Martin - Interim City Secretary

APPROVED: \_\_\_\_\_  
Dr. Keith L. Harvey- Mayor

STATE OF TEXAS \*

COUNTY OF LAMPASAS \*

CITY OF KEMPNER \*

BE IT REMEMBERED that on May 12, 2020, the City Council met in City Hall with the following members present: Council Members Charlie Gipson, 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- All Present
2. Council Member Mr. Wilkerson Led the Invocation
3. Pledge of Allegiance/Pledge to the Texas Flag

### **Non-Action Items**

4. Citizens Comments – Christopher Seykora;

- If you could kindly post the following as a citizen comment. I am not a resident of Kempner, however, my company Hyper Fusion, LLC has spent the last year laying a long-distance backbone fiber network that covers a good portion of your town and most of Lampasas County and we are now offering internet services, and soon, streaming live TV services to all your residents.

Hyper Fusion is pleased to announce that we have completed our two year build out of our fiber backbone network that covers most of Lampasas County. We have taken special care to focus on Lampasas and Kempner area residents to ensure the highest level of service and speed. Hyper Fusion is happy to announce that we are now offering full live services to all residents, including both direct fiber to the home and business. If you do not qualify due to location or cannot afford the fiber we have a rock solid fixed point wireless solution.

We are also pleased to announce that we have had our active Hamilton Electric utility pole license as well as many others already active and right of way permits for a little over a year now and have been actively been deploying our Fusion Fiber product. Our fiber teams have been actively hanging fiber and we have several kilometers of active privately owned Hyper Fusion Fiber already in service. Additionally, we are actively in the process of building our fiber to serve the River Place, Chica Ranch, Pecan Valley, and other rural communities in the area. We will be selecting a location in town to install a publicly accessible 5g wireless system like we have installed in Burnet so that anyone can have



emergency internet, should they require it, that runs at 20 Mbps + (100 Mbps + if you're within 500 feet of an access point).

If you're interested in service, simply visit our website, <https://www.hyperfusiontech.com/signup> or email [sales@hyperfusiontech.com](mailto:sales@hyperfusiontech.com) or call 512-790 – 2250 with your name, phone number, and service address and we'll get you scheduled you for an install. We are a home town local company that looks out for its fellow community members and aims to deliver the best possible service at the best possible price.

- Mayor states he has been engaging in meetings and conversations with Hyperfusion and Roll Call, Mayor also states that certain protocols must be taken before anything can come before the council and be put on the agenda. The city attorneys are looking at what they will be presenting to the city and what they are asking from the city. If nothing is presented to the council then it did not meet certain protocols. When we get the information back from the city attorneys it will be presented to the council.
- Mr. Gipson asks If there is room for discussion on the protocols to get items on the agenda?
- Mayor states that is not what he was discussing he was discussing if people want to bring their business to the city it will have to go through certain protocols to be put on the agenda.
- Mr. Gipson asks when you talk about a business presenting information to the council and city there are steps to get it on the agenda. I presume it's the same protocol for everyone citizens of Kempner, individuals, and businesses isn't it all the same process to get it on the agenda?
- Mayor answers no, there is a process to get items on the agenda for council members and a process for businesses to come in. For a business they present documents. The documents are forwarded to the attorneys and the proper procedures are met before being added to the agenda.
- Mr. Gipson states that his questions were answered.

## **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 May 5, 2020.

b. Consider approval of the Accounts Payable for payment dated May 6, 2020.

c. Consider approval of the Destruction of body-camera recordings and in-car video older than 90 days and applications older than two years and previous police officers Texas Commission on Law Enforcement files older than five years in accordance with the State of Texas Retention Schedule – Revised 4<sup>th</sup> Edition, RSIN 3.1.001 and RSIN 3.1.002. The Texas Occupation Code, 1701.655(b)(2) and Texas Retention Schedule for Records of Public Safety Agencies, PS4125-04(a): Video or Audio recordings from police vehicles of persons on whom charges are not filed by law – Code of Criminal Procedure 2.135(b).

- Mrs. Parker made a motion to consider consent item 6b to discuss, Mr. Ruszkiewicz's seconds.
- Mr. Wilkerson requests to pull item 6c for discussion, Mrs. Parker seconds.
- Mr. Ruszkiewicz motions to approve item 6a, Mr. Wilkerson seconds that motion - All in favor, motion carried.
- Item 6b is pulled for discussion. Mrs. Parker notices under accounts payable under the gas amounts for police officers she sees that former officer Pena has six gas entry's and the former Chief only had one entry. She asks if they shared a vehicle? Did he not go out on patrol? Did they work together? She is wondering why there is such a big difference in gas totals between the former officer and former chief.
- Mayor says no they did not share a car and he can not answer why there is such a big difference in gas prices.
- Mr. Wilkerson states that in an email on May 9<sup>th</sup> he asked for a breakdown on the city attorney fees and still has not received an answer on that. He states that it was in the same email asking about the totals and information for the badge.
- Mayor states it was an honest oversight it was not intentional and he will send it to the council members after the meeting. He also states if one council member requests something in further detail then every council member receives the information. We also will make a courtesy call to let you know to check your inbox when we have sent something.
- Mr. Ruszkiewicz asks a question concerning the badgeandwallet.com \$254.00 if that purchase was something that is authorized?
- Mayor states the purchase was for two badges for the officers approved by the council in March. He sent the invoice and the pictures of the badges ordered.
- Mr. Ruszkiewicz asks a second question concerning the legal services for the Knight Law Firm if they could have at the next meeting the monthly breakdown of the services in their hands before the meeting.
- Mayor apologizes and states normally it is done and placed on the city website with the agenda it wasn't done this time. It was an honest omission. And will be sent out tonight.

- Mr. Wilkerson comments concerning the phone call to the council members and says to save the city secretary's time to wait a couple of hours and he will respond and is usually good about responding.
- Mayor states that not everyone checks their emails often so I will direct her to wait a couple of hours and if there is no response then she will give a courtesy call.
- No one has any further comments. Mayor considers approval of item 6b.
- Mr. Wilkerson makes a motion to postpone it to the agenda of the next meeting for approval so they can see the information being asked.
  - no second, motion dies.
- Is there a motion to approve accounts payable 6b.
- Mr. Ruskiewicz asks the new accounts payable won't be at the next meeting but the one after?
- Mayor states that bills come sporadically and when the bills come in they will be paid and then you might have an accounts payable next meeting. It is up to you as the council members to either postpone the item or vote.
- Mr. Ruskiewicz makes a motion to postpone is to the next meeting. Mrs. Parker seconds.
  - All are in favor, motion carries.
- 6b is postponed to the next council meeting on May 26, 2020.
- 6c pulled out for discussion, Mr. Wilkerson comments that he is all for it and understands the process but hopes that the chief doesn't have to come before the council every time he's following the law he would like for chief to make a policy and bring it to the council and the council be familiar with it that says that they are going to follow the law to reduce the chief of having to do more work.
- Chief Rodriguez addresses the council stating the documents that he has already done is in accordance with the law and that the law would trump any policy put into place. The memorandum that I handed to the mayor and that is given to you is in accordance with the state law. He destroyed things later than ninety days that no longer needs review by the court which is what the law states. He does plan on making a policy, he has not found a policy to date but in time he does plan to make a department policy manual within the next three months.
- Mr. Ruskiewicz says thank you to chief Rodriguez for a better understanding of how the process works.
- Chief Rodriguez says to state again the memorandum I give is in compliance with the law and doesn't know what the council procedures are after he gives the mayor the memo. He just does his part in accordance with the law and to have a paper trail that states that as well.
- Mr. Wilkerson comments that he feels that it is his job as a council member to give you the tools to do your job effectively he just doesn't think that the council needs to be an hindrance to you to do your job he's not saying they are he just wants to be clear.

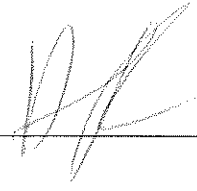
- Chief states that he doesn't think the council is a hindrance to him he has done what needs to be done and there needs to be a paper trail of what has been done in case someone does come in and says "Where did these records go?" then he has a trail saying this is where it went and this is why so there are no questions.
- Mr. Gipson asks does he have to fill out the paperwork every time he wants something destroyed?
- Chief answers yes since it is a government record according to the records retention law I have to let the records management person know which I believe is the city secretary to be destroyed. He can not destroy something and not have a record of it.
- Mr. Gipson states he liked where Mr. Wilkerson was going with that thought but he understands that he is required by law and they can't change that.
- Chief states again we need to have a record just in case we get an audit and can prove to them of where it went and why for safety purposes.
- Mr. Wilkerson asks if there is anything by law that says that the council has to approve the destroying of records beforehand or afterwards that he knows of.
- Chief says no not that he is aware of he just has to inform the records retention person and he has done that.
- Mr. Ruzskiewicz states with that being said it doesn't have to be approved by the council per se I may want to see the memo through the city secretary and comment that the memo is available to the council.
- Chief states he doesn't know what to do on the records retention side and what they give the people above me I just know what to do on my side.
- Mayor states anything to do with the retention of the records is by state law and we go through the attorneys as well and they tell us what we can and can not do and how long we have to hold certain things and once that's done the records are destroyed it is a formality.
- Judge Mahoney makes a comment that is the same as what we did with the judicial record it is more of a courtesy notification to the council that we are taking that action with no approval or disapproval it's a courtesy to our cities elected officials.
- Mr. Wilkerson asks with what the chief and judge have just said do we even need to vote on item 6c?
- The Mayor states again it is a formality. It's like accounts payable even though we postpone it the bills are still being paid.
- Mr. Wilkerson states with that being said I move to make a motion to approve item 6c, Mrs. Parker seconds that motion  
-all in favor, motion carries

7. Staff Comments - None

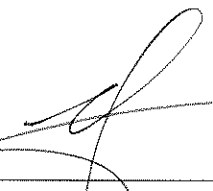
8. The date of the next regular meeting will be held on May 26, 2020.



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

ATTEST:  \_\_\_\_\_

Hayleigh Robello –City Secretary

APPROVED:  \_\_\_\_\_

Dr. Keith L. Harvey- Mayor

City of ...  
...