In the Council Chambers of the Showers City Hall on Wednesday, August 31, 2016 at 6:33 pm with Council President Andy Ruff presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
August 31, 2016

Roll Call: Granger, Sturbaum (6:34pm), Mayer, Sandberg, Ruff, Volan, Piedmont-Smith, Chopra, Rollo (6:35pm)
Absent: None

ROLL CALL
[6:34pm]

Council President Ruff gave a summary of the agenda.

AGENDA SUMMATION
[6:34pm]

Councilmember Tim Mayer moved to amend the order of business of the regular session to consider legislation in the following order of readings: third readings, second readings and resolutions, and first readings.

The motion to amend the normal order of business received a roll call vote of Ayes: 8, Nays: 1 (Piedmont-Smith).

Motion to Amend Agenda Vote
[6:37pm]

APPROVAL OF MINUTES [6:38pm]

It was moved and seconded to approve the minutes of August 25, 2016, July 13, 2016, and July 12, 2016.
The motion was approved by voice vote. (Volan and Piedmont Smith passed).

August 25, 2016 (Special Session)
July 13, 2016 (Regular Session)
July 12, 2016 (Special Session)

It was moved and seconded to approve the minutes of December 19, 2001.
The motion was approved by voice vote. (Volan, Piedmont Smith, and Chopra passed).

December 19, 2001 (Regular Session)

It was moved and seconded to approve the minutes of October 03, 2001.
The motion was approved by voice vote. (Volan, Piedmont Smith, and Chopra passed).

October 03, 2001 (Regular Session)

It was moved and seconded to approve the minutes of January 03, 2000.
The motion was approved by voice vote. (Volan, Piedmont Smith, and Chopra passed).

January 03, 2000 (Organizational Session)

REPORTS

Councilmember Steve Volan referenced a story about a dispute at a local meeting regarding Syrian refugees, and reminded the public that the council had passed a resolution endorsing resettlement earlier in the year.

- COUNCIL MEMBERS [6:42pm]

There were no reports from the Mayor.

- The MAYOR AND CITY OFFICES

There were no council reports.

- COUNCIL COMMITTEES

President Ruff called for public comment.

- PUBLIC

Gabe Rivera spoke about the war on drugs.

There were no appointments to Boards or Commissions at this meeting.

APPOINTMENTS TO BOARDS AND COMMISSIONS

It was moved and seconded that Resolution 16-12 be introduced and read by title and synopsis only. Clerk Nicole Bolden read the legislation by title and synopsis.

LEGISLATION FOR SECOND READING AND RESOLUTIONS

Resolution 16-12 – To Confirm Resolution 16-11 Which Designated an Economic Revitalization Area, Approved a Statement of Benefits, and Authorized a Period of Tax Abatement for Real Property Improvements – Re: Properties at 405 S. Walnut Street; 114, 118, and 120 E. Smith Avenue; and 404 S. Washington Street (H.M. Mac Development, LLC, Petitioner) [6:46pm]

It was moved and seconded that Resolution 16-12 be adopted.

It was moved and seconded to adopt Amendment 01 to Resolution 16-12:

Amendment 01 Synopsis: This amendment is sponsored by Councilmembers Piedmont-Smith and Volan as a result of discussions with the staff of the Economic and Sustainable Development Department and the Petitioner. It proposes a front-loaded ten-year period of abatement in exchange for making 15 bedrooms of work force housing available for at least ninety-nine (99) years.

Amendment 01 to Resolution 16-12:

Councilmember Isabel Piedmont-Smith introduced Amendment 01.

Volan added that the amendment was the result of a great deal of discussion between all parties involved, and thought that the resulting amendment was a substantial improvement. He said that he and Piedmont-Smith believed that this was the better way to wield tax abatements to bring affordable housing to Bloomington, and that the idea of extending affordability to almost a century was very appealing. He encouraged the petitioner to speak to the amendment as well.

Steve Hoffman, H.M. Mac Development, LLC (petitioner), concurred with the statements of Volan and Piedmont-Smith. He said that his company felt it was a great step not only for the company, but for the city as well.

Council Questions:

Councilmember Dave Rollo clarified that the city had invested quite a bit in that section of the downtown.

Piedmont-Smith noted that with the resolution the council was declaring the area an economic revitalization area.

Volan did not disagree with Rollo's concern, and noted that Piedmont-Smith was also correct. He thought the larger concern was to focus on how the council used tax abatements and to establish a new standard for their usage.

Piedmont-Smith added that in trying to give context to the development, she did not convey what she meant, which was that the site had not been developed in a very long time and had old buildings from which the city was getting very little property tax at the time, and that the focus was on the affordable housing and the public benefit.

Councilmember Allison Chopra asked who initiated the amendment.

Volan responded that the petitioner came before the council with a request for a three-year abatement for seven bedrooms. In response, Volan and Piedmont-Smith approached the petitioner about going bigger.

Council Comment:

Rollo expressed his appreciation to the developer and to his colleagues. He called the amendment a tremendous improvement that was good for Bloomington housing and the community and hoped to see more in the future.

Councilmember Chris Sturbaum said that the area needed redevelopment and support. He commented that he was very

Amendment 01 to Resolution 16-12 *(cont'd)*

pleased with his fellow councilmembers for negotiating the increase in affordable housing. He added that the market was not going to build that type of housing on its own, and that type of abatement was a new tool for the city. He thanked everyone for their action on this amendment.

Councilmember Susan Sandberg said that she was very pleased to support the amendment and thought that it was a better use of the tool of the tax abatement. Sandberg hoped the abatement set the bar, and added that the length of the affordability made the abatement a good model as developers stepped forward. She thanked everyone for coming to an agreement on the amendment.

Chopra thanked Volan and Piedmont-Smith for their foresight and understanding of the need to set a precedent. She saw the abatement as setting a standard.

Piedmont-Smith thanked the petitioner for his patience through the process. She noted that she is not a fan of tax abatements, but agreed with Sandberg that this is a different type of abatement. She discussed the fact that affordable housing was a top priority of the administration and the council, and had been discussed as a serious shortage throughout the community. She saw the abatement as an example of the council putting its money where its mouth was, and forgoing some of the tax income in order to make the affordable units a reality. She thought that it was a really good model for future developers to follow.

Volan thanked Piedmont-Smith for her work on the amendment. He commented that by taking this action the council was explicitly encouraging developers to approach the city for tax abatements if it meant that it would bring affordable housing to the city. He said that the exception to this precedent would be the front-loading of the benefit in the first five years, which he would not support in future projects, but did in the case of this amendment due to the costs incurred by the petitioner due to the rush of the amendment deal. He stated it was a precedent-setting tax abatement, and he was very excited. He added that he saw signs of revitalization in the area, which he viewed as a sign of success of tax abatements and other incentives.

Ruff expressed appreciation to the developer, his colleagues, and the administration in particular for their leadership. Ruff stressed to the public that the taxes were not forgone, but were distributed to other taxpayers for the long-term good of the community.

Rollo added that the council had been judicious in its applications of tax abatements in the past, and that this case proved that abatements could be a good thing. He noted that the abatement provided a mechanism for developers to contribute to the public good while still meeting their financial obligations.

Vote to adopt Amendment 01 to Resolution 16-12 [7:11pm]

The motion to adopt Amendment 01 to Resolution 16-12 received a roll call vote of Ayes: 9, Nays: 0.

Amendment 02 to Resolution 16-12:

It was moved and seconded to adopt Amendment 02 to Resolution 16-12.

Amendment 02 to Resolution 16-12 *(cont'd)*

Amendment 02 Synopsis: This amendment is sponsored by Cm. Mayer and would make the Workforce Housing units available to residents who: (1) hold a full time job (constituting at least thirty five hours per week) and (2) either (a) have a total household income of less than 80% of the Area Median Income for the household size, or (b) have every wage earner in the household earns less than or equal to the Bloomington Living Wage.

It also splits the amount of rent for the Workforce Housing units into separate whereas clauses, but does not change the substance of those provisions from Resolution 16-12 as amended by Amendment 01.

Jason Carnes, Assistant Director of Economic and Sustainable Development, introduced Amendment 02 on behalf of the administration.

Council Questions:

Chopra inquired about the language in the amendment that stated a full time job was required, and questioned what would happen if someone worked multiple jobs for a total of 35 hours or more per week.

Thomas Cameron, Assistant City Attorney, responded that the intent was to ensure full time employment, regardless of whether it was achieved through one or more jobs. He added that he spoke to Dan Sherman, Council Attorney, before the meeting about the possibility of amending the amendment if necessary.

Chopra asked why holding a full time job as a concept was important. Cameron responded that it was trying to capture the concept of employment, since it was intended to be workforce housing.

Chopra finished by saying she might like to see an amendment in that.

Volan commented that it was a relatively new idea to have people qualify for affordable housing, and asked what the procedure would be for people to be certified to live in the affordable units.

Cameron replied that the Memorandum of Understanding (MOU) would spell out all of the specifics. He added that what he imagined would happen would be that the applicant would have to start with the petitioner, and then there would be a reporting process to the city.

Volan clarified that the city would certify the applicants' eligibility, and asked how long the process would take. Cameron replied that he thought it would be a fast process based on the number of units.

Piedmont-Smith inquired about the rent amounts listed in the second whereas clause.

Cameron clarified that the intent was to give a concrete amount that was indexed against the consumer price index, just like the living wage.

Piedmont-Smith asked for clarification on what would happen if the city decided to raise the living wage amount.

Cameron replied that the rents would be tied to both the living wage and the consumer price index.

Chopra asked Sherman if the council would be able to get an amendment on the language in the fifth whereas clause. Sherman said that he was writing it.

Cameron said that the administration did not have a problem with a change to the language.

Amendment 02 to Resolution 16-12 *(cont'd)*

Volan asked if only one resident in the household had to have a job, which Cameron affirmed was correct.

Cameron explained that there were two ways to income qualify. The first was if the total household income was less than 80% of the area median income for the household size. The second way was if every wage earner in the household earned less than or equal to the living wage.

Volan asked what would happen if there were two unrelated adults living in a unit, and one moved out.

Hoffman responded that the units would have a joint and severable lease, and that tenants would still be responsible for their lease payments.

Chopra asked why there was a two part eligibility test. Cameron explained that the legislation as originally drafted would have worked best only if the tenant was making exactly living wage. He further explained that the eligibility was expanded to make certain that the legislation worked the way it was intended.

Piedmont-Smith asked for clarification on the eligibility requirements with regard to two wage-earners making exactly living wage, and noted that even though their combined income would be over 80% of the median income, they would still be eligible to live in the housing. Cameron agreed that she was correct.

Amendment to Amendment 02 to Resolution 16-12

It was moved and seconded to amend Amendment 02 to Resolution 16-12.

Chopra read the proposed change to Amendment 02, which was to rephrase clause 1 to read "available to residents who work at least 35 hours per week".

There was a brief discussion about moving to Resolution 16-13 as noted in the agenda. Sturbaum noted that the discussion on the current legislation could be wrapped up in less than 15 minutes.

Council Questions:

Volan suggested changing the language to use the word job or jobs rather than work, and then asked Cameron if work was legally defined.

Cameron responded that work usually referred to providing service for a wage.

Sturbaum said that that worked for him.

Ruff said that he agreed, and that otherwise it would be called volunteering.

Mayer asked if the amendment to the Amendment 02 was acceptable to the administration. Cameron replied yes.

Mayer then commented that it should be easy to document income qualifications by using a W-2, a 1099, and a letter from the employer.

Council Comment:

Sturbaum commented that the change worked for him.

Vote to amend Amendment 02 to Resolution 16-12 [7:34pm]

The motion to amend Amendment 02 to Resolution 16-12 received a roll call vote of Ayes: 9, Nays: 0[i]

Council comment on Amendment 02 as amended to Resolution 16-12

Councilmember Dorothy Granger said that she thought Amendment 02 as amended clarified what the income requirements were, and she was pleased with it.

Council comment on Amendment 02 as amended to Resolution 16-12 *(cont'd)*

Mayer thanked the administration for working through the issues, and thought that the end result was to broaden the field for those who would be eligible, and thus saw it as a win.
Sturbaum said that he assumed it could be tweaked over time if it was not working as the council thought.

Volan said that the amendment pointed out a shortcoming in the legislation as originally prepared. He thought the broadening of the eligibility was important, and wished there had not been earlier confusion. He thanked the administration for calling the council's attention to the issue.

Piedmont-Smith commented that it was a very clever amendment that fixed problems with the original language, that allowed more people to be eligible, and putting the actual dollar amounts in was helpful. She finished by saying that she appreciated it.

Vote to adopt Amendment 02 as amended to Resolution 16-12 [7:38pm]

The motion to adopt Amendment 02 as amended to Resolution 16-12 received a roll call vote of Ayes: 9, Nays: 0

Council comment on Resolution 16-12 as amended:

Mayer thanked the developer for working with the city, and said that he thought it was unique and set new parameters for development in the community.

Sturbaum said that ultimately it was a math problem to see if these things could work, and commended everyone for working on that math. He thought there was a public good coming out and that the math would work.

Volan explained how tax abatements worked. He discussed that the abatement was a substantial benefit to workforce renters in Bloomington that was the direct result of the tool of a tax abatement. He said that he thought the council would be foolish not to take advantage of the opportunity and encouraged other developers to follow suit. He concluded by stating that he hoped to see similar tax abatements in the future and would be eager to support them.

Piedmont-Smith thanked the developer, administration and the staff. She thought it would be a good project and looked forward to getting an ice cream cone at the new Chocolate Moose.

Ruff thanked the developer in particular, the administration for coming up with the concept, and the council for embracing the idea so enthusiastically. He added that the process may have been messy, but pointed out that it was brand new. He finished by saying he felt good about the outcome.

Vote to adopt Resolution 16-12 as amended [7:43pm]

The motion to adopt Resolution 16-12 as amended received a roll call vote of Ayes: 9, Nays: 0.

Resolution 16-13 – To Vote in Favor of a Distribution of Public Safety Local Income Tax to Fire Departments and Volunteer Fire Departments that are Operated by or Serve Political Subdivisions not Otherwise Entitled to Receive a Distribution of Public Safety Local Income Tax [7:39pm]

It was moved and seconded that Resolution 16-13 be introduced and read by title and synopsis only. Clerk Bolden read Resolution 16-13 by title and synopsis.

It was moved and seconded to adopt Resolution 16-13.

Sandberg, chair of the council sub-committee, introduced Resolution 16-13. She noted that the council was the last governmental unit to pass the approvals, and that they had to be

Resolution 16-13 *(cont'd)*

completed, signed, and sent out before midnight that evening. She reminded councilmembers that the memo she wrote for the packet outlined the process by which the sub-committee made their decisions. She discussed the process as robust, measured, and collegial.

Speaking on behalf of the sub-committee, which included Chopra, Piedmont-Smith, and Granger, Sandberg described working with the county and township people as a real pleasure. She added that it was not easy, but also noted that it was the first time. She said that everyone involved thought the final decision was fair with respect to all of the taxpayers. She finished by saying that she hoped the rest of council would approve the recommendations, and noted that there would be other steps needed in the future, but was looking forward to finishing this first leg in the journey.

Council questions:

Volan asked for more detail about the money dispersed, and gave an example of one entity who asked for $120,000 but received $25,000.

Sandberg responded that some of the details were not as clear in her memory about the specifics, but a lot of it came down to doing the math. She noted that once the group came up with a set amount, they then had to go back to the original requests, and then had to ask each requester what their first, second, and third priorities were in terms of funding. She said that most of the requesters tended to focus on personnel as their major priority.

Chopra added that the decisions were based on what the townships asked for, and made the allocations based on their proposals. She added, however, that the townships were not under any obligation to spend it in the way the sub-committee intended.

Sandberg added that when there was a set amount, which was the first task of the sub-committee to figure out, the goal was to make sure that everyone got some portion of the funding.

Piedmont-Smith pointed to the specific example of the Richland township fire department, and noted that they were struggling to fund sufficient firefighters to keep their fire station on Curry Pike open. She pointed to the number of runs they made, and commented that while people might be able to be served by other fire stations, the alternatives would not be as close. She concluded by saying that the station needed the additional funding to stay open. She said that overall they looked at population served, the number of runs, and some other needs such as danger of closing or absence of a fire department altogether.

Volan asked if the vote of the sub-committee was unanimous or if there was any dissent.

Sandberg replied that the vote was unanimous.

Volan asked if the estimates for dispatch were based on a dollar amount or a percentage regardless of how much the tax actually generated.

Philippa Guthrie, Corporation Counsel, responded that because the estimate of the amount expected was higher, the percentage allocated to dispatch was reduced to 29% instead of the original 30%.

After some back and forth, Cameron clarified for Volan that the last three months of the tax allocation for 2016 would not include a distribution for the fire departments.

Volan asked why the fire departments would not get a distribution. Cameron responded that the legislature wrote the law in such a way that the fire departments would have had to apply for the allocation in July 2015, a year before the tax existed.

Chopra noted that the dispatch was allowed to get a percentage

Resolution 16-13 *(cont'd)*

by the statute, but the body was only allowed to give a dollar amount, so it would not flux, even if the tax was lower.

Piedmont-Smith asked for more detail about the percentage change.

Guthrie responded that they picked the percentage just for the purpose of avoiding problems.

Council Comment:

Chopra commented that she appreciated Sandberg's comments. She added that as chair, Sandberg did an excellent job of making a difficult, confusing, and unprecedented task surprisingly manageable, and thanked her for her guidance.

Granger stated that it was a great opportunity for all of the municipalities to come together, work hard, and make sense out of something that sometimes seemed nonsensical. She commented that it felt good to help the townships in that small way, and it was a great opportunity. She finished by thanking everyone for participating.

Sandberg noted that, after these decisions, there would be more allocations to be made, and she enjoyed hearing from others in the county what their plans were. She reiterated that they would appreciate full council support that evening.

Volan noted that the goal had been to make sure that public safety was better funded in Monroe County, and that it helped the maximum number of people. He also commented that the county served all of the citizens, regardless of whether they were in an incorporated area or not.

Piedmont-Smith said that it was an eye-opening experience, and that it was great to serve with the other localities. She said that it was too rare that the council got to work with other representatives from other bodies in the county. She also noted how varied and confusing fire protection was for people who live outside of the city limits. She said she did not mean any offense, but wondered if it was the best way to provide efficient public safety services. She also thanked Sandberg for presiding over a difficult process. She noted that they learned a lot that they hoped they could use in the upcoming year and could continue to fund the tax in the future.

Sturbaum said that it was well done to take care of the townships. He offered kudos to all who served in the committee, and noted that they took a big view and did the right thing.

Ruff added that he knew it was a lot of work that was done over the recess period for the city council, and thanked the members who served on the sub-committee. He recognized himself for having the wisdom to delegate as much as possible to his highly capable council colleagues.

Mayer also thanked his colleagues.

Vote to adopt Resolution 16-13 [8:12pm]

The motion to adopt Resolution 16-13 received a roll call vote of Ayes: 9, Nays: 0.

The council took a recess until 8:25pm.

Ordinance 16-12 – To Vacate Public Parcels – Re: Two 12-foot Wide Alley Segments and Two Fifty-Foot Wide Street Segments Located at the Northwest Corner of West 11th Street and North Rogers Street (Duke Energy, Petitioner) [8:25pm]

It was moved and seconded to read Ordinance 16-12 by title and synopsis only. Clerk Bolden read Ordinance 16-12 by title and synopsis, giving the committee Do Pass recommendation of 0-3-5.

It was moved and seconded to adopt Ordinance 16-12.

Amendment 01 to Ordinance 16-12

It was moved and seconded to adopt Amendment 01 to Ordinance 16-12.

Amendment 01 Synopsis: This amendment is sponsored by Councilmember Sturbaum and follows negotiations between Councilmember Sturbaum, the Administration, and Duke Energy Indiana, LLC regarding the construction of the proposed Duke electrical substation. Those negotiations resulted in a Memorandum of Understanding (MOU). This ordinance attaches the MOU as Exhibit A, finds that vacation of the subject parcels are in the public interest provided the MOU is executed by September 2, 2016 and makes the ordinance effective upon adoption and upon the execution of the MOU. The amendment also makes minor changes to correct the Petitioner's name as "Duke Energy Indiana, LLC," rather than the previously cited "Duke Energy." The amendment directs the Clerk to file a copy of the adopted ordinance and the executed MOU with the County Recorder and County Auditor. If the MOU is not signed by September 2, 2016, the ordinance directs the Clerk to append an annotation to the ordinance indicating as much.

Sturbaum introduced Amendment 01 to Ordinance 16-12. He explained that the council, neighborhood groups, and Duke Energy came to several important conclusions about the proposed substation. The first was that they would build a wall, and that Duke Energy would pay for it. He also noted that after the wall was built, the land in front of the substation wall would be available for resale so that private developers could build liner commercial buildings to further help screen the substation as well. He commented that it was a fairly new process for those involved, but the end result would be that the bulk of the wires would be hidden from view.

Christy Langley, Director of Planning and Transportation, gave an overview of the location and the details of the MOU. She noted that Duke would have exclusive eastern access from Rogers and a southern easement. Third parties would have access from Eleventh Street. She also pointed out Duke's reserved setback of 20 feet for exclusive use surrounding the substation. Next, she explained the details of the enclosure wall for the substation. She pointed out, as Sturbaum had, that the MOU allowed for the sale of the remaining land on the site for development purposes. The MOU also dictated that Duke would meet with the city regarding plans for transmission and distribution lines, and hold at least one public meeting. The city, in return, could submit a landscape plan to Duke for review and approval.

Bill Beggs, Attorney from Bunger and Robertson on behalf of Duke Energy, spoke about Duke's efforts to work with city officials and residents while still carrying out their public obligation to Bloomington. He called the agreement a significant investment in downtown Bloomington, and said that they did what they promised to do, and asked the council to approve the ordinance.

Amendment 01 to Ordinance 16-12 *(cont'd)*

Council Questions:

Rollo asked about the potential buildable space outside of the wall, when considering the 20 foot setback and the easements, and what could potentially occupy that space.

Sturbaum replied that at the minimum point it was 39 feet including a sidewalk, which meant that a 20-foot building with a lot of frontage or a 30-foot building with a tree plot and sidewalk would fit in the space. He said that he did not remember the exact dimensions on the corner, but thought it was almost 80 feet. He added that the concept was always to include liner buildings, and that the skinniest, practical liner building would be 12 feet in depth. Sturbaum noted, however, that there was ample space for building on the available land.

Rollo asked for clarification, and Langley confirmed that the city development requirements were at least 10-12 feet.

Volan asked for confirmation about the idea that the land would not be built out to the curb in order to accommodate a sidewalk and tree plot, not to accommodate safe parking, which he received.

Volan next asked why the liner buildings are not part of the wall, and why Duke needed 20 feet of space to maintain the wall.

Sturbaum responded that it was discussed, but that it was something that Duke wanted for safety and maintenance reasons.

Mr. Snodgrass, from Duke Energy, explained that there is a ground grid that kept the electrical current steady, and the 20 feet helped to maintain its integrity and safety for the public.

Volan next asked if the ground grid had to extend in all directions around the substation. Snodgrass replied that it extended five feet around the entire station.

Volan asked why, if the grid extended five feet, the wall needed an entire 20 feet of surround. Snodgrass responded that it was needed for future repair space as needed.

Volan asked Langley how wide a typical city alley was, and she replied 6-11 feet.

Volan asked if Duke Energy had trucks that could maintain the space within an 8-11 foot space, because he was concerned about the amount of space that was being reserved for Duke's usage.

Beggs responded that the 20 feet was the result of numerous discussions and previous reductions. He pointed out the difference between an alley and the substation, noting that the equipment that might be necessary to repair a substation would require more space.

Langley corrected her earlier statement, and said she looked up the requirements for private alleys and found that the city alleys are a minimum of 16 feet.

Volan next asked if there would be a height requirement of two stories for the liner buildings so as to fully obscure the wall.

Sturbaum replied that 2-3 stories were allowed, but it would be up to the developer as to how high the building would be.

Volan asked if they could require two stories, and Sturbaum responded that they could not.

Sturbaum asked if there was language about a gate, which Beggs responded that there was.

Sturbaum next asked if the drainage area that could be used for parking was still open for a design plan.

Beggs responded that some of the plans would be determined by developer's needs, but that Duke had considered licensing parking spaces or areas in that drainage area, and that Duke would retain

Amendment 01 to Ordinance 16-12 *(cont'd)*

the ownership and make certain to address safety issues as well.

Sturbaum asked if they would make every effort to minimize the consumption of that land for the drainage requirements.

Beggs replied that Duke would not have a lot of say in what the water would do, but that they were willing to consider all of that.

Sturbaum said he had an earlier discussion with a Mr. Peden, during which they discussed the potential for building parking in a manner that would allow for water collection in one corner of the drainage area, and Sturbaum hoped Duke would follow up with the idea.

Responding to Volan's earlier question, Langley told the council that the minimum height requirement for a structure in the area was 25 feet, which was at least two stories.

Volan asked if the set-aside will be a place where vehicles would be parked. Beggs responded that it would not be.

Volan asked if it was something that could be assured in writing, and Beggs replied that they would do so.

Rollo asked if the 20 feet set aside was a common or private easement. Beggs responded that it was not an easement, but was in fact a retained ownership for Duke's exclusive use.

Rollo asked if the 18 foot wall would entirely obscure the view of the substation.

Beggs replied that there would be some poles, lines, and apparatuses visible. However, he noted that it would show far less than if the wall were shorter.

Sturbaum added that some of the visibility was unavoidable, especially since burying the lines was so cost prohibitive.

Piedmont-Smith asked how tall the highest point in the substation was.

Beggs answered that the outer poles were roughly 50 feet, and that the static poles were roughly 5-10 feet taller than those.

Piedmont-Smith asked Beggs if he could compare those numbers to existing substations. He answered that he did not have the exact dimensions but that they were similar.

Rollo asked if the conceptual drawing from the MOU could be put up on screen so the public could see what they were discussing, and Sturbaum explained the drawing, and how the areas could be enhanced in the future.

Volan asked if any buildings would have exit access in the 20 foot setback.

Sturbaum answered that he had a similar concern, and that while Duke was not ready to commit to that, they did leave the door open to negotiation when the sale of that land occurred.

Beggs added that the setback would remain exclusive to Duke.

Volan expressed that he was not questioning the exclusivity of the setback, but wanted to know if people who were using the easement would have access to the space. Beggs responded that the answer was no.

Sturbaum commented that he understood that Duke had the option to share the space in the future if they chose to do so, which Beggs affirmed. He noted that it was not guaranteed, but that developers could negotiate directly with Duke.

Volan commented that he was concerned about the commercial flexibility of future buildings, and wanted to make sure there was some practical use for the downtown space.

Amendment 01 to Ordinance 16-12 *(cont'd)*

Beggs responded that he understood Volan's concern, but that they did not know what development would come forward, so they had to retain the setback.

Volan asked if the establishment of an easement in the space was out of the question for Duke.

Beggs answered that at that time the answer was yes.

Sturbaum also added that some of the details could be discussed when the buildings were sold. He also commented that building designers could work out the narrowness of the buildings.

Volan asked if Sturbaum could envision any construction along the wall that was not continuous. Sturbaum replied that he did not think so, but he could not see into the future. Further discussion between the two ended with Sturbaum noting the purpose of making the wall look like brick was to make certain that any gaps would look like another building.

Granger asked if there would be any signage in the area. Beggs answered that safety signage was required. He added that there were no plans to add any other type of signage.

Piedmont-Smith asked about the city's right to install landscaping around the wall. Beggs answered that Duke would have to vet any plans, but that they appreciated the city helping with the substation landscaping.

Piedmont-Smith asked where the money would come from for the landscaping.

Sturbaum replied that the Deputy Mayor had promised the money but that they had not discussed exactly where it would come from. He expanded further by saying that the MOU allowed for an option for the city to buy the remainder land if it did not sell to developers within five years.

Public Comment:

Gene DeFelice spoke and offered kudos to all involved for coming together and making sure that they found a good solution for everyone.

Lucy Schaich, Maple Heights resident, commented that the agreement helped to address many of the concerns that the neighborhood had, and thanked everyone for their work on the site.

Council Comment:

Granger said that she was not happy to have the substation so close to the downtown, but she was pleased with the plan going forward. She noted that she was proud of Duke for the concessions they made.

Sturbaum said that this was a citizen-driven effort that empowered the council, and him on the council's behalf, to negotiate with Duke Energy. He said he was thrilled to see democracy work the way that he thought it should. He found it enlightening to work with Duke Energy, and recognized that they were members of the community as well. He thanked everyone for their cooperation.

Mayer commented on how far the agreement had moved from where it began to where it ended up. He thanked everyone involved in the process for their work.

Rollo said that the agreement was a huge improvement, and thought that the city should place a high priority on developing the land around the substation.

Amendment 01 to Ordinance 16-12 *(cont'd)*

Piedmont-Smith thanked Duke Energy and Sturbaum for all of their work. She said that it was a great lesson in community involvement and democracy, and thought that the city would benefit in both the electricity and the buildings to blend in the trades district.

Volan commented that the agreement was much better than what they saw in the previous presentation. He talked about his concerns for retail space, which was why he was so focused on the back of the potential buildings. He added that he would like to maximize the length of the buildings, so that the substation could not be seen. Volan added that he was not wholly satisfied with the answers that he received that evening, but he did not feel that it was worth sidelining the entire discussion. He finished by saying that the project was a big win for everyone and that he would support it.

Sturbaum added that he believed Volan was correct, and that the council would have to rely on Duke to take development concerns into consideration.

Ruff commented that it was an extraordinary night in Bloomington civics. He talked about the legislation offered that evening and how it was all new or significant for Bloomington. He spoke about the substation in particular, and noted that neighborhoods and councilmembers frequently came together to advocate, but what he saw as remarkable was that Duke took the time to engage with the community and did something that did not seem likely at the start. He commended the company for their work, and thanked everyone involved.

Vote to adopt Amendment 01 to Ordinance 16-12 [9:33pm]

The motion to adopt Amendment 01 Ordinance 16-12 received a roll call vote of Ayes: 9, Nays: 0.

Council Questions:

Volan asked about the fact that Travers City was the only place where there was a building against the wall of a substation.

Sturbaum agreed that it had been done, but the engineers had expressed shock about the idea.

Council Comments:

Sturbaum thanked Marc Cornett and Bruce Calloway.

Volan said that if something can be done in one place it can be done in another. He said that the irony of the ordinance was that it was an alley vacation that was creating another alley. He added that the city should look into the idea of adding staff who could do the work that Mr. Cornett did for the substation drawings to help the council visualize plans.

Vote to adopt Ordinance 16-12 as amended [9:38pm]

The motion to adopt Ordinance 16-12 as amended received a roll call vote of Ayes: 9, Nays: 0.

LEGISLATION FOR FIRST READING

It was moved and seconded that Ordinance 16-19 be introduced and read by title and synopsis only. Clerk Bolden read the legislation and synopsis.

Ordinance 16-19 – To Rezone a Property from Commercial General (CG) To Commercial Arterial (CA) – Re: 3380, 3440, and 3480 W. Runkle Way (VMP Development, Petitioner)

ADDITIONAL PUBLIC COMMENT

There were no comments in this segment of the meeting.

There were no changes to the council schedule. COUNCIL SCHEDULE

The meeting was adjourned at 9:41pm. ADJOURNMENT

APPROVE: ATTEST:

Andy Ruff, PRESIDENT
Bloomington Common Council

Nicole Bolden, CLERK
City of Bloomington

[i] There was a brief discussion where Sherman referred to a change to the amendment that he thought occurred while he was out of the room, but the amendment to Amendment 02 to Resolution 16-12 was not changed as discussed at this point.