

Regular Meeting**THE LEAWOOD CITY COUNCIL**

October 18, 2021

Minutes

Councilmembers Present: Mary Larson, Lisa Harrison, Chuck Sipple, Andrew Osman, Debra Filla, James Azeltine, and Jim Rawlings

Councilmembers Present via Zoom: Julie Cain

Staff Present: Scott Lambers, City Administrator	Patty Bennett, City Attorney
Capt. Brad Robbins, Police Dept.	Fire Chief Colin Fitzgerald, Fire Dept.
Dawn Long, Finance Director	David Ley, Public Works Director
Mark Klein, Planning Services Director	Travis Torrez, Bldg/Code Enforcement Dir.
Nic Sanders, HR Director	Chris Claxton, Parks & Rec Director
Ross Kurz, Info. Services Director	Mark Tepesch, Info. Services Specialist
Kelly Varner, City Clerk	Stacie Stromberg, Assistant City Clerk

Others Present: John Petersen, Polsinelli PC; Stephen Harris, Washington Prime; Greg Musil, Rouse Frets White Goss Gentile Rhodes, PC

The meeting was called to order at 7:00 p.m. by Mayor Peggy Dunn.

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. APPROVAL OF AGENDA**

Mayor Dunn stated the following modifications to the agenda: Item 7B will be continued to a date uncertain; Items 8K and 8L have changes to the descriptions on the agenda only and not to their documents; and Item 13A has a change to the Public Works memo.

A motion to approve the amended agenda was made by Councilmember Rawlings, seconded by Councilmember Azeltine. Motion was approved with a unanimous vote of 8-0.

- 4. CITIZEN COMMENTS**

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to use profanity or comment on pending litigation, municipal court matters or personnel issues. Comments about items that appear on the action agenda will be taken as each item is considered. **CITIZENS ARE REQUESTED TO KEEP THEIR COMMENTS UNDER 5 MINUTES. A TOTAL OF 30 MINUTES WILL BE ALLOCATED PER MEETING FOR CITIZEN COMMENTS.**

- 5. PROCLAMATIONS – None**

6. PRESENTATIONS/RECOGNITIONS – None

7. SPECIAL BUSINESS

- A. Public Hearing: Consider the 2022 Fiscal Budget for the City of Leawood, Kansas

Mayor Dunn declared the public hearing open and asked if anyone would like to speak in person or via Zoom. No one came forward.

A motion to close the public hearing was made by Councilmember Filla, seconded by Councilmember Harrison. Motion was approved with a unanimous vote of 8-0.

- B. Resolution adopting the Fiscal Year 2022 annual budget for the City of Leawood, Kansas

Item 7B was continued to a date uncertain while staff works with the Kansas Governor’s office.

8. CONSENT AGENDA

Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted upon in a single motion. If a Councilmember requests a separate discussion on an item, it can be removed from the consent agenda for further consideration.

- A. Accept Appropriation Ordinance Nos. 2021-40 and 2021-41
- B. Accept minutes of the September 20, 2021 Governing Body meeting
- C. Accept minutes of the July 27, 2021 Leawood Arts Council meeting
- D. Accept minutes from October 28, 2020 Stormwater Management Committee meeting
- E. Approval of 2023 Budget Calendar
- F. Approve renewal of Cereal Malt Beverage (CMB) License for Walgreens located at 4701 Town Center Drive (CC)
- G. Approve renewal of Cereal Malt Beverage (CMB) License for Cosentino Group Inc./DBA Price Chopper, located at 3700 W 95th Street (CC)
- H. Approve renewal of Cereal Malt Beverage (CMB) License for Mr. Gyros Restaurant Group located at 11707 Roe Avenue, Suite C (CC)
- I. Resolution calling for a Public Hearing to be heard on Monday, November 15, 2021 at 7:00 P.M., or as soon thereafter as may be heard regarding amendments to the 2021 Fiscal Budget for the City of Leawood, Kansas (F)
- J. Resolution approving and authorizing the Mayor to execute a Publishing Agreement between the City and Jenkins Group, Inc. in the amount of \$25,000 pertaining to Leawood History Book (1997-2023) (PR)
- K. Resolution approving and authorizing the Mayor to execute an Agreement between the City of Leawood and the City of Overland Park in the amount of \$969,600.00 for the Mission Road (95th to 103rd) Project (PW)
- L. Resolution approving and authorizing the Mayor to execute an Agreement between the City of Leawood and City of Overland Park in the amount of \$242,400.00 for the 95th Street (Mission to Wenonga) Project (PW)
- M. Resolution approving and authorizing the Mayor to execute an Agreement between the City and Superior Bowen, LLC in the amount of \$555,000.00 pertaining to the I-435 Resurfacing Project (PW)
- N. Resolution approving an Eligible Facilities request from T-Mobile for the replacement of antennas and associated equipment at Leawood South Country Club Maintenance Facility (Case 111-21) (PC)
- O. Resolution approving an Eligible Facilities request from T-Mobile for the addition of Associated Equipment at Parkway Plaza Cell Tower” (Case 115-21) (PC)

- P. Approve the sale of two (2) existing fire pumpers: 2008 Pierce velocity pumper, Engine 33 from Fire Station 3 and 2011 Pierce Velocity pumper, Engine 32 from Fire Station 2 (FD)
- Q. Declaration of surplus property: (30) folding tables and (9) folding chairs (PW)
- R. Police Department Monthly Report
- S. Fire Department Monthly Report
- T. Municipal Court Monthly Report

A motion to approve the consent agenda was made by Councilmember Azeltine, seconded by Councilmember Sipple. Motion was approved with a unanimous vote of 8-0.

9. MAYOR’S REPORT

- A. I would like to offer my sincere sympathies to the family and friends of General Colin Powell, former Secretary of State and Chairman of Joint Chiefs of Staff, who passed away today due to complications from Covid-19.
- B. City of Westwood Mayor David Waters hosted our Johnson/Wyandotte Counties Council of Mayors meeting for October. The focus of the discussion was regarding the Climate Action Plan and Efficient Building Exchange. Tom Jacobs and Ashok Gupta from the Mid-America Regional Council (MARC) were the presenters.
- C. I attended the recent Leawood Lions meeting where Police Chief Dale Finger was the speaker. He did a great job laying out his vision for his Command Staff’s encouraged community involvement. Captain Troy Osborn is planning to join the Leawood Lions where Fire Chief Colin Fitzgerald is a current member. Captain Kirt Yoder has recently joined the Leawood Rotary Club.
- D. Councilmembers Mary Larson, Jim Rawlings, and Chuck Sipple joined me at the Leawood Chamber ribbon cutting for AKT, a fitness center, located in Town Center Plaza. They have very innovative techniques that incorporate “fun” into your workout routines. We wish them much success.
- E. I attended a luncheon honoring Senator Pat Roberts hosted by the Agricultural Business Center of Kansas City at the K-State Olathe campus. Kansas Governor Laura Kelly and Attorney General Derrick Schmidt were both presenters at the event.

10. COUNCILMEMBERS’ REPORT – None

11. CITY ADMINISTRATOR REPORT – None

12. STAFF REPORT – None

13. COMMITTEE RECOMMENDATIONS

[From the August 24, 2021 Planning Commission Meeting]

Ordinance approving a preliminary plan and final plan for Town Center Plaza – Lot 12, (Restaurant), located south of 117th Street and east of Nall Avenue (PC 83-21)

[Continued from the September 20, 2021 Governing Body meeting]

Mark Klein, Director of Planning, explained that the Public Works memo on the dais is the original list of stipulations that was approved by the Planning Commission. He stated that this and the memo in the meeting packet were meant to be included together, and that the supplemental memo refers to the escrow funds for a future traffic light. Councilmember Azeltine asked if the memo changed the scope of the traffic study. Mr. Klein replied that the supplemental memo states that staff agrees with the traffic study in regards to the traffic light but does not agree with the study in regards to the drive lanes.

John Petersen, Polsinelli PC, 900 W. 48th Place, Kansas City, MO, appearing on behalf of Washington Prime Group, addressed the Governing Body. He stated that Stephen Harris, VP of Development for Washington Prime and Doug Ubben of Phelps Engineering were present. Mr. Petersen gave a brief summary of the discussion with Council from the September 20th Governing Body meeting and the action they have taken since then. He stated they were asked if they wanted a continuance so they may address the concerns that were brought up by members of the public, adjacent property owners, and the Governing Body. Mr. Petersen pointed out that they understood the biggest issues were parking and the proximity of the building, vis-a-vis existing structures in the area.

He stated that Mr. Harris and his team worked very hard within the context of private agreements and the Leawood Development Ordinance (LDO.) Mr. Petersen showed examples of building locations and their proximity to one another on and near Town Center Plaza (TCP) as a reference. He explained there are constraints, but Mr. Harris was able to get an agreement from Macy's to move the building to a point that predominantly places all the parking on the Macy's site. He stated that Macy's would not agree to have the restaurant on their site. He stated that Mr. Harris was also able to secure an agreement with the proposed restaurant owners to significantly modify a reduction of the design of the porte cochere and valet parking area. Mr. Petersen pointed out that due to moving the building to the west, Washington Prime must move existing sanitary, storm sewer, and utility lines that run under the parking lot at a cost of approximately half a million dollars. Mr. Petersen stated it would move the building from 190' to 234' away from the front entrance of Hereford House. He pointed out that in a cross parking situation, parking cannot be restricted, yet the T-Mobile store installed a "no restaurant parking" sign in front of their building, and gave an example of Crate & Barrel operating within 263' of the North Italia restaurant at Town Center Crossing who share the parking field with no issues.

Stephen Harris, Vice President of Development for the Washington Prime Group, 180 E. Broad St., Columbus, Ohio, addressed the Governing Body. He stated that they have done a lot of review and came up with this option, although he prefers the original application be approved since they do not feel there is an issue with parking or location. He stated that if the Council is not willing to approve the original plan, he requests that they not be required to resubmit a fully executed set of plans.

He stated that his team recently learned that Hereford House stated, in writing, that they needed 323 parking stalls, and he explained that this number of spaces would reach to Bravo Italia Restaurant. He stated that TCP has never seen Hereford House have any need like that, and he asks that the Council look at the project from the correct perspective. Mr. Harris stated that the private agreements are relevant and that there is a zoning issue. He indicated that since Hereford House is allowed a maximum of 125 parking spacing according to the City's zoning ordinance, there should be no problem with parking. Mr. Harris stated that Washington Prime is concerned that some of the other business owners are operating outside of zoning restrictions and he asked for guidance from the City. He explained that if there are restrictions then this would impact the traffic study they submitted.

Mr. Harris noted that there was an early plan to reverse the direction of the building. He explained that there is a property line of Macy's that they must respect, but he cautioned that by doing this, all three restaurants' front doors (Bravo, Hereford House, and proposed restaurant) will face each other. Washington Prime felt that that arrangement would injure Hereford House and Bravo and brings concern to the proposed restaurant.

Mayor Dunn stated that she appreciated their time and efforts. Councilmember Harrison asked why they have not considered a location near Roe on the south side of TCP in front of Barnes and Noble Bookstore. Mr. Harris replied that Barnes and Noble has a "no change area" that they rely on for their customers'

parking, so no building in that area is allowed. He remarked that he has a line of retailers who wish to be on the south side of TCP, but not so on the north side. He pointed out that they are looking to activate the north side and the proposed restaurant wishes to be in an area with parking availability and close to Park Place. Councilmember Harrison asked who owns the pad sites at TCP and Town Center Crossings. Mr. Harris stated that they own several, but many others are owned by other parties. Councilmember Harrison asked where the construction staging would be located. Mr. Harris indicated that it would likely be south of the area, and there are a few alternative areas that may be considered, but the construction area would not be placed in the position to injure Hereford House or Bravo.

Councilmember Sipple asked to see the before and after plans of the proposed restaurant location. Mr. Petersen indicated both locations on a map. Mr. Harris pointed out that the valet drop-off is completely different in the new plan. Councilmember Sipple asked about T-Mobile's restricted parking and if Washington Prime has made any action regarding the signs. Mr. Harris presented a photo of the sign and stated that it likely affects Hereford House. He stated that before taking action, Washington Prime first contacted Leawood staff to ask what the City's position is since the City relies on cross parking for all customers. He stated that restrictions change all the parking ratios that they submitted in their traffic study. Mr. Harris stated that they have not received a formal response from the City yet, but once they understand the City's perspective, then they will react. Mr. Harris stated that T-Mobile restricting all restaurant parking is a problem for Hereford House and forces all parking to be on their site, which was never the intention. Mr. Harris explained that this particular pad was meant for over-parking by design, per the reciprocal easement agreements (REAs.)

Councilmember Filla asked about the underground utility lines. Mr. Harris explained that by moving the building, Washington Prime will need to contact the utility companies to gain provision to move them. She asked if the other side of Macy's parking lot, next to AMC Theater parking, was an option. Mr. Harris explained that AMC has certain control over the property and has restrictions to the parking field. He reiterated that the proposed location has been approved by Macy's and AMC Theaters does not have a vote in this part of the parking lot. Councilmember Filla asked Mr. Harris if they talked to Macy's about placing the restaurant on AMC's lot or talked to AMC about their parking lot. Mr. Harris replied that he did not.

Councilmember Larson stated that she would have appreciated having the new plans prior to tonight's meeting and is interested in hearing from staff on the changes. Mr. Harris stated that they did consider having it go through the various processes, but the only way to submit it to staff was through a complete application which is a very expensive thing to do. He stated that they prefer to have the original plan approved as it has been submitted so they are only bringing the newest plan as an option to be considered. He pointed out that the modifications are difficult and expensive to do, but that they are willing to do it. Mr. Harris stated that they would like the Council's guidance. Mr. Petersen replied that he understands the Council needs to have all the information ahead of time, but the tenant and Macy's approval was not complete until today and they did not want to represent an alternative until they could legally do so.

Councilmember Cain asked about Macy's decision with the new location option. Mr. Harris stated that the building is as close to Macy's as they can get it and that Macy's has agreed to allow some of the parking demands on their property, but stated they wanted a buffer of parking. He remarked that the restaurant building could be turned 180° and placed up against Macy's property line, but in doing that, it would point the parking directly at Hereford House and Bravo. He stated Washington Prime has never supported that idea and stressed that the plan must work for all parties. Councilmember Cain asked if the Council can add a stipulation that the construction staging be to the south and not east of the building site. Mr. Harris indicated that the staging would be on the west and the south and that the site of the building is also used for construction staging, but he noted that they would agree to that stipulation..

Councilmember Cain acknowledge the effort and work that Mr. Harris accomplished for a compromise. She agreed that if all the doors faced each other, it would be a hardship on the restaurants.

Councilmember Azeltine asked about the guidance from the City that Washington Prime is looking for regarding the no restaurant parking signs. Mr. Harris stated that they issued a letter to the City Attorney through their General Counsel who was interested in understanding what the City's position is on whether or not there could be no parking signs anywhere. He stated that Washington Prime was unaware of these signs when they submitted their application. Mr. Harris stated that in addition, Hereford House is operating well outside all known approvals for zoning and claiming they can have 600 or more people as their occupant load, rather than their zoning guidance. He stated that Washington Prime also has rights in their private agreements, but out of respect to the City, they wanted to know what the City plans to do.

Councilmember Azeltine replied that he was surprised to learn about the private agreements and assumed that all of the parking lot at TCP was owned by one entity. He remarked that he does not think the Council can help with private agreements on private property. Mr. Harris stated that they can handle their private agreements themselves, but remarked that the dilemma is that the parking study and application they submitted has relied on the fact that Hereford House has 125 parking stalls in their total demand, not 323 as they stated, and that everyone has the right to cross park, so if there is restricted parking, it changes the parking ratios and what the City is using as its basis to approve projects. He stated that when an application is submitted, staff requires that a parking study for the entire center, whether they own it or not. Councilmember Azeltine stated that he does not think it is necessary to cover the entire shopping center for the parking study. Mr. Harris stated that they worked within the requirements of the LDO and what staff requested. Mr. Petersen stated that it is not uncommon for cross park centers with multiple users to take the overall snapshot, then the usage is evaluated.

Mayor Dunn inquired about the shaded area on the map. Mr. Harris explained that the shaded area indicates the available parking that is a reasonable distance from Hereford House but that they do not believe that they need more than 71 spaces. Mr. Petersen confirmed that Washington Prime is not going to constrict parking because it is a cross parking easement. Mayor Dunn stated that she was unaware of the no restaurant parking signs in front of T-Mobile, but commented that she sees time restricted parking signs all over the City. Mayor Dunn suggested that restricting the parking only during certain times of the day may be an option. Mr. Harris stated that Washington Prime is not allowed to restrict parking because their agreements state that there has to be free and cross parking for all customers. Councilmember Azeltine asked if Mr. Harris has spoken to the owner of the T-Mobile building about being in violation of their parking agreement. Mr. Harris stated that they can implement the rules of their center and have the authority and the right to implement them.

Patty Bennett, City Attorney, commented that the Council can stipulate what they want. She mentioned that staff has not seen any plan changes, and if it is a substantial change, it would require re-starting the application process. Mr. Petersen remarked that their direction from the last meeting was to find a reasonable compromise, and that they anticipated having to re-file the application to make the changes.

Councilmember Osman summarized that a posted sign, legal or not, is between two parties, but he believes that Washington Prime is asking if the signs posted at T-Mobile are approved by the City, permanent or temporary. He suggested that Washington Prime is first asking if the signage is enforceable by the City's codes department before they deal with it internally.

Ms. Bennett stated that the City has responded to Washington Prime and told them that if they want to make a complaint about the signs, they can call the codes department or they can submit an open records

request for the approved plan for the American Century/T-Mobile building. She stated that the City has not given them an opinion on whether this is a codes violations or not because the City was unsure what Washington Prime wanted them to do.

Scott Lambers, City Administrator, stated that any stipulations that the Council decides to do will supersede any private agreements. He stated that the Council can stipulate certain designated areas for Hereford House and/or the proposed restaurant. Mr. Lambers stated that he hoped all parties can agree on what the demarcation would be.

Greg Musil, Rouse Frets Law Firm, 5250 W. 116th Place, Leawood, KS, addressed the Governing Body. He stated that 30 days ago he believed the direction was given to Washington Prime to find a win-win situation and communicate with people. He stated that he was surprised tonight to learn there was a new plan that has not yet been reviewed by City staff or the Planning Commission. He stated that Washington Prime has private agreements that have not been made public or disclosed to the Council. He stated that the T-Mobile/American Century sign allows them the right to restrict parking in a reasonable fashion to protect their business, although there is cross parking. He stated Hereford House is a good neighbor and has never complained about the signs, even though there are banquets at the restaurant during the day in which there is one person per car attending.

Mr. Musil stated that Hereford House is not part of TCP in ownership and acknowledged that the anchor stores pay rent and control the center. He explained that Hereford House is an out lot and pays a small amount for maintenance of 71 parking stalls. He suggested that the prospective restaurant have no valet drive so they can move even further to the west and be more like other restaurants in Leawood. Mr. Musil recommended that the Council not approve the plan tonight and remarked that it goes against what the Council asked the applicant to do last month.

Mr. Musil stated that they would like to analyze the new plan. He pointed out that the email he sent to the Council yesterday identified their zoning seating capacity that was confirmed by staff. He acknowledged that there are banquets that take place at Hereford House, but that they are still short of convenient parking on the east side of Hereford House. He remarked that the City has the right to ask for a parking study of just the north side of TCP during the holiday season.

Mayor Dunn recognized Mary Holland who signed in to speak. Ms. Holland, co-owner of Hereford House, residing at 11408 High Dr., Leawood, addressed the Governing Body. She stated that there is already a difference in parking needs between tonight and August when the presentation photo was taken. She stated that August is their slowest month of the year, in addition to when the mask mandate in Kansas City was reinstated at that time, their curbside orders increased while in-house dining decreased. Ms. Holland encouraged an additional parking study to be done on the north side of TCP at this time of year and especially in December. She reiterated that this is not about competition but the placement and location of the building.

Stephen Valenti, Vice President of Marketing and Guest Experience for Hereford House and Pierpont restaurants, residing at 10882 S. Harwick St., Olathe, KS, addressed the Governing Body. He pointed out that they have discussed the amount of staff needed during the holiday season and currently employ 15-20 employees. He stated that during the holiday banquet season they will employ 30 people, not counting the number of employees needed for the proposed restaurant.

Mayor Dunn asked why the applicant would not come forward with only a preliminary plan, which is far less expensive. Mr. Klein replied that the applicant chose to do prelim and final plans together to get through the process as quickly as possible. He stated that it is not uncommon for restaurants to do but

confirmed that staff would like the opportunity to review the new plan. Mr. Klein stated that staff did try to have the applicant focus on the north side in their parking study, which is why the photographs in the Council packet are of the proposed location. He acknowledged Hereford House's concern with the parking study done in August, and he confirmed that he drove through the area multiple times to do visual observations and found similar findings as the study. Mr. Klein added that he understands parking needs can change during a holiday season.

Councilmember Azeltine asked to clarify if staff encouraged the applicant to focus on the north side in their parking study. Mr. Klein replied that typically staff does want a study done for the entire center but wanted them to also take a look at that particular area in question. He stated that in the past staff would ask for photo studies, and the applicant did provide that as well. Councilmember Azeltine asked if the entire center was taken into account, would that skew the information. Mr. Klein noted that since the north side is emptier if the information were to be skewed, it would actually affect the south side. Mr. Klein confirmed that staff typically reviews the entire center. He stated that the study was done of the entire center but that the applicant did provide a photographic analysis when asked to focus on the north side.

Councilmember Harrison asked if Washington Prime owned the pad site where Hereford House is located, would they still make a proposal for a new restaurant in this area. Mr. Harris confirmed that they would because it is a national concept called "food clustering" and the proximity of a restaurant is a helpful thing because guests prefer going to an area with a lot of choices. He stated that both Washington Prime and Hereford House agree they are not competing but want to see everyone succeed. Councilmember Harrison opined that the parking agreements may be out of date and too confining.

Councilmember Filla appreciated the effort in moving the utility lines and getting an agreement with Macy's. She asked why the building could not face 117th St. or be moved closer to AMC or Macy's. Mr. Harris stated that they had considered turning the front of the proposed restaurant toward 117th St. but it was determined that it would be no further away from Hereford House and still incur the same restrictions with Macy's. He stated the parking for the restaurant would be exacerbated.

Mr. Harris stated that they understand that the application package would need to be submitted to staff and go through the full process, which is arduous and expensive, but said they hesitated if the City would want more changes. He stated that with all due respect Washington Prime does not need Hereford House's approval but they want to be able to work together. He stated that every response they have received from Hereford House is that nothing is good enough. Mr. Harris reiterated that moving off Washington Prime's property is not an option, and that they have looked at every reasonable option. He explained why the building cannot be located further to the west nearer AMC and how it would hurt the retail stores.

Mayor Dunn pointed out that Hereford House was just made aware of the proposed changes at this meeting, just as the staff and Council had been. She stated that the proposed changes are a good compromise but that she would like to have signage that would direct the parking to the east. Mr. Harris replied that he is not allowed to agree to that type of signage because of their private agreements and the REA agreements. Mayor Dunn stated the City could restrict the parking with a stipulation as the Planning Commission did with no valet parking. Mr. Harris clarified what no valet parking means that they will not place valet parking in that area but there will be no signs, because valet parking is temporary. He stated that they cannot restrict parking with a permanent sign and cannot be in a position where he accepts that stipulation because he would be in violation of agreements and possibly be sued. He stated that they can restrict employees from parking near Hereford House, but he cannot place a sign in the parking lot. Ms. Bennett stated that Washington Prime may not be able to install parking signs, but could renegotiate

their agreements if the City says it is part of the agreement. She suggested that the plan could be remanded or the applicant can withdraw the current application and resubmit a new one. She indicated that the Council could still instruct staff on issues such as construction staging and signage. Mayor Dunn noted that remanding would require a modified plan, but questioned if it requires the applicant to start over. Ms. Bennett stated that it could be considered a modified plan and the applicant may have to start over with a new Interact meeting and public notice, but mentioned that since staff has not seen the changes they are not aware if there are substantial changes. Ms. Bennett pointed out that they could have a final plan separately but run parallel with the proposed changes.

Mr. Petersen stated of the alternatives, they would prefer a remand rather than re-filing the application. Mayor Dunn stated that she is open to remanding. Councilmember Rawlings asked what is considered a substantial change in a plan. Ms. Bennett stated that there is a list of items in the LDO that staff would review to make that determination.

A motion to remand Item 13 to the Planning Commission to a date uncertain was made by Councilmember Filla, seconded by Councilmember Cain. Motion was approved with a vote of 8-0.

Councilmember Rawlings stated that he appreciated the compromise as a baseline. Mayor Dunn agreed. Councilmember Azeltine asked if there is any objection to limiting the parking study to the north side of TCP. Mr. Petersen replied that the study was targeted to the north side, but per the parameters of the study as indicated by staff, it starts with the overall center. He stated that it was included but they will review it again.

Councilmember Larson thanked Town Center Plaza and noted that the City wants to support them and Hereford House, but it comes down to parking, in her opinion. She stated that she appreciates their efforts in moving the building to the west and is looking forward to seeing more details of the discussions with Hereford House and further compromise, if there is the ability to do so.

Mr. Petersen asked if no parking signs at T-Mobile are in compliance with the LDO. Ms. Bennett replied that she is unaware of what the private agreements are with Washington Prime and T-Mobile/American Century but staff would need to research the sign ordinance at the time the signs were installed, and replied that the applicant can submit an open records request or a codes enforcement complaint. Mayor Dunn stated that she sees signs throughout the City that restrict parking in some areas usually during certain times of the day. Mr. Lambers stated that the City can restrict the parking closest to Hereford House and the Council may stipulate it as part of this application. Councilmember Azeltine inquired that any parking rules the City requires would supersede Washington Prime's private agreements. Mr. Lambers affirmed yes because it would be stipulated as a Planning item.

Councilmember Osman stated that he does not agree with limiting parking because of its complex nature with different ownership groups. He stated that it is one thing to stipulate that employees do not park in a certain area and the owners agree to do everything in their power to accommodate that, but it is another thing to allow Hereford House, who does not own Washington Prime's property, to come onto their property and have specifically designated spaces. Councilmember Osman stated there is a liability issue, as well. He stated that TCP could sell parking spaces to Hereford House but the City cannot change the rules 25 years later and make them park in a certain area. He stated that he would never agree to give away property, full-time, to another business that is only a tenant. He likened it to a resident who has a party every day who tells their neighbor they are going to park cars on their driveway every day. Councilmember Osman stated that he is not in favor of a stipulation limiting someone's property rights. Mayor Dunn clarified that Mr. Lambers' suggestion was not for all 71 parking spaces. Councilmember

Osman replied that it is still the City putting up no parking signs on someone else's property versus having an internal agreement and training employees where to park.

Mr. Petersen pointed out the Hereford House has a right to park anywhere, unrestricted. He stated that the development team will go back to work on a compromise.

Councilmember Azeltine agreed with the concerns stated by Councilmember Osman. He stated that he hopes the Planning Commission reviews this plan with an eye to setting a precedent.

Mayor Dunn thanked Mr. Harris for his presence and participation.

14. OLD BUSINESS

Consider possible amendment to the Leawood Development Ordinance pertaining to greenhouses; specifically, whether to allow greenhouses as an accessory use within single family residential districts (C)

Mr. Klein stated at the Governing Body meeting on September 20th there have been some requests to allow greenhouses in the City of Leawood. He stated that it is divergent on what the City has allowed for detached structures in the past. He stated that when staff reviewed the types of greenhouse, they discovered many different types of structures. He gave a presentation of examples of greenhouses with foundations, construction materials, and storage area options.

Mr. Klein suggested a Special Use Permit (SUP) requirement so that the Planning Commission and City Council would be able to review the requests and allow more control to account for the variety of conditions that may be present. He detailed the zoning districts, minimum lot size, maximum structure size, location on lot, setbacks, construction standards, use, and lighting that will be outlined in the LDO. He stated the restrictions are conservative, as suggested by Council. Mr. Klein noted that the cities of Overland Park and Prairie Village require SUPs, yet most cities do not regulate them as an accessory use.

Mr. Klein stated that most cities regulate the maximum size of greenhouses and limit the size of the structure by the size of the lot or by a percentage of lot size. He stated that staff recommends a maximum of 60 sq. ft. for a one-acre lot but an additional 10 sq. ft. for each additional 1,000 sq. ft. lot area may be added to a maximum of 400 sq. ft. He suggested a maximum height of 15 ft.

He stated that many other cities do not have requirements for construction materials, but the differences in several items have a significant cost factor, as in foundation, walls, glass vs. polycarbonate, clear glass vs. semi-transparent, wind loads, and storage. Mr. Klein reviewed some of the differences in the materials. Staff recommended that a greenhouse must be placed on a permanent foundation and be constructed of tempered safety glass.

Mr. Klein stated that staff has drafted an LDO amendment, if Council wishes to move forward.

Mayor Dunn thanked Mr. Klein and staff for all their research. Councilmember Larson stated that she has not been in favor of greenhouses but Mr. Klein did an excellent job of showing how these structures can be more acceptable and blend into the community. She stated that she is in favor of the foundation base and tempered glass. Mayor Dunn stated that she is in favor of the one-acre lot minimum requirement, and mentioned that she has heard from residents who are not in favor of these structures being too prevalent.

Councilmember Sipple estimated that there are less than 100 lots in the City that have an acre or more. He asked if a lot has less than an acre would they be limited to an attached greenhouse. Mr. Klein stated that currently greenhouses are not allowed attached or detached. Councilmember Sipple stated that he is in favor of the safety glass and not the polycarbonate. He asked if greenhouses should be required to have screening from the street view. Mr. Klein stated that although evergreen trees screen the best, they also cast shadows on the greenhouse as they become taller. Councilmember Sipple asked how many requests have come to the City for a greenhouse over the recent years. Mr. Klein stated that this is the first time he has been approached for this request. He pointed out that changes would need to be made in a number of places in the LDO, if the Council approves the amendments.

Councilmember Rawlings pointed out that HOA deed restrictions will supersede anything the Council approves. Mayor Dunn stated that there has been opposition from residents regarding sheds, so she wondered how the public will react to greenhouses. Mr. Lambers stated that the SUP application will include language stating that residents must first check their local HOA restrictions.

Councilmember Harrison asked about limitations on the lights being on 24-hours a day inside the greenhouse. Mr. Klein stated there will be grow lights but it could be a restriction as to what hours they can be turned on. Councilmember Harrison expressed concern over the winters in the area and the agricultural zone, and asked if the Parks Department has been consulted. Mr. Klein stated that the Leawood Park's Facility has a greenhouse. Councilmember Rawlings expressed concern over greenhouses that would be heated in the wintertime and everything that entails.

Mayor Dunn pointed out that it is important to include HOA restrictions on the application and Mr. Lambers stated that it is important that the Council adhere to the one-acre lot restriction. He stated that given the significant cost, it is likely the structure will be standing for a long time.

Mayor Dunn stated that the item will go to the Planning Commission but asked if they (Planning Commission) could reduce the lot size. Mr. Lambers suggested that the Council stress the desire for a one-acre restriction. Ms. Bennett cautioned that applicants with smaller lot sizes may ask for variances. Mr. Lambers stated that the LDO could clearly state the lot size must be no less than 1.00 acres to be considered for a SUP.

A motion to refer Item 14 to the Planning Commission was made by Councilmember Filla, seconded by Councilmember Harrison. Motion was approved with a vote of 6-2. Councilmembers Rawlings and Azeltine voted nay.

Councilmember Azeltine agreed with the Council in that Mr. Klein and his staff did an excellent job researching information. He stated that he does not believe there will be many applications for greenhouses, but that this is a solution in search of a problem. He opined that what makes Leawood special is that the City does not allow detached structures and expressed concern with how the greenhouses will be maintained after a few years. He remarked that this issue is spending too much time and resources for a small number of eligible lots.

Councilmember Osman agreed that the staff did a phenomenal job and he agreed that the Council brought up valid points. He stated that the original goal was to review all backyard detached structures and that he had two constituents who asked about greenhouses. He was in favor of greenhouses needing a SUP because at any point, a permit could be revoked if the structure is not being maintained or constructed properly, and he agreed that the lot size should not be less than one acre.

Mayor Dunn stated that the Planning Commission will have a public hearing and it could be denied altogether. Councilmember Rawlings appreciated staff's very comprehensive report but stated that other issues need to be addressed first and that it is unnecessary at this time.

15. NEW BUSINESS

A. Discussion of new Federal Holiday: Juneteenth

Mr. Lambers explained the handout that was provided to the Council at the dais is an update of local entities' plans for their 2022 holidays. He stated that each November the Council adopts a holiday schedule, which has not changed in many years. He stated that because of the new Federal holiday he has brought this forward for discussion.

Mayor Dunn asked that if the Council approves the addition of Juneteenth as a holiday will it change from 8 holidays and 3 personal days. Nic Sanders, Human Resources Director, addressed the Governing Body. He stated that currently there are 11 holidays and the addition of Juneteenth would make it 12 days. He explained that most other agencies that are adopting Juneteenth are adding the holiday, not eliminating a floating holiday. He stated that 11 holidays are the standard, with the exception of Kansas City, Missouri, who has 13 including Juneteenth. Mr. Sanders indicated that most agencies are planning to add Juneteenth to their 2022 holiday schedule.

Councilmember Osman asked the definition of a floating holiday. Mr. Sanders replied that it is a day that an employee can take at any point in time, like a discretionary day. Councilmember Azeltine asked if Juneteenth took the place of Columbus Day. Mr. Sanders replied that Columbus Day is still a Federal holiday, but the City of Leawood does not recognize it as a holiday.

Mr. Lambers stated that personal days must be taken within a calendar year and do not carry over. Mr. Sanders explained that from time to time the personal days can fluctuate depending on how a holiday falls in the week. Mr. Sanders pointed out that the list of entities came from a recent survey that staff wished to share with the Council, and that not all Johnson Counties cities are included.

Councilmember Harrison pointed out that four of the holidays in 2022 land on either a 1st or 3rd Monday of the month, and asked if the Council meetings would then fall on the following Tuesdays. Mr. Sanders confirmed they would and pointed out that Juneteenth falls on a Sunday in 2022, so it would be observed on the following Monday. Mayor Dunn asked if Juneteenth would be June 20th in 2022. Mr. Sanders replied that the 20th is the day the City would observe it with the exception of the Fire Department who would observe it on the actual day because of their shifts.

Councilmember Sipple asked if Human Resources surveyed the staff on Juneteenth's importance. Mr. Sanders replied they did not nor have they received requests to recognize it. He stated that they do not typically receive requests from employees to add holidays.

Councilmember Filla expressed gratitude that the staff is being proactive. She stated that this holiday is a critical part of our history and the addition of an extra day is important for employee benefits. Mayor Dunn stated this item is for discussion and consensus, but the next item is a resolution for approval of the 2022 holiday schedule.

B. Resolution designating holidays for the year 2022, in accordance with the personnel rules and regulations of the City of Leawood, Kansas (HR)

Ms. Bennett stated that this item is for the designation of the current holiday list but that the Council may approve Juneteenth as an addition to the holiday schedule.

A motion to approve Item 15B with the addition of Juneteenth as a recognized holiday in the City of Leawood was made by Councilmember Filla, seconded by Councilmember Azeltine. Motion was approved with a vote of 7-1. Councilmember Sipple voted nay.

Councilmember Sipple stated that he believes 11 paid holidays is enough for employees, especially with the flexibility of the 3 floating personal days. He stated that Kansas was a free state and its residents did not free slaves or own slaves, and the City of Leawood did not have slaves. He stated that he does not consider it that big of an issue in present day Kansas.

C. Schedule Governing Body meeting for November 1, 2021, 7:00 P.M.

Mr. Lambers stated that there was an administrative discussion to move the meeting time ahead to 6:00 p.m. Mayor Dunn asked about the anticipated agenda for that date. Mr. Lambers pointed out an expected Planning Commission item, but also mentioned Councilmember Osman's earlier comment regarding the Chiefs' Monday Night Football game on the same evening. Councilmember Osman replied that he will be present at the November 1st meeting, but that he has received derogatory phone calls and negative accusations from residents regarding a highly contested item scheduled on the same night as football and the Council meeting. Councilmember Osman stated that he and Councilmember Filla have received phone calls accusing the Council of trying to circumvent the process because certain residents have not been notified of other meetings in the past.

Mayor Dunn stated her concern with moving the start time to 6:00 p.m. in that some of the Council will not have an opportunity to have dinner, especially if the meeting runs until midnight. She commented that moving the meeting start time may not appease all the residents, but that she is open to what the Council wishes to do. Councilmember Sipple stated that the Council should make it as easy as possible for the residents to attend. Councilmember Osman suggested allowing citizens to make their comments early in the meeting. Mayor Dunn stated she could allow citizen comments immediately following the presentation, and before the Council discussion so that residents may be able to leave and watch the game. Mr. Lambers stated that staff can provide a light dinner at City Hall 30 minutes before a 6:00 p.m. meeting.

A motion to modify the meeting time to 6:00 p.m. was made by Councilmember Filla, seconded by Councilmember Harrison. Motion was approved with a unanimous vote of 8-0.

Meeting was adjourned at 10:00 p.m.