1. CALL TO ORDER

Mayor Studebaker called the regular City Council meeting to order at 6:06 p.m. on June 4, 2019, in the City Council Chambers, 380 A Avenue.

2. ROLL CALL

Present: Mayor Studebaker and Councilors O’Neill, LaMotte, Nguyen (arriving at 6:20 p.m.), Wendland, Kohlhoff, and Manz

Staff Present: Megan Phelan, Assistant City Manager; David Powell, City Attorney; Kari Linder, Deputy City Recorder; Shawn Cross, Finance Director; Bill Youngblood, Senior Code Enforcement Specialist; Scot Siegel, Planning and Building Services Director; Paul Espe, Associate Planner

3. PLEDGE OF ALLEGIANCE

Mayor Studebaker led the Council in the Pledge of Allegiance.

4. EXECUTIVE SESSION: Under authority of ORS 192.660 (2)(d) conduct deliberations with persons designated to carry on labor negotiations and under authority of ORS 192.660 (2)(e) conduct deliberations with persons designated to negotiate real property transactions.

Mr. Powell reviewed the statutory basis for entering executive session and outlined the parameters.

The City Council met in Executive Session beginning at 6:09 p.m. and ending at 6:55 p.m.

The Council reconvened in open session at 6:56 p.m.

5. CITIZEN COMMENT

No Citizen Comment was offered.

5.1 Prior Citizen Comment Follow-Up
No follow-up on prior Citizen Comment was presented.

6. PUBLIC HEARINGS

6.1 Resolution 19-25, A Resolution of the City Council of the City of Lake Oswego Certifying that the City of Lake Oswego is Eligible in the 2019-21 Biennium for State-shared Revenues (Cigarettes, Liquor and Highway Taxes) Because It Provides Four or More Municipal Services.

Resolution 19-26, A Resolution of the City of Lake Oswego Declaring the City of Lake Oswego’s Election to Receive State Revenues in the 2019-21 Biennium.

Resolution 19-27, A Resolution of the City Council of the City of Lake Oswego Adopting the City of Lake Oswego Budget for the Biennium Commencing July 1, 2019, Making Appropriations, Levying Ad Valorem Taxes, and Classifying the Levy Pursuant to Section 11b, Article XI of the Oregon Constitution.

Resolution 19-28, A Resolution of the City Council of the City of Lake Oswego Adopting the City of Lake Oswego Capital Improvement Plan FY2019/20 – 2024/25

Mr. Powell announced that the four resolutions would be handled jointly in this public hearing and reviewed each of the resolution titles. As detailed in the agenda, he explained that public testimony might address any of the resolutions and reviewed the time limits.

Mr. Cross apprised Council of one adjustment that had been made. He indicated that staff had corrected the omission of the debt service for the Street Fund on the $10 million worth of bonds, as noted in the Council Report. Otherwise, the Resolution reflects the budget as approved by the Budget Committee and provided to Council in April.

Testimony

Al Calabria, 17340 Oak Meadow Lane, a citizen member of the Budget Committee, commented on the City budget presented in Resolution 19-27. He clarified his intention in drafting an earlier amendment that was aimed at achieving certain savings and described his follow-up with Fire Chief Don Johnson and City Manager Scott Lazenby.

Councilor Manz moved to adopt Resolutions 19-25, 19-26, 19-27, and 19-28. Councilor LaMotte seconded the motion.

A voice vote was held, and the motion passed, with Mayor Studebaker and Councilors O’Neill, LaMotte, Nguyen, Wendland, Kohlhoff, and Manz voting ‘aye’. (7-0)

6.2 Resolution 19-36, A Resolution of the City Council of the City of Lake Oswego Adjusting the Budget for the Fiscal Year Commencing July 1, 2018 by Adopting a Supplemental Budget, Approving Resources/Requirements, and Making Appropriations.

Mr. Powell outlined the purpose of the public hearing and reviewed the time limits for testimony as shown in the agenda.
Mr. Cross reported that this would be the final Budget supplement for the current fiscal year (FY) 2018-19. As detailed in the Council Report, the recommended adjustments would ensure there was sufficient appropriation for transactions that would occur through fiscal year-end.

Councilor LaMotte inquired about the $120,000 increase to the Golf Department (Attachment 1) and related impact on future Golf Course operations and budget plans. Mr. Cross clarified that the purpose of the adjustment was only to increase the budget to encompass the higher level of expenditures in comparison to the amount budgeted originally for the current FY.

Councilor Wendland moved to adopt Resolution 19-36 modifying the Fiscal Year 2018-19 through a supplemental budget. Councilor Manz seconded the motion.

Mayor Studebaker called for any public testimony on the matter. None being heard, he closed the public hearing.

A voice vote was held, and the motion passed, with Mayor Studebaker and Councilors O’Neill, LaMotte, Nguyen, Wendland, Kohlhoff, and Manz voting ‘aye’. (7-0)

6.3 Ordinance 2815, An Ordinance of the Lake Oswego City Council to Amend Chapter 50 (Community Development Code) of the Lake Oswego Code for the Purpose of Allowing Short-term Rental Lodging Use in Zones Where Transient Lodging (Hotels) Are Not Currently Allowed; Deleting “Bed & Breakfast” from Parking Table 50.06.002-3; and Adopting Findings (LU 18-0034).

Mr. Powell read the Ordinance title. Noting that the matter before Council was a legislative decision, he outlined related compliance requirements and other parameters. He reviewed the hearing process, including time limits for public testimony. Next he asked if any City Councilor wished to make any declarations with relation to conflict of interest. Hearing none, he asked if anyone present wished to challenge any City Council member’s right to hear the matter. No challenges were heard.

Staff Report

Mr. Siegel, accompanied by Mr. Youngblood, reviewed background of the proposed Ordinance 2815 relating to short-term rentals (STRs), as detailed in the Council Report. He highlighted the extensive work of the Planning Commission and their recommendation of a set of land use regulations for implementation if Council were to decide in favor of allowing STRs in the city. As illustrated by an accompanying slide presentation, he discussed the Commission’s process, including a community survey that generated strong participation, data collection and analysis related to STRs in Lake Oswego, and comparisons to other communities. With heightened attention on STRs, staff had been following up on complaints, seeking compliance with existing code. He emphasized that the City’s approach to date has been on complaint-based enforcement of the land use regulations. Council’s attention was drawn to a report studied by the Commission; this reflected a broad range of approaches taken by communities viewed as comparable to Lake Oswego. Among key controls was the amount of oversight required by the homeowner or primary resident of the property; while there was a wide range of approaches, some cities with little or no regulation were found to be reconsidering their standards. Overall, it was important that Council adopted standards suitable for the community if they decided to revise the code to allow STRs. In highlighting results of the community survey included with the Council Report, he noted that its primary purpose had been to ascertain land use impacts of STRs if they were to be allowed.
Issues of parking, noise, and other disturbances were common responses, as well as aspects of safety and ability to enforce relate codes.

Continuing, **Mr. Siegel** advised that the Planning Commission’s proposal for this land use would be similar to that for other home businesses. As such, it would be based on regulations allowing an STR business to operate such that impacts were controlled; the guiding principle was that the business go unnoticed in the neighborhood, preserving neighbors’ rights to the peaceful enjoyment of their homes. Based on the public testimony and other public comments received, the Commission had found that additional regulations for this use would be appropriate (summarized in Council Report, p 5), including limitations: one STR on a lot; no more than 120 nights’ use per year; not all bedrooms to be rented, i.e., preserving one bedroom for resident; maximum of six guests; primary resident to be on site from midnight to 6:00 a.m.; no group events or other commercial uses. Council was asked to consider the need for regulation of maximum number of guests. The Commission regarded the presence of the primary resident to be the key criterion necessary for maintaining the residential character of the neighborhood, he noted. They did recognize the need for flexibility overall, and recommended that Council take the path of the conditional use procedure if they wished to address that. The Commission had identified in their memo to Council a number of other considerations outside their purview, summarized in the Council Report (p 8); included was the possible need for a cap on the number of business licenses or a sunset provision. He reviewed the key land use issues of maintaining residential character and enforcement (Presentation slide, p 10/15). As a significant issue, enforcement of the regulations would be based on submission of a plan, including certain documentation, and on conditions, probably to appear on the business license when approved.

Finally, he presented the Planning Commission's recommendations/options: If Council decided to allow STRs, approval of Ordinance 2815, with any direction for revisions. If STRs were not to be allowed, direction to staff to return with the final ordinance and findings for code changes that would clarify this ban and correct the parking table. Under either option, staff requested direction on an approach for enforcement; the current complaint-based approach was recommended, based on considerations of workload and resource capacity.

**Questions of Staff**

**Councilor Kohlhoff** asked if the amount of the business license fee would cover the cost of enforcement, assuming it was not extraordinary. **Mr. Siegel** advised that the potential workload impact would be related to the type of regulations Council chose to adopt. He suggested that a more streamlined approach, excluding responding to complaints and following up on violations, could likely be covered by the current license fee structure. An application review that would incorporate the controls recommended by the Planning Commission, however, would involve greater effort; in that case the fee would probably not be sufficient to cover staff processing time.

**Councilor LaMotte** requested that staff confirm his understanding on several points regarding the Planning Commission’s proposed approach if Council decided to allow STRs. In response, **Mr. Siegel** indicated that this would be an approach specific to Lake Oswego. He confirmed that the home-sharing would require presence of the homeowner, long-term renter or other primary resident and that rental of the whole house would not be allowed. **Councilor LaMotte** discussed his perceptions of successful screening processes through Airbnb and similar platforms for properties already operating as STRs. Neither these nor the city’s current home-based businesses had generated many complaints, he stated. He differentiated Lake Oswego’s STR situation in various ways from that in large metropolitan areas and resort destinations. Next he
expressed concerns about unjustified fear-mongering in the community as to the guests of STRs currently operating; he described various categories of guests, purposes of their stays, and positive effects for the city. Contrary to comments heard in the community, the current complaint-based enforcement was effective: Of 1,000 total complaints in one year, only two complaints were about Airbnb, he stated.

Councilor Wendland asked how the lodging tax that would be collected might be used for City budget purposes. In brief discussion, Mr. Powell indicated that this would be done, but use of the funds was directed for tourism activities or facilities by City policy and State law. If additional funds were needed for STR-related enforcement, a certain portion of transient lodging taxes might be allocated for that purpose.

Councilor O'Neill, observing that the current number of active STRs was estimated at 22, or .13% of the city’s 16,000 homes, asked if the Planning Commission expected the number to balloon if STRs were legalized. Mr. Siegel indicated that the Commission did not do forecasting, but his own view was that the number would increase, perhaps to the City’s previous estimate of 80 or more. A saturation point would be reached that would certainly not represent half of the housing stock, he opined, but more than the current 20 or so.

In response to questions from Councilor Manz, Mr. Siegel described background of the Commission’s recommendation that the primary resident be on site between midnight and 6:00 a.m., citing testimony they had heard and enforcement considerations. As to enforcement of the 25% limit on floor area for non-ADU STRs, Mr. Youngblood indicated that common spaces, e.g., hallways, kitchen, would not be included in the calculation.

Councilor Nguyen asked about the receptiveness of the Planning Commission; the long list of requirements seemed destined to guarantee failure of STRs as proposed, he noted. The required presence of primary resident where it precluded rental of the whole house was a major obstacle, based on his experience as a short-term renter. Mr. Siegel acknowledged the challenges the Commission had faced. They had recognized that the proposal would exclude a fair number of homeowners who might wish to make their homes available. The Commission’s charge, he reminded Council, was not whether STRs should be allowed or not. Rather, it was: If Council were to allow STRs, what land use controls were recommended? In response to Councilor Nguyen’s questions about their prioritization of concerns, Mr. Siegel reported that it had been focused on the home-occupation regulations, where the control was that the use be in character with the area; the proposal, it was determined, could not have the impacts of a commercial hotel, based on the public testimony. He acknowledged the difficulty of striking a balance.

Councilor Kohlhoff asked about the rationale for the three-year sunset as opposed to a shorter one. Mr. Siegel affirmed that the purpose was to acquire sufficient experience with the program.

Testimony

Jason Murray, 1255 Bayberry Road, spoke in favor of STRs and discussed his positive experiences as a host. As an STR guest during his family’s travels, he spoke strongly in favor of STRs over hotels. In the 50,000 night stays through Airbnb in Lake Oswego since 2011, the negligible number of reported complaints was not an issue; fears had been raised, he indicated, only by a small minority of citizens. This, along with the small number of STRs, made the use inconsequential in terms of problems or other impacts on neighborhood character. The requirement related to the owner’s primary residence would provide sufficient controls to address
screening, neighborhood maintenance, and other concerns. He called on the City to be progressive and support the gig economy. A sunset provision was redundant, and enforcement of the requirement for primary resident on-site was not reasonable. It was important that whole-house rental be allowed, as well.

In response to questions from **Councilor LaMotte**, **Mr. Murray** confirmed that in his past experience as an STR host in Lake Oswego he had only rented out his whole house and reiterated his support for that model.

**Katie Wojda, 18304 Tamaway Drive**, described her experience as an Airbnb guest in locations around the world. The regulations as proposed appeared to target “bad guys”, which she challenged as a board member at the Chamber of Commerce and an active community volunteer. Council was asked to reconsider the restrictions, notably the 120-night limit and the requirement for a primary resident on site.

**Chris Wojda, 18304 Tamaway Drive**, affirmed Ms. Wojda’s comments about their family’s positive experiences as STR guests. Having queried hosts around the world, he had heard no troubling stories about guests and challenged fear-mongering efforts in Lake Oswego. Careful decision-making was needed about how residents might support their families in Lake Oswego. He expressed concern about the six-guest maximum and potential adverse effects on the home-sharing Airbnb experience that guests are seeking. Council was asked to ensure that Lake Oswego kept up with the times as STRs were an expectation of a great city.

**Amy Thurmond, 496 N State Street**, spoke in her capacity of chair of the Chamber of Commerce Government Affairs Committee. The Chamber board recognized the complexity of the issue for both property owners and the business community. She conveyed the Chamber’s endorsement of the Planning Commission proposal for STRs, with the exception of the requirement that the homeowner be present from midnight to 6:00 a.m.

**Tony Fisher, 796 1st Street**, stated that he and his wife are Airbnb hosts, renting out the basement level of their residence. He expressed support for the regulations as drafted, noting that these adhere closely to the social model of STRs: The host’s interests are aligned with those of their neighbors and the community and will not encourage a material adverse change in the utilization of the housing stock. He noted that the proposed degree of required owner oversight is very high. He discussed benefits for themselves as owners and ambassadors, outlining a broad range of guests they have housed. While they support the proposed regulations, they consider them overly restrictive. He perceived the community response to be more a matter of disinterest than fear, and not justifying such strict regulation. In their view, the 120-night limit is low and the percentage limitation is unnecessary.

**Councilor LaMotte** raised questions about the amount of time these property owners were present during rental periods and their view of whole-house rental. **Mr. Fisher** emphasized the importance of greeting their guests and ensuring a positive experience for them. Hosts desired varying levels of involvement with guests, he noted, but all were aligned with the interests of their neighbors.

**Shelly Kintzinger, 444 6th Street**, explained that she would be willing to rent out the cottage behind her house as an STR while her family was away, depending on her comfort level with the prospective renter. She stated that she had found the lengthy exploratory process and Planning Commission work to be thorough; in the community survey she perceived no majority opposition
to allowing STRs. Council was urged to put in place as few regulations as possible and to be assured that hosts would screen guests carefully. She described her home’s location in First Addition as busy, reflecting the character of the area. Allowing people to thrive in the homes they have chosen is important, she concluded.

**Ryan Kovac, 908 Lake Front Road**, a longtime Lake Oswego resident, described the change in his household from dual- to single-income and how he had supplemented that through renting out his spare bedroom. Earlier in the day Council members had been emailed a list of guests he had hosted, hoping to show the precautions he undertook in screening. He highlighted individual situations of renters and relationships that had benefited both himself and the community. He indicated concern about meeting the needs of guests who wished to stay for less than 30 days. As an STR host sharing the city with guests, his contribution to the community has been greater than simply paying his bills. The proposed limit on number of guests is a specific concern, and he hoped that might be reduced.

**Councilor Kohlhoff** asked about the position of the Lake Corp. regarding the lake easement visits he had described making with STR guests. **Mr. Kovac** indicated that these were permissible as long as he was accompanying the guests.

Responding to questions and comments from **Councilor LaMotte**, **Mr. Kovac** described the successful rental of his whole house on two occasions. He affirmed that his intention was to stay in the house as his permanent primary residence and that the STR option made the property realistically affordable for him.

**Councilor O’Neill** asked Mr. Kovac how he and other STR advocates would feel about a cap on the number of STRs allowed to operate in Lake Oswego. **Mr. Kovac** indicated that this might best be determined at the end of a sunset period. Among his concerns about setting a limit sooner was the potential for excluding people who might have significant need for the supplemental income, e.g., widowed women over age 60.

**Annette Gingerich, 32 Spinosa**, discussed her family’s move to Lake Oswego several years earlier, when they chose a home suitable for both visits from family and for STRs. This had transitioned to mostly STRs and then to long-term rental after they became aware that STRs were not a legal use. As her experience with STRs had been only positive, she takes issue with the 120-night limit, which seems to be arbitrary, pointless, and would restrict her family’s income; they also enjoy the role of STR host and ambassador for the city. She asked Council to reconsider the requirement for the primary resident to be present from midnight to 6:00 a.m. An alternative could be a designated adult who was reasonably available, perhaps within 20-30 minutes’ travel time from the house. Finally, she requested that the 25% limit on floor area be reconsidered; it seemed irrelevant, so long as parking is adequate and neighborhood character is honored.

**Elsa Murphy, 19134 Terry Avenue**, described the unique needs of her family that had been met by their extended Airbnb stay at Ms. Gingerich’s STR. Now moved into their own Lake Oswego home, the family believes Airbnb fills a void in terms of accommodating relocation and fostering community relationships. The many restrictions are unnecessary, with the 120-night limit being especially problematic. She asked Council to recognize her family as an example of STR guests; their needs are specific to Lake Oswego. Because of its location on the outskirts of a large city, reasons for STR operation are varied and this regulation is not needed, she reiterated.
Sharon Buckmaster, 17 Morningview Circle, explained that she has stayed in numerous STRs around the world. As a widowed woman traveling alone, she values the safety and camaraderie of the host’s home over a hotel. She expressed support for legalizing STRs in Lake Oswego, although indicating reservations about some of the restrictions. The limit to 120 nights, she stated, was particularly egregious, and Council was asked to reconsider it.

Morgan Paulson, 816 9th Street, described her family’s operation of an STR at their Lake Oswego home since moving back to the area three years earlier. It had offered much flexibility after the birth of their newborn child, employment changes, and new financial responsibilities. In addition, visiting family members could be accommodated close by, in their own and a nearby STR. She concurred with others who had described typical guests as people remodeling a home, moving into the area, and often, visiting their grandchildren; the latter, she opined, had minimal impact on neighbors and neighborhood character. Two of the proposed restrictions were egregious: the 120-night restriction and the midnight-to-6:00 on-site requirement. Overall, she regarded guests as having a positive impact on the community.

Councilor Kohlhoff inquired about the outcome of Council’s earlier discussions relating to ADUs and the waiver of Systems Development Charges (SDCs) if the ADU were subsequently to be used as an STR. Mr. Siegel advised that when Council had amended the SDCs for ADUs, they had included a provision in the ordinance that if the ADU were to be used as an STR, the SDC would then become payable.

Dianne Cassidy, 3601 Wren Street, stated that allowing STRs could be doable, but that this proposal was not compatible with preserving the character of neighborhoods; it lacked any description of what would trigger enforcement or other action to protect the neighborhood and mitigate a problem situation. She acknowledged the positive reports heard in the testimony, but had heard also of operations that showed less care for the community. The description of primary resident shown under “Residence, Primary” in the draft ordinance was problematic; a person who might come to town, rent a house, and obtain necessary proof of residence might lack any connection with the neighborhood and therefore not operate a compatible STR. Another major concern was allowing ADUs as STRs; among related issues was that the proposal would increase adverse impacts on neighborhoods. Safety was also a major issue: There was no provision for inspections, which she believed should be a part of the license application. As a Lake Oswego resident of 43 years, she sees the city at a crossroads, i.e., will the residential, family-based community be maintained or will special interests be allowed to commercialize the neighborhoods that she regards as sacrosanct?

Councilor LaMotte described two examples of effective enforcement in neighborhoods. Ms. Cassidy indicated that she was not claiming that enforcement was deficient and that she was not familiar with these examples. Her purpose was to testify, and she asked not to be bullied. Her testimony was also based on information heard from friends, she noted.

Steve Fennah, 16211 Waluga Drive, requested clarification of the requirement regarding primary residence. Mr. Siegel stated that the ordinance language specified that one who makes the property their primary residence would be on the property during the time that it was rented. He responded to Mr. Fennah’s additional questions, confirming that the property must be the owner’s primary residence, rather than be the property of an out-of-state or out-of-town owner who was using it as an Airbnb. Mr. Siegel added that one could establish that the property is their primary residence whether they were an owner, were renting the property or were newly-arrived, as the ordinance is proposed. Mr. Fennah indicated that this largely resolved his concern. An additional
issue for him was his disappointment in Councilor LaMotte’s position, which he described as an attack on the previous speaker and lacking in neutrality and decorum. He also questioned that time limits for testimony had been administered equitably during the hearing. Concluding, he confirmed that with the clarification received on property ownership, he saw no problem with the recommendation before Council.

Mr. Powell clarified that time limits for testimony do not include time spent answering questions from the Council.

Patrick Weathersby, 22 Greenridge Court, advised that he had no interest in staying in a vacation rental that was someone’s home nor would he rent out a house in a residential area. As a resident of Maui six months of the year, he had observed firsthand numerous problems in Hawaii: ongoing citizen complaints about STRs in residential areas and personal experience living amid STRs with issues of parties and noise. He and others had found a much better community dynamic living in long-term rentals than in STRs. He cautioned Council about potential adverse effects on the tax structure and on revenue for local hotels. He urged the City not to allow STRs, stating that he did not want to live in a society where people need to rent out their homes to make a living.

Mayor Studebaker called for any additional testimony. None was heard.

Councilor Kohlhoff expressed concern that the draft code appeared to use the terms “person” and “individual” interchangeably as related to a proposed requirement that a primary resident be on the premises during certain hours when the short-term rental is used. She was concerned that this could create confusion. Mr. Siegel concurred, proposing the use of one term, “person”.

The Council took a ten minute break.

Councilor Kohlhoff moved to maintain the current policy that STRs are illegal and direct staff to return with a modified ordinance clarifying that policy, adding appropriate definitions, and removing “bed and breakfast” from the parking standards table. Councilor O’Neill seconded the motion.

A roll call vote was held, and the motion failed, with Mayor Studebaker and Councilors O’Neill and Kohlhoff voting ‘aye’. Councilors LaMotte, Nguyen, Wendland, and Manz voted ‘no’. (3-4)

Councilor LaMotte indicated that he had a motion to offer encompassing the following: to allow home sharing; applicable to single-family homes only, including ADUs but no multiple use, such as apartments, condominiums or townhomes, RVs or other temporary structures; a business license required, posted on the pertinent website; limited to the “primary owner” rather than corporate owners. A sunset provision was not justified, but he expressed willingness to include a three-year sunset if others wished to do so. No commercial events or weddings and no advertising and signage would be allowed; enforcement would be complaint-driven. Additionally, staff would determine appropriate fines for operating illegally.

As he continued to frame the motion, Councilor LaMotte responded to staff requests for clarification: The whole house could be part of the STR, i.e., one bedroom need not be excluded from the rental. There would no maximum number of guests. The host would not need to be present between midnight and 6:00 a.m. and was not required to be on site at all. A Good
Neighbor list and other reference materials would be provided at the time of business license issuance. **Mr. Powell** and **Mr. Siegel** offered assistance with terminology, code and operational considerations, and with differentiating requirements from guidelines.

**Councilor LaMotte** discussed his recommendation that a peer group of STR hosts be formed, though this might or might not be included in the motion. He reviewed components of his motion, adding: one STR per lot to be allowed, i.e., either the ADU or the house, but not both concurrently. This was followed by discussion to clarify the reference to “primary owner”.

**Councilor Nguyen** suggested that the motion be distilled to five points that Council could agree were paramount. Including a two- or three-year sunset provision would be useful, he opined. **Councilor LaMotte moved to allow legal short-term rentals with a sunset at three years. The whole house could be rented, with no maximum number of people, and the host does not need to be on site.** He noted that hotel tax and business licensing would apply to the STRs. **Councilor Nguyen seconded the motion.**

**Mayor Studebaker** initiated discussion, stating that he could not support the motion. If there were to be a sunset clause, it would need to be no more than two years, but preferably one. He indicated that responsibility for renting the property should be restricted more specifically to the owner and that having no limit on the number of guests would invite problems.

**Councilor Nguyen** expressed his hope that Council could move forward now as STRs had been under discussion for some time. If an ordinance were adopted, he asked, was there the possibility of revising it prior to the end of a sunset period if some anticipated problem arose? In related discussion, **Mr. Powell** explained how the ordinance could be changed, with Council needing to involve the Planning Commission and going through a legislative process.

As Council liaison to the Planning Commission, **Councilor Wendland** acknowledged the challenges of their work on STR recommendations. He highlighted a key tenet for him that was met: It is a social model, which prevents people from buying investment property or multiple houses to operate as STRs. He endorses a required home-occupation business license because (1) it sets up the STR for payment of transient lodging tax and (2) it maintains residential character of the house and neighborhood, as required by code, and specifically prohibits certain events. A limit on number of guests might be desirable, but the primary-residence requirement might forestall any problems. He endorses the complaint-based approach to enforcement because its effectiveness has been demonstrated by the community-centered nature of Lake Oswegans. While supporting the motion, he wished to have a written version of it, approved by staff. He added that he was not in support of the 120-night maximum and some other restrictions because he believed Council needed to adopt a policy that enabled STRs to succeed.

**Councilor Kohlhoff** commended the Planning Commission for weighing the two perspectives on the issue. While she was not supportive of the gig economy and shared housing, she considered the proposal to be well aligned with the idea of a home occupation. The reason for her opposition is that she does not consider it a God-given right to rent out one’s house, noting that other cities, including Oregon City, Tualatin, Tigard, and Carmel had not legalized STRs. Despite hearing claims of fear-mongering, she perceived that both guests and hosts were fine people. Her objection is to monetizing the city’s neighborhoods. While supporting the motion, she expressed concerns about the position in which neighbors will be placed with STRs. Fundamentally, her support is for long-term rentals, which come with landlord-tenant laws that are easily understood, protect neighborhoods, and provide the opportunity to those who wish
to rent a portion of their property so they can supplement income and stay in their home. If she were to support a motion, it would be for a proposal exactly as made by the Planning Commission, and with a sunset of two years.

In response to an inquiry from Councilor Manz, Mr. Powell confirmed there was a motion on the floor and clarified that, subject to Council approval, staff would be returning with an ordinance implementing the necessary code changes. He explained that Council’s tentative decision would not be final until that ordinance was approved. Councilor Manz commented on current mechanisms the City has in place that she believes address enforcement effectively.

Referring to comments of Councilor Kohlhoff and Mayor Studebaker, Councilor LaMotte expressed willingness to modify the motion to provide for a two-year sunset. He recapped the motion, including reference to terminology details to be addressed by staff. In continued discussion of the motion, Councilor Nguyen required clarification of its elements. After additional discussion about the prohibition on weddings and input from staff on existing code, Councilor LaMotte determined that the motion did not need to include this prohibition. Councilor Nguyen, as seconder, indicated that he accepted this change as a friendly amendment to Councilor LaMotte’s motion.

Mayor Studebaker challenged the relevance of home occupations to STRs. He described concerns about achieving effective enforcement, opining that this was the reason other cities have been reconsidering STRs. Councilor Wendland described the need for a decision now because of the current environment of concerns about enforcement and effective operation of STRs. With the designation of home occupation, the proposal would provide guidance for operating STRs while preserving neighborhood character and rights of neighboring residents. Rather than delay, Council should adopt this viable solution for the community and revise later as necessary.

In further discussion of his intended motion, Councilor LaMotte indicated that he wanted it to specify that someone who has the house as their primary residence must be the person renting the premises; however, that person did not have to be on site. After additional clarification, he confirmed that the amended motion would require the person who uses it as their primary residence must be the one who is renting it out to the short-term renter. Councilor Nguyen accepted this as a friendly amendment.

A roll call vote was held, and motion passed, with Councilors LaMotte, Nguyen, Wendland, and Manz voting ‘aye’. Mayor Studebaker and Councilors O’Neill and Kohlhoff voted ‘no’. (4-3)

Mr. Powell announced that this was a tentative decision of the City Council which would become final upon adoption of an ordinance and findings on July 16 at 3:00 p.m.

6.4 Ordinance 2805, An Ordinance Annexing to the City of Lake Oswego 301 Parcels and All of the Right of Way Within the Territory Contained in Maps 21E06BB & 21E06BC Consisting of Approximately 77 Acres Located at the Northwest Corner of the City, Declaring City of Lake Oswego Zoning and Resource Protection (RP) District Pursuant to LOC 50.01.004.5(a-c); and Removing the Territory from Certain Districts (AN 18-0020).

Mr. Powell noted that the matter before Council was a legislative decision. After outlining compliance requirements, he reviewed parameters for the hearing, including time limits for
Mr. Siegel explained that this item was among outcomes of City Council discussions on annexation policy in 2018. Pursuant to Council direction to work individually with neighborhoods that have expressed interest in annexing to the City, staff had coordinated efforts with Southwood Park through their recognized neighborhood association in unincorporated Clackamas County, the Southwood Park Community Planning Organization (CPO). As detailed in the Council Report and illustrated with accompanying slides, he highlighted the neighborhood’s location within the City's Urban Services Boundary. He reviewed background of staff's work with the neighborhood, noting that it began with an approach from members of the Southwood Park Water District board as they considered the future of their District and water service in the area. This coincided with Council’s policy discussions and interest in maintaining a policy of voluntary annexation, and the Southwood Park CPO engaged their residents in conversation about what this would mean. Of the variety of options available for annexing to the City, all discussion had been in the context of an election: Approval of annexation by a majority of the electors in Southwood Park would be required to move forward. As discussed previously by Council, the approach recognizes the differential in water rates and also would allow for transitioning of differences in property taxes between the unincorporated and incorporated areas. Ordinance 2805 provides for (1) approval of annexation contingent upon an election as early as September 17, 2019, and (2) phasing-in of the water rates and property taxes, as described. Overall fiscal impact for the City, as analyzed by Mr. Cross, would be neutral or positive (Council Report, p 8). For owners of the Southwood Park properties, the transfer of water service to the City would move the risk and costs of maintenance, repairs, and ongoing service to the City.

After the public hearing to follow, the process would call for staff to return with findings for Council adoption on June 18, it was noted.

Mr. Espe presented a technical overview of the findings that Council would need to make in order to approve the Ordinance. Annexation would involve approximately 77 acres of residential land comprising 298 housing units and 301 lots. He highlighted items discussed in the Council Report: (1) Upon annexation the neighborhood would become part of the Oak Creek Neighborhood Association (NA); alternatively, they could request that the City recognize a separate Southwood Park association. (2) An advisory vote had been held at the February 11 CPO meeting as to whether or not the City should refer the annexation question to electors; of the 129 residents who participated, 84 voted ‘yes’ and 45 voted ‘no’. At the January 23 meeting of the Southwood Park Water District board the members voted unanimously to recommend that the City allow Southwood Park residents the opportunity to vote on the annexation. He drew Council’s attention to two comments received from property owners after the written Council Report was prepared; neither had objected specifically to the proposed annexation, but discussed past code enforcement issues and other unrelated items. Comments also had been received from the Fair Housing Council of Oregon, requesting additional findings to address affordable housing policies under Goal 10 in relation to effects of the annexation on the housing supply within the city; staff’s response would be provided in the supplemental findings that Council might consider on June 18. Mr. Siegel noted that the net result of the proposed annexation relative to the City’s Housing Needs Analysis is that it would be consistent with the City’s Comprehensive Plan. The Analysis assumes that unincorporated areas such as this would be incorporated over time, so the annexation would represent neither an increase nor decrease to the City's housing capacity.
Referring to related slides, Mr. Espe discussed general background and criteria for approval of the annexation, including location, zoning, a Resource Protection District Overlay, and stormwater and sewer services (Council Report, p 4-5). Upon annexation the Southwood Park Water District and its assets would be transferred to the City, which then would be responsible for providing water service to the area. Water District customers would continue to receive water from the existing system until connection could be made to the City’s water transmission line; he discussed transition considerations and costs, drawing Council’s attention to a comparison of the Water District and City of Lake Oswego water rates (Attachment E-1). The proposal called for maintaining the current Southwood Park water rates for a period of five years and then phasing in City water rates in subsequent years 6 through 10, consistent with Council’s earlier discussion. The condition of streets in the area was deemed “Very Good” to “Good”, with the exception of Pamela Street, rated “Poor”. Staff anticipated that transfer of responsibility for road maintenance, repair, and permitting authority would occur within one year of annexation (Council Report, p 7); maintenance would be funded through the City’s street utility fees. In concluding, he referred Council to Exhibit E-1 and advised that staff found this analysis, based on the phasing and the difference between property tax rates in the unincorporated and incorporated areas over five years and holding water rates at the present Southwood Park Water District rates for five years, to be reasonable and able to be absorbed without impacting City ratepayers. Ordinance 2805 would become effective on the 30th day following its enactment. Annexation would only become effective if the majority of Southwood Park electors were to vote in favor of annexation. Having found that the City can adequately serve the neighborhood, staff recommended that Council move to tentatively approve Ordinance 2805 and direct staff to prepare findings and conclusions and an ordinance for enactment at the scheduled June 18 meeting.

Questions of Staff

In response to questions about Southwood Park lot sizes from Councilor Manz, Mr. Espe indicated that about two-thirds of the lots exceeded 7,500 square feet, one-third were slightly smaller than 7,500, and a small number were significantly larger.

Councilor Kohlhoff asked about any timing requirement the City would have to meet in addressing the condition of Pamela Street upon annexation. Mr. Siegel explained that, as in other parts of the city, there was no responsibility for immediate action by the City; projects were prioritized and brought to Council through the Budget Committee and Capital Improvement Plan (CIP). The Pamela Street issue would likely be identified as a potential project and prioritized for future work in the street-maintenance program. The Pavement Condition Index (PCI) of Southwood Park streets overall was positive, and annexation would not diminish Lake Oswego’s PCI citywide, he added.

Councilor LaMotte observed that the process leading to this proposal could serve as a model for potential annexation of other areas. With regard to addressing the Pamela Street issue sooner rather than later, he noted that the City offered the Local Improvement District (LID) and match program that might be an option for residents.

Mr. Powell noted for the record that, with regard to a statement in the draft findings (Attachment C, p 11-12/12) there were no applicable concept plans. If Council were to approve the Ordinance, the final findings would reflect that correction. Additionally, he clarified a point heard in earlier discussion: The annexation ordinance would not provide for the phase-in of the water rates. Rather, this would be done through Council’s adoption process for the Master Fees and Charges schedule. Reference to the Council’s intent to phase in water rates could, however, be part of
the referral and explanatory statement for the vote. Unlike the phase-in of property taxes, he added, the water rates were not included in the annexation ordinance.

Testimony

Mayor Studebaker called for testimony on Ordinance 2805.

Christopher Coyle, 13393 SW 63rd Avenue, Portland 97219, expressed thanks to the Water District board, noting Phil Kubischta’s long service, and to City staff for their support of the CPO. In his view the proposed annexation is consistent with Lake Oswego policy objectives as set forth in the Urban Growth Management Agreement with Clackamas County and the City’s Comprehensive Plan. The annexation makes a lot of sense for the small enclave of Southwood Park as a means of being part of a full-service city. Neighborhood residents need to be mindful of the Water District issue and deferred maintenance; the City appears to offer an effective plan, one that is supported by the Water District board. Availability of police services on a more comprehensive basis and other services to residents would also be benefits of annexation. While recognizing that many have been vocal in opposition, he noted that the majority of the CPO advisory vote was in favor. He urged Council to vote in favor of Ordinance 2805.

Philip Kubischta, 6050 SW Southwood Drive, Portland 97219, identified himself as current chair of the Water District board, but stated that his primary purpose was to speak on behalf of himself and his family. They strongly favor the City’s proposal to put the question of Southwood Park annexation on the ballot. The issue should have been resolved decades earlier, he opined. A resident of over 40 years, he reviewed background of decisions deferred at several key points since the 1980s, as well as the creation of various special service districts over the years since original development in the 1950s. It was now time, he stated, to complete the process. At a minimum, it was time to let Southwood Park registered voters decide if they wished to be part of the City.

Jim Hilker, 13681 SW 63rd Place, Portland 97219, acknowledged Mr. Kubischta’s many years of service to the Water District board, and noted that over 20 years the problems had not been solved. Their decision to approach the City had been a disservice to a large portion of the neighborhood, he indicated. He had purchased his house because it was located in unincorporated Clackamas County. Referring to Page 8 of the Council Report, he asked what the Southwood residents would get in exchange for the additional $150,000-300,000 in City tax revenues anticipated with annexation. Southwood Park residents would receive nothing they did not already have at a much lower cost. The CPO advisory election outcome was not representative of the neighborhood, and he and others would vote in opposition to annexation.

Lisa Hilker, 13681 SW 63rd Place, Portland 97219, requested information about the City’s bond debt so that she and her neighbors could better understand their household financial exposure in an annexation scenario. She was unwilling to take on the $14,000-16,000 of bond debt per household that she calculated, in addition to other costs that would come with annexation. Outcome of the advisory vote, she indicated, reflected the heavy participation of Water District and CPO board members; a large number of residents in opposition were not heard, some because they were not allowed to vote. Stating that most people she knew would vote ‘no’, she suggested that the City save money and find an alternative to putting the matter on the ballot.

Mayor Studebaker indicated that this was the purpose of the election as it would enable opponents and all others to be heard. Councilor Manz echoed his observation, offering Ms.
Hilker the opportunity to pose questions about the City’s bond debt to staff. In brief discussion, Mr. Cross provided information, including an estimate of more than $2 million in annual interest.

Jonathan Howell, 13436 SW 62nd Avenue, Portland 97219, raised questions about two primary concerns: (1) What Southwood Park residents would get for their money in an annexation. Specifically, he wished to learn the City’s plan for Southwood Park #2, which was poorly maintained and under-utilized. (2) The extent of the street problems in the vicinity of Pamela Street. He emphasized the poor condition of this street and pointed out other problems, including a sizable pothole. These were among immediate needs that had been identified, but he had found no part of any of the proposal that addressed them.

Councilor LaMotte noted the value of the City’s CIP in addressing street issues, reiterating the LID opportunity, and discussed the opportunity for Southwood Park #2 in the City’s parks programming. As to those who believed the City would gain a lot of money with the annexation, there would be significant service improvements for the area, notably police and water. He urged participation in the vote on annexation. Councilor Nguyen asked questions about the two parks in the neighborhood as to maintenance, usage, access, and parking; Mr. Howell responded.

Susan Weston, 13030 SW 64th Avenue, Portland 97219, a 40-year resident of Southwood Park, thanked the City for offering the phased-in approach to taxes and other expenses that would reduce residents’ burden; nonetheless, eventually these would present a significant increase over current levels. The neighborhood’s independent status as part of unincorporated Clackamas County was important to maintain; she cited a number of distinguishing characteristics. Several neighbors had expressed concern that, even with phased-in taxes and fees, annexation would tax them out of their longtime homes. As a newly-elected member of the Water District board, she recognized that the system was aging; however, it still provided good water and the board was energized to tackle the issues. Law enforcement was satisfactory and provided at lower rates than Lake Oswego’s. The City’s zoning laws were more restrictive, she observed, raising fears that the voices of the 298 homeowners in Southwood Park would be lost among those of the 16,000-plus in Lake Oswego. She affirmed her opposition to the Ordinance.

Helen Young, 13223 SW 63rd Place, Portland 97219, spoke as president of the Southwood Park CPO, indicating a neutral position. Her stated purpose in speaking was to ensure that all neighbors received sufficient information about any possible annexation. Noting her active community involvement during her 35 years as a Southwood Park resident, she described the ongoing challenges of enlisting volunteers; getting people to attend CPO meetings was also difficult. Extensive efforts were made to inform neighbors of the four meetings over the October 2018-February 2019 period, including flyers hand-delivered to all homes, 15 emails to addresses on the CPO’s list, and seven postings on the neighborhood Nextdoor social network, among other online notifications and physical reminders in the neighborhood. In addition, a letter had been sent out by the Water District board. The eligibility requirements for a CPO vote had been questioned in relation to the advisory vote outcome. This also had been communicated thoroughly; people were well aware that attending at least one CPO meeting in the last year was required to vote, she stated. In reviewing neighborhood statistics for a recent Clackamas County election, she opined that the participation of 129 in the advisory vote was representative of the neighborhood. Her large investment of time was made to ensure that neighbors had all of the information, and she was not trying to influence anyone’s decision, she emphasized. An added observation was that she was confused by comments about Pamela Street; she walked there frequently and had not noticed problems that had been mentioned earlier.
Elise White, 13472SW 62nd Avenue, Portland 97219, explained that she had purchased her residence four years earlier. Having made a significant investment in improvements, including all-new plumbing, she expressed concerns over adverse effects of the neighborhood’s well water. She asked about the timeline for connection to City water as this would be the most significant factor influencing her position about moving forward with annexation.

Mr. Siegel advised that staff considered it very achievable to make the water connection within the next five years, as proposed, or sooner if Council decided to accelerate it. The cost would be reasonable and recoverable within a relatively short period of time. The City Council had indicated previously that they would commit to making the connection within five years, and staff would need to receive Council direction to meet an earlier connection date.

Alis Smbatyan, 13695 SW 63rd Avenue, Portland 97219, endorsed the need for street maintenance, describing problems near her house. Her purpose in testifying was to point out issues that she had not heard mentioned in the presentation: (1) Neighbors expected that the City would maintain certain areas of overgrown vegetation along roads; no mention had been made of this potential cost. (2) More street lights were needed in the southwest corner of the neighborhood. (3) The main argument in support of annexation heard at the CPO meeting was that the water mains needed replacement; in staff’s report she had not heard that this was planned. She expressed confidence that the Water District could address the issues presented by the CPO to the community, with costs similar to those involved in annexation. While affirming that much information was provided to the neighborhood, she perceived a “fear-mongering” approach; the presentation unfairly omitted other options for addressing water-system issues. Finally, she asked if there was any intent by the City to re-size the parcels in Southwood Park.

Mayor Studebaker indicated that re-sizing was not under consideration. He emphasized that the City was not pushing the neighborhood to annex, but was waiting for Ms. Smbatyan and her neighbors to decide if they wished to do so. Her point, he emphasized, was that it was presented to Council that there was neighborhood consensus to take the matter to a vote. The process was unfair, in her view, and Council should not rely on that consensus.

Barbara MacIntosh, 1196 Fairway Road, stated that she is in favor of the annexation. As a non-resident owner of property in the Southwood Park neighborhood, she recognized the problem of hard water there. A concern to her was lack of notifications from the neighborhood, outside of a postcard from the Water District. She noted that there were rental homes in Southwood Park and she would expect the absentee owners to receive notifications, perhaps through County records of property ownership, assuming that the owner would vote on the annexation. She suggested that the neighborhood expand their reach.

Councilor Kohlhoff asked if the property owner or the resident of the property would vote in this situation. Mr. Powell clarified that the electors would be those who are registered to vote at addresses in Southwood Park. In this case, it could be Ms. MacIntosh’s tenant.

Mayor Studebaker called for any further testimony. Hearing none, he announced that the hearing was closed.

Mayor Studebaker moved to tentatively approve Ordinance 2805 and direct staff to prepare findings, conclusions, and a final ordinance for enactment on June 18, 2019. Councilor Manz seconded the motion.
Councilor Kohlhoff noted that this would provide residents the opportunity to say whether or not they wanted the neighborhood to be annexed. Her vote would be in favor of the Ordinance.

A voice vote was held, and the motion passed, with Mayor Studebaker and Councilors O’Neill, LaMotte, Nguyen, Wendland, Kohlhoff, and Manz voting ‘aye’. (7-0)

6.5 Sale of Real Property at 425 Furnace Street, Lake Oswego

Mr. Powell reminded Council of the City’s purchase of this property for $1.2 million earlier in the year. As discussed in the Council Report, that purchase was made in order to secure one of the last remaining connecting properties for the Willamette River Pathway. Council was now asked to consider a sale agreement (Council Report, Attachment 1), for the price of $1.35 million, in which the City would retain a 20-foot-wide pathway easement. Up to 12 feet of the width could be pavement and the remainder would be reserved for related improvements. As required by the State, staff had provided evidence of value of the property: (1) the recent purchase for $1.2 million, now selling for $1.35 million, and (2) an appraisal done February 19, 2019, by Zell and Associates showing a value of $1.2 million, the City’s purchase price. If Council wished to sell the property under the terms outlined in the Council Report, staff recommended that a motion be made accordingly.

Councilor Manz moved to authorize the sale of property at 425 Furnace Street for $1.35 million, retaining a public pathway easement. Councilor Wendland seconded the motion.

Mayor Studebaker asked if anyone wished to testify on the matter. No requests being heard, he closed the public hearing.

A voice vote was held, and the motion passed, with Mayor Studebaker and Councilors O’Neill, LaMotte, Nguyen, Wendland, Kohlhoff, and Manz voting ‘aye’. (7-0)

7. CONSENT AGENDA

7.1 Resolution 19-33, A Resolution of the City Council of the City of Lake Oswego Adjusting the Compensation for Management and Confidential Positions Not Represented by a Bargaining Unit

Motion: Move to adopt Resolution 19-33.

7.2 Approval of Meeting Minutes

May 7, 2019, Regular Meeting Minutes

Motion: Move to approve minutes as written.

END CONSENT AGENDA

Councilor Wendland moved to accept the Consent Agenda. Councilor Manz seconded the motion.

A voice vote was held, and the motion passed, with Mayor Studebaker and Councilors O’Neill, LaMotte, Nguyen, Wendland, Kohlhoff, and Manz voting ‘aye’. (7-0)
8. INFORMATION FROM COUNCIL

No information was presented.

9. REPORTS OF OFFICERS

No reports were made.

10. ADJOURNMENT

Mayor Studebaker adjourned the meeting at 11:00 p.m.

Respectfully submitted,

Anne-Marie Simpson
Anne-Marie Simpson, City Recorder

Approved by the City Council on September 3, 2019

Kent Studebaker, Mayor