

MINUTES

SUBCOMMITTEE ON OUTDOOR LIGHTING STANDARDS

(PUBLIC WORKS AND TRANSPORTATION COMMITTEE)

Council of the County of Maui

Council Chamber

January 17, 2002

CONVENE: 1:05 p.m.

PRESENT: Councilmember Michael J. Molina, Chair
Lee Altenberg, Member
Hannah Bernard, Member
Richard Chong, Member (out 1:45 p.m.)
Mike Maberry, Member
Warren McCord, Member

EXCUSED: Councilmember Charmaine Tavares, Vice-Chair

ABSENT: None

STAFF: Gary Saldana, Legislative Analyst
Karean Zukeran, Committee Secretary

ADMIN.: Gregory J. Garneau, Deputy Corporation Counsel, Department of the
Corporation Counsel
Joe Alueta, Planner VI, Department of Planning
Howard Hanzawa, Civil Engineer IV, Land Use and Codes Administration
Robert Tam Ho, Assistant Chief, Department of Police
Greg Nakao, Electrical Engineer IV, Land Use and Codes Administration
Kal Kobayashi, County Energy Coordinator

OTHERS: Fern Duvall, State Wildlife Biologist, DLNR, Division of Forestry & Wildlife
Steve Sutrov, Board of Kula Community Association, Member of Maui Ad
Hoc Committee for Outdoor Lighting Standards
Terryl Vencl, Executive Director, Maui Hotel Association
Reny Platz
DeGray Vanderbilt
Additional attendees (11)

PRESS: None

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CHAIR MOLINA: . . . *(gavel)* . . . The Subcommittee on Outdoor Lighting Standards will now come to order. Good afternoon, members. Good afternoon. Okay. Just for the record, in attendance we have Lee Altenberg from the, who's the Assistant Professor of Information and Computer Sciences for the University of Hawaii at Manoa; Mr. Mike Maberry, the Assistant Director for External Affairs for the Institute of Astronomy from the University of Hawaii; Mr. Warren McCord, President of the Outdoor Circle, Maui Branch; Mr. Rick Chong, from the Illuminating Engineering Society of America; and Hannah Bernard, the Director of the Education of the Maui Ocean Center. Excused today is the Vice-Chair of the Committee, Councilmember Charmaine Tavares. From the Corporation Counsel's office, we have Mr. Greg Garneau; Council staff present here today is Legislative Analyst Gary Saldana, and Committee Secretary Karean Zukeran.

ITEM NO. 1: OUTDOOR LIGHTING STANDARDS (Misc.)

CHAIR MOLINA: At this time, Members, once again as the Chair of this Subcommittee, I'd like to welcome you and I appreciate very much your interest in participating with the Subcommittee that will address outdoor lighting standards for Maui County. We shall now start first with public testimony. Those wishing to testify should sign up at the secretary's desk. Testimony shall be limited to three minutes, an additional minute will be given to you if your testimony is not completed, after that an additional three minutes will be given after all others have been heard. Testifiers are required to state their name for the record and to indicate who they're representing. To minimize disturbances during the meeting, please turn off all pagers and cellular phones or set them to the silent mode. At this time, we shall begin with our testimony and our first testifier today is Fern Duvall and who represents the Division of Forestry and Wildlife. Mr. Duvall, if you'll please come up to the podium. Following Mr. Duvall is Steve Sutrov.

. . . BEGIN PUBLIC TESTIMONY . . .

MR. DUVALL: Thank you, Chair, and Committee. I am Dr. Fern Duvall and I represent the Division of Forestry and Wildlife, Department of Land and Natural Resources. And what I'm going to read from today, I've actually submitted to you earlier on e-mail and it's comments that our division is making sort of on behalf of, of Hawaiian wildlife. Dear Chair Molina, I'm the State's Wildlife Biologist in Maui County charged with the program which oversees management of native Hawaiian wildlife. And in this role, I'm very familiar with problems caused by outdoor lighting affecting the native wildlife. The most notable problem with Maui is nocturnal native seabirds being attracted inland by and to the abundant high

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intensity unshielded or upwardly directed lights upon which they become disoriented and then crash into buildings, lights, fences, or vehicles, et cetera. And this is often with fatal results for the birds. Lights seem to affect and disrupt the birds inborn capability to navigate by the stars. Once grounded, such birds are often injured or cannot regain flight and are prone to cat and dog predation, vehicle collisions, or the consequences of dehydration and starvation. Light induced grounding often negatively affects the common species such as Maui's Wedge-tailed Shearwaters and Bulwer's Petrel but poses a real threat to the existence of certain state and federally threatened or endangered species such as the Maui, as Maui's Newell Shearwater, Dark-rumped Petrel, and the very rare Band-rumped Storm-Petrel. It is often especially the young, the naive young birds attempting to fledge and go seawards on their virgin flights, which we find grounded due to bright and unshielded lighting. All these seabirds are protected under State Wildlife Laws, the Federal Migratory Bird Act, and for endangered and threatened species, also protection is provided by State and Federal endangered species laws. The issue of outdoor lighting negatively affecting wildlife would seem to have a direct solution if changes were made to the County's lighting ordinance and enforcement of the ordinance were enabled. I've made wording recommendations for the ordinance and I've attached that. And some of you have it with my changes in red, and for those that got a copy where it's only in black, basically all I added was. . .native wildlife or nocturnal bird life or nocturnal wildlife, things like that where it was appropriate. But in particular, I'd highly recommend in general for the lighting ordinance that lighting have the lowest possible intensity for its use, that the lighting be shielded upwardly and from the sides, especially if the lights are real, are visible from the ocean. And it's more so, it's even more important that they be shielded if they are near to access ways that the birds use flying between the mountains and the ocean. And, and very often our offices know where those colonies are if, if the committee needs to know that later. The other thing that could be done--

MR. SALDANA: Three minutes.

MR. DUVALL: --is motion sensor lighting. I hope these comments will be useful to your committee and to the County as it scrutinizes and reviews its, revises its outdoor lighting regulations. If you require more information, please feel free to contact me.

CHAIR MOLINA: Okay. Thank you, Dr. Duvall. Committee Members, do you have any questions for Dr. Duvall at this time?

MS. BERNARD: Questions? No. Comment.

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CHAIR MOLINA: Okay. Thank you. Seeing none. Thank you, Dr. Duvall. Thank you.

MS. BERNARD: Can we make comments or just questions?

CHAIR MOLINA: Oh, okay. . .we'll, we'll address--

MS. BERNARD: Wait.

CHAIR MOLINA: --your comments later.

MS. BERNARD: Okay.

CHAIR MOLINA: Thank you. Okay. Next, we have Steve Sutrov, a board member of the Kula Community Association and member of the Ad Hoc Committee for Outdoor Lighting Standards to be followed by Terryl Vencl.

MR. SUTROV: Thank you. Good afternoon. I first off would like to thank the County Council Public Works Committee for deciding on going with a subcommittee on this issue. I think that was definitely. . .the correct and appropriate move.

CHAIR MOLINA: Excuse me, Steve, can you go ahead state your name and for the record.

MR. SUTROV: Steve Sutrov. . .I'm here to speak for myself, Kula Community Association, and the, as part of the Ad Hoc Maui Committee for Outdoor Lighting Standards. Yeah, I'd like to. . .thank everyone for, thank the Council and thank you for bringing this, Mike Molina, for bringing this issue to the, to a Subcommittee to discuss this. I think it's an appropriate move. The draft that we developed has always been available for. . .comments and review and change and this gives. . .us another opportunity to bring it forth to many more people for discussion and I'm very excited about this. For everyone that we've brought this forth so far, there's been a lot of excitement generated and enthusiasm for this project because I think everyone realizes it's an opportunity that we should take advantage of to limit light pollution where it's still possible to do so. The, the draft, like I said, we brought it to many associations and individuals and it, it has been dynamic and I, I hope that it keeps getting refined. I hope that we, when under discussions here, I hope we do not. . .take away from any of the key points of it. I hope we can refine the issues of how to make it work better with the community. The key points I think that we should definitely try to improve on but not, not eliminate would be utilizing full cutoff lighting fixtures in almost all

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instances of lighting outdoors. Low pressure sodium should definitely be considered for scientific and military use, for energy savings and for environmental and wildlife protection. Whenever low pressure sodium can be used, it should be used and there should, there should definitely be exceptions to that also to where you cannot use a light of that nature. I think the Outdoor Lighting Committee that's being recommended to be formed is an excellent idea. A separate committee that can be instructed and educated on, on how to enforce this would be an excellent idea and, and that's in our ordinance and that should be retained and refined. And I would like to offer also that I, I had taken a few hundred photos of different lighting situations on Maui, good and bad, and I want to make those available to the committee here if at any time they'd want to review some of those photos and get examples of what, what I've accumulated over the, the past six months. And that's all I have right now.

CHAIR MOLINA: Okay. Thank you, Mr. Sutrov. Committee Members, any questions for Mr. Sutrov at this time? Seeing none. Thank you very much, Steve. Next to testify, we have Terry Vencl from the Maui Hotel Association to be followed by Reny Platz.

MS. VENCL: Aloha, Mr. Chairman, Committee Members. Thank you for allowing me this opportunity to, to respond. My name is Terry Vencl. I'm the Executive Director of the Maui Hotel Association. And I'd like to begin by apologizing, I was asked to be a part of this Subcommittee and I'm wearing several hats right now and it just wouldn't work in my calendar. I had hoped that we would get an engineer at least from our resort association to be on this Subcommittee. That somehow fell through the cracks, so we stand if you will allow us to as a resource and, and someone to help educate or whatever comes down the path from this, this point forward. I, I met with my engineers and we invited Mr. Molina who came and met with us, as we have also met in the past with Ms. Bernard and with Mr. Maberry, about issues about lighting particularly around the beach area for turtles, et cetera. And we are, to some degree, in, in agreement that something needs to be done. I have not had a chance to digest the most recent draft but the first one that I saw, and that's the one of course that my engineers were presented with, when we visited with Mr. Molina it did seem that they had some concerns about some of the issues in that first draft. We consequently then invited Mr. Maberry, Mr. Sutrov, and Mr. Altenberg, to come and visit with us, that's scheduled for next week and hopefully, we'll be able to get some of our concerns answered at that point. And I guess finally, I'd just like to say that I'm not a technical person. I certainly don't have the expertise about electric. However, from a broader standpoint, there are issues that our association will be concerned about and they are safety, liability, and enforcement. So, that will

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conclude my remarks for today and I look forward to working with you further. Mahalo.

CHAIR MOLINA: Thank you, Ms. Vencl. Committee Members, any questions for Ms. Vencl at this time? Okay. Dr. Altenberg.

MR. ALTENBERG: Yes, I wondered--

CHAIR MOLINA: Excuse me, Dr. Altenberg, before you proceed. Members, my fault. When you do have a question please let me know by waving your hands so I can then properly recognize you. Proceed, Dr. Altenberg.

MR. ALTENBERG: Yes, I would, it would be good if you go into more of the specifics of what the concerns were if, if you're ready to do that at this point.

MS. VENCL: Actually, I am not. I do have an engineer who is here, who may speak before you finish today. But I think that, at this point, I understand most recently there's a different draft than what we first looked at. We may want to look at the most recent draft before we say things that might not be in the most recent draft. I don't know. So, certainly at the meeting next week, and I believe you've been invited to that, we'll share those concerns with you at that point. I will take the new draft that I picked up today--or at least new in my eyes--and I will distribute that so that people are prepared.

MR. ALTENBERG: Alright. Thank you.

MS. VENCL: You're welcome.

CHAIR MOLINA: Members, any other questions? Mr. Chong.

MR. CHONG: Ms. Vencl, when, when is that meeting next week?

MS. VENCL: I believe it's the 22nd. . .7 a.m., right? Yes, 7 a.m.

MR. CHONG: Orchid room?

MS. VENCL: Orchid room at the Kea Lani Resort. . .and I believe we'll have coffee. I think I was asked that question a little earlier.

ALL: . . .(laughter). . .

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CHAIR MOLINA: Okay, Members, any other questions for Ms. Vencl? If not, the Chair thanks you, Ms. Vencl. And the Chair will most definitely use the engineers from that sector of the community as a resource. We, we'll have several more meetings and we will definitely want your input with regards to this matter here today.

MS. VENCL: Mahalo.

CHAIR MOLINA: Mahalo. Thank you. Okay, we have Mr. Reny Platz. And at this time, the Chair will ask is there anybody else in the gallery that would be interested in testifying on today's item? If so, please come on up and sign up at the secretary's desk. Proceed, Mr. Platz. Good afternoon.

MR. PLATZ: Aloha. Thank you for allowing me to vent, which is what I'm doing. And my name is Reny Platz and I'll be, I'm here on behalf of myself and . . . than any other official affiliation today. I once asked, asked a certain state senator how one gets the street lights removed and he said it would take an act of God and since we're short of that I'm, I'm here. It seems to me that street lights are being put in without really any need or request from the neighborhood. I live in Makawao and I used to on a nightly basis be able to go out and look at the stars at night and enjoy the evening, and then they put in street lights. And I literally can get up in the night with all the curtains drawn, walk through my house without turning lights on, it's that lit up. I now live what feels to be like the soccer field at Eddie Tam and I don't know why that is necessary. It's certainly not necessary in the neighborhood. I've talked to my neighbors impromptu, they all dislike it. And it, it, there are lights that shine in all directions and they're very bright and they're just not necessary. I'd like to see concerns for planning and the need for street lights before they're imposed upon a neighborhood. And that's the extent of it for today.

CHAIR MOLINA: Okay. Thank you, Mr. Platz. Committee Members, any questions for Mr. Platz? Hearing none. Thank you very much. And we have one more testifier, Members, we have Mr. DeGray Vanderbilt.

MR. VANDERBILT: Thank you, Mr. Chairman, Members of the Committee. My name is DeGray Vanderbilt a resident of Molokai. And, hopefully, this will be a County-wide ordinance if it goes through 'cause I know in, as far as Kaunakakai town, there's a lot of planning going on and lighting has been already an issue there. One of the key things I think would be enforcement. It just seems that things are hard to enforce in this County. We pass all these laws and ordinances and then we provide either no funding for enforcement or whatever. We had this

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thing in the paper the other day about dogs and cats, 82 of `em, it went on for two years and nobody could take action because apparently they visibly couldn't see the abuse of the animals. And there's got to be some way to enforce these things and hopefully have some sort of committee that when these projects go in that the problems taken care of in advance. And I guess the other thing is, is that generally when you have subcommittees like this and everything, the public is always laying everything out on the table and then as it gets down the road some of the bigger interests that have some financial stake in what you do, come in at the last minute and lobby certain things. So, I would hope that whether it be Maui Electric or the Hotel Association or whatever, these guys get their concerns on the table publicly as early as possible, so they can be discussed rather than you do all the work. And it seems like you've done a tremendous amount of research and come up with an ordinance that's based on some cost saving facts and other well researched data that, that all of that isn't lost by some political lobbying at the end of the, the deal. Because that's what ends up frustrating the public and I know you guys have, I'm sure you're not getting paid for this, so I really commend you for what you've done. And in, in relation to what the last speaker said my girlfriend lives in Makawao and we had that problem with lighting. There's two of `em that just seem to come in the window and, and I think there's some way to petition that if so many people within 200 feet of the light, sign a petition, they can get shields put on `em. But anyway, I just, those were just a few comments that I have and, and again thank you for all your hard work.

CHAIR MOLINA: Okay. Thank you, Mr. Vanderbilt. Committee Members, questions? We have first Dr. Altenberg. DeGray.

MR. ALTENBERG: Do you have any practical suggestion as to what the committee members could do to avoid unfair meddling, political meddling with the, the process of consideration?

MR. VANDERBILT: Well. . .*(laughter)*. . .I'm probably the wrong guy to ask because we just had our community plan diced and rediced and by, and so I'm still recovering from that. But I just think it's important to have. . .those that that may have an interest. Like I don't know what Maui's Electric thoughts in this, maybe they're all for it. I mean if the County's going to eventually save money but that's going to be less revenue for Maui Electric but maybe less. . .less revenue translates into less energy capacity they have to have and it might be a tradeoff. I don't know. But I think if you get all the major stakeholders participating in these meetings or writing you, writing down what their concerns are and so they can be addressed. Because you all seem to have the capabilities to research things and, and I'm

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sure the same concerns have come up in other areas which have instituted efficient environmentally sensitive lighting schemes in their towns or cities. And so, that would be just get everybody on the record and discussing things 'cause that's the way things are resolved to a win-win situation. Thank you.

CHAIR MOLINA: Okay. Thank you, Dr. Altenberg. We have Hannah Bernard to be followed by Mike Maberry.

MS. BERNARD: This does bring up a good, good point and that is I need clarification to what happens with our recommendations and, and--

CHAIR MOLINA: Oh, okay. Ms. Bernard, actually right now we're in the process of answering Mister--or asking questions of Mr. Vanderbilt. Would you like to, care to ask him a question at this time?

MS. BERNARD: I think it really is a question I need to ask of you because it pertains to this question in terms of once we make recommendations and then is there another body that, that makes a recommendation to the County Council or does, then what happens?

CHAIR MOLINA: Actually this--

MS. BERNARD: It, it, it addresses that.

CHAIR MOLINA: --for, for the time being this Subcommittee will make recommendations to the Public Works Committee and then from there the Public Works Committee will take their recommendations up over to the full Council.

MS. BERNARD: Okay. Great.

CHAIR MOLINA: Okay. Thank you. We have Mr. Maberry.

MR. MABERRY: Mr. Vanderbilt, one of the first items that you brought up was enforcement and this is going to be an issue of quite serious concern for the Prosecutor's Office and the Police Department. Do you have any recommendations or have you thought about this as to how an ordinance such as this could be enforced?

MR. VANDERBILT: Well, I haven't even read any of the drafts. I just read the newspaper this morning and I just happened to be up here on another matter, so I thought I'd throw my two cents in worth. But no, I don't. I . . ., I think that if

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there was some vehicle in the ordinance where the public could, could if there was problem could, there's some set procedure where they could say, you know, if, like I think there's a procedure as I, as I mentioned earlier about some, if you petitioned the, if so many people within a certain distance of a . . . a light, if they petitioned Maui Electric I think they will put shields on the light. But something of that effect that there is a procedure for enforcement by the, by the public.

MR. MABERRY: Thank you very much.

CHAIR MOLINA: Okay. Thank you, Mr. Maberry. Any other questions for Mr. Vanderbilt? Seeing none. Thank you, DeGray.

MR. VANDERBILT: Thank you.

CHAIR MOLINA: Is there anyone else out in the gallery that would like to testify at this time? Okay, the Chair seeing none. The Chair will officially close off testimony effective 1:25 p.m.

. . . END OF PUBLIC TESTIMONY . . .

CHAIR MOLINA: Members, again welcome and I appreciate your time. I know you're not getting paid for all of this but the community appreciates your efforts. At this time, the Chair would like to go into goals and objectives of this Subcommittee and some housekeeping and other related issues. At this time, the objective of this Subcommittee is to conduct a comprehensive review of the draft bill before you by discussing each of its 19 sections. Obviously, today we'll, we will not get to all 19. Once the review has been completed, the Subcommittee will then submit its recommendations to the Public Works and Transportation Committee. The term of this Subcommittee is effect. . . actually was in effect from January 2nd and will go all the way up until April 2, 2002. And it's my intention to conduct a series of five meetings on this matter, which includes today's meeting. My preference is to hold two month. . . two meetings monthly, with one meeting in March prior to the Council's budget sessions and my goal is to complete review of the draft bill within the five meetings. However, if after the conclusion of the fifth meeting, the Subcommittee decides it has not sufficiently completed its review of the draft bill, we may request that the Public Works and Waste Management [*sic*] Committee extend the term of this Subcommittee. Any questions on this portion? Okay. Seeing none. I would like to now go into Subcommittee procedures and housekeeping. Please note that the Council, its Committee, and Subcommittee's observe the Robert's Rules of Order

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Parliamentary Procedures. Therefore, I request that if you wish to speak, please wait to be recognized by the Chair and do not carry on any loud discussions amongst yourselves. It's okay to go ahead and if you need to whisper to each other that's fine. And should you wish to ask questions of a testifier, resource person, or another Subcommittee member, please wait to be recognized by the Chair. Any questions on that? Okay. Another item I'd like to make you aware of is parking. If you have not already obtained a parking pass from the Committee Secretary, please make sure you do so at the end of the meeting. This pass is good through April 30th of 2002. The pass permits you to park for an unlimited amount of time in front of the Kalana O Maui County building next to High Street or in the yellow painted stalls next to the Planning building on Kaohu Street. Any questions on parking? Okay. And finally, committee binders. The binders that are in front of you with the Subcommittee material and background information are to remain here at the Council Services Offices. You are permitted during normal work hours to come and review the binders. And the purpose for this is to allow the Subcommittee staff, as far as keeping them here, is to keep the binders updated. As you know, information tends to come in at any time of the day or any time of the week. So, that is purpose for keeping the binders here and please do not remove any items from the binder. The Subcommittee staff will send the information to you if you do a request to have copies made for your own personal review. Yes, Mr. Chong.

MR. CHONG: Does that include this handout folder?

CHAIR MOLINA: Yes. Yes, please leave that at the desk. The committee staff will go ahead and take care all of that for you. If, as you know sometimes we get written testimony and please review them and the committee staff will go ahead and put them in your binders. And by the way, the Chair would like to make note that you did receive written testimony from a Dee Larson. Okay. So, I just want to make you aware of that. Any objections to that written testimony? Okay, I assume there are no objections. Okay. As far as scheduling for the . . .this item, I am proposing a fairly aggressive meeting schedule, which will include reviewing each section of the draft bill during the next five meetings. And I would like to propose the following schedule for your consideration. Today, we will be reviewing Section 1, Title, and Sections .010 to .060. This is my goal, however, we shall see how our deliberations proceed. Our next scheduled meeting is set for Thursday January 24th at 9 a.m. I did receive word from Hannah that she will not be able to attend, so I just wanted to let the members know about that. Meetings after that will be Wednesday February 6th at 10 a.m. to be followed by another meeting on Wednesday February 20th, 10 a.m. and Thursday March 7th is the fifth meeting and that begins at 10 a.m. At this time, I welcome any input

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from the members about the proposed meeting dates and times. Any comments? Mr. McCord to be followed by Mr. Chong.

MR. MCCORD: I'm sorry, I cannot be at the fifth meeting in March. I will be off island.

CHAIR MOLINA: Okay. So, you will not be available for March 7th. Okay. Thank you. Mr. Chong.

MR. CHONG: As I've already mentioned, Wednesdays are a little hard on me to fly over here, so Thursdays would be better.

CHAIR MOLINA: Okay. Can, are, are you still available for February 6th and February 20th? Even though those are Wednesdays, can you still make?

MR. CHONG: I can probably try and make arrangements.

CHAIR MOLINA: Okay. So noted. Okay, any other questions or comments? Okay. Hearing none. Let us go ahead and proceed. The Chair has invited as far as resource personnel representing the Public Works and Waste Management, we have Howard Hanzawa from the Land Use and Code Administration; and also I believe we did invite Mr. Greg Nakao, the Electrical Inspection Supervisor; representing the Department of Planning, we have Joe Alueta; and Assistant Chief of Police Robert Tam Ho; and the County Energy Specialist, Kal Kobayashi. Before we start the review of the draft bill, I've asked Dr. Altenberg to provide the Subcommittee with a brief five to seven minute overview. Dr. Altenberg, will be, you'll be using the projector or?

MR. ALTENBERG: Uh. . .

CHAIR MOLINA: Do you need any?

MR. ALTENBERG: I guess not. I don't need the projector.

CHAIR MOLINA: Okay. Alright.

MR. ALTENBERG: So--

CHAIR MOLINA: Proceed, Dr. Altenberg.

MR. ALTENBERG: --this will be strictly orally. Okay, the, I think the key concept behind this ordinance and is, is the, the term light trespass. Now, why do we have laws

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against trespassing? It's because trespassing interferes with an owners use of their property. So, the key thing is to understand that. . .when light trespasses, it's also interfering with the owners use of their property and altering the, the, the illumination conditions of someone's property. So, currently the State of Hawaii has laws that govern noise trespass and so, sound of a certain decibel level cannot trespass on another person's property. And there's. . .here it is. . .quite a nice piece of code that deals with noise trespass but doesn't have yet anything to deal with light trespass. So, basically we're trying to, to implement laws that would protect people from that. Now, there's a second issue, which is in terms of light trespass onto the commons, onto the environment, which is the, the resources that everybody uses in common. And so, you know, just as the. . .there is value to the entire community in the stars, the starry nights. There is value in the bio-diversity that is affected negatively by light pollution. So, the other, in addition to protecting individual property owners from light trespass, we are trying to protect the commons from light pollution. The, another issue is simply. . .safety that poorly designed lighting makes, makes it worse for night vision rather than better. And so, the design considerations that are in, incorporated into this outdoor lighting standard are also meant to improve the basic functionality of nighttime lighting. So, the, you can sort of summarize the entire draft in this way. Use fully shielded, low pressure sodium lights on all your bright lights outdoors and then the bulk of the, of the ordinance consists of specific exceptions where this would interfere with other values that we have. And also, a few specific strengthenings where more than, than just fully shielded is needed in particular preventing light from shining onto the beaches. So, then there are sort of implementation aspects to the ordinance. The, the provisions at the end with regard to notification and enforcement to, to basically educate the public about the new, the new standards when they, should they be enacted and also to, to provide a means for enforcing them. And so, that would be a general outline of what the ordinance is designed to do. Now, I'm happy to briefly touch on some of the content if, if you wish.

CHAIR MOLINA: What, what we'll do is, we'll just go ahead and do it section by section.

MR. ALTENBERG: Okay.

CHAIR MOLINA: And then as we come to an issue where questions, the Members may have questions, we'll go ahead and have you answer them for us.

MR. ALTENBERG: You mean right, right at this moment. . .you mean review the sections or do that during the discussion throughout the afternoon?

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CHAIR MOLINA: We, we, we can do that during the discussion this afternoon.

MR. ALTENBERG: Okay.

CHAIR MOLINA: Okay. So, does this conclude your brief overview at this time?

MR. ALTENBERG: Yeah.

CHAIR MOLINA: Somewhat? Okay.

MR. ALTENBERG: I guess another remark is that the, most of the provisions that are in this draft are actually currently law in other communities around the country. There are very, very little of it was originated by the three of us in the Ad Hoc Committee on Outdoor Lighting Standards. So, the, the bulk of what's in this proposed draft is currently the law of some community on the mainland or on the Big Island.

CHAIR MOLINA: Okay. Thank you very much, Dr. Altenberg. Okay, Members, the Subcommittee will be utilizing for information the Corporation Counsel's version of the draft bill for review purposes. It says draft in the upper right-hand corner. And the content has not been modified from the version submitted by the Ad Hoc Committee on Outdoor Lighting Standards. The bill has been formatted to County standards. Okay. So, let's first look at the, the first item is Section 1 under Title. I'd like to first ask the Corporation Counsel, Mr. Garneau, if you have any comments or recommendations for this section?

MR. GARNEAU: Not for this section. Pardon me. Are you including in this the Authority section?

CHAIR MOLINA: Yes, Section 1.

MR. GARNEAU: I did have one question. When we were asked to type this up, I just typed it as it was presented but I did take the opportunity to look within the Hawaii Revised Statutes. And I believe that this, the authority for, for this section would come from the County's general police powers and that actual HRS Section is 46-1.5 subsection 13. The other sections, the sections as they were listed on the document that came to my office, either don't exist or are not applicable. So, I would recommend that we, that the change, a change be made to reflect the correct statutory authority.

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CHAIR MOLINA: Okay. So noted. Any other comments from Mr. Garneau at this time? Hearing none.

MR. GARNEAU: No.

CHAIR MOLINA: Mr. Alten. . .oh, go ahead, Mr. Altenberg followed by Mr. McCord.

MR. ALTENBERG: I should mention that these references in the authority section are actually in the current Street Light Standing [*sic*] Street Light Standards Code, which is where this draft inherited it from. So, I don't know how they got in there but that's why they were adopted for this draft.

CHAIR MOLINA: Okay. Thank you. Mr. McCord.

MR. MCCORD: The draft that I received has got "same" written on authority and then it's got two other notations on it and I'm sorry I can't read them. . . .(*pause*). . . Do I have the latest?

NOTE: Pause.

MR. MCCORD: Okay. Nevermind.

CHAIR MOLINA: Okay. Thank you, Mr. McCord. Mr. Maberry.

MR. MABERRY: Just a point of information, sir, that there is a copy of the Street Light Standards in the back of our binder, if Corp. Counsel needed that to reference.

CHAIR MOLINA: Okay. Members, there is a copy of the Street Lighting Standards in your binders as Mr. Maberry has pointed out. If you could refer to that as we move along here. Okay. Any other questions on Section 1? Okay. Seeing none. Our next section is .010, which deals with authority. Mr. Garneau, do you have any thoughts or comments on this section?

MR. GARNEAU: No, other than the, the one I just offered as to the amendment.

CHAIR MOLINA: Okay. Thank you. Committee Members, any questions or comments? Seeing none. Thank you. The next section is .020, Purpose. Does anyone have recommendations on this section? Okay, Ms. Bernard.

MS. BERNARD: Is this a typo on the third line down? The nighttime visual environment by minimized light, should that be minimizing, I mean?

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CHAIR MOLINA: Maybe, Corporation Counsel, could I get a comment with you on that? Is that the proper word or form?

MR. GARNEAU: I would agree it should read, by minimizing.

MS. BERNARD: Thank you. Thank you.

CHAIR MOLINA: So, maybe if we could--I guess a friendly amendment--so visual environment by minimizing. Okay. Thank you. Any other comments or questions on this particular section? Hearing none. Thank you. Next is Section .030, which deals with construction. Mr. Garneau, any recommendations or comments?

MR. GARNEAU: Mr. Chair, I have no direct comments other than I did want to comment that currently we have sections in the Maui County Code that deal with the same subject matter. So, one of my questions when I was looking at this was whether the Committee, Subcommittee is going to be recommending that those sections be repealed as part of this, that this, this be a--'cause we have rules as well. So, when we refer here to, should be right in conjunction with the provisions of the Hawaii Revised Statutes, the Charter, and the Maui County Code, I think we should be aware that there are other sections right now that that actually duplicate some of these provisions. So, we would need to eliminate those sections or somehow deal with those sections in the Code.

CHAIR MOLINA: Okay. Anything to make it cleaner, I guess less cumbersome. Okay. Members, do you have any questions? Dr. Altenberg.

MR. ALTENBERG: Yes, now in this draft there is a repealer clause that would repeal any other ordinances in conflict with this Code. Are you suggesting that there's something else? We need to repeal a code that's not something that's in conflict but is duplicating the existing code.

MR. GARNEAU: Well, for example, there's, already setup under Maui County Code Section 12.17.010 a Street Lighting Committee, and there's also, the Department of Public Works has street lighting standards that have been promulgated. So, in, in some of those street lighting standards, which is under Title MC-15 of the Department of Public Works, they're, they're ab. . .they're duplicates. So, I think that it would be best even though you have that one clause to, to specifically repeal sections that that will no longer apply. So then, so later on when it's time for enforcement, if there's any conflict they won't be there. Otherwise, someone

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will argue down the road, well, we have another section that applies and you didn't specifically repeal it, so let's read `em together. So, all I'm saying is that in, in preparing for today's meeting, I didn't comprehensively look through the entire code or every other rule that's possibly out there but I did notice there's some sections that that do seem to duplicate what this intended ordinance is doing. So, I would just like to see us identify those and that they be specifically repealed or modified or whatever the recommendations are.

CHAIR MOLINA: Dr. Altenberg.

MR. ALTENBERG: Would, would that be something that we could request that the Council provide for the Subcommittee a, a list of any other code that is either redundant or in conflict with this draft ordinance?

CHAIR MOLINA: I believe we can do that.

MR. GARNEAU: It's something the Chair could, could--if, if we want to just identify `em, I'd be happy to do it. So, it could be communicated to me as an, as an assignment to, to look at what other provisions may be impacted and I'd be happy to report back.

MR. ALTENBERG: How do we implement such a request?

CHAIR MOLINA: We could do I guess a transmittal letter to his, Corporation Counsel's Office. Okay.

MR. ALTENBERG: Is that something the Chair will just--

CHAIR MOLINA: Yes.

MR. ALTENBERG: --agree to do?

CHAIR MOLINA: I'll, I'll consider.

MR. ALTENBERG: Okay.

CHAIR MOLINA: Okay. Mr. Garneau, just specifically on construction, is there any other conflicts within this particular section with the, the Maui County Code as far as duplication goes?

MR. GARNEAU: Other than that comment, no. They, as written it's fine.

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CHAIR MOLINA: Okay. Great. Thank you. Members, any other questions? Okay, seeing none. Let's move on to our next section which is definitions. Now, at this point, what the Chair would like to do is take a ten minute recess because it is a rather lengthy section. I would like to give you some time to review it and then we can come back and discuss it and ask for any comments or recommendations. Mr. McCord.

MR. MCCORD: We have a two-hour parking limit. I don't have a parking--are we going to go beyond two hours?

CHAIR MOLINA: The Chair at this point, would like to conclude by 3 o'clock at the very latest and at the rate we're moving I believe we should be out of here well before 3 o'clock. Okay. And the Chair would like to note that Mr. Chong will be leaving at 2 o'clock to catch a flight or he may be leaving now with security procedures.

MR. CHONG: Probably be a good idea that I leave now.

CHAIR MOLINA: Okay, at this point, the Chair will call for a ten-minute recess. . . .(gavel). . .

RECESS: 1:45 p.m.

RECONVENE: 1:55 p.m.

CHAIR MOLINA: . . .(gavel). . . The Public Works Subcommittee on Outdoor and Lighting is now back in session. Members, thank you very much for your indulgence. Now, we--well before we proceed with definitions, Mr. Maberry made a request, he did have a question on Section .020 regarding purpose and the Chair is willing to allow him to ask that question. Are there any objections from the body? Okay. Seeing no objections. Mr. Maberry.

MR. MABERRY: Mr. Chair, thank you very much for this opportunity. I apologize for bringing this back. I was trying to find the document that Dr. Fern Duvall submitted to us and I would like to ask the committee to consider making the changes as noted in red under No. 2, light pollution causes attraction and/of, excuse me, of/and subsequent, and then later in that same line the addition of the word "nocturnal" to wildlife. I believe that was all under. . .under purpose, sir. If we--

CHAIR MOLINA: Okay.

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MR. MABERRY: --I would like to recommend that we add that wording.

CHAIR MOLINA: Okay, under purpose, so again we add the words "attraction of/and subsequent" and "nocturnal". Members, any questions?

MR. ALTENBERG: Um. . .

CHAIR MOLINA: Okay, I will go first with Dr. Altenberg to be followed by Ms. Bernard.

MR. ALTENBERG: Actually, the, the changes recommended by Dr. Duvall were sent to me and incorporated into the current draft that we are considering with some slight modification. I used the word disorientation instead of attraction. And, but I think the rest of the, rest of the changes have already been incorporated.

MR. MABERRY: I apologize. I'm sorry, sir.

CHAIR MOLINA: No problem.

MR. MABERRY: Thank you very much.

CHAIR MOLINA: That's okay. It's good to ask questions.

MS. BERNARD: Mike.

CHAIR MOLINA: Ms. Bernard.

MS. BERNARD: My comment on that is that I, I prefer disorientation because well, lights attract hatchling sea turtles; they repel the adult females that are getting ready to nest. So, attraction wouldn't work for them in this sentence but disorientation is, is, is adequate.

CHAIR MOLINA: Okay, so you're saying status quo--

MS. BERNARD: I'm fine.

CHAIR MOLINA: --with what's, what's in the draft?

MS. BERNARD: Yeah.

CHAIR MOLINA: Okay, so noted.

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MS. BERNARD: Thank you.

CHAIR MOLINA: Members, any other comments or questions on Purpose?
Mr. Maberry.

MR. MABERRY: No, sir. Thank you very much. I didn't realize that you guys had already taken care of that. Appreciate it.

CHAIR MOLINA: Okay. Thank you very much. Okay, Members, let's proceed with definitions. First, we'll review any recommendations from the Corporation Counsel then we'll consider asking our resource personnel out there if they have any concerns or questions with regards to the definitions section of the draft?
Mr. Garneau.

MR. GARNEAU: Yes. Thank you. One comment I had with regards to the definition sections is that normally and throughout the Maui County Code, set out in the definitional section, would be in addition to the director of the department that's, that's defined, so wherever that's used in the ordinance we'll know specifically what department's being referred to. And this really, is an important issue because it gets to the issue of enforcement, and I realize that comes later down within these sections but it impacts the definitional section, what County department will be charged with enforcing this ordinance. So, we need to set out at the beginning in the definitional section that the, how a department is defined. For example, the Department of Public Works or Police or what, what, what have you, I'm not certain at this point but I, I would recommend that that be added. And along with the issue of enforcement and I'm certainly no lighting expert but I, I do think that if the County department's are expected to enforce any of these sections then they need to have something. . . concrete and measurable. And, for example, I noticed under the definition of glare that, that that may be a hard one as defined to, to, to enforce because there's no guidance really there about how we would, would measure that. So, my comments as to the definitions is that we need to make them as specific and, and tight as possible, be real clear about what each of them mean, what they, consciousness that, that they'll have to be enforced by one of the departments with the County in the future. And so, I think as this, this discussion goes along we may make changes to this section if. . .
(end of tape, side 1A). . . I did notice at one point in the, later on, on Page 7, we do refer to a department and it's not defined. So, that needs to be defined for sure.

CHAIR MOLINA: Okay. Thank you, Mr. Garneau. Ms. Bernard.

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MS. BERNARD: It's just one of those little typo things again.

CHAIR MOLINA: Okay.

MS. BERNARD: Nothing serious. On Page 3.

CHAIR MOLINA: Okay.

MS. BERNARD: Let's see under, fully shielded means that the outdoor light, go down to the fourth sentence. It looks like there's a duplication of the word lowest. I don't know maybe it's supposed to be two, two lowest. I'm not sure.

?: No.

CHAIR MOLINA: Passing through the lowest, lowest light-emitting part of the fixture. Okay, is that--

MS. BERNARD: Stop it. Just don't know how low we want to go here.

CHAIR MOLINA: Okay, I would assume that's a duplication. Okay, friendly amendment there, Members, so one lowest is required only.

MS. BERNARD: That's good to know.

CHAIR MOLINA: Thank you. Any other questions for Mr. Garneau from the members? Mr. McCord, go ahead.

MR. MCCORD: I haven't had to deal with zoning for quite some time but agricultural means designated or agricultural by the State Land Use Commission and/or zoned agricultural by the County. I understood the County only had one zone that was Urban and then it breaks it down from there. Do they have an Agricultural in that urban breakdown?

CHAIR MOLINA: That might be a good question. If I could call Mr. Alueta from the Planning Department to come up and respond to Mr. McCord's question.

NOTE: Pause.

CHAIR MOLINA: Mr. McCord, could you repeat your question again for Mr. Alueta.

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MR. MCCORD: Surely. I, I, I just was not aware that the County actually zoned part of its Urban designation Agricultural.

MR. ALUETA: I believe some time, a couple of years ago the County adopted the Agricultural Ordinance which it, it--yes, we do have the authority to zone property Ag. We also have a rural bill which we also do Rural, that was an interpretation back around '80. . '98 or '99 in which we discovered that the County had that authority and that everything was, basically everything that was not County Urban fell onto the interim district, if we had not specifically zoned it.

MR. MCCORD: Are those actually interim zones or are they, can they be designated zones just like everything else?

MR. ALUETA: I'm not following you on that one.

MR. MCCORD: I'm sorry. Were those interim zoning measures or are those permanent zoning measures?

MR. ALUETA: Permanent zoning measures. They replace the, the interim zoning to replace many of the interim zoning lands.

MR. MCCORD: Thank you.

CHAIR MOLINA: Okay. Thank you, McCord. Members, any other questions for Mr. Alueta or Mr. Garneau at this time? Mister. . .Dr. Altenberg.

MR. ALTENBERG: I should mention that that particular part of the draft is, is in the current MC-15 Code on Outdoor, on Street Light Standards.

CHAIR MOLINA: Okay. Thank you, Dr. Altenberg. Okay, at this time, if there's no questions for Mr. Alueta, I'd like to get some comments from the Public Works Department regarding the definitions. And I believe we have in the midst coming up. . .we have, trying to make sure I connect the names and faces properly here. Mr. Hanzawa. Thank you. Mr. Hanzawa, for the record, can you go ahead and state your name and the, your official position.

MR. HANZAWA: Thank you, Mr. Chairman, Members of the Subcommittee. I'm Howard Hanzawa. I'm with the Land Use and Codes Administration. I would like to re. . .reiterate the, the comments by Mr. Garneau just a few minutes ago regarding, I'd just like to have the committee keep in mind as they go through this to enable the enforcement of this proposed ordinance, the, I think the definitions

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are very important. I had pointed out to Mr. Garneau that the, the definition of glare is very subjective and if, you know, within the provisions of the ordinance, if there is reference to glare say excessive glare, it should be defined as to be measurable by the affected parties and, or suppliers and the enforcement personnel. It should not be left to the. . .a subjective definition in, in which it would not be measurable. So, I, I would just like to remind the Subcommittee to keep that in mind. Thank you.

CHAIR MOLINA: Thank you. Okay, Dr. Altenberg followed by Ms. Bernard.

MR. ALTENBERG: I actually wanted to share in that concern and although some of the definitions have subjective elements, when we drafted the proposed ordinance we strove to basically anything, make anything enforceable based on objectifiably [*sic*] measurable features and particularly trying to rely on the design specifications of hardware. For example, the lumens put out by the light bulb and the geometry of the luminaire, things which could be measured even during the day. So, it was our intention to try to make the, the features to be enforced as objectifiable [*sic*] as possible.

MR. HANZAWA: I would also like to add that. . .we do not have any illuminating engineers or people who have the experience within the County right now. So, there would have to be training involved, you know, once the ordinance is passed. Thank you.

CHAIR MOLINA: Okay.

MR. ALTENBERG: Thank you.

CHAIR MOLINA: Mr. Hanzawa, that's something good to note. Our representative of the illuminating engineers just left today. He could have responded to that but I think staff can make a note of that question for Mr. Chong when he does return this week. Ms. Bernard.

MS. BERNARD: I don't know if maybe it might be helpful to hear from the Ad Hoc Lighting Committee folks who were involved in, in looking at the other legislation in Florida and elsewhere how this was handled. Did this come from other legislation. . .this term?

CHAIR MOLINA: Okay, Mr. Altenberg, would you--well, at this time, Mr. Hanzawa--did, is there, Members, any other questions for Mr. Hanzawa at this time? Okay.

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Seeing none. Okay, Mr. Altenberg, you can proceed and try and respond to Ms. Bernard.

MR. ALTENBERG: Well, the process by which this draft was created, we took the original current County Code MC-15 on Street Light Standards and then augmented it or revised it with provisions that other communities had on their code dealing with outdoor light pollution. So, for example, the, the defin. . .definition on glare is in the current County Code, MC-15, and it was just basically inherited into this current proposal. So, now we actually tried to--a number of other communities lighting standards used foot candles and things that would require somebody to go out with a light meter and measure and we tried to avoid that, to avoid, avoid having to require somebody to go out at night with a light meter to, to do enforcement. Instead, we tried to emphasize features of the hardware that are in the specification that would be labeled on the device itself or that could be easily measured with. . .you know, a protractor or a level. So, you know, there may be some areas that need polishing in the, in this draft where we've deviated from that but that was our design principle as far as what we drew from other communities. Does that answer your question?

MS. BERNARD: Let me just clarify.

CHAIR MOLINA: Proceed.

MS. BERNARD: Now, what you're is that this definition of glare came from an existing County Code, so it's already something that you've, the County has had to or may have to deal with. . .sounds like.

CHAIR MOLINA: Mr. Hanzawa.

MR. HANZAWA: Yes. Excuse me. It is within the street lighting rules, however, you know, the, if, if the new ordinance will rely upon this definition of glare to add additional provisions against so-called glare and make that, you know, in effect laws, it, it should be made a lot clearer. Otherwise, it would be very hard to enforce.

CHAIR MOLINA: Okay. Thank you. Okay, I have Mr. Maberry waiting and, Dr. Altenberg, if you don't mind following Mr. Maberry. Mr. Maberry.

MR. MABERRY: Yes, sir. I'd just like to point out in, in discussions during the break, there was concern about the, about the term light trespass and it's, it's basically the same situation. It also is a definition that's taken directly from MC-15. I'm,

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I'm curious, how is the County enforcing these standards at this time? What. . .you, you aren't enforcing `em, is that what I'm understanding?

MR. HANZAWA: The street lighting rules are fairly general in nature and if, if the public has, currently if the public has any concerns about a street light within their neighborhood, they make a request through the Engineering Division which has the, a street lighting committee that reviews these requests. And it's the committee that makes the determination whether the complaint is justified or not or, and whether say a street light should be taken out or, or should it or not. So, there's a, there's a street lighting committee that makes that determination.

CHAIR MOLINA: Continue.

MR. MABERRY: Thank you very much, sir, for your response and, and I appreciate it. I guess given this opportunity and I think what you're, what you're also trying to tell us is this, this is an opportunity to try to draft something that is a little clearer and a little and, and better for the, for the public and easier for, for the County to enforce and you're recommending that we take this opportunity. Is that, that what I understand, sir?

MR. HANZAWA: Yeah, that's true, Mr. Maberry. So, I would like to request that if it could at all be made clear, we should take a look at that.

MR. MABERRY: Thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Maberry. Dr. Altenberg. Okay. Thank you. I've one question regarding the definition of outdoor lighting. Does this, in this definition--I don't who I should be asking this question to maybe it's Dr. Altenberg--is there anything in there that addresses things like flashlights or headlights? Where, where would that be applicable under definitions?

MR. ALTENBERG: We didn't deal with. . .with, with lights on automobiles or vehicles and. . .or flashlights, so I haven't thought about that. Generally, other communities don't deal with those either.

CHAIR MOLINA: Okay.

MR. ALTENBERG: It does deal with emergency lights. So, for example, the, the--I don't know if the lights that, for example, illuminate the streets when cane trucks are hauling cane across the highways--I don't know if those are called emergency lights or whatnot but it, it exempts emergency lights.

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CHAIR MOLINA: Okay.

MR. ALTENBERG: So, we might want to refine that.

CHAIR MOLINA: Okay. Thank you. Mr. Maberry.

MR. MABERRY: Yes, sir. I, I think what we were trying to do is address lights that are somewhat fixed and, and stay on for a long period of time. So, you know, temporary lighting like flashlights and, and movable lighting, I don't think was, was intended too.

CHAIR MOLINA: Okay, and this also excludes lanterns I would assume? Right. So, okay. Mr. McCord.

MR. MCCORD: Well, I do note that some of our roads, particularly, like Pulehu which comes uphill and if you ever drive down Pulehu at night and hit one of those halogen light cars, I should think that would be a significant impact on coming off the mountain. Because if we go out in front of our house and we look down and you can tell the difference between a regular car light and a halogen light. Now, we may be opening a bucket of worms and get all of Detroit down on our necks but my wife is very sensitive to the halogen lights and hates them, and yells and screams every time one of those cars go by. I don't know that we can do anything about it.

CHAIR MOLINA: Okay. Thank you. Any other questions or concerns on this section at this time? If not, any--oh, go ahead, Ms. Bernard.

MS. BERNARD: Maybe I'm jumping the gun. How do we resolve the issues that were brought up by Mr. Hanzawa and--

CHAIR MOLINA: Again--

MS. BERNARD: --can we, can we refine it now? Is that--

CHAIR MOLINA: We, we could, we could do that--

MS. BERNARD: --is that appropriate?

CHAIR MOLINA: --enter a perusal. Prior to that, I was going to ask any of the other resource personnel if they would like to make comments and we can continue--

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MS. BERNARD: Great.

CHAIR MOLINA: --with the deliberations. Let's see I wanted to call upon the police representative, Assistant Chief Tam Ho if he has any comments on the definitions portions of this bill at this time.

CHIEF TAM HO: I don't have any comments about the definitions but just to make our position known as far as the Police Department we're against this ordinance. Because these low sodium lights they distort color and they diminish visibility and that's our basic problem. It's just an officer safety issue.

CHAIR MOLINA: Okay. Members, any questions for Chief Tam Ho at this time? Okay, seeing none.

MR. ALTENBERG: No, actually--

CHAIR MOLINA: Oh, go ahead. Dr. Altenberg to be followed by Mr. McCord.

MR. ALTENBERG: Are you, is the Police Department officially against the entire ordinance, or is it just that specific feature that you described?

CHIEF TAM HO: That, that feature where you're going to change the lighting where, where it distorts color and diminishes visibility. As far as whatever else you want to do, we're not that concerned.

MR. ALTENBERG: Thank you.

CHAIR MOLINA: Okay. Thank you very much, Mr. Altenberg. Mr. McCord.

MR. MCCORD: I'm, I'm really not quite clear on, on just where the sodium, the little sodium lights would be used. It seems to me that if we're talking about street lights like at an intersection particularly Upcountry, I can't see where that would, you know, impact wrongdoer's identification or, or something like that. I can understand where if the ordinance were implied to areas where we're talking about, you know, the safety and welfare, protection lights, that kind of thing. But it would seem that the street lights unless you're, you're concerned about people just not being able to identify color, really would be such a concern to the Police Department.

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CHIEF TAM HO: Well, basically if we go to these lightings it's going to place our officers in jeopardy and it's kind of. . .doesn't make any sense that if we were, we were asked to enforce this law, it would, it would be silly because it puts our officers in jeopardy and then you're going to ask us to enforce this law. It doesn't make any sense.

CHAIR MOLINA: Okay. Thank you. Members, any other questions for Chief Tam Ho at this time? Okay. Ms. Bernard.

MS. BERNARD: I don't know if was in earlier iterations of testimony about this issue. I vaguely recall reading or hearing about some studies that were done about looking at colors of cars, for instance, which I know officers need to know when they're pursuing a suspect. And there was something about some kind of error rate that people make then it turned out that it really didn't--I could, maybe you guys can fill me here and support me on this if you recall going over this in your research--if there, if really the lighting type is, is really going to make that much of a difference. So, I, I--

CHAIR MOLINA: Ms. Bernard, is that in a form a question for Mr. Tam--Chief Tam Ho?

MS. BERNARD: Good question and, and also to the officer because maybe he's familiar with these studies as well. Anyone?

CHIEF TAM HO: Well, I talked to the officers on the Big Island and they say. . .one problem they have is in the shopping malls, people drive up in a red car and they go shopping and when they come out they call the police because they can't find their red car because it's all of a sudden turned gray.

MS. BERNARD: I see.

CHAIR MOLINA: Okay. Thank you. I think those are very valid concerns that's being brought up by the Police Department that we should seriously take into consideration too. Mr. McCord.

MR. MCCORD: As we took a ten minute break and Richard left, Richard and I had an opportunity to speak for a few minutes. And he said that the ordinance on the Big Island was overly restrictive and I've asked him for a copy of that, so we could look at it to make sure that we don't do things that would jeopardize things here on Maui such as police enforcement. And I would agree with you that, maybe the low sodium in a shopping mall area is not the best idea. I guess I'm still concerned in a lot of the comments that I get on light depredation are the

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street lights and that's kind of I guess where the low sodium could be applied where I can't see it would make a big difference.

CHIEF TAM HO: For anybody that works at night those lights are terrible. It puts you at a really disadvantage whatever you're doing. It, it's terrible. If you ever stood under one of these lights, you'd know.

CHAIR MOLINA: Okay. Okay, Members, I think what we need, well, from staff, is to maybe get a copy of the ordinance on the Big Island, so we can use it for review at our next meeting. Okay, any other questions for Chief Tam Ho? If not, I'd like to thank Chief Tam Ho for his comments.

CHIEF TAM HO: Yeah.

CHAIR MOLINA: Mr. Kobayashi from the--do you have any comments at this time? None? Okay. Okay. Members, any other questions with regards to definitions in here or clarifications? Okay, seeing none. Let's move on and like I've stated earlier we have several more meetings, so along the way I'm sure you may have more questions or need for clarification that we always bring up in our next meeting with regards to definitions. As you can see it's a very lengthy section and with a lot of big concerns. Okay, let's move on to Section .050 titled General Exemptions. Any responses? First, I'd like to ask any of our resource personnel if they have questions on that, Energy Department, Public Works, Police?

MR. NAKAO: Can I say something, Mr. Chair?

CHAIR MOLINA: Okay. Please come on up to. . .hot seat I guess if you could call it. Okay, Mr. McCord, any comments at this time?

MR. MCCORD: While, while he's coming up. Is. . .the light fixtures used by HC&S, for example, considered emergency lighting? I mean it's not an emergency but it certainly is, is for public safety.

CHAIR MOLINA: Well, I guess, let's see who we could address that question to, maybe it would be nice to get someone from HC&S. If there's no one here that can respond to that question, Mr. McCord, we could always send that question out to a representative from HC&S or maybe if Mr. Hanzawa could respond to that question.

MR. MCCORD: We might want to put that in, you know, as, because that's kind of unique to our situation here under general exemptions.

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CHAIR MOLINA: Okay. Thank you. Mr. McCord--Mr. Maberry.

MR. MABERRY: My understanding is it's considered utility lighting.

CHAIR MOLINA: Utility lighting. That's. . .okay, we'll follow up on that question and get a confirmation to give you a confirmed answer. Okay, we have Mr. Nakao. Okay, if you can go ahead and state your name and position for the record.

MR. NAKAO: My name is Greg Nakao and I'm an electrical engineer with the Land Use and Codes Administration. My comment applies to the definition of the 15 degree cutoff. It seems, you know, a little confusing in there and I was hoping maybe we could have a diagram, which would. . .clearly indicate, you know, what the 15 degree cutoff means. The description here, you know, it talks about two different planes and so forth. If we had a clear, you know, a diagram it would eliminate a lot of confusion.

CHAIR MOLINA: Okay, now this under general exemptions?

MR. NAKAO: Uh, no this is under definitions.

CHAIR MOLINA: Oh, okay. I'm sorry, we, we--

MR. NAKAO: Yeah, if I can go back on that item there.

CHAIR MOLINA: Oh, okay. Members, any objections to going back to definitions? Okay, let's, so 15 degree cutoff--I'm trying to find my place here in definitions. Okay. So, again your concern is--

MR. NAKAO: The definition, the clarification--

CHAIR MOLINA: Okay.

MR. NAKAO: --of what fixture qualifies as a 15 degree cutoff.

CHAIR MOLINA: Okay.

MR. NAKAO: Because I believe a lot of these came from the Big Island ordinance.

CHAIR MOLINA: Mr. Altenberg, Dr. Altenberg, are you going to respond?

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MR. ALTENBERG: That particular, actually the Big Island ordinance doesn't include the, the issue of fully shielded luminaires but the 15 degree cutoff came from other communities where that's the current code that they use. And in regards to a diagram. There is a diagram in the public testimony that was submitted by the Ad Hoc Committee on October 3rd and I have it here if you wanted to see that but it's a figurative rather than definitional. In terms of. . .an engineering example of what would satisfy this 15 degree cutoff criterion, for example, these lights where that, emit light uniformly from a disk would satisfy that 15 degree cutoff. Because as, as you get to a 15 degree angle, the, the amount of light that's in that cone above that 15 degree angle is less than, is 5 percent or less of the total emitted by the, by the luminaire. Does that help?

MR. NAKAO: Yeah, that helps a little.

MR. MCCORD: Point of information.

CHAIR MOLINA: Okay. Well--go ahead, Mr. McCord.

MR. MCCORD: I'm sorry, you've lost me. I can't find 15 degrees--

CHAIR MOLINA: Oh, okay.

MR. MCCORD: --in definition.

CHAIR MOLINA: Oh, okay, if, if you could refer back to your definitions, it's under F right after existing. It's at the top of Page 3. . .second paragraph.

MR. MCCORD: Got it. Got it.

CHAIR MOLINA: Okay.

MR. MCCORD: Thank you.

CHAIR MOLINA: Okay, and we'll be sure to get you a copy of that diagram for your information, Mr. Nakao.

MR. NAKAO: Thank you.

CHAIR MOLINA: Okay, any other comments on definitions? Okay. Okay, let us proceed again back to .050 General Exemptions. Any comments from our resource personnel first on this section of the ordinance?

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MR. NAKAO: You guys were speaking earlier about emergency lighting?

CHAIR MOLINA: Yes, we were.

MR. NAKAO: Yeah.

CHAIR MOLINA: Okay, your comments, Mr. Nakao.

MR. NAKAO: Okay. Well, my understanding on emergency lighting it's, you know, used mainly for like safety. And most applications that I'm familiar with is it illuminates the way out of buildings, it's the, eliminates the means of egress. So, if you look at most commercial buildings and so forth, they normally have these battery pack type of lights that basically light the ways out of the room so you can get out of the building. So, I don't know how much of an application we'd really have for an outdoor lighting ordinance, yeah.

CHAIR MOLINA: Uh-huh. Comments, Members? Mr. Maberry.

MR. MABERRY: I believe the intent was also to cover like, I know this probably an inappropriate way to address it, I think it's DUI checks and such where you have to put up lighting or if you had to do an investigation that required quite a bit of time at night where you put up special lighting because of an accident or whatever the case may be. Is, is that correctly? Isn't that kind of what--if I may, Mr. Chair?

CHAIR MOLINA: Sure. Proceed. Go ahead, Mr. Alten--Dr. Altenberg.

MR. ALTENBERG: Yes. That's correct.

CHAIR MOLINA: Okay.

MR. NAKAO: Okay, that's fine.

CHAIR MOLINA: Mr. Nakao, is that fine? Okay. Members, any other comments or concerns regarding general exemptions? Ms. Bernard.

MS. BERNARD: Under fossil fuel light. . .this is a tough one. One of the things that happens when people go camping on our beaches with bright kerosene lanterns is. . .is it, is it can cause female nesting turtles to not approach that particular area. So, it's just, you know, that's one of the reasons that that some of us are in

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support of this ordinance is to protect the nesting habitat of our endangered honu and `ea. But I don't know that we would want to go down that path of restricting the ability for people to feel safe when they camp and that kind of thing. It's just, just the point of, I'd, you know, just like to generate maybe some discussion on it.

CHAIR MOLINA: I think you bring up a good point. I think for me also I'm curious about, what about camp fires where you just throw a couple of logs and what kind of an impact that makes, so.

MS. BERNARD: Uh-huh.

CHAIR MOLINA: Okay. I realize this is a very broad bill, so--

MS. BERNARD: Tough, yeah.

CHAIR MOLINA: --as we move along in our meetings, we'll try and see what areas we want to focus on initially. Mr. McCord.

MR. MCCORD: I guess I feel that, you know, those kinds of light depredation items are short lived and very temporary. Similar to maybe in this case again, the halogen lights coming up Pulehu, you know, it's, it's short lived, it's temporary and almost impossible to run out and enforce because it is as such for a temporary condition.

CHAIR MOLINA: Uh-huh.

MR. MCCORD: So maybe we need not go there, Mr. Chair.

MS. BERNARD: Yeah, it--

CHAIR MOLINA: Go ahead, Ms. Bernard.

MS. BERNARD: It, it seems to be that--it may not be temporary--I mean some people are, are living on beaches. It's just. . . I think the truth is that people do eventually go to sleep and turn off the lights. So, let's, let's definitely not go there.

CHAIR MOLINA: Okay. Thank you. Any other comments or concerns regarding Section .050? Hearing none. Let's go down to .060, Outdoor Lighting Standards Committee. And at this time, Members, any comments on this section? Okay, seeing none. Mr. Maberry, you look like you have your hand up. Or--

MR. MABERRY: . . . *(inaudible)* . . .

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CHAIR MOLINA: --you want to yield the mike to Dr. Altenberg? Proceed, Dr. Altenberg.

MR. ALTENBERG: In one of the memos we received that there was concern about that 060 was not detailed enough in specifying the duties and the purview of this outdoor lighting standards committee and also, how it would act in relation to other subcommittees that have dealt with outdoor lighting such as the Street Light Subcommittee. So, I think definitely we need to add some detail and reconsideration to the 060.

CHAIR MOLINA: Okay. I'd like to ask Mr. Garneau for his comments on it.

MR. GARNEAU: Well, I, I think Mr. Altenberg actually was repeating a comment that I had made before. There is as I said earlier today a separate street lighting committee that's, you know, has an, is established by the Maui County Code. Has terms of operations set forth and also has the powers and duties and functions set forth. So, in this particular case, we would need to decide what the role is of the outdoor lighting standards committee, who would serve on it, what, you know, how long they would serve for, what their powers would be and so forth. So, I, I think it definitely needs a lot more detail here.

CHAIR MOLINA: Dr. Altenberg.

MR. ALTENBERG: The. . . basically the, the approach to this, this ordinance isn't essentially trying, is an augmentation of the existing Street Lights Standards Committee. . . code to all outdoor lighting. And so, we were also envisioning that the Street Lights Subcommittee would in a sense be changed to the Outdoor Lighting Standards Subcommittee. And that it would be retitled or the one abolished and the other created, so that the. . . not only street lights but other outdoor lights would come under the purview of this Outdoor Lighting Standards Committee.

CHAIR MOLINA: I think you bring up a good point, Dr. Altenberg, since we already have two committees, one of these two committees, should this County chose to keep them in existence, will have to I guess have jurisdiction over the draft bill if and when it becomes a reality. And I think looking at Section .060, this section I assume would define the powers and duties of the committee and as is I think the section is rather vague. Your comments on that Corporation Counsel.

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MR. GARNEAU: Oh, yes, 'cause if you look for example at the, the Street Lighting Committee which is in Chapter 12.17, it establishes the committee, it says there's five members. There's also nonvoting members. One person's designated by the Chief of Police and one by the Director of Public Works and so forth. So, if, if this committee that's proposed under this ordinance it seems to, it has a broader, would have a broader jurisdiction because it would apply to all outdoor lighting not just street lighting. But it needs to be established in, in a way that's definable by who's going to be on it, how they'll be appointed, and how long their, their term would be, and so forth. So, I, I would recommend it, it having just one. And since, since the, this ordinance is more comprehensive, I would recommend that we locate the language established in the committee within this 060 section and then if it is recommended that the Street Lighting Committee itself be repealed or then to, to do that. I, I don't see much of a point for having two committees doing the same work.

CHAIR MOLINA: Thank you. Any comments from Public Works? Mr. Hanzawa.

MR. HANZAWA: I would recommend also that there be only one committee rather than have two separate committees. Also because this proposed ordinance would also entail regulation of street lights. So, whether it still be called the Street Lighting Committee or the Outdoors, Outdoor Lighting Committee, I would recommend that there not be two separate committees.

CHAIR MOLINA: Okay. Mr. Maberry.

MR. MABERRY: May I ask, sir, how, how do you feel about there also being the Variance Committee that's responsible for signage? Would, would it seem reasonable that that would, would fall under the same committee?

MR. HANZAWA: Let's see, I would defer that question to the Planning Department, since they take care of variances and also look at the, enforce a sign ordinance.

CHAIR MOLINA: Mr. Maberry, can you restate your question for Mr. Alueta.

MR. MABERRY: I apologize. I'm not sure that I know exactly how to phrase it. But I, I guess while we're talking about all outdoor lighting, would it make sense to, to you to have, to include also the, the signage that is lit up at night? Signage design and if it's lit at night to be under the same committee. I'm curious.

MR. ALUETA: To be by the same committee?

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MR. MABERRY: Yes, so that you'd have all outdoor lighting under one committee and I, I realize there's other issues there but that's why I'm asking the question.

MR. ALUETA: I'm also drafting the sign ordinance, which is also, is going to be coming back before the Public Works Committee shortly. And originally, they tried to stick lighting into my sign package and I did not want it because it's just a can of worms as you, as you've probably found out. And it is. . .yes in some senses because the Depart. . .Planning Department does review, one, variances and we also have an Urban Design Review Board. The problem is that we do not have the technical expertise to deal with it. A lot of these deal with one lumens or electrical output or angle and that's why--which deals more--a lot of the regulations that have to do with your lighting and how you're planning to control much of the lighting has to do with design and building standards, which would be accompanied during building permits. And so, as far as I'm not sure how, where, I mean how this committee would work and whether or not--I'd hate to see another committee formed from--I staff enough of them. So, it's a hard question to answer because I'm not sure where you want to put this.

CHAIR MOLINA: Thank you. Okay, Mr. McCord.

MR. MCCORD: Yeah, the Outdoor, Maui Outdoor Circle appears before the Sign Committee, Subcommittee constantly. And we usually do not deal with lumens, we deal with size of signs--

?: Right.

MR. MCCORD: --and our position is we constantly object to backlit signs, which would mean less lights and, and less of what we're trying to prevent here. However, I certainly agree with Mr. Hanzawa that two light committees would be a mistake and I would like to see those combined together. And so, let's change this 06 to somehow incorporate. I can't imagine the Street Light Committee being very active, however, the. . .Variance Committee spends a lot of time working on signs. But I shouldn't think the Street Light Committee would be very active and this could give them something more to do.

CHAIR MOLINA: Okay. Any other comments? Mr. Hanzawa.

MR. HANZAWA: I have to agree with the last comment of Mr. McCord in regards to the duties of the Street Lighting or Outdoor Lighting Committee. The reality right now is that many times the, the committee has a hard time getting a quorum for meetings.

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CHAIR MOLINA: Okay, I think you bring up a good point. I guess maybe it's our duty here for this Subcommittee should we have an outdoor lighting committee formed, to take into consideration the scope of the committee, the number of members, the appointment method. In other words, how many members should be appointed by the Mayor, Public Works Department, et cetera; should it include ex officio members and which department will oversee this committee. And I guess as a model we could use what's in the County Code for street lighting committees. So, that's something that we can consider for our discussion. Dr. Altenberg.

MR. ALTENBERG: Yes. I guess the, the reason that that wasn't put into the draft is that it, it fell outside of this MC-15 Code on street lights, the establishment of that committee. Otherwise, I probably would have just lifted it word for word. So, but I would have a specific question that I would like the other members of the committee to consider, which is, are there ways that this Street Lights Standards Sub. . .Committee would need to be changed in, in dealing with the, the comprehensive outdoor lighting standards or is its current standards adequate for dealing with it? And we can simply, you know, graft the, the code that establishes it into this outdoor lighting standards ordinance.

CHAIR MOLINA: Maybe Mr. Hanzawa could offer his comments on that since I, currently, the current street lighting committee I would assume falls under Pub. . .Public Works Department's jurisdiction.

MR. HANZAWA: Put this up here. I need Mr. Garneau to review my comments and correct me if I'm wrong. But, you know, as far as the Street Lighting Committee, it's probably enabled by the. . .Maui Charter and I'm really am not sure as to how this proposed ordinance could make that change within the Charter. Mr. Garneau.

MR. GARNEAU: I guess the question is to repeal it or what is your. . .with regards to that section?

MR. HANZAWA: To revise the Street Lighting Committee to. . .

MR. GARNEAU: Oh, I, I think that the committee could recommend to the full Council to revise the Street Lighting Committee. Because whether you're talking about the Street Lighting Committee or the proposed Outdoor Lighting Standards Committee, I mean you're talking about an exercise of the Council's police power. And so, certainly both establishing and repealing and making changes is

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within the jurisdiction of the Council. So, I, I don't see that as a, as a problem. You can do that.

CHAIR MOLINA: So, Mr. Garneau, basically we don't need to go through all the process of having the Charter changed or anything like that? We can just, it's up to the Council to go ahead and keep this committee named as a Street Lighting Committee with the additional responsibilities implemented?

MR. GARNEAU: Well. . .that's not what I meant. I think the Council does have the power to, to do this but my recommendation were to be to establishing a new Outdoor Lighting Standards Committee within this ordinance. And as part of that ordinance, repeal those sections that apply to the Street Lighting Committee so there isn't the overlap. So, that's, that's what, how I recommend it be done. I don't think that we need to. . .refer outside of the--what you're, what we're proposing here is to do a comprehensive ordinance that essentially combines some of the things that already in the Maui County Code with the rules of the Department of Public Works that we've been talking about MC-15, all codified in the ordinance itself. So, given that that's the, the direction that this is going, it makes sense to me to, to incorporate, to just have everything incorporated within this ordinance itself, and not refer outside of it. And wherever, if there's anything outside of it that's in conflict or doesn't make any sense anymore then repeal on that basis.

CHAIR MOLINA: Thank you, Mr. Garneau. Mr. Maberry.

MR. MABERRY: Yes, sir, I'd like to ask the staff that's responsible for the current Street Light Committee based on partly on the comment made earlier about having trouble, you know, getting a quorum to meet. Are there things about the committee that that you would like to see changed that we can address or, or use as reference in the process of putting together this new committee. . .possible of putting together this committee?

MR. HANZAWA: I personally have not, don't have any interaction with the Street Lighting Committee. It's through our Engineering Division of the Department of Public Works and we could have a representative from our Engineering Division attend one of the next meetings.

MR. MABERRY: Thank you, sir.

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CHAIR MOLINA: Thank you. I know it's very difficult to establish quorum for a lot of our commissions and boards and especially I guess street lighting. How often do they meet, Mr. Hanzawa? Do you have information on that?

MR. HANZAWA: I believe it's every month, once a month. But I have heard that they, you know, have missed like maybe three meetings in a row because of a lack of a quorum.

CHAIR MOLINA: That's unfortunate. Okay. Thank you. Members, any other questions on Section .060? Okay, Mis. . .Dr. Altenberg.

MR. ALTENBERG: Yes, I wondered if I can request that the, the, the Code that established this, this other, the other committee be put in our little folder for next time and, and, and raised as a possible revision of .060.

MR. SALDANA: Mr. Chair.

CHAIR MOLINA: Proceed, Mr. Saldana.

MR. SALDANA: It should be in your binders. If you look for a cover letter or a cover memo dated January 16, it's to the members of the Subcommittee from the Chair. And it's a document transmittal is the subject matter. Do you have that in?

MS. BERNARD: Yes.

MR. SALDANA: If you pull up the second page that is the ordinance that creates the street lighting committee. And it, and it, and it defines how you develop the membership, the term, and the powers and duties of, of the Street Lighting Committee. And within the powers and duties, there's been some talk about adopting these standards for the Outdoor Lighting Standards Committee. This particular powers and duties section seems to focus a lot on, on lighting and I think the, the committee that you're wishing to develop would be, would cover a lot broader area. So, you may want to consider those other areas that you may add to those, the scope of the, the committee.

CHAIR MOLINA: Okay. Dr. Altenberg.

MR. ALTENBERG: I'd like to elaborate. One, one of the I guess innovations that is in this Section 060 that our Ad Hoc Committee came up with was that this, this Outdoor Lighting Standards Committee shall not simply be advisory but shall

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have a . . . serve in conjunction with the Director of Public Works in that variances to the code be granted only with the approval both of the Public Works Director and this committee. The idea was in a sense to, to protect the, the Public Works Director from . . . making decisions that may, might later subject them to controversy because they had general citizen . . . something that citizens would in general not approve of. And in particular the, the incident with the limekiln development where a single person in the . . . in the Administration approved these variances that were later subject of intense controversy. We believe that if there had been some kind of advisory or some kind of . . . committee that also reviewed such variances that these errors would not have, have been made. So, it was the intent to maybe an innovation for Maui County to require both an, an Administrator's approval and a committee's approval rather than have a committee strictly in advisory capacity to be overruled at the will of the, of the director or whoever it was reporting to. So, that is a new feature that's in this proposal and that perhaps we should discuss because of that.

CHAIR MOLINA: So, somewhat of a checks and balances situation.

MR. ALTENBERG: Exactly.

CHAIR MOLINA: The accountability passed on to, to other individuals besides just one. Comments from the Corporation Counsel on that request or suggestion.

MR. GARNEAU: Dr. Altenberg, where are you referring in the draft for those provisions?

MR. ALTENBERG: Let's see, when . . . *(pause)* . . . under . . . let's see where is an example. Where the committee is referred to in the exact code . . . let's see . . . I think yeah, for example, Page 6 Section 090 subsection E, any unusual or project specific request for non-complying lighting pole shall be reviewed and approved by the Director and, and the Outdoor Lighting Standards Committee. There's a typo in there but . . . *(end of tape, side 1B)* . . .

CHAIR MOLINA: Members, for clarification on the bottom of Page 6, letter E under .090 Luminaire mount standards.

MR. GARNEAU: Okay. So, my, my comment on this is . . . just look how difficult it was for us to find this. So, I would, I would think in terms of the, the construction, it would be better when . . . in Section .060, when the, the Lighting Standards Committee's duties and powers and functions are set forth, one of them should state specifically that they have the power to review variances or approve

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variances and, and state how that's done. There you could add an additional section and title it variances or appeals process or what. . .whatever language you want to use. But I would probably put it in the power section and also have a separate section on the description of how the process works because the public needs to have notification about, about what to do. So, let's say, for example, you had a developer that was putting in lighting that the director felt didn't fall within this ordinance. A developer wants to apply for a variance, they need to know from the Code where do I go, what do I have to do, what are my rights, you know, what, what will the outcome be. So, I would like to then see that .060 be amended to include the power, the power and maybe add another whole section dealing with variances, if that's the intent of the, of this Committee.

CHAIR MOLINA: Okay. Dr. Altenberg.

MR. ALTENBERG: One question. So, for example, should that section E that I just read be removed from the Luminaire mount standards or should, should it be in a sense duplicated under the powers of the Committee?

MR. GARNEAU: Yeah. I, I think it would be best to have its own section. I mean it's just as clear for some--I, I can just tell you how I use the Code and I read the Code everyday. I would look down the sections and look for something that said variances or appeals and I would turn to that first. So, if there's exceptions made, we should, they should be labeled as such how, so that people using the Code can, can find that right away and, and so it's clear. So, I would think that this would be better. I know we haven't got to that section yet but I think it would be better if it was included separately.

CHAIR MOLINA: Okay. Dr. Altenberg.

MR. ALTENBERG: Now, so if we were--see the way it was setup here when you're reading about Luminaire Standards, you would see that there was specifically for those standards a means of getting variances. Should some reference--because there's other sections where there's no means of getting variances--and so, if we remove section E to its own section under variances, if you've read .090 you wouldn't realize that that section had a means to get variances. How would you put in some--how would you help clarify that?

MR. GARNEAU: Well, I would think in the, none of the sections would have variances. And then in the variance's sections it would say, except for the following, and you, you, you could put in the, the, you know, for luminaire standards this, you know, this is possible or, you know, so that, that would be consistent throughout

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the ordinance. So, you would look to the variance section to find out what exceptions. You'd read first this is the rule and there wouldn't be, you know, any modifications. Oh, well you look in the exceptions and say, okay, well in these situations that we can get variances or the rule doesn't apply.

CHAIR MOLINA: Okay.

MR. ALTENBERG: At what point in, in our discussion do I say that sounds good to me and what does the rest of you think?

CHAIR MOLINA: I guess we can do that right--

MR. ALTENBERG: Now?

CHAIR MOLINA: --well, actually we were planning on doing that at our next meeting. The Chair's intent was to terminate today's proceedings by 3 o'clock 'cause I do have some other commitments. But we have a few more minutes left, we can go ahead and sort of have a prediscussion on this if, if that's the will of the body. Mr. McCord, your hand was up and followed by Mr. Maberry.

MR. MCCORD: Yes, I'll agree. And I think that we will find that there will be any, anything like this will always get requests for variances whether it be in lumens or design standards for the shields, not just for light poles. And so, it needs to be its own section.

CHAIR MOLINA: Okay. Okay, Mr. Maberry.

MR. MABERRY: Yes, sir. I, I guess. . .how do we, how do we, how do we handle the, the editing? I mean you, we, we received some very good ideas. Is this something that we go back and, that we may be allowed to go back and, and maybe e-mail to staff suggestions of new wording for some of these section. Is that what--

CHAIR MOLINA: Sure. We could--

MR. MABERRY: --is that acceptable?

CHAIR MOLINA: Sure. We could always do that. We, we always take in information prior to the next meeting. I'm leaving it pretty much open to the committee as far as how you guys want to disseminate information or get, get it to the staff, so we can bring it up for discussion on our next agenda. I did want to go back to

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.6--Section .6 [sic] 060 regarding the scope of the committee. I'd like to finish that up for today and then if there's some time permitting we can go back to .090. Again, as was stated earlier how, what kind of parameters do we want to setup for this Outdoor Standards Lighting Committee should one be formed. I would just like to get your feedback. Members, suggestions? Mr. McCord.

MR. MCCORD: I'd suggest that we do exactly what we had talked about. We incorporate the street committee into this and repeal their present situation or just expand their, their scope of work. I would also suggest that we put in something else in here at 0-point whatever on variances and I guess these are things that we ask the Corp. Counsel to do for presentation at the next meeting.

CHAIR MOLINA: Okay. Mr. Maberry. Ms. Bernard.

MS. BERNARD: I guess it looks to me like maybe we'll be adopting the way the Street Lighting Committee was appointed.

CHAIR MOLINA: With some modifications.

MS. BERNARD: With some modifications. So, that's fine.

CHAIR MOLINA: Okay. Dr. Altenberg, your comments.

MR. ALTENBERG: I echo those remarks and in particular the, the one change in the powers, duties, and functions would be that this committee not simply serve as an advisory committee to the Department of Public Works but that it have. . .be one of the parties in addition to the director for approving variances.

CHAIR MOLINA: Okay. Such as what was discussed in .090.

MR. ALTENBERG: Yeah.

CHAIR MOLINA: Okay. Mr. Saldana, any comments? Any suggestions from you?

MR. SALDANA: In terms of--thank you, Mr. Chair--in terms of, in terms of the scopes and duties, it seems pretty, it seems pretty straightforward in terms of establishing the members and, and the terms and whatnot. It sounds like the committee is pretty consistent on that. In terms of the powers and duties, it would probably be a little bit helpful in terms of trying to draft the sample, if, if the committee had some--could give some recommendations as to what other duties besides street lights they would be reviewing or what other items besides street

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lights they may be reviewing. To what extent will their review go as well and then whom they will be making the recommendations to, et cetera. So, if, if they can give us some kind direction on that, that would, that would also be helpful in, in, in finalizing this section, so that maybe we can get something back to the Subcommittee at the next meeting for consideration.

CHAIR MOLINA: Okay. Members, comments? I think what Mr. Saldana brings up is good. . .in especially with regards to what department will oversee this committee. I'm open for suggestions at this time, Members. If. . .right now your brains are overloaded, I can--I know it's a little overwhelming at this point--

MR. SALDANA: Mr. Chair.

CHAIR MOLINA: Dr. Altenberg.

MR. SALDANA: Oh, I'm sorry. I was going to say they can always e-mail it, e-mail their, their suggestions to me as well.

CHAIR MOLINA: Yeah, we're not requiring you to come up with your suggestions in the next five minutes but anyway.

MR. ALTENBERG: So, I guess that my, then I would follow Mr. Saldana's recommendation that we could e-mail suggested revisions, which then he could then present for the next Subcommittee meeting.

CHAIR MOLINA: Okay. Resource personnel, any comments from this side of the room with regards to setting parameters for this Outdoor Lighting Committee? Any comments at this time?

MR. ALUETA: No, I just have, I just wanted to, on another section just wanted to comment on something there.

CHAIR MOLINA: Okay, which section would that be, Mr. Alueta?

MR. ALUETA: I'm just, I wasn't able to get their attention at the time but on the general exemptions 050.

CHAIR MOLINA: Okay.

MR. ALUETA: I'm wondering. . .because one of the concerns that we had and some of the complaints our department gets have regarded to floodlights onto the beach

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areas. There's a couple of specific, specific hotspots. And I'm wondering, I know that in looking at this thing on 080 you, you cover it but I'm wondering whether or not I mean as far as, you know, outdoor advertising but also spot lights and you, you talk about, in 080, you talk about. . .*(inaudible)*. . .the public right-of-way or onto the ocean areas. I just see that this, with these exemptions people could use kerosene lanterns to accomplish the same thing that they're doing now with electric floodlights and that's my only concern. And so, and so maybe if, if you use this exemption fossil fuels or outdoor lighting fixtures, you make it for such as residential, camp or, you know, patio area or camping or just specify a specific use. Because right now you're having like commercial estab. . .primarily it's commercial establishments such as--well I won't say the two restaurants on the beach--but they do use it as a floodlight onto the ocean area.

CHAIR MOLINA: So, I guess the main concern or the focus of the committee is to look at fixed lighting fixtures rather than the portable. So, I know we had discussed earlier that we would exempt things like lanterns, kerosene lanterns and things of that nature. Dr. Altenberg.

MR. ALTENBERG: I have a question for Hannah. You know like tiki torches on these beach restaurants, that's sort of thing, how much do they interfere with the, with the wildlife?

MS. BERNARD: Well, I guess the tiki torches tend to, they tend to go off early enough in the evening that that say turtles, for instance, might be waiting until after midnight or something to come ashore but they might come earlier if the lighting weren't there. But you bring a really good point up and I would, I would hate to overlook that. You're, you're so right, you know, if, if restaurants were using fossil fuel lanterns instead of spots to do the same thing then, then. That there's a huge loophole there, so I'd like to close that loophole. And out of respect to, to other beach users who want to experience a dark beach maybe we need to, to sort of clarify camping with somewhat shielded fossil fuel lighting. You know, not, not to say people can't camp on the beach with fires and lights because we want that but we don't want it to be that, you know, it's, if it's bright as day out there that's the point.

CHAIR MOLINA: Okay. Mr. Alueta.

MR. ALUETA: I, I think that from, from our department the main--'cause like I said I deal with mostly the, I'm more speaking from the complaints and the issues that are out there. Now, you have where they're using floodlights onto the beach and ocean. It's not the tiki torches or it's not like people camping, it's you know, with

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their kerosene lanterns but it's specifically floodlights. And I'm just thinking that the people that we deal with are notorious for their way to work around any single law to continue to operate in manner in which they operate. And I'm thinking that I'd like, you know, like I say in, in, in 080 where you're saying public ways or onto the shoreline area, if you just keep that section but eliminate, I mean and just state that you're not exempt no matter what you use if that's possible. Just not, not allow them to have an exemption and, and, and primarily it's going to be an enforcement issue. Obviously, if it's a big hotel or it's a, you know, these certain restaurants, it's going to be easy to enforce. If it's "joe blow" out there camping and he's fishing, obviously it's not going to get enforced and he's not going to be doing that. He's not going to have a 5,000-watt floodlight flashing onto the beach, so.

CHAIR MOLINA: Ms. Bernard.

MS. BERNARD: Let, let me just clarify that that campfires and, and lanterns on the beaches has certainly caused problems for turtles and I mean I don't want to minimize that but I also don't, certainly don't want there be a conflict between beach users who are minimal impact and our wildlife. And so, you know, maybe it's just a best management practices teaching thing, if we can just reduce our lighting no matter what we're doing whether it's fossil fuel or not, fossil fuel for the small time user. But I don't, I, I want to tighten up this loophole that you're talking about. I think it's a great idea.

CHAIR MOLINA: Okay. Mr. McCord to be followed by Mr. Maberry.

MR. MCCORD: I should think that the word casual or temporary could be inserted into this thing, so that, you know, anyone that's at the beach with a campfire or, or something like that that's, that's a casual or temporary use. If it were something that went on night after night then, it no longer becomes casual or temporary and that's where the loophole can be closed.

CHAIR MOLINA: Mr. Maberry.

MR. MABERRY: I, I totally support Hannah and I know she knows this but just to play devil's advocate. I, I can see, I can almost feel on the back of my head here that we're going to hear this concern about safety from say the resorts or the restaurants for their patrons who may want to wonder down by the beach after dinner or whatsoever. I mean it's one thing lighting up the waves or whatever while, you know, so they can see them splashing while they're eating and looking out the window. But the tiki--and you're right, you're probably, one of the things

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they'll look to do is to put up tiki torches just to provide some light for people to wonder around on the beach and, and I'm just pointing out that that's, we're probably going to hear that.

CHAIR MOLINA: Okay. Ms. Bernard to be followed by Dr. Altenberg.

MS. BERNARD: Yes. And the beaches don't belong to the hotels as, as you know. So, at some point. . .like you're talking about the commons. The, the use of, of, of that which is for all of us, you know, we, we have to be able to defend that. And so, like I said I think tiki torches are, are a small, a small potatoes issue in the sense that they have to be monitored and they're usually put out early enough in the evening but I mean they could, that could be a problem if it goes all night. It's probably going to be a much smaller problem than the big floodlights. And so, I guess at this point, we don't want to leave a huge loophole but we don't, we don't want to go after every single little manini point and go crazy on, on this either, so.

CHAIR MOLINA: Good point, Ms. Bernard. Dr. Altenberg, your comments.

MR. ALTENBERG: One question I had for the Planning Department is you make a distinction between temporary and permanent structures, right as far as? No. Is there anything like that?

MR. ALUETA: We had this with signs, a temporary, and one of these notorious restaurants would just move their vehicle with their sign on it. And so, and it becomes what is temporary and they say well if I take it down everyday then it's only up, it's temporary and they put it up everyday. And it's, it's difficult and that was one of the first things that Public Works pointed out when we looked at our sign ordinances. You know you got to define it. And so, that's yes, I agree, I agree with Mr. McCord, you know, it would be easy but that. . .they'll, people will argue it no matter what. And so, it's just, it's just easier if you just can somehow put a prohibition on it and just straight out say you can't flood the beach or you can't--and, and that's where we're, and that's the complaints that we deal with. And I'm just pointing those out, I mean, how you want to regulate them is, is your recommendation to the Council.

CHAIR MOLINA: Okay. Ms. Bernard to be followed by Mr. McCord.

MS. BERNARD: This sounds to me like we need to do some editing on this because, because I want to, I definitely want to cover that and, and it's not, it's not something we have time to do right this moment. But do we, should we go away

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and do some editing and e-mail comments back or what's the best course of action?

CHAIR MOLINA: I think at this point, seeing, taking into consideration the time parameters, just go ahead and e-mail your comments back to staff. And as you can see now the, establishing the parameters of what is, you know, it's very challenging as Mr. Alueta pointed out with his own situation with the sign ordinance. So, light as we can see is and what is, how much light is enough and so forth is very challenging. Mr. McCord.

MR. MCCORD: Perhaps when we get to the definition of the duties of the committee, the, the public committee, that's the kind of thing that they can take into consideration. You know is it. . .an attempt to get around the, the ordinance and if it's taken down and put back up everyday that's an attempt to get around the ordinance and they can so determine.

CHAIR MOLINA: Thank you. Members, any other questions at this time? If not--oh, Mr. Garneau.

MR. GARNEAU: Thank you, Mr. Chair. I just had a couple typos that were my fault actually on Page 7 where it says specific uses that should be 110 and not 100. And then on Page 9 where it says development permits, that also should 120 and not 110.

CHAIR MOLINA: Okay, Members, make note of that on Page 7 under specific uses, the number designation, delete .100 and insert .110. On Page 9 under development permits, bottom paragraph, delete .110, and insert .120. Okay. Ms. Bernard.

MS. BERNARD: I'd just like to thank the public for testifying and, and the members who's been involved in, a long time like Terryl Vencl, and Fern Duvall, and Steve Sutrov, and, and our resource personnel for, for being here and, and supporting us, it's really helped a lot.

CHAIR MOLINA: Okay, that's a nice _____ into our last phase of the meeting today, announcements. Any other announcements from the committee members? Hearing none. The Chair will defer this matter for our next meeting, which is scheduled for January 24th, 9 a.m. here in the Council Chambers. Any objections? Hearing none. This meeting is adjourned. . . .(gavel). . .

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ACTION: DEFER.

ADJOURN: 3:08 p.m.

APPROVED BY:

Michael J. Molina, Chair
Subcommittee on Outdoor
Lighting Standards

Transcribed by: Cathy L. Simmons

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