



CITY OF KEMPNER

NOTICE OF REGULAR MEETING & AGENDA Tuesday, January 14th, 2025, at 6:00 pm

Notice is hereby given that the City Council will convene in a regular meeting in Council Chambers, located at 12288 E. HWY 190 Kempner Texas 76539. The items listed on this notice may be taken up by the Council.

1. Call to Order, Invocation and Pledges to Flags

2. Reports & Presentations to Council by City Staff and Invited Guests

- a. Citizen Comments (please see Additional Notices and Information at the end of this agenda).
- b. City Manager Report
- c. Police Chief's Report
- d. Fire Chief's Report
- e. Mayor's Report

3. Action Items

- a. Consent Agenda (all items on the consent agenda are considered routine and may be approved by a single motion to approve the consent agenda, or each item listed below may be acted upon independently should a council member make such motion)
 - i. Approval of the meeting minutes from the meeting held on December 10th, 2024
 - ii. Approval of the December 2024 Financials.
 - iii. Approval of the Quarterly Investment Report
- b. Adoption of City Policy Title 2, Chapter 2- Hours Worked and Personal Time Off
- c. Discuss and consider adoption of *Ordinance No. 2024-02-13-001 (R:2025-001), Adopting and Approving Amendments to the Kempner Police Department Policies and Procedure Manual.*

- d. Presentation of TDA Form A1024 CDBG Section 3 Goals and Concepts as related to the CDBG Program and Grant Contract Number CDV23-0238.
- e. Consideration and Possible Action to Award Construction Contract for CDBG TDA 2023 Grant Project #CDV23-0238 to JH Contracting Personnel in the amount of \$336,672.10 for both base and additive alternate bids.
- f. Consider approval of Inter-Local Cooperation Agreement For Law Enforcement Services between the City of Kempner and Bell County.

4. Workshop (non-action items)

- a. The Council will receive an update from the City Manager regarding complaints about the discharge of firearms and efforts to abate the associated nuisance.

5. Council and Staff Announcements

- a. Staff Announcements
- b. Council Announcements
- c. Next Regular Meeting date is scheduled to occur on Tuesday, January 28th, 2025, at 6:00 PM in council chambers.

6. Adjournment.

Certification Of Legal Posting:

I hereby certify that this agenda has been posted on the City message board affixed to the exterior wall of the Eisenhower / Clark Municipal Building AND has been posted on the City of Kempner official website (kempnertx.gov) at least 72 hours prior to the start of the meeting.

Rebecca D. Ramos

Signature of Certifying Official

REBECCA D. RAMOS CITY MANAGER

Printed Name and Title of Certifying Official

01/10/2025 3:00 PM

Date and Time signed

Additional Notices and Information

General Statement of Mayor Wilkerson:

Hello neighbors,

Below is some information you should find useful when reading the agenda and what to expect while in attendance at our meetings. I have the responsibility to ensure the meeting is being held in a lawful and organized manner. I have the obligation to each of you to ensure:

- Each council member is afforded the opportunity to express their opinions on matters brought before them;
- Each citizen is treated with respect and afforded the opportunity to be heard;
- Each council member and staff member is treated with respect by the general public and other staff and council members

The Council may discuss and/or act on the items listed on this agenda. Legally, the Council may take official action only on the items listed under #3 "Action Items". All other items listed on the agenda afford the council opportunity to hear information on the related matter and provide direction to City Staff on items or additional information needed for the issue to be placed on a future agenda for action by the council.

Citizen Comments: Any person may bring an issue to the attention of the City council during this time on matters NOT ON THE AGENDA. State law prohibits the Council from discussing issues or matters that are not on the agenda. Bringing an issue (not on the agenda) before the council during this time makes the council aware of the information and may lead to the matter being placed on a future meeting agenda. The Council has adopted a policy granting 3 minutes for each person to talk. Although you do not have to legally give your name and address, there is a sign-in sheet at the back of the room. Signing in on the sign-up sheet will afford your representatives to contact you for follow up on your concerns.

Citizens' input on City Matters: The City Council wants to hear from those we represent. When a matter is being taken up by the Council, a member of the public in attendance at the meeting who desires to be heard on the matter may be called upon when that issue is being discussed.

Closed (Executive) Sessions: The council reserves the right to adjourn into executive session at any time during a meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), .072 (Deliberation about Real Property), .073 (Personnel Matters), .076 (Deliberation about Security Devices), and .086 (Economic Development).

John "JW" Wilkerson



CITY OF KEMPNER

MEETING MINUTES

FOR THE CITY COUNCIL MEETING HELD ON JANUARY 14, 2025, AT
6:00 PM

THE CITY COUNCIL CONVENED IN A REGULAR MEETING IN
COUNCIL CHAMBERS, LOCATED AT 12288 E. HWY 190,
KEMPNER TX 76539.

1. Call to Order, Invocation and Pledges to Flags

The meeting started at 6:07 PM. The quorum consisted of David Richardson (place 1), Tom Combs (place 2), Dan Long (place 4), and Mayor Wilkerson. Also in attendance was Gene Isenhour (Municipal Court Judge (Judge)), Rebecca Ramos (City Manager), Heriberto Rodriguez (Police Chief) and Keri McLane (Assistant City Secretary/Court Clerk). Each person notated in these minutes will be referred to as place/title only throughout this document. Rob Green (place 3), and Debbie Hernandez (place 5) were not present. Judge led the invocation.

2. Reports & Presentations to Council by City Staff and Invited Guests

Note: order was discussed b, a,c,d,e

a. Citizen Comments-

Suzett V. Whitton addressed the City Council about City Ordinance No. 2005-10-25-002, and the firearm discharge within Kempner city limits, and Kempner Water Supply issues. She expressed frustration at the council's lack of action on the ordinance that would allow fireworks to be used within the city limits as fireworks can be used for celebration, joy, and bringing people together. Whitton feels that using firearms within the city limits is inconsistent as she feels that there is a higher stake for public safety when firearms are involved. She also questioned the council's prior refusal to intervene with Kempner Water Supply, despite its impact on public health and safety. In conclusion, she hopes that the council will think about being fair when it comes to public health, public safety and citizen concerns.

The Mayor asked if anyone else would like to address the council and no one did, he also wanted to let Whitton know that by law the council cannot respond to her concerns but enjoys having conversations with citizens.

- b. City Manager Report- None
- c. Police Chief's Report- None
- d. Fire Chief's Report- None
- e. Mayor's Report- The Mayor announced that there are three available positions on the City Council: Place 3, Place 4 (both two-year terms), and Place 5 (unexpired term), along with the Mayor's seat. The application process will open on January 15, 2025, and close on February 14, 2025. Individuals interested in serving or seeking re-election are encouraged to contact the City Secretary for the necessary documentation. Please note that there is no filing fees associated with the application.

3. Action Items

- a. Consent Agenda (all items on the consent agenda are considered routine and may be approved by a single motion to approve the consent agenda, or each item listed below may be acted upon independently should a council member make such motion). The action items were handled in the following order: 3a, 3c, 3b, 3d, 3f, 4, and 5.
 - i. Approval of the meeting minutes from the meeting held on December 10th, 2024.
 - ii. Approval of the December 2024 Financials.
 - iii. Approval of Quarterly Investment Report.

Mayor stated that council members should have received revised minutes after the originals were sent out, he would ask that when making a motion to please include the modifications.

Place 1 made the following motion: To approve the consent agenda with modifications to the meeting minutes.

Seconded by place 4.

Motion passed by all present.

- b. Adoption of City Policy Title 2, Chapter 2- Hours Worked and Personal Time Off.

The City Manager explained that the current policy regarding compensatory time for both non-exempt and exempt employees is under review, particularly regarding the cap on the number of hours employees can accrue in their local compensatory account. Compensatory hours refer to hours worked beyond the scheduled hours that do not qualify for overtime. Under the existing policy, non-exempt employees are capped at 30 accrued hours, while exempt employees are capped at 48 hours. The proposal under consideration is to increase the accrual limits to 80 hours for non-exempt

employees and 160 hours for exempt employees. This adjustment is being considered due to the demands of work schedules, investigations, events, council meetings, and holidays, which have created operational challenges for the police department and administrative staff. The City Manager emphasized that this change would not result in overtime, nor would it have an impact on the budget, as there would still be a 24-hour cap on paid-out hours if an employee leaves the city's employment.

Place 2 inquired whether the proposed change would pertain to compensatory time or personal time. The Mayor clarified that the policy adopted by the Council encompasses various types of time off, such as vacation, holiday, and sick leave, all of which fall under "personal time off." The proposed compensatory time would simply increase the hours in an already adopted category within this system.

Place 2 sought further clarification regarding the potential impact on overtime. The City Manager reassured that the revision to the policy would not affect overtime. The Mayor reminded the Council that the city's policy strictly prohibits overtime. The Judge raised concerns about compliance with the Fair Labor Standards Act (FLSA), which is designed to protect employees. The Mayor explained that, under the FLSA, exempt employees who work more than 40 hours a week are entitled to overtime compensation, either in the form of pay or by allowing employees to take time off within the same pay period. However, law enforcement employees are subject to a different set of rules due to their unique work schedules. In law enforcement, officers are placed on a two-week work cycle, and under the FLSA, they can work up to 85.5 hours in a two-week period before qualifying for overtime compensation. For law enforcement, this compensation can be in the form of overtime pay or by banking hours in a compensatory time account. The City Manager emphasized that the proposed plan would comply with the FLSA standards and would be a beneficial addition for employees. It would allow non-exempt employees to continue providing services to the city without placing financial strain on the budget, while also offering them time off that is separate from vacation or sick leave. The policy will maintain a safeguard by limiting the number of hours that can be paid out if an employee leaves the city's employment.

Place 2 mentioned that, in their previous experience, compensatory or flex time would need to be used within the same pay period. The Mayor responded, explaining that what Place 2 refers to is flex time, which must be used within the same period. In contrast, compensatory time is a separate

local account, and for law enforcement employees, it can also be placed in an FLSA compensatory account.

Place 2 made the following motion: to approve the Adoption of City Policy Title 2, Chapter 2- Hours Worked and Personal Time Off.

Place 1 Seconded the motion.

Motion passed by all present.

- c. Discuss and consider adoption of *Ordinance No. 2024-02-13-001 (R:2025-001), Adopting and Approving Amendments to the Kempner Police Department Policies and Procedure Manual.*

The Mayor stated there is a correction to the ordinance number in order to remain in compliance with the adopted method of ordinance numbering. He further explained the city does not pass an ordinance by the date if there is a previous ordinance that is being revised. When considering this option if a motion is to be made, he advised the council to please reference the revised numbering.

The Police Chief stated the Charger is about to be decommissioned and all the equipment will be pulled out and placed into the new patrol vehicle that has been ordered. The only equipment that will remain is the lights and the radio. He would like the council to consider allowing the use of the decommissioned vehicle for off duty use for full-time officers.

He further explained the process would be that whatever hourly rate the officer makes, \$10.00 an hour would be reimbursed to the city to pay for gas and maintenance on that vehicle. This would give the officers a way of making some extra money so that there is more incentive to stay with the city.

Place 2 made several inquiries relating to allowing the vehicle to be used for off-duty employment, such as: who pays for the insurance of the vehicle, would the cost for such increase, and does the insurance company allow an off-duty officer to use the vehicle. Police Chief answered the city pays for the insurance, and it would not increase since it is already on our policy. Place 2 asked if there was a limit in the number of miles from the City of Kempner that the vehicle could travel and who would incur the fuel cost. The Police Chief responded that it would be a 60-mile radius with the city initially paying for the fuel, but the \$10.00 per hour would be reimbursed for upfront

costs. Place 2 requested clarification on the proposed \$60/hour rate for off-duty officers, asking if that was a standard rate or the minimum. The Chief explained the lowest per hour rate for overtime he has seen an officer make is \$55/hour, with the policy establishing a minimum of \$50/hour to recoup fuel costs.

Place 2 inquired about the duration an off-duty officer could use a city vehicle, whether for 5 or 8 hours, and the process for requesting the vehicle. The Chief stated the duration depends on the job's requirements and that all off duty requests go through him for approval. When asked if this time counts toward on-duty hours, the Chief clarified that officers must be off-duty to use the vehicle for such assignments.

Place 2 asked about liability for vehicle damage during off-duty use. The Chief responded that responsibility for repairs and deductibles would depend on who is at fault. If the city is at fault, it would cover the costs. Place 2 expressed concerns about the city assuming liability for repairs.

Place 2 raised further concerns about the potential perception of Kempner becoming a "police force for hire" and how the program would be advertised within a 60-mile radius. He emphasized the importance of protecting the city's reputation and managing the program's financial impact. He questioned whether the city had sufficient funds in the fuel budget to support the program without exceeding limits. Place 2 recommended gathering more detailed information before moving forward, including clear guidelines on hours, costs, and budget limits. He suggested starting with an allocated budget of \$1,000, with the program ceasing once those funds are exhausted, to ensure no additional strain on city resources. While he sees potential in the program, Place 2 emphasized the need for more facts and structure before deciding.

The Mayor noted that the current street project grant includes a provision requiring traffic-related security within the city limits of Kempner. He explained that this policy would allow our officers to work on this assignment if needed. The City Manager will provide further details on this matter as a subsequent action item.

The Mayor explained the council can approve a modified policy that would permit the officers to use the vehicle locally, which would allow him, or the City Manager, to negotiate with this construction company (that was previously chosen to conduct street repairs under the federal grant we received). The negotiation would involve a requirement that if they are going

to hire off duty law enforcement for security of the construction area, ours have to be given priority inside the city of Kempner.

The City Manager provided clarification to Place 2 regarding some of his concerns:

- The fuel budget: as part of the proposed policy, the city recoups \$10 per hour for every hour an officer utilizes a vehicle for off-duty work. This reimbursement is intended to cover expenses such as fuel. The City Manager expressed confidence that, due to this reimbursement, the fuel budget would not be negatively impacted. In response to Place 2's inquiry, the City Manager confirmed that the \$10 per hour charge would apply regardless of the officer's hourly wage. However, she also noted that the minimum charge would be \$50 per hour.
- Other options for the vehicle when decommissioned: She further explained that the resale value of the Charger was estimated at no more than \$800, with potential of additional costs for decal and light bar removal. Allowing officers to use these vehicles for off-duty employment provides an opportunity for them to supplement their income, which supports their families and aligns with the city's commitment to supporting its personnel while minimizing unnecessary expenditures.
- Common Practice in industry: The City Manager noted that other agencies, such as the Sheriff's Office, authorize their officers to use vehicles for off-duty jobs.

Place 2 sought additional information about maintenance and fuel costs, particularly concerning larger repairs. The City Manager responded that, in such cases, the city would not pay for the repairs, and the vehicle would be decommissioned.

Place 1 inquired whether officers would be limited in the types of off-duty jobs they could accept. The Police Chief confirmed that officers must obtain approval for the off duty work they undertake.

Place 2 asked if they discharge a firearm, who is responsible for that. The Police Chief stated the officer would be liable for that, and it would be considered an off-duty incident. We would still represent the officer regardless of where or when it happened. In a personal car, or in a unit it is still on them and the city of Kempner since we represent them, because they are employed by Kempner. The mayor stated that he agrees with Place 2's concerns with the liability to the city, but to that scenario he doesn't have the

slightest bit of concern because whether your on – duty or off duty people will always sue the hiring entity because they are the ones with the insurance.

The Judge expressed concerns about the potential impact on the city and whether off-duty jobs might affect officers' readiness for their primary duties. The Police Chief assured the Council that there is a policy regulating the number of hours worked and ensuring sufficient rest periods. He further clarified that officers would not be permitted to work more than 16 hours within a 24-hour period. The Mayor confirmed that officers work 12-hour shifts, meaning that, on days they are scheduled to work, they could only take a maximum of 4 hours for off-duty work, effectively limiting off-duty jobs to days when officers are not scheduled for city duties.

The Mayor remarked that while he is neither advocating for nor against this proposal, many agencies across the state have adopted similar policies, recognizing the benefit to employee morale and retention, particularly when officers can earn additional income outside their city commitments. However, the Mayor emphasized the importance of having stringent guidelines and policies in place to ensure such a program functions properly. He also stated that the City Manager would need to ensure the budget remains balanced when evaluating the use of vehicles for off-duty work.

The Judge suggested that any concerns raised by the Council regarding this ordinance should be included in the discussion so that the next Council, given the upcoming vacancies, would not need to revisit the matter. Place 4 expressed support for the ordinance, noting that allowing officers to use decommissioned vehicles could generate additional revenue for the city and provide a valuable program for officers, especially given the city's competitive salary challenges. However, Place 4 indicated that he felt more information and structure were needed before moving forward with a motion.

The Mayor agreed with some of the points raised and recommended deferring the motion until additional data could be gathered from the City Manager and Police Chief. Place 2 clarified that while he was not entirely opposed to the idea, he required more information before proceeding. The mayor advised the council on their options regarding this item on the agenda, recommending no motion be made, which would mean this item could be brought up again in the future when the data and information the council members desire can be collected.

The mayor asked if there were any further questions on the matter, and after not hearing any, the Mayor asked if there were any motions to be made on

the item. No motions were made on the action item, therefore no action was taken.

- d. Presentation of TDA Form A1024 CDBG Section 3 Goals and Concepts as related to the CDBG Program and Grant Contract Number CDV23-0238.

The City Manager reported that the presentation from the grant company, included in the council's packets, outlines the details of how the city street grant operates. She advised that on December 17, 2024, Bobby Brooks from the engineering company was present at City Hall to unseal the four bids received for the street project. It was determined the lowest bid was submitted by JH Contracting, LLC with the combined total of the base bid to include repairs to Signal and Conductor and the alternative bid including Orchid came to \$336,672.10.

The grant team thoroughly reviewed the bid, ensuring it met all requirements, including references, insurance, and bonding. Following this review, the grant company issued a letter of recommendation, advising the city to award the project to JH Contracting, LLC.

The Mayor added that this grant was the grant the city applied for when Chief Rodriguez was filling dual roles. He further explained the city was required to accept the lowest bid unless we have a very specific lawful reason not to.

Place 4 made the following motion: to approve Presentation of TDA Form A1024 CDBG Section 3 Goals and Concepts as related to the CDBG Program.
Place 2 Seconded the motion.
Motion passed by all present.

- e. Consideration and Possible Action to Award Construction Contract for CDBG TDA 2023 Grant Project #CDV23-0238 to JH Contracting, LLC in the amount of \$336,672.10 for both base and additive alternate bids.

Place 4 made the following motion: to Award Construction Contract for CDBG TDA 2023 Grant Project #CDV23-0238 to JH Contracting, LLC in the amount of \$336,672.10 for both base and alternate bids.

Place 1 Seconded the motion.

Motion passed by all present.

- f. Consider approval of Inter-Local Cooperation Agreement For Law Enforcement Services between the City of Kempner and Bell County.

The Mayor reminded the Council that the cooperation agreement between the City of Kempner and Bell County was established a couple of years ago. The proposed changes to the agreement include two main changes. The first change addresses a provision in the original contract that prohibited anyone from the City of Kempner from identifying themselves as representing Bell County, and vice versa. While this language is generally appropriate, it presents an issue for the Mayor, who also serves as a commissioned deputy sheriff for Bell County. To resolve this, specific language was added to exempt the Mayor from this restriction, as long as the Mayor remains a commissioned deputy sheriff with Bell County. The second change is a result of the change in leadership within the Bell County Sheriff's Office, and the revised agreement will now be signed by the newly elected Sheriff.

Place 1 made the following motion: to approve the Inter-Local Cooperation Agreement for Law Enforcement Services between the City of Kempner and Bell County.

Place 2 Seconded the motion.

Motion passed by all present

4. Workshop (non-action items)

- a. The Council will receive an update from the City Manager regarding complaints about the discharge of firearms and efforts to abate the associated nuisance.

The City Manager, in collaboration with the City Attorney, is drafting an ordinance to address citizen concerns regarding the discharge of firearms. Once the draft is complete, and under the direction of the Mayor, a citizen advisory committee will convene to provide recommendations for City Council's consideration.

The Mayor asked if Mrs. Whitton (who spoke to the council earlier in the evening regarding this ordinance) would be interested in serving on the committee. She stated that her husband would be a better choice and that she appreciates the consideration. The mayor asked her to have her husband reach out to the city manager if he is willing to serve.

5. Council and Staff Announcements

- a. Staff Announcements

The city manager gave the staff updates about the council chamber monitors, that are now present in the council chambers. She stated the project has faced challenges, but we hope to have it completed by the next council meeting.

The Mayor advised the council he will be proposing a new ordinance regarding mandatory cybersecurity training for city council members at the next meeting. The key points for this ordinance would be:

- **Exemption from Training:** The Mayor suggests that council members should be excluded from mandatory cybersecurity training because they do not use city-owned electronic equipment for more than 25% of their time.
- **Restriction on Equipment Use:** To support this exemption, the Mayor proposes a resolution that would ban council members from using city-owned electronic equipment unless they provide the city secretary with a certificate proving they have completed the required cybersecurity training.
- **Acceptance of External Certificates:** The Mayor also wants the council to approve a provision allowing him to use his cybersecurity training certificate from other jobs as fulfillment of the city's training requirement. The Mayor clarified his full time employment, employment with Bell County Sheriff's Office and his employment with Central Texas College all require him to attend such training, and they are all the same. If he could alleviate yet another entity requiring the same training he has already taken numerous times, it would be greatly appreciated.

b. Council Announcements

Place 2 pointed out that the council can now understand how lengthy the grant process is, noting that a grant submitted in 2023 only reached the council's attention in 2025. The city manager explained that this grant process could take up to five years. Place 2 emphasized to the citizens that the council is working hard to get the streets improved, but the process will take time. The city manager added that, thanks to this grant, the city will now be able to complete work on three streets instead of just two.

- c. The next Regular Meeting date is scheduled to occur on Tuesday, January 28, 2025, at 6:00 PM in council chambers.

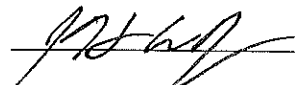
6. **Adjournment**

Place 1 made the following motion: To adjourn.

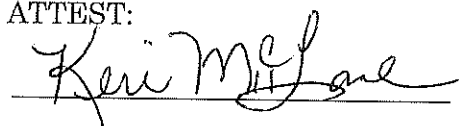
Seconded by: Place 4

The meeting adjourned at: 7:14 PM

APPROVED:


John (JW) Wilkerson- Mayor

ATTEST:


Keri McLane

Assistant City Secretary/Court Clerk