

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

**September 22, 2020**

**6:00 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:

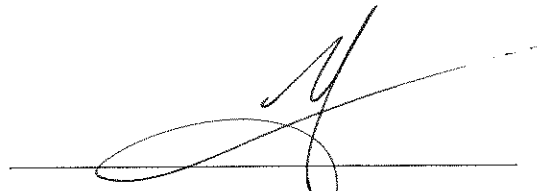
1. CALL TO ORDER, CALL OF ROLL/IDENTIFICATION OF A QUORUM
2. Invocation
3. Pledge of Allegiance/Pledge to the Texas Flag

**NON-ACTION ITEMS**

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

**ACTION ITEMS**

6. a. Consider approval of the Minutes of the Council meeting held on September 8, 2020.
7. a. Consider approval of the City of Kempner's tax rate of 0.244900, - Must be record vote.
8. a. Ratify the Ad Valorem Property Tax Revenue Increase reflected in the adopted 2020-2021 Annual Budget.
9. Comments / Mayor's final comments.
10. Date of the next regular meeting will be October 13, 2020.
11. 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 15<sup>th</sup> day of September 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.



## CITY OF KEMPNER

12288 US HWY 190  
P.O. BOX 660  
KEMPNER, TEXAS 76539  
[www.cityofkempner.org](http://www.cityofkempner.org)

Dr. Keith L. Harvey, Mayor  
[mayorharvey@embarqmail.com](mailto:mayorharvey@embarqmail.com)

TEL: 512-932-2180  
FAX: 512-932-3124

September 15, 2020

City Council Meeting:

The September 22, 2020, 6pm City Council Meeting will proceed as follows: All council members will arrive at least 10 minutes prior to the scheduled posted meeting. The meeting will continue the social distancing until further notice.

Citizens communication on agenda/non agenda are suggested to be emailed to the city secretary prior to the council meeting before the close of business of City Hall on September 22, 2020, to ensure their communication is read and recorded.

The Dial -in number: 978-990-5000

Access Code: 682735

Please dial in beginning at 5:50pm. This will cut down on potential interruptions, being most calls are executed on the hour. Thank you for being diligent, steadfast and vigilant during this trying time. Together we will get through this pandemic as we continue to mitigate the spread of COVID-19.

v/r

Dr. Keith L. Harvey  
Mayor, City of Kempner

STATE OF TEXAS \*

COUNTY OF LAMPASAS \*

CITY OF KEMPNER \*

BE IT REMEMBERED that on September 8, 2020, the City Council met in City Hall with the following members present: Council Members Charlie Gipson, John Wilkerson, Mack Ruszkiewicz, Melba Vandaveer.

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

1. Roll Call- Mrs. Parker was not present.
2. Mayor Harvey Led the Invocation
3. Pledge of Allegiance/Pledge to the Texas Flag

### **Non-Action Items**

#### 4. Citizens Comments.

- When will the City Council meetings return to being open to the public? Many of the surrounding areas have returned to open meetings. It is often very hard to hear what the mayor is saying at the meetings and the video (Facebook Live) of the last meeting cut off before the meeting was adjourned.

Thank you for your time.

Shelley Arp

- When will city council meetings be opened to the public?

It is difficult to "attend" a meeting when citizens are not allowed in council chambers, you cannot hear on the conference calls and comments cannot be made on the livestreamed video from the "official" city page. The city purchased new microphones so council members could be heard. Turn them on and use them, speak up or perhaps move the recording device closer to those speaking. If meetings are to be physically closed to the public, the least you can do is ensure that the video of the meeting is still "open", meaning that all persons speaking can be heard and all citizens can comment. Citizens have the right to hear what is being said during the council meeting.

Thank you.

Sherry Cartwright

#### 5. Reports

- Police Department

- Public Hearing on the 2020-2021 Budget
- Public Hearing on the Tax Rate of 0.244900
- Melissa Gonzalas came and spoke to the council and city on the many questions concerning the ad saying an increase of 3.61%. She gave all the council members a handout of the calculations. We have no new tax rate. The rate is not increasing but we will generate more tax dollars due to the taxable rate value.
- Mr. Gipson asks in all of our time working on the budget I didn't know we had a purposed tax increase so how will this increase be initiated.
- Melissa Gonzales refers to the estimate she did for them for the no new revenue rate. This is how you decide what rate you needed to adopt for your 2020-2021 budget.
- Mayor states the tax rate was put out at all the workshops that it will remain the same. The tax rate was put out in the workshops, we will keep the same rate as last year,
- Mr. Gipson states that maybe you didn't understand what I was asking I want to know what initiates the increase.
- Melissa Gonzalas I don't participate in that process just calculate the highest and lowest rate so you see what you need to adopt for your budget.
- Mr. Gipson states you take the rate we propose then what?
- Melissa Gonzalas states that she doesn't participate in that she just calculates the highest rate before an election and the no new tax rate generates about the same as the previous year then The City lets her know what has been proposed and she posts the ad in the paper for us.
- Mr. Wilkerson states to answer my colleagues' question the reason it is 3.6% because the property value increased keeping us at the same tax rate as last year.

## 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 Accounts Payable for payment dated September 1, 2020.
- b. Consider approval of the minutes of the council meeting held on August 25, 2020
- c. Consider approval of the final amendment for the fiscal year 2019-2020.
- d. Consider approval on the 2020-2021 Annual Budget – Must be a record vote.
- e. Ratify the Ad Valorem Property Tax Revenue Increase reflected in the adopted 2020-2021 Annual Budget.
- f. Consider approval of the City of Kempner's tax rate of 0.244900 – Must be a record vote.
  - Mr. Wilkerson moves that we remove 6 .d through 6 .f.

- Gipson seconds
- Mr. Wilkerson moves to approve the rest of the consent items
- Mrs. Vandever seconds
- Three in favor (Wilkerson, Ruszkiewicz, Vandever), One abstained (Gipson)
- Item 6. D was taken out for discussion. No discussion.
- Mr. Ruszkiewicz states since there seems to be no discussion I move to approve item 6 D.
- Mrs. Vandever seconds the motion
- Two in favor (Vandever, Ruszkiewicz), Two oppose (Wilkerson, Gipson) Mayor did a tiebreaker by approving item 6 D. Motion Carries.
- Item 6 E is taken out for discussion. No discussion.
- Mr. Ruszkiewicz states that to my understanding we are under time constraints for our budget and since there seems to be no discussion and that our county appraisal district has explained the tax rate, I move to approve item 6 E.
- No second, motion dies.
- Item 6 F is taken out for discussion. No discussion.
- Mr. Ruszkiewicz states once again I would like to remind the council that we are under time constraints on the budget so we can move properly. These items were pulled out for discussion and there seems to be no discussion so I will follow our time constraints and move to approve item 6 F.
- Mayor states there are time constraints for everything I see it as an issue to take care of the city and we had Mrs. Gonzalas come down and explain the Tax rate and answering the questions to bring clarity and you as council member are not going to vote and due diligence and vote whether it be approved, or disapprove, or abstain then you do not need to be council members. Do your due diligence.
- No second, Motion dies.

7. a. Convene into executive session pursuant to Section 551.071, Texas Government Code and Section 1.05, Texas Disciplinary Rules of Professional Conduct, for consultation with legal counsel regarding pending litigation, specifically Cause No. 318,581-B, *Jesus Cerda V. City of Kempner, Texas* pending in the 146<sup>th</sup> Judicial District Court of Bell County, Texas.

b. Reconvene from Executive session with possible deliberation and Council action on items discussed in Executive Session.

- Move to give the Assistant City Attorney, Roxana I. Perez Stevens, the authority to negotiate and execute a settlement agreement to resolve the lawsuit Cause Number 318,581-B, *Jesus Cerda v. City of Kempner, Texas* pending in the 146<sup>th</sup> Judicial District Court of Bell County, Texas.

8. Comments/ Mayor's Final Comments.

- Mayor states understand that we have passed the budget so we need to pass the Tax Rate and Ad Valorem and we will be seeing it next meeting.

9. The date of the next regularly scheduled meeting will be September 22, 2020.

10. Adjournment. Mr. Wilkerson makes a motion to adjourn. Gipson Seconds. All in favor Meeting Adjourned.

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

Hayleigh Robello –City Secretary

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

Dr. Keith L. Harvey- Mayor

STATE OF TEXAS \*

COUNTY OF LAMPASAS \*

CITY OF KEMPNER \*

BE IT REMEMBERED that on September 22, 2020, the City Council met in City Hall with the following members present: Council Members Charlie Gipson, Betty Parker, Mack Ruskiewicz, Melba Vandever.

The meeting was called to order at 6:15 P.M. and the following business was conducted:

1. Roll Call- Mr. Wilkerson was not present.
2. Council Member Mack Ruskiewicz Led the Invocation
3. Pledge of Allegiance/Pledge to the Texas Flag

### **Non-Action Items**

#### 4. Citizens Comments –

- Ken Mahoney  
Non-Agenda

On 8 Sept 2020, I penned a letter to the council to report the actions of the court on a quarterly basis. This report identified some areas of concern, items of training, status of the court, funds received and current path forward. This report was provided to the city secretary to be posted on the official city website under the Municipal Court/Judges Report, this has not been done as of today. In the letter I voiced my opinion regarding the financial contract between the judge and the city council and the need for a vote by the council to change the financial agreement, outside of the budget debates. The issue that the budget has been approved is a moot point because my tenure started with a published budget in place. Failure to hold a vote on this contractual issue places a breach in the contract recorded in open session of the council, the letter also provided an option for the council to remedy this issue. It is important to note that a judge's term runs the same timeline as the mayors, so my term is not up until May 2021. I also noted that the Municipal Court should not be referred to as a revenue stream in the budget. This is my opinion after hours of training and research on the issue not a legal opinion. The court is not a revenue generating activity according to all judicial guidance published, it is a separate self-sustaining activity of the city. Funds received by the court are general funds to the city after all required fees have been moved to the multiple funding areas under the law. If the court did not function or adjudicate citations issued, including city ordinances, there is no funds received by the city or fees due to the state. The staffing of the court is mandated by law and is part of the budget however fees and fines are not. There have been many comments and questions as to why I did not publish my letter through other sources and the internet personas had a field day, it is my



opinion that doing so would be improper. It is a report to the city council and has a proper posting site without interference or editing, not on unofficial sites that are not covered by the retention of information requirements. Finally, I want to thank the council for the opportunity to serve the city in a fair and impartial manner as the municipal court judge. Currently, despite rumors, I have no intention of resigning or ceasing my duties as judge for the city before May 2021 and will remain in place if the city council permits after that date. Thank you for your time in advance and hope that the initial letter will be published to provide information to the city residents and that a recorded vote is taken on the contract issue before the end of the current operational year.

## 5. Reports

- City (Mayor)- no reports.

## ACTION ITEMS

6. a. Consider approval of the minutes of the Council meeting held on September 8, 2020.

- Mrs. Parker moves to approve the minutes.
- Mr. Ruskiewicz seconds the motion.
- All in favor, motion carries.

7. a. Consider approval of the City of Kempner's tax rate of 0.244900, - must be a record vote.

- Mr. Ruskiewicz makes a motion for discussion.
- Mrs. Vandever seconds the motion.
- Mr. Ruskiewicz states that at the last meeting this item was in the consent items and Mr. Wilkerson made a motion to remove it for discussion so that it would be withheld from the consent items, but no one had anything to say about that which is an unusual move to remove it from consent items then not say anything about it I did approve it. I have also spoken to Melissa about these items and it is coming from the county and the appraisal of the area has increased so this is a modest amount considering the area has significantly increased. I have talked to citizens from other counties we should count our blessings on that because some counties have really gone up on their tax base it's a slight increase it boils down to a \$1.50 to \$1.60 increase not really a great increase and I feel it is such a small amount it covers some of the inflation e will face this year we just approved \$2000 for the fire department so it will cover something like that.
- Mayor states I would just like to correct the numbers and it is roughly \$1.19 to \$1.26 per household an increase of \$2000 that's it. Nothing more nothing less we went from 44 million to 45. The increase of the appraisal was a million dollars she

went through it with you all sheet to sheet line to line and I believe you still have those packets. I just wanted to clarify the amounts.

- Mr. Gipson states I would like to add to what my fellow councilman's comments about the last meeting when we have several items that are for consent to sort them out doesn't necessarily mean it comes out for discussion it's a statement that we don't want to vote yes for everything on there when you put multiple items of different concern in one single vote few of us don't agree that it needs to be all in one vote and I was in agreement that we pull those out and vote on them separately.
- Mr. Ruskiewicz states for the record I didn't say there wasn't anything wrong I made a statement that there was no discussion when usually there is just to clarify that.
- Mr. Gipson states I'm going to explain my opinion as to why those were pulled out I believe there was a comment from last week as to why they were pulled out when there is no discussion and I was just simply adding from the discussion from last week we pulled it out to vote on the one particular item to vote on separately instead of doing a shotgun run and voting on it all at once.
- Mr. Ruskiewicz states the purpose of the consent items is to group them together and vote on them together we have the right to pull them out that's fine no one is arguing that at all the purpose of the consent items is to vote on them as one thing and move on.
- Mayor states thank you both just to touch base on the consent items they are grouped together for that purpose especially when there are serious issues that would take a lot of time and everything is out to every council member ahead of time to ask questions and seek answers and some people did call and ask questions and get the answers the same people who went on Facebook and said they didn't but that can be verified by the city secretary. We are not trying to push anything through we wanted it to be in a nice smooth flowy fashion and we don't want to spend too much time in a certain area because you all should be well versed because you already have the information and the tools and have access to the people to give you the answers to make a qualified decision and if you want to pull it out that's fine if you want to vote on it together that's fine just to clear that up were doing city business.
- Mrs. Parker states that she too has made calls on the tax rate and followed up on it because I was not able to be here last week and being a senior of course and the cost of seniors on limited incomes and this is such a tiny amount and this is the county with having the appraisal go up on the area it helps the people that are selling making the area a little bit more valuable and the price amount is so low even seniors like me on limited income don't see this as a problem.

- Mrs. Vandever states that maybe some people were confused with the numbers because I was at first.
- Mayor states what the county did again went from 44 million to 45 that's all that means we are staying at the same rate as last year and that is why we brought in Mrs. Gonzales and when we bring people do not let them leave without getting to ask questions and get your answers.
- Mr. Ruskiewicz states hopefully all hearts and minds are clear I move to make a motion to approve the tax rate of .244900.
- Mrs. Parker seconds that motion.
- Three in favor (Parker, Ruskiewicz, Vandever), one opposed (Gipson). Motion Carries

8. a. Ratify the Ad Valorem Property Tax Revenue Increase reflected in the adopted 2020-2021 Annual Budget.

- Mrs. Parker moves to make a motion to approve the Ad Valorem Property Tax.
- Mrs. Vandever seconds that motion.
- Three in favor (Parker, Ruskiewicz, Vandever), one opposed (Gipson). Motion carries.

9. Comments/ Mayor Final Comments

- I feel that the City has accomplished set goals and had a successful audit of its financial records and received a good standing this year. Also, the 2020-2021 budget has passed, and the city's funds are in particularly good shape until this present date. I would like to thank the past Mayor Crane and our Mayor Harvey for not overspending. In fact, as a small municipality Kempner remains a City of common-sense budgeting, securing the City's saving funds and investment funds. Kempner as a small community has a lot of self-ambition and strife is being stirred up. Every action is taken by the Mayor or city council requires legal advice, to the point that business for the city is consumed with legal matters and it is costing the city excess spending on professional fees. So for the new year hopefully we can diminish the cost of professional fees.
- Mrs. Vandever states that would be great if it actually happened.
- Mrs. Parker states that she wanted to comment the last meeting but wasn't able to attend but the comment is that it was put on Facebook that our Mayor has asked the fire chief to come in and beg for money again and to remind people Mr. Wilkerson was the one that asked for the fire chief to come back in and have more discussion and as he was very informative and he did a great job. It had nothing to do with the Mayor or the fire chief begging for money.
- Mayor states that he's glad he doesn't look anything up and no one comes to the city begging for money and definitely not the fire chief or the fire department. And no one

would put themselves in harm's way like The Chief and the firefighters do every day constantly. The bottom line is people are going to say what they want to say and ignorance runs rapid and no one looks at the facts and I'm okay with that we just need to progress with city business so let's look at the positive and see what the new budget year holds and do everything we can for the city as elected officials.

10. The date of the next regularly scheduled meeting will be October 13, 2020.

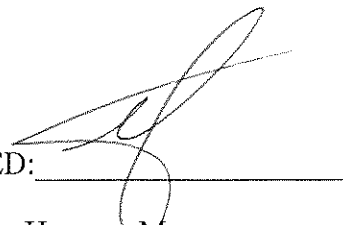
11. Adjournment. Melba moves to adjourn. Mrs. Parker seconds. Everyone in favor, the meeting is adjourned.

ATTEST:



Hayleigh Robello –City Secretary

APPROVED:



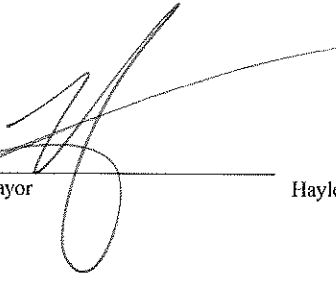
Dr. Keith L. Harvey- Mayor

**ACCOUNTS PAYABLE 5 October 2020**

| <u>NAME OF COMPANY</u>   | <u>DESCRIPTION</u>   | <u>AMOUNT</u>    |
|--------------------------|--|------------------|
| BANK OF AMERICA          | City of Kempner- Chief Rodriguez<br>FANS Automotive - \$577.00<br>FANS Automotive - \$129.00<br>GOVGROUP - \$51.52<br>GT Distributors - \$119.98<br>Walmart - \$24.27<br>Shell Oil - \$31.50<br>Shell Oil - \$26.50<br>Shell Oil - \$31.50<br>Shell Oil - \$31.00<br>Shell Oil - \$31.00<br>Shell Oil - \$27.00<br>Shell Oil - \$18.00<br>Shell Oil - \$19.00<br>Shell Oil - \$23.00<br>Shell Oil - \$16.00<br>Shell Oil - \$27.60 | \$1184.07        |
| BANK OF AMERICA          | City of Kempner- Officer Sowder<br>Shell Oil - \$33.00<br>Shell Oil - \$32.87<br>Shell Oil - \$33.24<br>Shell Oil - \$31.89<br>Shell Oil - \$32.88<br>Shell Oil - \$34.42<br>Lone Oak - \$33.16<br>USA Vend at Air Serv - \$1.75<br>Autozone - \$27.26<br>GT Distributors - \$12.00<br>Walmart - \$30.37<br>Walmart - \$34.88<br>7-Eleven - \$30.36  | \$368.08         |
| BANK OF AMERICA          | City of Kempner -- Mayor<br>Intuit usage - \$12.96<br>Adobe -\$16.00<br>Law Enforcement System \$161.00<br>Squarespace Inc. \$155.88   | \$345.84         |
| CENTURYLINK              | City Services  | \$309.70         |
| KNIGHTS LAW FIRM         | Attorney Fees  | \$5,569.04       |
| KEMPNER WATER SUPPLY CO. | City Services  | \$171.87         |
| LAMPASAS DISPATCH        | Classified Ad  | \$20.15          |
| HAMILTON ELECTRIC        | City Services  | \$368.13         |
| WELLS FARGO              | Lease services   | \$85.00          |
| FIRSTNET                 | Telecomm/PD  | \$166.02         |
| <b>Total</b>             |  | <b>\$8587.90</b> |

APPROVED:

Dr. Keith L. Harvey-Mayor

A handwritten signature in black ink, appearing to be 'KH', written over a horizontal line. The signature is stylized and extends above and below the line.

ATTESTED:

Hayleigh Robello - City Secretary

A horizontal line extending from the 'ATTESTED:' label to the right, positioned above the name 'Hayleigh Robello - City Secretary'.