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SUBCOMMITTEE ON OUTDOOR LIGHTING STANDARDS
(PUBLIC WORKS AND TRANSPORTATION COMMITTEE)
Council of the County of Maui
M I N U T E S
October 23, 2002
Council Chamber

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1 CONVENE: 9:04 a.m.

2 PRESENT: Councilmember Michael J. Molina, Chair
Chair Councilmember Charmaine Tavares, Vice-

3 (Out 11:59 a.m.)
 Lee Altenberg, Member

4 Hannah Bernard, Member

5 Richard Chong, Member (Out 12:18 p.m.)

6 Mike Maberry, Member

7 Warren McCord, Member (In 9:06 a.m.)

8 STAFF: Gary R. Saldana, Legislative Analyst

9 Camille Sakamoto, Committee Secretary

10 ADMIN.: Greg Nakao, Electrical Inspection

11 Land Use and Codes Administration,
Supervisor, Department of Public Works and Waste
 Management

12 Robin Laudermilk, Planner, Department of
 Planning

13 Cary Yamashita, Assistant Engineering
Program Manager, Engineering Division,
Department of Public Works and Waste Management

14 Howard Hanzawa, Engineer, Land Use and
Codes Administration, Department of Public
Works and Waste Management

15 Patrick Matsui, Chief of Planning and
 Development, Department of Parks and
 Recreation

16 Kalvin Kobayashi, Energy Specialist,
 Department of Management

17 Gregory L. Garneau, Deputy Corporation
 Counsel, Department of the Corporation
 Counsel

18 OTHERS: Skippy Hau, Aquatic Biologist, State

19 Department of Land and Natural
 Resources Terryl Vencl, Executive Director, Maui
 Hotel
 20 Association
 Alyson Hodges
 21 Steve Sutrov
 Cheryl King, Hawaii Wildlife Fund
 22 Frank Rizzo, Owner, Rizzo Pacific Staging
 Donna Brown
 23
 Lynne Woods
 24 Randy Nakama
 James Smith
 25 ?, with video camera
 Additional attendees (4)

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1 PRESS: Ilima Loomis, The Maui News
 2

 3 CHAIR MOLINA: The Subcommittee on Outdoor Lighting
 4 Standards meeting for October 23rd is now in
 5 session.
 6 For the record we have in attendance the
 7 Vice-Chair of the Committee, Charmaine Tavares,
 8 Committee Members Mike Maberry, Hannah Bernard,
 Rick
 9 Chong, and Lee Altenberg. Excused is Warren
 McCord.
 10 From the Corporation Counsel's Office, we have
 Greg
 11 Garneau. Council staff, Committee Secretary
 Camille
 12 Sakamoto and Legislative Analyst Gary Saldana.

13 Good morning, members.
14 SUBCOMMITTEE MEMBER MABERRY: Good morning.
15 SUBCOMMITTEE MEMBER CHONG: Good morning.
16 CHAIR MOLINA: Nice to see you all, and Dr. Altenberg
just stepped out for a moment, so he is here.
17
18 Prior to hearing testimony, I want to
provide a brief overview of the items we will be
19 discussing at the meeting today. The Committee is in
20 receipt of two draft bills from the Department of the
21 Corporation Counsel. One draft includes the
22 revisions as recommended by the Subcommittee.
23 The other draft bill is dated October 15, 2002 and
24 noted as draft with comments, includes revisions,
25

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1 comments, and suggestions from the Department of
the Corporation Counsel.
2
3 It is my intent to utilize the draft bill
4 with the comments incorporated by Corporation
5 Counsel for the purposes of today's review. And

6 once our review of the bill is complete, I would
7 request that the Subcommittee make a
recommendation
8 on the draft bill to the Public Works and
9 Transportation Committee.

10 Prior to beginning with public testimony,
the
11 Chair welcomes the presence of Mr. McCord.

12 ITEM NO. 1: OUTDOOR LIGHTING STANDARDS (MISC.)
13 CHAIR MOLINA: Public testimony will be accepted for
our
14 item on today's agenda. Those wishing to
testify
15 should sign up at the secretary's desk. You'll
be
16 given three minutes with an additional minute to
17 conclude your testimony. And if your testimony
is
18 not completed, an additional three minutes will
be
19 given after all others have been heard.

20 Testifiers are requested to state their
name
21 for the record and to indicate who they're
22 representing. And to minimize any disturbances
23 during the meeting, please turn off all pagers
and
24 cellular phones or set them to the silent mode.

25 So with that, let's begin with our first

1 testifier, Mr. Skippy Hau, to be followed by
Terryl

2 Vencl.

3 . . .BEGIN PUBLIC TESTIMONY. . .

4 MR. HAU: Good morning, members of the Committee.

5 Actually, I sent my testimony last week, and I
kind

6 of wanted to follow-up and I was able to clear
my

7 schedule so I came in person.

8 What I just wanted to go over was that we
--

9 CHAIR MOLINA: Excuse me. Mr. Hau, can you state your
10 name and --

11 MR. HAU: Oh, excuse me.

12 CHAIR MOLINA: -- organization for the record?

13 MR. HAU: My name is Skippy Hau. I'm with the
Division of

14 Aquatic Resources. I work as the aquatic
biologist

15 on the Island of Maui.

16 We just completed our turtle nesting --
well,

17 most of our turtle nesting season. We finished
with

18 the green turtles, and we have one more
hawksbill

19 turtles for this season. What was really

20 surprising, and it's been an excellent year,
we've

21 had eight turtle nests this year, and seven of
them

have -- 22 have been documented in Lahaina, and we also
23 we had one nest in Waihe'e.
24 What I kind of just wanted to go over and
25 what I've also brought are photographs I took
with a

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the 1 digital camera of the nesting events, as well as
2 day before the last nest in Lahaina, I also went
the 3 around to take a look at the lights. Three of
4 nests in Lahaina were affected by lighting. We
5 believe that the hatchlings were attracted by
guess, 6 lights. In one of the photos I'm showing, I
also 7 there's a canoe hale that has a light. There's
8 the park light that's across the street, as well
as 9 the neighboring house. There were two nests
right 10 in front of a stone wall. So some of the things
about 11 that I had brought up earlier about blocking,
could 12 shading, shadows, and things like that that

seen 13 help mitigate some of the lighting impacts were
14 here also.
15 What I did also want to note is that what
we 16 found out afterwards by interviewing fishermen
and 17 surfers and the security guard at 505 Front
Street,
18 what was interesting was that the folks at 505
Front 19 Street had found a couple of hatchlings that had
20 crawled -- this is from the nest where the stone
21 wall is on the beach -- and had crawled down
into
22 the basement parking lot. They found the dead
23 hatchlings afterwards. So the hatchlings
followed
24 that light and ended up in the parking lot.
Most of
25 the hatchlings, we're glad to say, is that most
of

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1 them did make it to the ocean, as well as
people,
2 surfers, security guard -- people that were
walking
3 at the beach who had seen hatchlings took them
to

4 the water and released them.

5 Basically, that's all I have to present.

And

6 I commend the work that you folks are -- I'd

like to

7 see the lighting ordinance be passed as soon as

8 possible. But thank you for your work.

9 CHAIR MOLINA: Okay, thank you. Committee members,

start

10 first with Ms. Bernard, followed by Dr.

Altenberg.

11 SUBCOMMITTEE MEMBER BERNARD: Thank you very much,

Skippy.

12 You mentioned in your written testimony that you

13 submitted that you were also concerned about

a'ama,

14 the crabs, and the kope'e, the snails, and we've

15 really pretty much focused just on sea turtles

and

16 some of the sea birds, but there's this whole

host

17 of other marine species that are affected by

lights

18 and land-based species. So in your opinion, is

it

19 better for us to have more natural lighting at

night

20 around the beaches for lots of different

animals?

21 MR. HAU: Well, I'd like to see it kept as natural as

22 possible, but I think as we develop, we have to

be

23 aware that -- the impacts we're going to have.

So

24 whether we put different types of lights, or

25 watching and shading lights out are another

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1 possibility, which I discussed earlier in my
2 testimony.

3 But for the lighting, I think it's hard
4 because when you're trying to pass a law, you
want
5 to try to get something that will be general and
6 cover everything, and there are going to be
7 exceptions. And in some of these instances, you
8 know, we didn't think that there would be seven
9 nests in Lahaina, for one thing. Two years ago
it
10 was only three nests in Lahaina, and this year
three
11 of the seven nests were impacted, we believe,
had
12 attracted hatchlings away from the beach. We're
13 talking hatchlings were attracted makai or going
14 inside -- not makai, but mauka.

15 SUBCOMMITTEE MEMBER BERNARD: Mauka.

16 MR. HAU: So they're going away from the ocean. So it
17 appears they may have been crawling to the
beach,
18 but once the light was on the side, they kind of
19 head that direction and went over to 505. I
hate to

20 keep broadcasting that, but what happens is the
21 hatchlings, I think, get disoriented. And once
by 22 that, then they probably get attracted by other
23 lights.

24 We did have good cooperation from Parks
25 Department. The next door neighbor turned off
their

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1 light, also the security guard also turned off
the 2 canoe light. I just wanted to show because it
was 3 discussed in the newspaper, but I kind of wanted
to 4 have people at least understand that those three
5 different light sources have had impacts on the
6 hatchlings. So just for your folks information.
7 But thank you.

8 CHAIR MOLINA: Any other questions, Ms. Bernard, at
this 9 time? No?

10 SUBCOMMITTEE MEMBER BERNARD: That's all.

11 CHAIR MOLINA: Okay, Dr. Altenberg?

12 SUBCOMMITTEE MEMBER ALTENBERG: Yes. Question about
those

13 hatchlings that died. If somebody had
deliberately
14 taken them and they died, that would be a taking
on
15 an endangered species, and as I understand, that
16 would be in violation of probably State and
Federal
17 law; is that correct?

18 MR. HAU: Yes, if they intentionally had taken it.

19 SUBCOMMITTEE MEMBER ALTENBERG: Now, do you know if
20 some -- if there is a -- if somebody is --
21 essentially contributory negligence that leads
to
22 the death of endangered species, do you know
what
23 kind of legal liability they may have?

24 MR. HAU: I am not sure. I think that would be very
25 difficult to prove, because you have so many
other

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1 light sources. You know, it's sort of like
trying
2 to say and blame it on one thing when it could
be
3 just conditions that kind of evolved and it
makes a
4 very difficult case. I really can't speak on
the

5 enforcement side. Yeah.

6 SUBCOMMITTEE MEMBER ALTENBERG: Okay. Another
question is

7 do you think that the provisions of the draft
8 ordinance would be adequate to prevent the kind
9 of -- you know, what you saw with the deaths of
10 these hatchlings, that includes shielding lamps
11 within 100 meters of the ocean, and that's the
12 essential feature?

13 MR. HAU: I think I would help some. I think
currently,

14 when we see a lot of the beach lights that are
15 existing, we need to address it. I think a lot
of

16 people are more conscientious about when turtle
17 season is, but again, if we have some kind of
18 guideline to direct lights and making sure that
19 there isn't these extraneous lights, I think it
20 would help a lot. It's really hard, because
it's

21 sort of like with birds. I mean, which light is
22 really going to be attracted? And when the
bird's a

23 fledgling, it's I think also random that --
where

24 they're going to land and what may happen to
them.

25 SUBCOMMITTEE MEMBER ALTENBERG: In Volusia County,
Florida

11

1 where Daytona is, which is a resort area, their
2 current law on the books says that if you're
3 standing on the beach and you can see the source
of
4 a light, then that light is in violation of
their
5 ordinance, if you can see that within the turtle
6 nesting season. Do you think that that would be
a
7 more -- that would be the sort of ordinance
you'd
8 need to protect the turtles?
9 MR. HAU: I think it would be really nice to get
something
10 like that passed, but I think also -- you also
have
11 to realize that in Florida they have several
12 hundreds of nests. You know, we're talking
about a
13 dozen, but that dozen is important because I
think
14 it's an indication that in the future we may
start
15 getting more nesting of turtles, not just greens
but
16 also, like I said, hawksbill turtles. But
again,
17 it's also saying that some of these natural
things
18 have to be taken into consideration. We have to
19 kind of protect for our nature and possibility
of

20 nesting of other turtles. Yeah.

21 SUBCOMMITTEE MEMBER ALTENBERG: If I could ask one
more

22 question. On the other -- on the uninhabited
23 Hawaiian islands, what is the density of turtle
24 nests? How --

25 MR. HAU: I think the place that's been studied the
most

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1 is at French Frigate Shoals. It's nice for
those
2 areas, but I think -- what I think we need --
well,
3 it would be nice to just have it natural. They
4 don't have, I don't think, a lighting problem.
But
5 they do have problems, say, with some other
things
6 that -- when they had put in for the military,
some
7 of the -- a lot of the debris and things, they
were
8 getting problems with turtles getting trapped in
9 things.

10 It would be nice to have 70, 90 percent
of

11 the turtles nesting in the main islands, but I
don't

we
12 think that's going to happen here, but I think
13 are going to probably see a lot more nesting of
14 turtles, as well as even the sightings of monk
seals
15 and things. It's nice to hear and see it. In
terms
16 of numbers and occurrences, we're getting more
17 incidents of these animals in the main Hawaiian
18 islands. So it's nice, but again, we're also
19 attracting a lot more people here too. So with
the
20 population increases, we have to be careful.
21 CHAIR MOLINA: Okay. Thank you. Mr. Maberry?
22 SUBCOMMITTEE MEMBER MABERRY: Skip, we've had
testimony
23 during these many months that the use of low
24 pressure sodium vapor lights and amber lenses on
25 other type of lights do not seem to attract the

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1 turtles or the sea birds. Do you have any
comments
2 on this, since you're here?
3 MR. HAU: I'm not really familiar on the technical
side of
4 lighting. It's really hard because I think if
you

5 were to do it, then I think we would need to do
6 experiments with the different lights. But I
think
7 we just have so few nests that we really don't
want
8 to experiment. We just basically come across
those
9 incidents and we try to report it. Even with
the
10 flash from cameras and things like that, we try
to
11 make people aware if they're going to photograph
and
12 things, to be aware that their flash could
disorient
13 the hatchlings when they're trying to head to
the
14 ocean. Yeah.

15 SUBCOMMITTEE MEMBER MABERRY: Thank you.

16 CHAIR MOLINA: Okay, thank you. Seeing no other
17 questions from the body, thank you, Mr. Hau.

18 MR. HAU: Thank you.

19 CHAIR MOLINA: Next to testify, we have Terryl Vencl,
to
20 be followed by Alyson Hodges.

21 MS. VENCL: Aloha. Good morning, Mr. Chairman,
Committee
22 members. I'm Terryl Vencl. I represent the
Maui
23 Hotel Association. And unfortunately my
sidekick,
24 who's an engineer who helps me out a lot here
with
25 phrases and technical kinds of terms, Bill
George,

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1 is unable to be here. He did send me some
2 information, and questions the fact that we
never --
3 at the last meeting, if you recall, we had to
end
4 and we never got around to answering some of the
5 concerns that he had the last time around. And
6 maybe after testimony is finished today and we
go
7 through some of that, we'll deal with that.

8 I would like to say that I appreciate
some of
9 the compromise and the work that has been done
here.
10 A few things that are still bothering my
11 organization, if you will, clarity in a few
areas.

12 One is the 100 meters from the ocean lighting
issue.
13 I gave, a long time ago, an example about Front
14 Street and the lights on Front Street. How do
we
15 deal with those business lights if this stands
true?

16 I'm also concerned that since -- well,
for
17 the last probably four or five meetings we
haven't

of 18 had the police here. Have we worked up any kind
anything 19 compromise with them or have we worked up
Police 20 that will be settling, if you will, to the
and 21 Department, or are we just going to move ahead
22 they'll just have to deal with what we have?
the 23 Another question I have has to do with
are 24 change-out in all of the County parks as changes
haven't 25 needed or as new facilities are built. I

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1 heard anything about the cost or from -- someone
2 saying from the County's perspective that this
can 3 be handled. There's just a lot of things that
are 4 still up in the air. And I realize, and I'm
glad, 5 that as we move into the Public Works Committee,
we 6 can continue to work on these things, but I
wanted 7 to just go on record saying that there are still
8 some things that are of concern to us. And I
thank

9 all of you for your work. Mahalo.

10 CHAIR MOLINA: Thank you. Committee members,
questions

11 for Ms. Vencl? Seeing none, thank you.

12 Next to testify, we have Alyson Hodges,
to be

13 followed by Steve Sutrov.

14 MS. HODGES: Good morning. My name is Alyson Hodges,
and

15 I represent myself as an individual, although I
do

16 work at the Maui Ocean Center and I have helped
with

17 some turtle protection and conservation. I just
18 wanted to get up here and say briefly that I
agree

19 with reducing the number of lights on our
beaches

20 for our environment as well as our economy. And
I

21 support the County in moving this forward as
quickly

22 as possible. Thank you.

23 CHAIR MOLINA: Thank you, Ms. Hodges. Committee
members,

24 any questions for the testifier? Seeing none,
25 thank you.

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1 Next to testify, we have Steve Sutrov, to
be
2 followed by Cheryl King.
3 MR. SUTROV: Good morning, everyone. My name is Steve
4 Sutrov. I'm speaking as a private individual
today.
5 I got the newest -- what I thought was the
newest
6 draft in the mail, and I've been reviewing it.
And
7 now there's a new one with other changes being
8 proposed which I haven't had a chance to look
at.
9 What I'd like to do is just respond to a
10 couple things on the draft that was sent out a
week
11 ago or so. And my comments are, the first one,
12 basically, is on the proposed Outdoor Lighting
13 Standards Committee that -- the language there.
It
14 states here that all matters pertaining to
public
15 street lighting presented to or pending before
the
16 Department of Public Works will be reviewed by
this
17 committee. That language right there is current
to
18 the Street Lighting Committee right now, and
I've
19 had a problem with being a member of that
committee
20 with what all matters pertains to. Even
Corporation
21 Counsel has told me that basically it's up to
the

22 Department to define what gets sent to us
underneath
23 all matters.
24 And so I think that needs to be clarified
25 definitely and defined what is actually going to
be

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1 reviewed. And the discretion of the Department
2 needs to be questioned also, because we're
talking
3 about sending it to a committee that has
4 environmental people on it. The Department of
5 Public Works has no environmental people,
experts in
6 their Department. We don't have an
environmental
7 portion of our Department like many other
8 communities around the country have. And so we
have
9 a committee that we're forming with some
10 environmental people on it that can review what
11 needs to be reviewed with this lighting
ordinance.
12 And whenever possible, when it says the
13 Director or the Department reviews something
without

look 14 this committee reviewing it, I think we need to
is 15 at that very closely. I think everything that
16 going to be changed or added out of the original
by 17 context of this ordinance needs to be reviewed
because 18 this committee, which has our experts on it,
19 the Department of Public Works does not have the
have 20 experts on it. This committee will, hopefully,
So 21 the expert on it to look at what is happening.
22 that's my concern on that part of that.

23 Also -- and it says the committee shall
24 review requests by individual organizations or
of 25 community associations relating to the addition

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or 1 or removal of outdoor light on County property
anything 2 public right-of-way. It doesn't mention
3 about private property there, which I think
4 occasionally the committee will have to review
light 5 complaints from public, private parties from

6 shining on neighborhood or commercial properties
7 onto private properties. So it shouldn't just
be
8 County property and public right-of-way; it
should
9 also be public property. I mean it should also
be
10 County property and public right-of-way --
11 MR. SALDANA: Three minutes.
12 MR. SUTROV: -- or public property.
13 Okay. I'll just -- do I have another
minute
14 or am I --
15 CHAIR MOLINA: Go ahead.
16 MR. SUTROV: I just want to -- in Salt Lake City a few
17 months ago the Illuminating Engineering Society
of
18 North America had their annual meeting, and the
19 keynote address was done by Wesson Brown from
20 Hubbell Lighting. He's one of the CEOs for the
21 company. Keynote address entitled The Economic
and
22 Political Realities of Today's Lighting
Industry.
23 In his address he stressed that engineers must
24 embrace environmental concerns, expand and
diversify
25 educational efforts, and enhance the
professionalism

1 of the their practices. Quality lighting is
2 essential, he said, but the industry is lagging,
3 rather than leading investment in new
technologies.

4 And I think that's what we have today. We have
to
5 look at new technologies, and the lighting
industry
6 has to lead the way in this and start thinking
about
7 all the environmental concerns that everyone is
8 dealing with now, especially on Maui. Thank
you.

9 CHAIR MOLINA: Okay, thank you, Mr. Sutrov.
Committee

10 members, questions for the testifier? Seeing
none,
11 thank you.

12 Next to testify, we have Cheryl King, to
be
13 followed Frank Rizzo.

14 MS. KING: Good morning. My name is Cheryl King, and
I'm
15 here to testify for William Gilmartin with
Hawaii
16 Wildlife Fund. He was not able to attend. I do
17 have his written testimony here which I will
submit
18 later.

19 Hawaii Wildlife Fund has been conducting
20 nesting monitoring and migration research on
Maui's

21 hawksbill turtle breeding population since 1996.
22 I've been involved with green and hawksbill
turtle
23 research since 1980 in the Northwestern Hawaiian
24 islands and in the main Hawaiian islands either
as
25 Chief of the Protected Resources Investigation
of

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1 the National Marine Fisheries Service Honolulu
2 Laboratory or as Director of Research with
Hawaii
3 Wildlife Fund.
4 Your proposed lighting standards have
5 received much attention and discussion over an
6 extended time period. Therefore, I will not
take
7 the time here to restate the general problems
which
8 lighting represents to endangered sea turtles.
9 While the most recent draft is not the best it
could
10 be for turtles, it is a result of compromise of
11 several community factions and certainly a move
in
12 the right direction. I commend you for the work
you
13 are doing to decrease Maui's outdoor lighting

14 effects on wildlife.
15 I have a few concerns, comments related
to
16 the draft standards which I present below:
17 Number 1, shielding lights that may shine
18 onto the beach is critical. Maui's nesting
19 endangered hawksbill turtles are few and they
choose
20 some of the darkest beaches on the south side of
the
21 island. Their sensitivity to artificial
lighting
22 was demonstrated very clearly to me during the
1997
23 nesting season. I was sitting in the dark on a
sand
24 dune on the Ma'alaea shore across from the
highway
25 from Kealia Pond National Wildlife Refuge when a

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emerged 1 female hawksbill came to shore to nest. She
2 from the water and stopped at the waterline and
3 then, unexpectedly, coinciding with her
appearance
4 on the beach, a high wattage construction lamp
was
5 turned on at the site of the road work at the

6 Ma'alaea triangle, approximately two miles away.
7 The lamp was pointed south toward the nesting
beach.
8 Although the large distance certainly diminished
its
9 brilliance, the turtle immediately turned around
and
10 retreated to the sea in flight from the light.
We
11 arranged to have this lamp redirected when
needed on
12 subsequent nights, and when the turtle returned
to
13 attempt to nest, the reoriented light did not
cause
14 a problem.
15 Number 2, cumulative effects of light
from
16 multiple sources should be considered. Combined
17 multiple sources that individually meet the
proposed
18 standards may collectively exceed the lumen
19 allowance directed at the beach. Could the
20 standards address this potential situation?
21 And finally, please remove -- or I'm
sorry,
22 please move this bill forward as soon as
possible.
23 This proposed action to amend Maui's outdoor
24 lighting standards should be moved forward as
soon
25 as possible to the County Council. Coastal

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22

by 1 development continues and will not be affected
and 2 these standards until the ordinance is passed,
finalize 3 therefore, it is urgent that your committee
approval 4 this draft and passage to the Council for
5 and implementation.

this 6 Again, mahalo for your work and address
7 lighting problem. Thank you.

8 And can I just say a few statements for
9 myself, personally?

10 CHAIR MOLINA: Conclude.

my 11 MS. KING: My name is Cheryl King, as I said. This is
12 third season working with Hawaii Wildlife Fund's
years in 13 nesting population, and I also worked three
14 South Carolina doing the same thing with
in 15 loggerheads, and I'm attending graduate school
So in 16 Florida right now, also dealing with turtles.
have 17 those areas, huge lighting problems, and they
18 the ordinance to protect the turtles there.

19 Lee was talking about one certain light

20 source being a problem. Yeah, basically, the
21 ordinance that I've worked with in the past, any
22 sort of light that you see from the shore is a
23 problem because that directs the turtles right
24 there. One single light can cause hundreds of
25 turtle deaths. I've picked up lots of dead

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of 1 hatchlings in sand dunes in the morning and out
2 people's pools and stuff like that, and it's
3 definitely a huge problem. So any sort of light
is 4 basically going to cause the turtle to become
5 light-trapped, is what it's called.

6 And naturally they're supposed to go away
horizons, 7 from dark horizons and go towards bright
8 and when there's one single light source, that
just 9 overrides every single part of the turtle's
natural 10 abilities, and that's what happens. It just
makes 11 perfect sense. So, yeah, anything that you guys
are 12 doing, it's really important. So if you have
any

13 questions, I'd be happy to answer. Hannah?

14 CHAIR MOLINA: Okay, thank you. Ms. Bernard?

15 SUBCOMMITTEE MEMBER BERNARD: Thank you for your

16 first testimony. I have a number of questions, the

17 used of which is can you tell us, Bill Gilmartin, he

18 to be the Director of Protective Resources

19 in Department at National Marine Fisheries Service

20 Honolulu. Is that not the same department that

21 George Balazs, considered the Pacific sea turtle

22 expert, works for?

23 back MS. KING: I believe -- I think -- well, Bill worked

24 in the day, so it might have been --

25 George SUBCOMMITTEE MEMBER BERNARD: Right. And didn't

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1 Balazs work for Bill?

2 MS. KING: Yeah.

3 SUBCOMMITTEE MEMBER BERNARD: Right. So Bill could be
4 considered one of the Pacific's sea turtle
5 experts.

5 MS. KING: Definitely, yeah.

6 SUBCOMMITTEE MEMBER BERNARD: So his testimony on the

7 urgency of the situation should be taken fairly
8 seriously?

9 MS. KING: Oh, extremely seriously. Yes. He was one
of
10 the forerunners on this whole entire sea turtle
11 biology event. Yeah.

12 SUBCOMMITTEE MEMBER BERNARD: And what you're saying
is
13 that in both your and his personal experience,
14 you've seen hatchlings attracted to light, and
he
15 has seen the females averted by light here on
Maui?

16 MS. KING: Correct.

17 SUBCOMMITTEE MEMBER BERNARD: Chased away from their
18 nesting habitat?

19 MS. KING: Yes.

20 SUBCOMMITTEE MEMBER BERNARD: And did you not also
witness
21 or were involved with some project in Lahaina
where
22 hatchlings were attracted to boat lights?

23 MS. KING: Yeah. I used to work on the boat called
Maui
24 Princess. It's owned by Island Marine. And I
don't
25 know if you guys have seen it, but it's the huge

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of
lights
festive.
the
happened
so
they

1 dinner cruise boat. It moors up right outside
2 Lahaina every night, and it has these party
3 that string from the top of the boat, real
4 But one evening the workers that were done with
5 cruise were cleaning up the boat and they
6 to look over, you know, into the water and 50 or
7 hatchlings were surrounding the boat because
8 swam right to the boat.

numerous
as
eaten
with
to
ships
those
mean,
are

9 And that's obviously a problem for
10 reasons. Other predators are attracted to light
11 well, and those turtles are just going to be
12 real quickly, and it also raises the concern
13 the nests in Lahaina, the cruise ships that seem
14 be always out there. There's lots of cruise
15 now. And when we do the excavations, we let
16 turtles go and you just see this huge, huge boat
17 full of lights out there. I mean, that's -- I
18 obviously, I don't know how this ordinance would
19 affect that, but it's definitely a concern too,
20 because you would just know that those turtles

that's 21 just going to go directly to that boat, and
22 obviously the wrong thing to do for the turtles.
23 So...
I'm 24 SUBCOMMITTEE MEMBER BERNARD: So what it sounds like
it's 25 hearing from the scientific community is that

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the 1 not the lights themselves, but potentially it's
So if 2 power of the light or it's the type of light.
colored 3 we were to use low pressure sodium or even a
4 shield or very shielded lighting, that it might
5 really diminish this problem.
6 MS. KING: Yes, definitely. I've been to a couple
and 7 different symposiums and sea turtle workshops
if 8 they definitely recommend low pressure sodium,
9 any light at all, or a major shield that doesn't
that 10 pronounce such a bright, bold light, because
11 seems to tend to be the problem. But if it is
be 12 shielded and just real diminished, then it can

13 not a problem.

14 SUBCOMMITTEE MEMBER BERNARD: So although best is to
be

15 dark --

16 MS. KING: Yes.

17 SUBCOMMITTEE MEMBER BERNARD: -- what the scientific
18 community is saying is we'll compromise. Let us
19 just have a different kind of light.

20 MS. KING: Exactly.

21 SUBCOMMITTEE MEMBER BERNARD: We're not asking for you
to

22 feel unsafe on your beaches or to be liable for
23 dangerous events that occur on your beaches in
front

24 of resorts, but we're asking you to change the
25 lights in order to preserve these endangered

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1 species?

2 MS. KING: Exactly.

3 SUBCOMMITTEE MEMBER BERNARD: Okay, thank you.

4 MS. KING: You're welcome.

5 CHAIR MOLINA: Okay. Dr. Altenberg?

6 SUBCOMMITTEE MEMBER ALTENBERG: One question. Terryl
7 Vencl mentioned the importance of tiki torches
to

8 the ambience of the beaches and the resort
areas.

9 And just from a casual observation there,
they're a

10 major source of light that's visible from the
beach

11 in Wailea, and so the compromise that we
proposed

12 was that tiki torches not be regulated if
they're

13 turned off by 11:00 p.m. In your estimation,
how

14 much of a problem would that still leave for the
15 turtles?

16 MS. KING: Oh, as far as the hatchlings or as far as
the

17 females getting diverted from --

18 SUBCOMMITTEE MEMBER ALTENBERG: Either.

19 MS. KING: Yeah, well, obviously the female from
Lahaina's

20 been an exception. She goes right up in the
middle

21 of -- while the, you know, luau's going on.
That's

22 not typical turtle behavior, but as far as
23 hatchlings are concerned, most -- we've
documented

24 turtles hatching from sun rise to sunset. So if
25 there happened to be a turtle nest in front of
that

1 area, I'm sure that we would know and we would
have
2 to work with the individuals in particular to
3 diminish the lights earlier if possible. But
other
4 than that, if it could work, 11:00 o'clock, but
5 obviously no light is best.
6 SUBCOMMITTEE MEMBER ALTENBERG: Thanks.
7 CHAIR MOLINA: Okay, Mr. Chong, followed by Ms.
Bernard.
8 SUBCOMMITTEE MEMBER CHONG: Ms. King, is it a problem
with
9 a point source; in other words, the image of a
10 specific luminaire that creates a problem? Or
if
11 you have a -- let's say a building that's
nearby,
12 within 100 meters that we have thrown out as a
13 limitation, if that building is -- meets the
14 requirement of the code but is -- has exterior
walls
15 because it has, let's say, a walkway around the
16 building that's illuminated, is that larger area
17 source of light also a problem?
18 MS. KING: There's been lots of studies done on that,
and
19 I don't have one to quote you, but like an
20 overriding one source of light is going to be
the
21 same as a lot of light. It's going to be

to 22 essentially the same if it's got that brightness
stops 23 it. I'm not exactly sure the wattage of what
24 a turtle from going towards the light and what
but 25 doesn't stop a turtle from going to the light,

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1 it's basically overriding the natural surface
2 illumination of the ocean so they don't go that
3 direction. Does that make sense?
4 SUBCOMMITTEE MEMBER CHONG: Basically you're saying a
wall
5 or a long stretch of building that is
illuminated
6 for the right reasons where the light sources
are
7 actually shielded but the walls and the things
8 around that area pick up all the reflected
light,
9 that can still cause a problem for the turtles?
10 MS. KING: It could if it's close enough and in their
11 range of light, but it's very variable as well,
I
12 believe. So, yeah, I'm not exactly sure on
that, to
13 be quite honest.
14 SUBCOMMITTEE MEMBER CHONG: No, thank you. All right.

15 CHAIR MOLINA: Thank you, Mr. Chong. Ms. Bernard?
16 SUBCOMMITTEE MEMBER BERNARD: Just to sort of assist
in
17 clarifying Rick's question to you, if the lights
on
18 a building were low pressure sodium or a
different
19 kind of -- a colored -- like red, for instance,
or
20 yellow shield, would you think the turtles would
21 be -- in your own understanding of the
literature,
22 the scientific literature and your own personal
23 experience, would the turtles not be attracted
to
24 them?
25 MS. KING: Yeah --

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1 SUBCOMMITTEE MEMBER BERNARD: It's the white light
that's
2 the problem as far as --
3 MS. KING: Yes.
4 SUBCOMMITTEE MEMBER BERNARD: -- my understanding of
5 turtle biology.
6 MS. KING: Exactly. That's a good way to --
7 SUBCOMMITTEE MEMBER BERNARD: So that's the point. So

single 8 cumulative lighting could be a problem or a
light? 9 light source can be a problem if it's white

10 MS. KING: Right. Exactly. But reducing that wattage
11 tends to lessen the effects.

12 SUBCOMMITTEE MEMBER BERNARD: Right. And then to also
13 further clarify, you mentioned about the turtle
in 14 Lahaina that comes up in the middle of a luau.
Is 15 it not true that that turtle was raised in
captivity 16 for a full year at Sea Life Park with lots of
lights 17 and human interaction and noise and she is not
at 18 all the typical turtle and not nesting in her
natal 19 beach?

20 MS. KING: Exactly. Yeah, it's very, very rare.
Well, we 21 think rare. It happens in Florida too. I mean,
you 22 guys been to Miami, Florida, and it's -- the
whole 23 way, it's all big lights, but the turtles do
have to 24 come up there because that's the only place they
can 25 come up. But it's on Maui, the only places they

there's
better
override
know,
beach,
to
when
the
foresight
the
just
is.

1 come up here are on the dark beaches, and
2 very few of those left and we need to have a
3 habitat for them to use.
4 SUBCOMMITTEE MEMBER BERNARD: So one more point of
5 clarification. So although a female may
6 her desire for a dark beach and she may, you
7 out of desperation lay her eggs in a lighted
8 she may be able to handle that disturbance.
9 However, her hatchlings will likely be attracted
10 the brighter light and go away from the water
11 they come out; is that not true?
12 MS. KING: Correct. The female adult turtles have no
13 devotion to their hatchlings. Once they're in
14 ground, she's done. She doesn't have the
15 to say, well, you know, my kids are going to go
16 wrong direction, what am I going to do? That's
17 the way it is, and it's unfortunate. It really
18 But turtles aren't the wisest animals. We don't
19 think so. But, yeah, does that make sense?
20 CHAIR MOLINA: Okay.

21 MS. KING: Does that make sense?

22 CHAIR MOLINA: All right. Seeing no other members
from

23 the committee, thank you.

24 MS. KING: Thank you.

25 CHAIR MOLINA: Our next testifier is Frank Rizzo, and
the

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1 Chair reminds everyone in the gallery that if
you

2 want to testify, now's the time to come up and
sign

3 up at the secretary's desk.

4 MR. RIZZO: Good morning, everyone. Thank you for
having

5 me. My name is Frank Rizzo, representing my

6 company, Rizzo Pacific Staging, and also some
local

7 businesses here on Maui. I've been in business
for

8 the last 10 years. Part of our business is

9 service-oriented, and it includes, among other

10 things, promoting other Maui businesses. Our

11 clients range from local organizations to
Fortune

12 500 companies, including retail and resorts.

13 One of the most effective forms of

14 advertising that these clients can use for a
local
15 marketing is visual display advertising. This
form
16 of advertising is temporary. It's directed
solely
17 toward the local clientele. It generates and
18 promotes local shopping and spending, keeping
19 valuable tax dollars within our community.
There's
20 been a great interest for using temporary search
21 lights to draw attention and attract people to
22 special sales and events. Inquiries have been
made
23 from the Maui County Fair, a Taste of Lahaina,
the
24 Maui Film Festival, and various shopping centers
25 located around the island, just to name a few.

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1 The County of Maui also contacted me.
They
2 recently inquired about the possibility of
renting a
3 pair of search lights that could be used this
past
4 September as a tribute to 9/11. These lights
5 usually come from Oahu. They're cost
prohibitive

6 due to the fact they need to be transported by
7 barge. We have multi-beam search lights en
route,
8 actually. I just found out about this meeting
not
9 too long ago. We've got a multi-beam search
light.
10 They're considered state of the art. They're
quiet.
11 They're safe. They do not have an open flame,
as
12 the ones on Oahu do, and they're aesthetically
13 pleasing to look at.
14 Our method of promotional business
marketing
15 provides local businesses, fund-raising
16 organizations, and even local athletic events a
way
17 to advertise locally with large visual impact to
18 draw people from miles around directly to their
19 event. Businesses exert a lot of effort to
obtain a
20 good location. Temporary search lights help
them to
21 promote their identity and location, while
reminding
22 consumers of their available goods and services.
23 Since these displays are unique and best
24 suited for temporary use, and in consideration
of
25 the bill for an ordinance relating to the
outdoor

1 lighting standards -- which I commend, by the
way.
2 It's a fantastic thing everyone's doing here --
I
3 feel it would be appropriate and fair to perhaps
4 limit the time and frequency of use of these
search
5 lights, and I am certainly open for discussion
and
6 suggestions.

7 Additionally, I have spoken -- or I've
been
8 in contact with the Maui tower down at the
Kahului
9 Airport and I have been advised that our search
10 lights would pose no danger to incoming aircraft
as
11 long as we move the beam away from inbound
traffic
12 during final approach. They were appreciative
of
13 the heads-up.

14 Additionally, I spoken with the Maui
Police
15 Department as a courtesy to give them a heads-up
as
16 well that we may be bringing these in and using
17 them. Their only request was that they be made
18 aware of our schedule, our location, and the
19 duration of activity. There are no public
safety

20 issues or concerns.
21 I've also contacted a number of people
over
22 the past few days at the Maui County Planning
23 Department, including the permits and
enforcement
24 bureaus, and I have had no objections or
concerns --
25 MR. SALDANA: Three minutes.

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1 MR. RIZZO: Okay. In conclusion, I'd like to request
2 consideration for special use of these temporary
3 search lights to be used on Maui. And I'd like
to
4 thank everybody for their time, and that's all.
5 CHAIR MOLINA: Thank you, Mr. Rizzo. Committee
members,
6 questions? We'll start with Mr. Maberry,
followed
7 by Mr. Chong.
8 SUBCOMMITTEE MEMBER MABERRY: So in the process of
drawing
9 people to these events, much like moths to the
10 flame, would there be an attempt not just to
avoid
11 incoming air traffic but avoiding the summit of

the 12 Haleakala as well so as not to disturb any of
be 13 sensitive measurements or observations that may
14 going on up there at that time?
speaking 15 MR. RIZZO: To be honest with you, I planned on
this 16 with you. I was unaware that you're part of
17 committee. I did speak to Captain Beveridge
18 yesterday, and just to let everyone know, I've
19 also -- I'm employed by the Maui Space
Surveillance 20 site for the last 15 years, so I'm aware and
very 21 sensitive to that. 100 percent cooperation.
You 22 know, if you folks are tracking objects or doing
23 something, you know, our beams could be either
24 turned off for that duration of time. They
could be 25 angled, you know, away from the observatory.
I'd

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you 1 like to be in compliance, and I don't want to --
of 2 know, everybody's here talking about getting rid

sky, so

3 the lights and I want to shine one up in the

4 like I said, I'm open for discussion and

5 suggestions.

would

6 And once again, I emphasize that this

7 be a temporary thing. It's not going to be like

you

8 Hollywood where every night you've got lights,

yes,

9 know, in different parts of the island. But,

10 Captain Beveridge, we're going to have more

11 discussion this afternoon about that.

12 SUBCOMMITTEE MEMBER MABERRY: Thank you.

13 CHAIR MOLINA: Thank you, Mr. Maberry. Mr. Chong.

straight,

14 SUBCOMMITTEE MEMBER CHONG: So let me get this

limiting

15 then. You're not adverse to the ordinance

11:00

16 this type of temporary use to, say, a 10:00 or

17 p.m. usage on -- and only on the nights of the

fair

18 event? Let's say there's a County fair and the

19 runs Friday, Saturday, that those are the only

20 nights that you can use it, that's not going to

here?

21 adversely affect your entrepreneurial business

four

22 MR. RIZZO: Well, there -- for example, that's just

Maui

23 nights out of the year, and then there's the

is.

24 Film Festival. I'm not sure what their schedule

spoke 25

I know they do some stuff down at Wailea. I

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dead 1
up 2
Planning 3
this. 4

with the Wailea Community Association that was
against it. In fact, they suggested that I show
at this meeting, which after I spoke to the
Department nobody had mentioned anything about

different 5
guess 6

It could be used for a number of
things, different type of special events. I
it would be limited, but after thinking about it
last night, I mean, we could come up with some

sort 8
be 9
than 10

of -- you know, I think perhaps maybe it could
used maybe ten times out of the month. It more
likely would not be used very often, other than
these people that had expressed the interest,

such 12
the 13
know, 14

as the film festival, the County Fair, some of
shopping centers. They like to have -- you
they have their special sales or grand openings.

16 So I've done quite a bit of research, and
17 before I make a final decision whether or not to
do
18 this, I would love to get some input from you.
You
19 know, if it's going to be limited to, you know,
just
20 a couple of days a month, it wouldn't be worth
my
21 while to bring something like this over.
22 SUBCOMMITTEE MEMBER CHONG: And again, setting a time
23 limit to a certain time in the evening, is that
24 going to be a problem, if it's 9:00 o'clock,
10:00
25 o'clock, 11:00 o'clock? I wouldn't think it
would

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1 go past 11:00, because that's a time that's
already
2 been tossed out in the ordinance.
3 MR. RIZZO: What we do is we offer a four-hour minimum
4 usage of the light for a number of reasons, but
5 generally would start at dark, right around
maybe
6 7:00 o'clock and, you know, like you were
saying, it
7 would probably go to maybe 10:00 or 11:00
o'clock.

I 8 I don't think it would go beyond 11:00, although
or 9 think the Maui County Fair, don't they close one
their 10 two nights at midnight? I'm not real sure of
you 11 time schedule, but yeah, it wouldn't go on --
you 12 know, I can't see it going on much later than,
13 know, 11:00 o'clock, because a lot of these
14 businesses would be closed. Yes, ma'am.

15 CHAIR MOLINA: Okay. Next we have Members Bernard and
16 Altenberg with questions. Ms. Bernard.

17 SUBCOMMITTEE MEMBER BERNARD: I really appreciate your
18 spirit of compromise, and along those lines
would 19 you be willing to experiment with different
colored 20 lights or different color of shields for lights
if 21 it was determined that white light attracted sea
22 birds and diverted them from their nesting
habitat 23 and brought them to your lights?

24 MR. RIZZO: The answer would -- the lights can't be
gelled 25 or colored. They're a 56,000 degree Kelvin
light.

put
you
of
done.
they
different
on
of

1 It's basically a white light. If you attempt to
2 any sort of gel or covering on that, it would
3 virtually eliminate the beam. So, I mean, if it
4 was -- excuse me. If it was determined that,
5 know, the birds would be attracted to that beam
6 light, there's nothing that really could be
7 The manufacturers don't make different colored
8 lights with the searchlight. Other types of
9 lighting for concerts, conventions and such,
10 can be colored. They can be gelled for
11 colors and different color temperatures, but the
12 searchlights -- 95 percent of the searchlights
13 the market are just a white light, a white beam
14 light.

Altenberg,

15 CHAIR MOLINA: Okay. Thank you. Okay, Member
16 followed by Mr. Maberry.

17 SUBCOMMITTEE MEMBER ALTENBERG: Do you know how many
18 lumens a searchlight puts out or how many watts
19 are typically?

4,000

20 MR. RIZZO: Yeah, the lights that I'm looking at are
21 watt. There's two types. There's a 4,000 watt

22 multi-beam light. It's a single 4,000 watt bulb
23 that would splay the light out in different
24 directions from zenith to about 40 degrees in
25 elevation, and having said that, that one 4,000
watt

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1 bulb splaying these beams out, the beams as
they're
2 going out are obviously much less than the 4,000
3 watt. There's another system that I just put on
4 hold two days ago which is a four-head 4,000
watt
5 unit. So effectively it's 16,000 watts. It's
about
6 a billion candle power, which is an awful lot
of,
7 you know, candle power, but it's confined to a
8 narrow beam.

9 The thing with these type of searchlights
10 also is it has a parabolic mirror so the beam is
11 actually going straight up, as opposed to the
type
12 that they have on Oahu which are the military
13 searchlights which are the big five foot flat
14 mirror. As the beam is coming up, you have an

15 enormous amount of bleed off light that goes
out.
16 So these lights are designed to be focused, you
17 know, to a single point in space.
18 SUBCOMMITTEE MEMBER ALTENBERG: You know, I can't
recall
19 seeing searchlights on Maui that often. What's
the
20 current level of usage of searchlights for
21 advertising?
22 MR. RIZZO: On Maui?
23 SUBCOMMITTEE MEMBER ALTENBERG: Yeah, on Maui.
24 MR. RIZZO: There is none to my knowledge.
25 SUBCOMMITTEE MEMBER ALTENBERG: There is none. And is

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1 that mainly because of the expense of hiring the
2 lights?
3 MR. RIZZO: No. It's due to the fact that the only
lights
4 that are available, to my knowledge, in the
State of
5 Hawaii are on Oahu. They're on a 17-foot
trailer.
6 They're the old military type and it costs
roughly
7 seven to \$800 one way to ship these lights over.
8 So, for example, when Maui County called, they

9 wanted to have a couple of these powerful lights
for
10 their 911 tribute. I was going to give them a
great
11 deal on it because I wanted -- I like to do a
lot of
12 stuff for the community as well, and I had
offered
13 essentially to just charge them for the fuel if
they
14 wanted to cover the -- you know, the expense of
15 bringing the lights over. So, I mean, it would
be
16 many thousands of dollars to bring the lights
over,
17 and really that was way out of their budget.
18 That's -- which is one of the main reasons why
there
19 are no lights here, because they need to come
from
20 off island.
21 Generally they would rent for perhaps
\$100 an
22 hour, 125 an hour depending on which type of
unit
23 was being used, and then there's a cost -- the
light
24 bulbs -- a 4,000 watt light bulb costs almost a
25 thousand dollars, so there's -- it's a little
bit of

1 cost in running the operation. Also the beams -
-
2 the searchlights that are on Oahu, they're
3 Carbon-Arc, so it's a rod that actually burns
and
4 it's an open flame where you need to have people
5 standing by with fire extinguishers and, you
know,
6 be under the fire codes there. This type of
light
7 just runs off a generator or a 220 _____.
8 SUBCOMMITTEE MEMBER ALTENBERG: So basically no
fraction
9 of anybody's business on Maui is searchlights?
10 MR. RIZZO: That's correct, to my knowledge.
11 SUBCOMMITTEE MEMBER ALTENBERG: So this is talking
about
12 creating a new business on Maui which is using
13 searchlights for advertising at night?
14 MR. RIZZO: Yes.
15 SUBCOMMITTEE MEMBER ALTENBERG: Yeah.
16 MR. RIZZO: Like I said, some of the people that I had
17 mentioned, they -- I've gotten calls over the
years
18 wanting to know if I rent them or if I ever got
one,
19 to give them a call, they'd love to use it.
20 SUBCOMMITTEE MEMBER ALTENBERG: Now, you talk about
the
21 large visual impact of these lights, and of
course

22 this is a visual impact on the common resource,
23 which is the nighttime sky of Maui. And, you
know,
24 I'm wondering how you feel about the idea of
25 utilizing a public resource for private business

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1 essentially, having a private business have a
large
2 impact on the night sky that, you know, is the
3 common resource of the whole County?
4 MR. RIZZO: What is your question?
5 SUBCOMMITTEE MEMBER ALTENBERG: What is -- how do you
feel
6 about using a public resource for private
business
7 in that way?
8 MR. RIZZO: The night sky being the public resource?
9 SUBCOMMITTEE MEMBER ALTENBERG: Yes.
10 MR. RIZZO: How do I feel about that?
11 SUBCOMMITTEE MEMBER ALTENBERG: Yeah.
12 MR. RIZZO: I feel pretty good about it.
13 SUBCOMMITTEE MEMBER ALTENBERG: Uh-huh, uh-huh.
14 MR. RIZZO: I mean, it's -- it would be a nice thing
to
15 have -- not have it. Just a single beam of
light --

16 or actually, you know, it's just these beams of
17 light that actually funnel down to the event,
and I
18 think it would be a great -- I think people
would be
19 very curious and want to find out what's going
on,
20 and, you know, basically it's good for the
economy
21 as far as drawing people to whatever special
event.
22 It could be used for fund-raisers, St. Anthony's
23 bazaar, they can use it for football games, you
24 know, it can be used for anything, but as far
as,
25 you know, shining a couple beams of light in the

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1 sky, my personal opinion is I think it would be
kind
2 of cool.
3 And having said that, you know, like I
said,
4 in the beginning it would need to be limited. I
5 mean I would not want to see, you know, 15
6 searchlights all over Maui all the time. That
7 would -- that's -- I would not want to see that.
8 And, you know -- but just based on the people
that

they 9 have contacted me and the amount of time that
could 10 would be using it, I just wanted to see if we
special 11 perhaps change some of the wording in that
one 12 use thing, because you've got it as your number
13 thing that they're prohibited.
14 SUBCOMMITTEE MEMBER ALTENBERG: Right.
followed 15 CHAIR MOLINA: Okay. Next we have Mr. Maberry,
16 by Ms. Bernard.
heard 17 SUBCOMMITTEE MEMBER MABERRY: One of the -- we've
18 quite a bit of testimony over many months now,
19 Frank, and --
your 20 CHAIR MOLINA: Excuse me, Mr. Maberry, could you use
21 microphone for the secretary.
22 SUBCOMMITTEE MEMBER MABERRY: Sorry.
23 CHAIR MOLINA: Thank you.
24 SUBCOMMITTEE MEMBER MABERRY: We've heard a lot of
regarding 25 testimony over the past few months, Frank,

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1 the impact of light on sea turtles and on night

2 flying endangered birds, and one of the biggest
3 problems, of course, is when the fledglings
hatch,
4 leave their nests and, you know, fly out, and
5 they're -- they are very susceptible to white
light.
6 The lights that come down from -- well,
when
7 we look up through -- at the sky and look at the
8 starlight, the light that comes down goes
through
9 the atmosphere. It goes through the sodium
layer,
10 and so only a small part of the light that you
see
11 from the full spectrum of light from the stars,
you
12 know, solar type sources, pinpoint sources is
13 filtered out, and that's the sodium layer. And
14 that's one of the reasons that we've been
looking at
15 low pressure sodium vapor lights, because it's a
16 type of light that the animals aren't used to
17 seeing, therefore, it doesn't bother them. It
18 doesn't seem to bother them, and that's why you
19 heard testimony earlier asking about filters, in
20 which case we have seen testimony that using an
21 amber filter in front of, for example, high
pressure
22 sodium vapor lights does not seem to bother the
23 animals.
24 The other point is that by -- one of the

the

25

reasons that the County moved to start shielding

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the

the

can't

a

observatory,

up

longer

illuminating

will

but

1

existing high pressure sodium vapor lights is to

2

keep the light -- not just for economics to keep

3

light down where it's needed, but also because

4

light goes up into the night sky and while you

5

really notice it, it tends to accumulate -- have

6

cumulative effect, especially over an

7

and what that requires you to have to do is to

8

basically -- and you're a photographer, you end

9

having to leave your shutter open longer, a

10

exposure in order to try to get above the

11

signal-to-noise ratio in order to make your

12

observation. And so, you know, even

13

clouds below the observatories with a spotlight

14

have an impact.

15

And my personal concern is that, yeah,

16

initially we may be talking about a few uses,

17 then as Maui grows and as it looks like a viable
18 type of business, then I don't see how we will
stop
19 having 15 people having searchlights up every
night,
20 and that impact will basically negate the whole
21 process, in my opinion. In my opinion, that
would
22 negate the whole process that we've been going
23 through to try to get the existing street lights
and
24 parking lot lights shielded to keep the light
down
25 where humans can use it for safety and security
and

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1 liability. Thank you.
2 CHAIR MOLINA: Thank you, Mr. Maberry. Go ahead,
3 Ms. Bernard.
4 SUBCOMMITTEE MEMBER BERNARD: I guess you've probably
done
5 a business plan, undoubtedly. What did you say
your
6 minimum number of days you need to operate this
7 business in order to have it be worth your
while?
8 MR. RIZZO: I didn't really figure that out. All I
did

that's 9 basically was -- the small light that I'm --
10 essentially en route here could be paid for in a
these 11 couple of years if I were able to rent it to
Taste 12 people for a couple of years, like I said, the
13 of Lahaina, the shopping centers, the Maui Film
14 Festival.
15 SUBCOMMITTEE MEMBER BERNARD: Did you say ten -- I
thought 16 I heard you say ten days out of the month.
17 MR. RIZZO: Yeah, ten days -- I spoke with Barry
Rivers, I 18 believe his name is. He said they have some
sort of 19 a Maui movie marathon mid-December to the
beginning 20 of January. I believe it's ten nights. And he
said 21 he would be interested in using the light for
those 22 ten nights. I think it's at the Arts & Cultural
23 Center.
24 SUBCOMMITTEE MEMBER BERNARD: I'm sorry, are you
saying 25 you need to function ten nights out of the year
or

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1 ten nights out of a month to be successful as a
2 business?
3 MR. RIZZO: Oh, okay. Four nights out of the month
would
4 be my guess.
5 SUBCOMMITTEE MEMBER BERNARD: Four?
6 MR. RIZZO: Yes.
7 SUBCOMMITTEE MEMBER BERNARD: Okay. And if this is
too
8 personal, please tell me. What is your current
line
9 of work at the -- is it aerospace?
10 MR. RIZZO: I work part-time as a photographer for
Boeing.
11 I've been part of the Maui space surveillance
site
12 for a little over 15 years.
13 SUBCOMMITTEE MEMBER BERNARD: Okay. Thank you.
14 MR. RIZZO: And then I own a stage rental company
where we
15 do a lot of work at the hotels and resorts, and
I've
16 been doing that for a little over ten years.
17 SUBCOMMITTEE MEMBER BERNARD: Thank you.
18 CHAIR MOLINA: Okay, thank you, members. Okay, seeing
no
19 other questions from the Committee, thank you,
20 Mr. Rizzo.
21 MR. RIZZO: Okay. May I just comment on Mr. Maberry's
22 statement, or is that not appropriate?
23 CHAIR MOLINA: At this time the Chair would like to
24 proceed.

25 SUBCOMMITTEE MEMBER MABERRY: I would appreciate it.

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1 CHAIR MOLINA: Mr. Rizzo, if you'd like to remain as a
2 resource where our Committee can ask you
questions
3 later -

4 MR. RIZZO: Sure.

5 CHAIR MOLINA: -- the Chair's receptive to that.

6 MR. RIZZO: Okay. I'd like to thank everybody for
their
7 time.

8 CHAIR MOLINA: Thank you. Okay, next to testify, we
have
9 Donna Brown.

10 MS. BROWN: Hi. My name's Donna Brown, and I work at
Maui

11 Community College as the marine option program
12 coordinator, but I'm actually coming here as a
13 private citizen. I do do a lot of work with sea
14 turtles. I coordinate the sea turtle stranding
15 network here on Maui, and we just worked with
the

16 baby turtles that Skippy talked about, trying to
17 make sure they get into the ocean, and we did
have a

18 lot of problems with them going up towards the

the 19 lights, but my concern is more just preserving
20 night sky on Maui.
hearing 21 I mean, everybody has already been
22 about the turtles, so I don't want to go over
that 23 more, but I think one of the really special
things 24 about Maui is how can you look up and see the
stars 25 at night and as -- we all know, with the more

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less 1 development that we're having, it's becoming
you 2 and less. And if you go over to Honolulu and
very 3 look up in the night sky, you can't really see
from 4 many stars, and I have friends that come over
can 5 Honolulu and they say, wow, this is great. You
6 see the stars.
always 7 And I live out in Napili where it's
can 8 been kind of -- kind of dark at night and you

a 9 see a lot of stars, and lately we've been having
they 10 lot of new people coming from the mainland and
up 11 think that it's really nice to shine spotlights
yard 12 into their trees and have lights all over their
and 13 to brighten things up and make it look festive
kind 14 look like hotels and things like that. And it
our 15 of ruins it for the neighbors and ruins it for
16 view of just looking out at the stars at night.

the 17 So that's -- a lot of my concern is about
with my 18 marine life, because that's what I work with
look up 19 job, but also my concern is just that we can
to 20 and see the stars at night. That's what I have
21 say.

22 CHAIR MOLINA: Thank you. Committee members,
questions?

23 Ms. Bernard.

24 SUBCOMMITTEE MEMBER BERNARD: Thank you, Donna. Can I
ask 25 you a few questions about those hatchlings in

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1 Lahaina? It seems to me like -- as I recall,
since
2 I was one of the people that got a call about
those
3 hatchlings, that a lot of people were involved.
We
4 had citizens who saw the hatchlings going the
wrong
5 way that night. We had State resource
personnel,
6 your stranding network, my organization, the
Maui
7 Ocean Center. It seems like there were a
tremendous
8 number of people who got calls from concerned
9 citizens about these hatchlings. And in your
10 opinion, as publicized as our turtle nesting is
11 right now on Maui, is it sort of a surprise to
you
12 that we still have this lighting issue, that
people
13 aren't voluntarily complying to reduce the
lights in
14 a situation like this?
15 MS. BROWN: Yeah, it is. And actually we went around
to
16 the neighbors in the area and asked them to turn
off
17 the lights, and the people in the houses were
very
18 cooperative. They -- you know, they were
excited
19 that there were turtles nesting in front of
their

the 20 yard, but it was more from -- the canoe hale at
21 park was one of the biggest problems, and we
off 22 couldn't really find anybody to get them to turn
the 23 the lights. And then there was the park with
they 24 tennis courts, and that had bright lights, but
25 turn them off after everybody is done playing

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1 tennis.
2 And most of the nests hatched -- well, we
had 3 student volunteers that went down and they would
sit 4 there as long as they could, until they just
5 couldn't stay awake anymore, and usually by
about 6 1:00 or 2:00 in the morning they'd go home and
then 7 of course it was like 3:00 o'clock when the
babies 8 would come out. And then the security guards
next 9 door found a lot of the babies cruising around
in 10 the parking lot and up by the street and -- but
we

there 11 did have a tremendous amount of people down
if 12 trying to make sure that the babies got in. And
worry 13 it was dark to begin with, we wouldn't have to
14 about it so much.
15 SUBCOMMITTEE MEMBER BERNARD: So --
16 MS. BROWN: It is surprising that more people aren't
17 cooperating.
of 18 SUBCOMMITTEE MEMBER BERNARD: So if we had the force
for 19 law, maybe if we had an ordinance on the books
20 shielding, maybe we wouldn't have to worry about
21 this quite so much.
22 MS. BROWN: Yeah, I hope that would be the case, that
this 23 people would comply with it, and I think that
and I 24 is a really great step in the right direction
25 hope that this passes very soon.

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1 CHAIR MOLINA: Okay. Thank you.
2 MS. BROWN: Anything else?
3 CHAIR MOLINA: Seeing no other questions from the
4 Committee, thank you very much.

public 5 Is there anyone else -- final call for
gallery 6 testimony at this time. Anyone else in the
the 7 that would like to testify? Okay, seeing none,
item. 8 Chair will close testimony on today's agenda
9 . . .END OF PUBLIC TESTIMONY. . .
10 CHAIR MOLINA: Members, before we commence with our
11 festivities here for this item, Chair would like
to 12 call for a ten-minute break. We shall reconvene
at 13 10 after 10:00. (Gavel).
14 RECESS: 10:02 a.m.
15 RECONVENE: 10:13 a.m.
16 CHAIR MOLINA: (Gavel). The Subcommittee on Outdoor
17 Lighting Standards meeting for October 23rd is
now 18 back in session.
19 Members, today is our last scheduled
meeting 20 for this Subcommittee as it relates to this
subject, 21 and as a result, it's the Chair's goal to
complete 22 the review and the draft bill and to make a
23 recommendation to the Public Works and
24 Transportation Committee.
25 At this time the Chair would like to ask
for

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1 the cooperation of all Subcommittee members to
2 remain focused on completing the review, since
time
3 is limited today. I've been informed that Mr.
Chong
4 has to leave at 12:15 and Mr. Garneau by 1:30.
So I
5 would ask that you please avoid any additional
6 commentary and work to develop solutions on the
7 matters that are before us so we can complete
our
8 tasks.
9 The Chair's intent is to complete today's
10 proceedings no later than 2:00 o'clock, and if
for
11 some reason we do not complete the review of the
12 draft bill today, I'll recommend that we send
the
13 draft bill to the standing Committee as is and
14 inform the members that we were unable to
establish
15 a consensus for the sections that we did not
16 finalize.
17 So at this time, members, I ask that you
18 reference a memorandum dated October 22nd from
the
19 Chair which discusses the procedure for today's
20 review of the draft bill. It's entitled revised

standards. 21 draft bill relating to outdoor lighting
which 22 In the memo I've developed three categories,
changes 23 includes as follows: One, nonsubstantive
do 24 which identify wording or language changes that
or 25 not modify the intent or purpose of the section

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incorporates 1 bill. Two, clarification changes which
2 provisions that require further explanation to
3 clarify the intent of the section. And three,
4 substantive changes. This category requires
major or 5 revisions to sections that may affect the intent
6 purpose of the bill.

bill, 7 Accordingly, I've reviewed the draft
8 separated the sections and subsections that have
9 comments into each of the above categories.
draft 10 Attached to the memorandum is a copy of the
to 11 bill with each section and subsection numbered

12 correspond with the categories for which they've
13 been placed, and for the purposes of expediting
the
14 review of the bill, I'll ask that we review the
15 comments in the following order: One,
16 nonsubstantive changes; two, clarification
changes;
17 and three, substantive changes.

18 As far as resource personnel in
attendance,
19 we have from the Public Works and Waste
Management
20 Division, Greg Nakao, Cary Yamashita, and Howard
21 Hanzawa. From the Department of Planning, we
have
22 Robin Laudermilk. Representing the Parks and
23 Recreation Department, we have Mr. Pat Matsui,
who,
24 by the way, also has to leave at 11:00. And we
have
25 our County energy specialist, Kal Kobayashi

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1 available. And also in our midst we have Lynne
2 Woods from the Chamber of Commerce, along with
3 Terryl Vencl from the Maui Hotel Association,
and
4 Randy Nakama from Maui Electric, and I believe

also
missed
5 Mr. Rizzo, who was here earlier testifying, is
6 available. So if there's anyone else that I
7 as a resource personnel, please inform me.

8 NONSUBSTANTIVE CHANGES

9 CHAIR MOLINA: So let's go ahead and start with
10 nonsubstantive changes. Each of the sections
and
11 subsections are noted in the draft memo. It's
12 indicated by the number 1. I would ask that we
13 approve the proposed revisions in this category
and
14 request that the changes be incorporated in the
15 final draft. If any member right now wishes to
16 remove a section or subsection for further
17 discussion, please let us know prior to voting
on
18 the nonsubstantive changes. The sections or
19 subsections removed from the nonsubstantive
changes
20 will be discussed after the Subcommittee has
voted
21 on the nonsubstantive changes that have not been
22 removed for discussion.

23 So, members, at this time any sections or
24 subsections that you would like to have removed
from
25 the nonsubstantive category for discussion?
Would

1 you like a minute or so to review, members?

2 ?: Yes.

3 ?: Yeah.

4 CHAIR MOLINA: Okay. Would two minutes be sufficient,
5 three minutes?

6 SUBCOMMITTEE MEMBER BERNARD: Three minutes.

7 CHAIR MOLINA: Okay. We'll give you three minutes.

8 MR. SALDANA: Mr. Chair?

9 CHAIR MOLINA: Mr. Saldana.

10 MR. SALDANA: Prior to recess, I had a request to add
one more to the nonsubstantive changes.

11 more to the nonsubstantive changes.
12 CHAIR MOLINA: Okay.

13 MR. SALDANA: If I may.

14 CHAIR MOLINA: Proceed.

15 MR. SALDANA: This would be in Section 20.35.110,
Specific

16 Uses, D, Number 4, add the word "maintain" at
the

17 beginning of the sentence. So the sentence
would

18 start, Number D4., "Maintain lighting levels."

19 CHAIR MOLINA: Okay. That would be on page 13 of the
20 document, Mr. Saldana?

21 MR. SALDANA: That's correct.

22 CHAIR MOLINA: Okay. Members, if you look on page 13,
23 Section D, Number 4, insert the word "maintain."

24 SUBCOMMITTEE MEMBER MABERRY: Where?

25 MR. McCORD: We're on page 13.

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1 SUBCOMMITTEE MEMBER MABERRY: No, I know.

2 CHAIR MOLINA: Page 13.

3 MR. McCORD: But I'm not quite sure where yet.

4 SUBCOMMITTEE MEMBER BERNARD: Section D as in dog?

5 CHAIR MOLINA: Yeah.

6 SUBCOMMITTEE MEMBER ALTENBERG: B, no?

7 SUBCOMMITTEE MEMBER BERNARD: B as in boy?

8 MR. SALDANA: D as in dog.

9 CHAIR MOLINA: Yeah, members, if you'll look -- starts
on

10 page 12, actually, 20.35.110, then go on over to

11 page 13, and you'll see Number 4 under the
section

12 of D, and it starts off with the word "lighting

13 levels." What Mr. Saldana is suggesting is to
insert

14 the word "maintain," so "Maintain lighting
levels."

15 CHAIR MOLINA: Everybody follow? Mr. Altenberg.

16 MR. McCORD: It's the first word of the paragraph?

17 CHAIR MOLINA: Yes, sir.

18 MR. SALDANA: That's correct.

19 SUBCOMMITTEE MEMBER CHONG: And that's a one.

accept

20 SUBCOMMITTEE MEMBER ALTENBERG: May I move that we

21 that insertion?

that.

22 CHAIR MOLINA: There's no requirement for a move on

23 MR. SALDANA: Do -- Mr. Chair, if I may.

24 CHAIR MOLINA: Go ahead, Mr. Saldana.

25 MR. SALDANA: The intent is to have all of the

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1 nonsubstantive changes reviewed and approved

2 simultaneously, so --

of

3 SUBCOMMITTEE MEMBER ALTENBERG: Okay, then, take care

4 it.

fail

5 MR. SALDANA: -- that would take care of it in one

6 swoop.

members,

7 CHAIR MOLINA: Okay. So what we'll do right now,

of

8 we'll call a three-minute recess for your review

at

9 the nonsubstantive changes and then we'll look

10 taking out whatever sections or subsections you

11 have. Three-minute recess. (Gavel).

12 RECESS: 10:19 a.m.

13 RECONVENE: 10:22 a.m.

14 CHAIR MOLINA: (Gavel). At this time is there anyone
who

15 would like to have any sections or subsections
16 removed from the nonsubstantive category for
17 discussion?

18 SUBCOMMITTEE MEMBER BERNARD: Question or
clarification.

19 CHAIR MOLINA: Okay, proceed, Ms. Bernard

20 SUBCOMMITTEE MEMBER BERNARD: I just have a -- if we --
- if

21 we remove them, then do they get additional
22 discussion? Because of --

23 CHAIR MOLINA: Yeah, what we're trying to do right
now, if

24 any of you have any specific concerns regarding
a

25 section or subsection, we're going to remove
them

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1 for discussion. Everything else that is not
being

2 asked to be removed, we'll entertain a motion to
3 pass those nonsubstantive changes.

4 SUBCOMMITTEE MEMBER BERNARD: Because you have non --
you

5 have a yes-or-no question imbedded in one of
these. 6 There's a yes-or-no question. So, you know, to
me, 7 there has to be further discussion on it, at
least 8 to get an answer.
then 9 CHAIR MOLINA: Well, if you feel that's appropriate,
10 make the request.
11 SUBCOMMITTEE MEMBER BERNARD: Okay.
12 CHAIR MOLINA: Dr. Altenberg.
13 SUBCOMMITTEE MEMBER ALTENBERG: Yeah, there's, I mean,
a 14 number of problems with the nonsubstantial
changes 15 that I would address. Should I do that right
now? 16 CHAIR MOLINA: Yes, go ahead and proceed.
17 SUBCOMMITTEE MEMBER ALTENBERG: Page 2, Section
.020.B, 18 Intent. I would recommend instead of "improve
19 upon," I would say "mitigate" is a better word,
20 "mitigate the adverse affects."
21 CHAIR MOLINA: Okay. Again, could you clarify that
again 22 for the Committee? That is Section 20.35.020?
23 SUBCOMMITTEE MEMBER ALTENBERG: .020.
24 VICE-CHAIR TAVARES: B.
25 SUBCOMMITTEE MEMBER ALTENBERG: B, Section B, Intent,

1 "improve upon." I think it's better to say just
2 "mitigate."

3 CHAIR MOLINA: Okay.

4 SUBCOMMITTEE MEMBER ALTENBERG: And then --

5 VICE-CHAIR TAVARES: It doesn't say -- my copy doesn't
6 say, "improve upon."

7 SUBCOMMITTEE MEMBER MABERRY: Yeah, I don't think -- I
8 don't think we're all working from the same

copy.

9 VICE-CHAIR TAVARES: "Ameliorate" is the term.

10 SUBCOMMITTEE MEMBER ALTENBERG: This is on the October
11 22nd memo from Chair Molina.

12 CHAIR MOLINA: Yeah, are we all looking at October
13 the draft bill?

22nd,

14 SUBCOMMITTEE MEMBER MABERRY: Oh, in here?

15 SUBCOMMITTEE MEMBER ALTENBERG: Yeah.

16 SUBCOMMITTEE MEMBER MABERRY: In here, okay.

17 SUBCOMMITTEE MEMBER BERNARD: Okay.

suggestion

18 SUBCOMMITTEE MEMBER ALTENBERG: That's in the

19 of --

20 SUBCOMMITTEE MEMBER MABERRY: _____ text.

Garneau.

21 SUBCOMMITTEE MEMBER ALTENBERG: -- yeah, of Mr.

22 VICE-CHAIR TAVARES: Oh, okay. Hello.

23 SUBCOMMITTEE MEMBER ALTENBERG: And then under part 6

24 under B, I would say -- I would -- rather than
25 "enjoyment," I would insert the word
"illumination"

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1 before "quality," "the owner's control over the
2 illumination quality of their property," or just
3 "the illumination of their property," if that
would
4 be more appropriate.

5 CHAIR MOLINA: Okay. All the members are aware of
where

6 Dr. Altenberg is at?

7 MR. McCORD: Illumination sounds better than
enjoyment,

8 because lighting doesn't necessarily mean
they're --

9 CHAIR MOLINA: Okay. Thank you for your comments.

10 Continue, Dr. Altenberg.

11 VICE-CHAIR TAVARES: Mr. Chair, why don't we --

12 CHAIR MOLINA: Yes, Ms. Tavares.

13 VICE-CHAIR TAVARES: Why don't we just go through each
14 section, because when it comes back, he's done,
then

15 I'm going to come back to page 2. Or, you know,
16 we're going to be flipping back and forth here
as

17 each member has suggestions.

18 SUBCOMMITTEE MEMBER ALTENBERG: Yeah.
19 SUBCOMMITTEE MEMBER BERNARD: Right.
20 VICE-CHAIR TAVARES: So perhaps we should just find
out,
21 you know, from the first number one that's
circled
22 if there's any objection to that and then pass
that
23 one and then go to the next one.
24 CHAIR MOLINA: Okay. The Chair initially thought it
would
25 be easier to do it the way that I had suggested,
but

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1 if it's -- the body would prefer to go the other
2 way, I can go that route too. Okay, what is the
3 pleasure of the body?
4 SUBCOMMITTEE MEMBER MABERRY: We would appreciate it,
sir.
5 SUBCOMMITTEE MEMBER ALTENBERG: Yeah, I would support
just
6 plowing through --
7 CHAIR MOLINA: Okay, so be it.
8 SUBCOMMITTEE MEMBER ALTENBERG: -- from beginning to
end.
9 CHAIR MOLINA: Let's begin on --
10 MR. McCORD: All right, let's plow.

11 CHAIR MOLINA: Page 2, so looking at our first number
12 one --
13 SUBCOMMITTEE MEMBER MABERRY: It's fine.
14 CHAIR MOLINA: Okay, any objections to that?
15 VICE-CHAIR TAVARES: No.
16 CHAIR MOLINA: Okay. Section B, I take it that
there's
17 the concern that was brought out earlier, so
we'll
18 exclude that one for discussion.
19 VICE-CHAIR TAVARES: Okay. We're just going to -- I'm
20 sorry.
21 SUBCOMMITTEE MEMBER MABERRY: Or did we accept that
one,
22 Mr. Chair? Did we accept --
23 SUBCOMMITTEE MEMBER BERNARD: "Mitigate."
24 SUBCOMMITTEE MEMBER MABERRY: -- the recommended
changes?
25 CHAIR MOLINA: Okay. I'm trying to think what -- this

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1 is -- we're looking at B, right?
2 SUBCOMMITTEE MEMBER MABERRY: Yes, sir.
3 CHAIR MOLINA: Instead "mitigate."
4 MR. SALDANA: Mr. Chair.

5 CHAIR MOLINA: I know that we were going to take that
out
6 for discussion. That was my understanding. So
7 that's what we're doing, we're excluding that
one.
8 SUBCOMMITTEE MEMBER ALTENBERG: So you're saying right
now
9 we're just going to flag these sections for
10 discussion?
11 VICE-CHAIR TAVARES: Okay.
12 CHAIR MOLINA: Yeah, but now the body has requested
for us
13 to go one by one, so --
14 SUBCOMMITTEE MEMBER ALTENBERG: The thing we're doing
one
15 by one is either flagging or not flagging, and
then
16 any flagged sections then we come back and
discuss?
17 CHAIR MOLINA: Right.
18 SUBCOMMITTEE MEMBER ALTENBERG: Is that correct?
19 CHAIR MOLINA: No, I guess we'll just hash it out now.
20 SUBCOMMITTEE MEMBER MABERRY: Yeah, let's just smash
it
21 out.
22 CHAIR MOLINA: Okay. So let's go with Section B.
23 Dr. Altenberg, since you brought that up, your
24 comments?
25 SUBCOMMITTEE MEMBER ALTENBERG: I think "mitigate" is
the

1 appropriate term.

2 CHAIR MOLINA: Okay.

you

3 SUBCOMMITTEE MEMBER ALTENBERG: I mean for removing --

4 know, removing problems.

5 CHAIR MOLINA: Okay.

6 SUBCOMMITTEE MEMBER MABERRY: I agree.

Do we

7 CHAIR MOLINA: Any other comments from the members?

8 have consensus on using the word "mitigate" for

9 Section B?

10 VICE-CHAIR TAVARES: Instead of "ameliorate"?

11 CHAIR MOLINA: Instead of "ameliorate."

12 VICE-CHAIR TAVARES: I have another comment on that

13 section.

14 CHAIR MOLINA: Ms. Tavares.

15 VICE-CHAIR TAVARES: Where it says, "the rules," and I

should

16 guess it had been pointed out to us that we

17 be using something else other than rules, and I

"standards

18 would suggest or throw out for discussion

19 and provisions."

20 CHAIR MOLINA: Okay.

21 VICE-CHAIR TAVARES: Instead of the word "rules."

22 SUBCOMMITTEE MEMBER MABERRY: Agreed.

23 SUBCOMMITTEE MEMBER ALTENBERG: Agreed.

24 SUBCOMMITTEE MEMBER BERNARD: Fine.
25 CHAIR MOLINA: Agreed on that, just use "rules"
instead of

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1 "standards and provisions."
2 VICE-CHAIR TAVARES: The other way.
3 SUBCOMMITTEE MEMBER BERNARD: The other way around.
4 SUBCOMMITTEE MEMBER MABERRY: No, the other way.
5 CHAIR MOLINA: Oh, okay, throw out "rules" and use
6 "standards and provisions."
7 SUBCOMMITTEE MEMBER MABERRY: Yes.
8 CHAIR MOLINA: Okay. Thank you for that
clarification.
9 Do we have consensus?
10 SUBCOMMITTEE MEMBER BERNARD: Yes.
11 SUBCOMMITTEE MEMBER MABERRY: Yes.
12 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.
13 CHAIR MOLINA: Okay, so noted, that change will be
made.
14 Okay, anything else? Any other comments?
15 Okay, moving down to our next number one,
16 which is Number 6 from Section B, "illumination"
17 instead of "quality," right?
18 SUBCOMMITTEE MEMBER MABERRY: That was the --
19 CHAIR MOLINA: From Dr. Altenberg.

20 SUBCOMMITTEE MEMBER MABERRY: -- suggestion. I agree.

21 CHAIR MOLINA: Agreed? Consensus?

22 SUBCOMMITTEE MEMBER BERNARD: I'd --

23 CHAIR MOLINA: Ms. Bernard.

24 SUBCOMMITTEE MEMBER BERNARD: I just would like to
throw

25 in one more possible term, because it might be

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1 confusing if you read it out loud. If you add

in --

2 instead of just adding "illumination," say

3 "illumination of their own property." Otherwise,

4 it's -- do you know what I mean?

5 VICE-CHAIR TAVARES: Yeah.

6 SUBCOMMITTEE MEMBER BERNARD: "Own," put "own" in
front of

7 "property," the last "property."

8 CHAIR MOLINA: Okay. "Illumination of their own

9 property."

10 SUBCOMMITTEE MEMBER BERNARD: Is that too redundant?

11 SUBCOMMITTEE MEMBER ALTENBERG: I'm fine by that.

12 CHAIR MOLINA: Okay, we have consensus on that change?

13 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.

14 CHAIR MOLINA: Okay. All righty, members, moving on
to

15 page 3, Section C. Comments?
16 SUBCOMMITTEE MEMBER MABERRY: It's fine.
17 SUBCOMMITTEE MEMBER BERNARD: Fine.
18 VICE-CHAIR TAVARES: Okay.
19 CHAIR MOLINA: Okay, we have consensus on Section C.
20 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.
21 CHAIR MOLINA: Moving on to page 5. Comments or
concerns
22 on the first number one?
23 VICE-CHAIR TAVARES: The kind of plane that flies is
the
24 kind of plane.
25 SUBCOMMITTEE MEMBER ALTENBERG: That's correct.

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1 CHAIR MOLINA: Okay. Plane that flies. You want me
to
2 add the words "that flies"? It could be the
plain
3 like that, as in a mountain, right? So we have
4 consensus, I assume?
5 SUBCOMMITTEE MEMBER BERNARD: Uh-huh.
6 MR. McCORD: Yes.
7 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.
8 CHAIR MOLINA: Okay. Moving down to 20.35.050, a
number

with 9 one regarding general exemptions. Any concerns
10 that?
11 SUBCOMMITTEE MEMBER ALTENBERG: What was the -- what
was 12 the problem with that?
13 MR. SALDANA: There was -- Mr. Chair.
14 CHAIR MOLINA: Mr. Saldana, go ahead.
15 MR. SALDANA: That was added wording. That's new --
16 that's new wording.
17 CHAIR MOLINA: Additional wording.
18 SUBCOMMITTEE MEMBER ALTENBERG: Oh, okay. That looks
good 19 to me.
20 CHAIR MOLINA: Okay. We have consensus on that?
21 SUBCOMMITTEE MEMBER MABERRY: Yes.
22 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.
23 CHAIR MOLINA: Okay, moving down to letter C, where
the 24 words "shall be exempt from the requirements of
this 25 article," that has been deleted. Any concerns
with

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1 that?
2 SUBCOMMITTEE MEMBER BERNARD: Fine.

3 SUBCOMMITTEE MEMBER ALTENBERG: No.

4 CHAIR MOLINA: No concerns?

5 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.

6 CHAIR MOLINA: Okay. Consensus.

7 Moving on to page 6, okay, Maui County

8 Outdoor Lighting Standards Committee, Section A.

9 SUBCOMMITTEE MEMBER BERNARD: Do we need to answer
this

10 question?

11 CHAIR MOLINA: Okay.

12 SUBCOMMITTEE MEMBER BERNARD: Do they need to be
residents

13 of the County?

14 CHAIR MOLINA: Maybe we can have Mr. Garneau comment
on

15 that.

16 MR. GARNEAU: Certainly. Thank you, Chair Molina.
The

17 reason why I asked that question was in looking
at

18 other similar committees they usually do include
19 them as residents. So I don't know if that was
your

20 intent or not. If you feel they may not be able
to

21 find enough people to serve, you might not want
to

22 include it. So I just wanted you to consider it
23 before you --

24 SUBCOMMITTEE MEMBER MABERRY: I believe in order to
get

25 representation such as Mr. Chong, we're going to

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1 have to be a little more flexible. I don't know
2 that we have all the types of people on Maui
that we
3 may need --

4 SUBCOMMITTEE MEMBER BERNARD: I agree.

5 SUBCOMMITTEE MEMBER MABERRY: -- in order to properly
6 address our needs.

7 SUBCOMMITTEE MEMBER ALTENBERG: Agree.

8 CHAIR MOLINA: Okay. So the pleasure of the body is
to --

9 SUBCOMMITTEE MEMBER ALTENBERG: Leave as is.

10 CHAIR MOLINA: Leave as is. Okay. So noted.

11 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.

12 MR. SALDANA: Mr. Chair.

13 CHAIR MOLINA: Mr. Saldana.

14 MR. SALDANA: Point of clarification. Could I have
the

15 Subcommittee clarify whether or not if we leave
it

16 as is will it leave it open to appointing
17 individuals that are not residents of the
County, if

18 we leave it as is?

19 CHAIR MOLINA: The question from Mr. Saldana is if we
20 leave it as is, does the membership of the
21 subcommittee leave it open to -- I'm sorry, not

22 subcommittee, but outdoor lighting standards
23 committee leave it open to nonresidents to
24 participate? Member Tavares.
25 VICE-CHAIR TAVARES: Mr. Chair, yes, I think we need

to

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qualify. 1 specify that it -- that non-residents may
of 2 Because if it's going to be interpreted like all
then I 3 the other committees, it is residents. So if we
 4 want to include non-residents of Maui County,
could 5 think we need to say it in here.
 6 CHAIR MOLINA: Okay. Mr. Garneau, comments where we
says 7 insert that appropriate language?
 8 MR. GARNEAU: I could probably draft language that
preferred 9 something to the effect that residents are
 10 unless there's no one --
 11 SUBCOMMITTEE MEMBER BERNARD: Perfect.
 12 MR. GARNEAU: -- qualified or something.
 13 SUBCOMMITTEE MEMBER BERNARD: Perfect.
 14 CHAIR MOLINA: Okay. Any other comments?

15 SUBCOMMITTEE MEMBER MABERRY: That will be acceptable.

16 CHAIR MOLINA: Okay, so noted.

17 Moving on to page 8, and by letter B
where

18 the word "specifically" has been deleted.

19 SUBCOMMITTEE MEMBER BERNARD: Fine.

20 SUBCOMMITTEE MEMBER ALTENBERG: It's fine.

21 CHAIR MOLINA: Okay. Any comments? We have
consensus?

22 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.

23 CHAIR MOLINA: Okay, letter B on page 8 is accepted.

24 Moving on to page 9, Section .080, Number
3,

25 and the "light shall," the word "shall" being

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1 deleted. Comments, Member Tavares?

2 VICE-CHAIR TAVARES: Yeah, I wanted to know why it was

3 taken out.

4 CHAIR MOLINA: Mr. Garneau. Are you prepared to
respond

5 at this time, Mr. Garneau, to the word "shall"
being

6 deleted?

7 SUBCOMMITTEE MEMBER BERNARD: And "may" inserted.

8 MR. GARNEAU: Right. I'm trying to think what my

9 rationale was. Hold on one second.

it's
have to
correct
discretionary
be
word

10 CHAIR MOLINA: Or Mr. Saldana, if you recall. I know
11 been a long comprehensive process, so we may
12 take time to go back into our memory banks.
13 VICE-CHAIR TAVARES: Mr. Molina.
14 CHAIR MOLINA: Yes.
15 VICE-CHAIR TAVARES: Probably grammatically it's
16 to say "may not be triggered," but as we in
17 government use shall and may, may is
18 and shall is verboten. So I would rather us --
19 it grammatically incorrect, but still use the
20 shall.
21 SUBCOMMITTEE MEMBER BERNARD: Agreed.
22 CHAIR MOLINA: Okay. Is that agreed upon, we shall
23 reinsert "shall"?
24 VICE-CHAIR TAVARES: Unless you --
25 CHAIR MOLINA: Let's hear from Mr. Garneau first.

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that. I
down

1 MR. GARNEAU: Yeah, I don't have any problem with
2 think you're correct in terms of administration

3 the road, but I guess my main thing here was the
4 last part. When I read it I was a little -- I
5 wanted to find a little better that means
activity
6 off the property. So --
7 SUBCOMMITTEE MEMBER ALTENBERG: I agree with that.
8 SUBCOMMITTEE MEMBER MABERRY: That's fine.
9 MR. GARNEAU: That part --
10 SUBCOMMITTEE MEMBER MABERRY: The second part of that
is
11 fine.
12 CHAIR MOLINA: Okay. Member Tavares.
13 VICE-CHAIR TAVARES: Yeah, on the second part of that,
I
14 wanted to offer after "triggered by activity
off,"
15 instead of using the word "off," to use the word
16 either "beyond" or "outside." "Beyond the
property
17 from which the light is located" or "outside the
18 property," instead of "off the property."
19 SUBCOMMITTEE MEMBER BERNARD: Fine.
20 CHAIR MOLINA: Okay.
21 VICE-CHAIR TAVARES: Which one?
22 SUBCOMMITTEE MEMBER CHONG: Outside sounds --
23 CHAIR MOLINA: So, okay, we have "beyond" or
"outside"?
24 SUBCOMMITTEE MEMBER CHONG: Outside sounds good to me.
25 SUBCOMMITTEE MEMBER ALTENBERG: Outside.

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1 VICE-CHAIR TAVARES: Outside.

2 CHAIR MOLINA: Outside. Okay. Okay, so we'll delete
the

3 word "off" and insert the word "outside." Any

4 additional comments on page 9?

5 SUBCOMMITTEE MEMBER ALTENBERG: Just a general
comment. I

6 mean, these are imperative statements
grammatically

7 and shall is grammatical for imperative
statements,

8 so...

9 VICE-CHAIR TAVARES: Thank you.

10 CHAIR MOLINA: We're having an English lesson here
today.

11 That's good.

12 Okay, members, move on to page 12,
Section

13 .110, Number 3. We have the word "fascias." It

14 sounds like a medical term. That's been
deleted. I

15 guess it's been respelled or reclarified as fas
--

16 "fasciae." We'll ask Mr. Garneau. He's more

17 experienced with Latin, I guess.

18 SUBCOMMITTEE MEMBER ALTENBERG: That sounds good to
me.

19 SUBCOMMITTEE MEMBER BERNARD: Fasciae.

20 CHAIR MOLINA: Fasciae?

21 SUBCOMMITTEE MEMBER ALTENBERG: Fasciae.

22 CHAIR MOLINA: Okay. Any comments on Number 3?

23 MR. McCORD: Yes. It's not a complete sentence,
"shall

24 not be illuminated in a manner."

25 SUBCOMMITTEE MEMBER BERNARD: "In any manner," is that

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1 supposed to be "any"?

2 MR. McCORD: Something. It's got to have another
word.

3 CHAIR MOLINA: Doesn't flow, huh?

4 MR. McCORD: No. "Shall not be illuminated in any
manner"

5 would be correct.

6 VICE-CHAIR TAVARES: Yeah, "any."

7 SUBCOMMITTEE MEMBER BERNARD: I like that.

8 CHAIR MOLINA: Is it the consensus --

9 SUBCOMMITTEE MEMBER BERNARD: "Any."

10 CHAIR MOLINA: -- of the group to delete "a" and
insert

11 the word "any"?

12 SUBCOMMITTEE MEMBER BERNARD: Yep.

13 SUBCOMMITTEE MEMBER MABERRY: Yes.

14 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.

15 CHAIR MOLINA: Okay, any other comments on that.

16 SUBCOMMITTEE MEMBER CHONG: I have a comment.
17 CHAIR MOLINA: Okay, Mr. Chong.
18 SUBCOMMITTEE MEMBER CHONG: Sorry. Does this
paragraph
19 conflict with paragraph in -- let's see.
Reading
20 paragraphs in this text is not easy.
Architectural
21 accent lighting.
22 SUBCOMMITTEE MEMBER BERNARD: Page?
23 SUBCOMMITTEE MEMBER CHONG: Page 14.
24 CHAIR MOLINA: Okay, members, we'll turn to page 14.
25 We're looking at potential conflict with page 14
and

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1 page, I guess, 12. And what section, Mr. Chong?
2 SUBCOMMITTEE MEMBER CHONG: In general. I mean it's -
-
3 architecture accent lighting in this section is
--
4 it's telling you basically what you can do as
long
5 as you rough -- in a summarization, and it's
saying
6 you can light the architecture and accent it as
long
7 as you control your light and you don't spill it
out

8 into the night sky and things like that. And a
9 fasciae can be considered an architectural
element
10 that needs to be accented. So this says,
"Lights
11 shall not be mounted on the top or sides," and
it
12 says, "The sides shall not be illuminated,"
13 whatever, "in any manner," and so isn't that
14 contradictory? Sorry.
15 SUBCOMMITTEE MEMBER ALTENBERG: If I may.
16 CHAIR MOLINA: Mr. Garneau, can you comment on Mr.
Chong's
17 concern that this is contradictory?
18 MR. GARNEAU: I think Mr. Chong is probably better to
19 answer that one, since he's a designer, that
those
20 two things conflict.
21 SUBCOMMITTEE MEMBER CHONG: I think so. That's why I
22 asked the question.
23 CHAIR MOLINA: Dr. Altenberg.
24 SUBCOMMITTEE MEMBER ALTENBERG: I would agree. That
would
25 make this a substantive change, and we may not
want

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is
fasciae
and

1 to deal with it now, but what I would recommend
2 that it be amended to say shall be -- these
3 shall be considered architectural accent lights
4 regulated as -- per section where architectural
5 accent lights are mentioned.

6 CHAIR MOLINA: So shall we list this as a --

7 SUBCOMMITTEE MEMBER BERNARD: Number two.

come

8 CHAIR MOLINA: -- as a number two, then? And we can
9 back to this, then. Okay.

10 VICE-CHAIR TAVARES: Maybe the incomplete sentence was
11 supposed to refer to that section that was just
12 pointed out by Mr. Chong, in a manner similar to
13 page --

14 CHAIR MOLINA: Mr. Garneau?

and

15 MR. GARNEAU: I had just taken that draft exactly. I
16 guess we'd have to go look at our past drafts
17 see. Was it always that way?

18 SUBCOMMITTEE MEMBER ALTENBERG: That should have been
19 "any." That was a typo. "A" should have been
20 "any." My fault.

21 VICE-CHAIR TAVARES: Oh, it was supposed to be any?

go

22 SUBCOMMITTEE MEMBER MABERRY: Let's move to a two and
23 on.

24 SUBCOMMITTEE MEMBER ALTENBERG: Yeah.

that

25 MR. GARNEAU: Yeah, and I'm looking at our last draft

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exactly

1 I started with and it was the same. It was

the

2 the same language. So it's been in there since

3 beginning.

we'll

4 CHAIR MOLINA: Okay, we'll move that as a two and

page

5 come back to it. Okay, members, let's go to

and

6 15. Okay, we have ones for Plans, Description,

7 Data. Starting with plans first. Comments?

8 SUBCOMMITTEE MEMBER CHONG: Did we skip 13?

9 CHAIR MOLINA: Sorry.

13?

10 SUBCOMMITTEE MEMBER MABERRY: Where's there a one on

mentioned

11 CHAIR MOLINA: Oh, yeah, "maintain." Do we have

12 consensus -- that's the one that was just

13 to us by Mr. Saldana.

already

14 SUBCOMMITTEE MEMBER MABERRY: I thought that was

15 approved.

word

16 CHAIR MOLINA: Is there a consensus for having the

17 "maintained" inserted in there?

18 SUBCOMMITTEE MEMBER ALTENBERG: Yes.

19 SUBCOMMITTEE MEMBER MABERRY: Yes.
20 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.
21 CHAIR MOLINA: Okay. All right. Now we're back to
15, plans.
22
23 SUBCOMMITTEE MEMBER MABERRY: All three of those look
24 good, sir.
25 SUBCOMMITTEE MEMBER BERNARD: Fine.

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1 CHAIR MOLINA: Okay. All right. Consensus for all
three, Plans, Description, and Data.
2
3 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.
4 CHAIR MOLINA: All right. That's it, okay.
5 SUBCOMMITTEE MEMBER CHONG: That was an easy one.
6 CHAIR MOLINA: The Chair at this time will entertain a
7 motion to approve the nonsubstantive changes and
8 incorporate them into the final draft.
9 SUBCOMMITTEE MEMBER MABERRY: So moved, Mr. Chair.
10 SUBCOMMITTEE MEMBER CHONG: Second.
11 MR. McCORD: Second.
12 CHAIR MOLINA: It's been moved by Mr. Maberry, second
by
13 Dr. Altenberg.

14 SUBCOMMITTEE MEMBER ALTENBERG: No, no.
15 CHAIR MOLINA: Mr. Maberry, as the maker of the
motion.
16 SUBCOMMITTEE MEMBER ALTENBERG: Discussion.
17 CHAIR MOLINA: Discussion from Mr. Maberry, any
comments?
18 Dr. Altenberg.
19 SUBCOMMITTEE MEMBER ALTENBERG: If we have other
20 nonsubstantive changes that we want to
recommend, do
21 we have to deal with that now or can that be
22 mentioned as we proceed through some of the -- I
23 e-mailed some changes I wanted to see considered
for
24 the -- for the ordinance to the various members,
and
25 I'm not sure at which point we can, you know,

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1 discuss those recommendations.
2 CHAIR MOLINA: Well, the Chair's intent was just to
take
3 what we have here before us today and move from
4 there, because -- since we are under some time
5 constraints and some of our personnel will be
6 leaving us today. What I'd like to do is
proceed
7 with two and three, and then we can come back to

3 NOES: None.
ABSTAIN: None.
4 ABSENT: None.
EXC.: None.

5 MOTION CARRIED.

6 ACTION: APPROVE.

7 CHAIR MOLINA: Okay. Thank you.

8 CLARIFICATION CHANGES

9 CHAIR MOLINA: Now, moving on to clarification, we'll
10 start first with page 2, under Section .030,
11 Construction. Comments?

12 MR. McCORD: Looks reasonable.

13 CHAIR MOLINA: A, yeah, it's actually 2 A.

14 SUBCOMMITTEE MEMBER BERNARD: Fine.

15 CHAIR MOLINA: Member Tavares.

16 VICE-CHAIR TAVARES: Yeah, there's the whole
paragraph, I
17 guess, that's the question.

18 CHAIR MOLINA: Uh-huh, A, and -- well, I guess we'll
start
19 with A first.

20 VICE-CHAIR TAVARES: You know, I hope there is a
21 consistent way that we approach how we
capitalize
22 and not capitalize county of Maui. I mean, we
seem
23 to go through this every term when we have a
24 different Corp. Counsel, and we go through and
we
25 change them all back to lowercase, uppercase,
and we

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called
going to
want
there.
State
of
wanted some background on that.
CHAIR MOLINA: Okay.
VICE-CHAIR TAVARES: Because to me if we make a law in
the
we
government
everything,
State
standards.
CHAIR MOLINA: Mr. Garneau.

1 keep switching back and forth for these so-
2 proper names. I mean, I don't know if it's
3 take a resolution from Council to say that we
4 it a certain way, but the first thing is a
5 non-substantive change. I just threw that in
6 But in the second part, the comment there that,
7 "'Public' cannot include property owned by the
8 of Hawaii or the Federal government," and I kind
9
10
11
12 County of Maui, it applies to everybody, unless
13 specifically exempt -- or if the Federal
14 -- well, they do exempt themselves from
15 but I thought the State government had to follow
16 County standards if they were stricter than
17
18

19 MR. GARNEAU: I had written a memo to this
Subcommittee
20 way back in February addressing this very issue,
and
21 it opens up a lot of questions, because the --
with
22 regards to what do we have to reach. I mean
there
23 is a similar ordinance that does affect all
roadways
24 on the Big Island that has not been challenged.
Our
25 existing rules of Department of Public Works do

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1 refer to just public areas, but what I wanted to
2 consider in here is that -- whether or not we
have
3 regulatory authority.
4 There -- and the reason why I had written
5 that memo and wanted to deal with it at this
time
6 was that, as you know, a lot of our lighting is
7 located in the public rights-of-way, and public
8 rights-of-way is one of those areas that is
heavily
9 regulated by the State. And so the primary, you
10 know, provider of lighting within the public

Maui 11 rights-of-way of course is Maui Electric, and
12 Electric operates under a franchise agreement in
the 13 County.
14 And so my question here was that -- I'm
not 15 saying we can't regulate it. I'm just saying we
16 need to consider it. We should have input from
the 17 electric company if they have -- so far they
haven't 18 objected to our rules, which are very similar,
that 19 have been in place. And as far as I know, the
Big 20 Island ordinance that requires low pressure
sodium 21 has not been challenged by the electric company,
but 22 the thing that makes me wonder is if you look
under 23 just the terms of the franchise agreement
itself, it 24 seems to me that the lamps and poles are within
Maui 25 Electric's franchise.

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1 And there was a case out of Kauai, you

utility 2 probably remember, which was the citizen's
but 3 case that didn't deal with lamps in particular
in 4 did deal with heights of electrical poles, and
of 5 that the Supreme Court had said that the County
6 Kauai could not regulate the height of the poles
have 7 based upon this comprehensive scheme that we
and 8 with the, you know, Public Utilities Commission
9 the standards in place. So there have been
10 opinions, which I've also had provided with my
11 February 19th memo from the AG's Office, that
were 12 not -- the counties cannot regulate the property
13 owned by the State, and there is this case on
Kauai 14 that deals with the electrical company.

15 So what I would like to know here before
this 16 moves forward -- and maybe we can do that in the
17 Public Works and Transportation Committee, I'd
like 18 to know from MECO, specifically their legal
19 counsel, 20 is this something that they don't plan on
21 challenging, they agree that it falls outside of
22 their -- it's not covered by their franchise
23 standards, you know, because given that this is
a 24 very -- we're looking at doing something pretty

change, 25

comprehensive and making a Countywide major

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know, 1 I'd like to know that we're not going to, you
is 2 get challenged down the road, that Maui Electric
3 on board, you know, with this language.

you 4 And I think the language that we use --
5 know, we do use public -- if it were to be
you 6 interpreted -- that is language that is found,

7 know, throughout the rules and the codes, but
8 whether it's interpreted later on as limited
only to

9 County property, I don't know. You know, if
10 is a conflict, that would be how it would be
11 interpreted. So from my perspective, I'd like
12 know up front and then have the ordinance so
13 reflect. If it's only County, then it's the
County.

14 I guess the last part of this would be
15 knowing from Public Works what's their
relationship

Public 16 with MECO, because -- and maybe some of the
little 17 Works folks that are here can talk about it a
when 18 bit. You know, it may be a non-issue. Maybe
of 19 we put up poles we already tell MECO what kind
a 20 poles we want or what type of fixtures to use,
it 21 because we do contract with them. So it may be
cases 22 non-issue, but I just wanted to make sure that
say 23 was considered and there are these, you know,
24 out there and the AG opinions out there that do
25 that County doesn't have authority over State.

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And 1 So that's the reason why I included it.
this 2 it was brought up quite a long time ago, just
so 3 Subcommittee has not -- we've been dealing with
4 many details that we hadn't gotten back to that
be 5 issue, but I think it is something that has to
6 dealt with.

7 SUBCOMMITTEE MEMBER ALTENBERG: Mr. Chair.
8 CHAIR MOLINA: Hang on.
9 VICE-CHAIR TAVARES: This is just for our heads up,
then,
10 what you have in the bracket, a heads up to us
or a
11 reminder?
12 MR. GARNEAU: It's just a reminder that we brought up
it
13 before. It's something we definitely should
deal
14 with before this gets passed out. It may be
that
15 today, because of the time constraints, we want
to
16 send it along the way it is with the notation
17 that -- you know, that we consult with
Department of
18 Public Works and consult with MECO just to make
sure
19 that we're not treading anywhere we shouldn't.
20 VICE-CHAIR TAVARES: Okay. Thank you.
21 CHAIR MOLINA: Thank you, Member Tavares. Member
22 Altenberg, followed by Member McCord.
23 SUBCOMMITTEE MEMBER ALTENBERG: Since any limits on
the
24 scope of this ordinance as to what's public are
25 established by State, Federal law, or court
cases

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1 which are not part of Maui County Code and which
may
2 change in time, it doesn't seem appropriate for
me
3 to -- for the Code to limit itself in reference
to
4 those various State and Federal legal
restrictions.

5 So I think that since those may change, that we
6 should, you know, not try to put limits within
our
7 code as to what its scope is. Let those limits
be
8 set by the people that are setting those limits,
9 which is State and Federal level.

10 CHAIR MOLINA: Okay. Thank you. Mr. McCord, followed
by
11 Mr. Maberry.

12 MR. McCORD: I agree. Since Maui County has managed
to
13 work with their electric company and do this on
the
14 State, let's not include an exclusion here and
see
15 if we can get away with it here too.

16 CHAIR MOLINA: Okay.

17 MR. McCORD: I move we just go ahead and eliminate the
18 black letters.

19 CHAIR MOLINA: Okay, Mr. Maberry.

20 SUBCOMMITTEE MEMBER MABERRY: Just to continue that
line

21 of thought, as we already are putting
restrictions
22 on height of poles and requiring shielding right
now
23 in Maui County by the street lighting standards.
24 CHAIR MOLINA: Okay. Member Altenberg.
25 SUBCOMMITTEE MEMBER ALTENBERG: One thing to clarify,
we

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1 don't intend that this ordinance is going to
apply
2 to vehicles, but I think that should be made --
3 stated explicitly. So I would like to propose
that
4 we add the -- to .030 the sentence this shall --
5 oops, oops, oops, oops. No, I'm sorry.
6 SUBCOMMITTEE MEMBER McCORD: Installed?
7 SUBCOMMITTEE MEMBER MABERRY: I don't think you need
to
8 cover it.
9 VICE-CHAIR TAVARES: Yeah, I think it's clear.
10 SUBCOMMITTEE MEMBER MABERRY: It's clear enough.
11 SUBCOMMITTEE MEMBER ALTENBERG: No, that's another --
12 that's a substantive change that -- I'm sorry,
that
13 I want to get back to. So that would be later
on

14 where we have a general exemption. Apologies.
15 CHAIR MOLINA: Okay. Mr. McCord, you earlier
suggested
16 you wanted to move --
17 MR. McCORD: My suggestion is we eliminate that
portion in
18 the brackets.
19 CHAIR MOLINA: Okay, "'Public' cannot include" --
20 SUBCOMMITTEE MEMBER MABERRY: That's just a question.
21 VICE-CHAIR TAVARES: That's already --
22 SUBCOMMITTEE MEMBER MABERRY: It's already out because
23 it's in the a bracket, so -- pardon me, Mr.
Chair.
24 So, Warren --
25 CHAIR MOLINA: Okay, Mr. Maberry.

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--
1 SUBCOMMITTEE MEMBER MABERRY: -- the only changes are
2 MR. McCORD: Would be "of this chapter."
3 SUBCOMMITTEE MEMBER MABERRY: Right.
4 CHAIR MOLINA: So we'll delete those words "of this
5 chapter."
6 SUBCOMMITTEE MEMBER MABERRY: And the changing of the
7 letter C in County.
8 CHAIR MOLINA: Okay, in County. All right. Do we
have

9 consensus on that?

10 SUBCOMMITTEE MEMBER MABERRY: Yes.

11 CHAIR MOLINA: We will capitalize the word "County"
and

12 delete the words "of this chapter."

13 SUBCOMMITTEE MEMBER ALTENBERG: Yes.

14 CHAIR MOLINA: Okay. Dr. Altenberg.

15 SUBCOMMITTEE MEMBER MABERRY: Remove the capital.

16 SUBCOMMITTEE MEMBER ALTENBERG: Another clarification
17 which is the issue of what is a -- what kind of
18 light is considered after the effective date of
this

19 ordinance, what about a light that's installed
to

20 replace an old light and we don't -- we don't --

21 we're not clear on that. I would propose this

22 language: "This shall include lighting fixtures

23 that are installed to replace existing lighting

24 fixtures," at the end of .030, Section A.

25 CHAIR MOLINA: Okay. "This shall include lighting

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1 fixtures to replace" --

2 SUBCOMMITTEE MEMBER ALTENBERG: "That are installed to

3 replace existing lighting fixtures."

lighting 4 CHAIR MOLINA: "Are installed to replace existing
5 fixtures." Mr. Chong, your comments.
6 SUBCOMMITTEE MEMBER CHONG: I think that's a problem,
7 because if you're replacing one out of a hundred
and 8 now you've got to comply, It's gonna -- a
commercial 9 property is going to have a problem with that.
It's 10 going to change. You're going to have a
different 11 look all the way above. I'm not sure if that's
12 something that's good.
13 CHAIR MOLINA: Okay, so noted. Dr. Altenberg.
14 SUBCOMMITTEE MEMBER ALTENBERG: And the problem is
that 15 someone could install a whole new system and,
you 16 know, like these shopping centers and stuff and
they 17 would claim that these were existing lights and
-- 18 that they were replacing, so -- or somebody -- I
19 know some places they'd say if you're going to
20 replace more than 50 percent of a certain
lighting, 21 installation, then you count that as new
third 22 well, then, they replace a third and then a
with 23 and then a third. So in the absence of dealing
have 24 existing lighting, you know, I think we need to
new 25 some provision so that people don't just claim a

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1 installation is existing lighting.

with 2 CHAIR MOLINA: Any other comments from the members

3 regards to this proposed addition? I take it we

4 don't have 100 percent consensus on this. Okay.

5 SUBCOMMITTEE MEMBER BERNARD: Is there a motion on the
6 floor?

guess 7 CHAIR MOLINA: There's currently no motion, but I

8 you could --

add 9 SUBCOMMITTEE MEMBER ALTENBERG: I would move that we

include 10 to .030, Section A the sentence, "This shall

11 lighting fixtures that are installed to replace
12 existing lighting fixtures."

13 SUBCOMMITTEE MEMBER BERNARD: Second.

motion 14 CHAIR MOLINA: Okay. There's been a second -- a

15 and a second. Discussion?

16 SUBCOMMITTEE MEMBER McCORD: Whoa.

matter, 17 CHAIR MOLINA: Okay. Seeing no discussion on the

18 Chair will call for the vote.

19 SUBCOMMITTEE MEMBER McCORD: Whoa, wait, wait, wait.

20 CHAIR MOLINA: Okay, Mr. McCord.

problem

21 SUBCOMMITTEE MEMBER McCORD: I think we do have a

putting

22 here, because I understand the aesthetics of

and

23 one kind of light next to another kind of light

24 the whole thing looks like hell.

25 CHAIR MOLINA: Okay, Mr. Maberry, your comments.

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1 SUBCOMMITTEE MEMBER MABERRY: Yes, sir. I definitely

but

2 appreciate what Dr. Altenberg is trying to do,

3 in the spirit of cooperation here, if you were

4 talking -- simply talking about street lights, I

our

5 could buy into it 100 percent, but I think in

everybody

6 attempt to kind of, again, cooperate with

think

7 involved, I have a problem with this. I don't

over

8 it meets the spirit of what we've accomplished

9 the last couple of meetings. And again, I think

toehold

10 it's so important for us to get, you know, a

for

11 on this problem that I'd be willing to let it go

12 now and try to address it at some point in the
13 future.

14 CHAIR MOLINA: Okay, Ms. Bernard.

15 SUBCOMMITTEE MEMBER BERNARD: Let me see if I
understand

16 what we're doing here, then. So essentially
someone

17 can replace their lights exactly the way they
were,

18 then? Is this a loophole? We don't end up with
19 any -- essentially there is no retrofit.

20 SUBCOMMITTEE MEMBER MABERRY: Not from -- may I
respond to

21 that? Not from this particular bill, there is
no

22 retrofit. That was sort of how we set this up
23 because of the economic impact on our visitor
24 industry and the County itself.

25 CHAIR MOLINA: Okay, Dr. Altenberg.

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-- 1 SUBCOMMITTEE MEMBER ALTENBERG: I mean effectively if

2 somebody can claim that -- I mean like some of
these

3 shopping centers, they -- after -- if this bill
were

4 enacted, they could go in and replace all their

5 lights with the acorn lamps that were completely
6 unshielded and claim that these were exempt
because
7 these were existing lights. So -- and that
would be
8 a shame because if then later -- then they would
9 have to retrofit all of those if there were --
if
10 the bill were amended in the future to have
retrofit
11 requirements. So the question is when people
are
12 installing new lights, you know, if there's a
means
13 to make them conform with these lighting --
14 shielding requirements, there should be -- there
15 needs to be some way of doing that.

16 CHAIR MOLINA: Okay, Mr. Maberry.

17 SUBCOMMITTEE MEMBER MABERRY: May I respond? That's a
new
18 lighting installation. If you're changing the
type
19 of lighting that you have on a property, that's
a
20 new lighting installation. I think we need to
keep
21 that in mind and figure out if we need to change
22 something somewhere, but if you're simply -- you
23 know, if somebody plows into one of the poles on
24 your property and knocks down your light, you
ought
25 to be able to put back up the same kind of pole
and

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1 the same kind of light.

2 CHAIR MOLINA: Okay. Mr. Chong, I'm going to let
3 you respond.

4 SUBCOMMITTEE MEMBER CHONG: I agree. If somebody's
going

5 to -- and maybe there's got to be language for

this.

6 If somebody is completely changing out a

lighting

7 system, there probably should be language that

8 regulates that, that they do now have to comply.

9 But in the example that Mike gave, I mean,

that's

10 just one example. It could be a wall fixture

that's

11 thematic that just rusted out and you want to

12 replace it and now it has to be compliant. You

13 know, it will never happen. I mean, you build

these

14 luxury hotel properties and there's a theme

15 throughout the property and you have to put in

16 something that's fully shielded and you can't

match

17 all the rest on the wall and that's going to

create

18 a headache for everybody on that property.

19 CHAIR MOLINA: Dr. Altenberg, for the last time to

comment

20 on this motion on the floor.

21 SUBCOMMITTEE MEMBER ALTENBERG: I would accept as a
22 friendly amendment the issues that both Mike and
23 Rick have brought up, and so how about changing
the
24 language to "This shall include light fixtures
that
25 are installed to replace existing lighting
fixtures

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1 if the fixture is not identical to what was
2 previously installed." In other words, if
you're
3 going to replace something that was -- with
4 something that's identical to what's already
there,
5 then you don't count that as new lighting, but
if
6 you're putting in something that's different,
that
7 will be counted as new lighting, which is
exactly
8 what Mike was saying. Any better language I
would
9 certainly entertain, if anybody wants to forward
10 language to that effect.

11 SUBCOMMITTEE MEMBER BERNARD: Can you say that again?

12 SUBCOMMITTEE MEMBER ALTENBERG: In other words, if you
13 replace a light with something -- with a fixture
14 identical to what was there, that is exempt. If
you
15 replace it with a different kind of fixture,
that
16 counts as new lighting.
17 CHAIR MOLINA: Okay. Members, Chair's comment on
this,
18 this is considered somewhat of a new amendment
and a
19 new proposal for this matter. I will call for
the
20 vote on it, but I've been a little loose on
this.
21 I'd like to tighten the reins a little bit
because
22 we're under some time constraints. So we have a
23 motion on the floor with the proposed language
from
24 Dr. Altenberg. Is there any other comments to
this
25 proposal?

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1 VICE-CHAIR TAVARES: Yeah, Mr. Chair.
2 CHAIR MOLINA: Otherwise the Chair will call for the
vote
3 on it.

table

a

of

Bernard,

the

4 VICE-CHAIR TAVARES: You know, I move we table this
5 motion.

6 SUBCOMMITTEE MEMBER MABERRY: Second.

7 CHAIR MOLINA: All right. There's been a motion to
8 the motion. It's been seconded. Discussion,
9 Ms. Tavares?

10 VICE-CHAIR TAVARES: Usually there's not discussion on
11 table.

12 CHAIR MOLINA: Okay. All right. All those in favor
13 tabling the motion, say "aye."

14 SUBCOMMITTEE MEMBERS VOICED AYE.

15 CHAIR MOLINA: All those opposed?

16 VOTE: AYES: Subcommittee members Altenberg,
17 Chong, Maberry, McCord, Vice-Chair
Tavares, and Chair Molina.

18 NOES: None.

19 ABSTAIN: None.

ABSENT: None.

EXC.: None.

20 MOTION CARRIED.

21 ACTION: APPROVE (motion tabled, Section
22 20.35.030.A, Construction).

23 CHAIR MOLINA: Okay. Motion has been tabled. Okay,
24 moving down to letter B. Any comments? And I
25 believe that strikes -- letter B is striking out

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and
fine
There's
we
procedures.
that I
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it's
of
20 is
that
the

1 word "article" and replacing it with "chapter,"
2 also in brackets, "including provisions for the
3 imposition upon any person of the penalties by
4 for any violation of this chapter." Okay.
5 a question being asked, too, also in there, Do
6 need bracketed section? According to the Maui
7 County Code sets forth procedures relating to
8 violations and fines including appeal
9 Would members like a response to that?
10 SUBCOMMITTEE MEMBER MABERRY: Could he please clarify?
11 CHAIR MOLINA: Sure. Mr. Garneau.
12 MR. GARNEAU: Certainly. The -- one of the things
13 was asked to do in looking at the draft was pick
14 section of the Code that this would go in, so
15 actually in the environmental protection section
16 the Code, which is Chapter 20. And so Chapter
17 one of those provisions like 18 and 19 that are
18 included within Title 19 that has procedures for
19 penalties and appeals and so forth. So given
20 this has been placed within Chapter 20, that's

21 proposal. I'm not certain that this language is
22 really necessary. I think there's a later
comment
23 later on that may deal with penalties that's
24 related. Whether or not those -- you want to
have
25 specific provisions for penalties in this as
well

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1 because there's already penalties elsewhere in
the
2 Code, so just something for you to think about.
3 CHAIR MOLINA: Comments?
4 SUBCOMMITTEE MEMBER McCORD: Since this simplifies it
a
5 little bit, I suggest we accept it.
6 CHAIR MOLINA: Okay, is there consensus for letter B,
7 Section .030?
8 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.
9 CHAIR MOLINA: Okay, consensus.
10 Moving down to Section .040, under
11 Definitions, we have reinserted language
regarding
12 the definition of agricultural. "'Agricultural'
13 means lands that meet the district criteria as
set
14 forth in Chapter 19.30A, Agricultural District."

15 Comments, members?
16 SUBCOMMITTEE MEMBER MABERRY: Accept.
17 SUBCOMMITTEE MEMBER ALTENBERG: Accept it.
18 CHAIR MOLINA: Consensus?
19 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.
20 CHAIR MOLINA: Okay. Moving on to page 4, which is

under

21 Nonessential. I'm trying to get my bearings

here.

22 Okay. It's been bracketed, "Term nonessential

is

23 open to a rather wide interpretation. May be

24 difficult to administer." Department of Public

25 Works, maybe we could get comments on this

portion

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1 of Section .040, under Definitions. While

Public

2 Works reviews that -- Mr. Nakao, are you ready

to

3 respond?

4 MR. NAKAO: Could you read me the question?

5 CHAIR MOLINA: Yeah, we're looking at -- on page 4 in

6 brackets it has Number 2, it says, "Term

7 nonessential is open to rather wide

interpretation.

8 It may be difficult to administer. Consult
9 Department of Public Works." So we're basically
10 asking for a response or a comment with regards
to
11 the interpretation of "nonessential."
12 MR. NAKAO: Well, just like a lot of the enforcement
13 issues, yeah, it's really up to the
interpretation
14 of the inspector. I don't think it's
excessively,
15 you know, vague or broad in that sense. I mean
I
16 think you can make a determination whether the
17 lighting is needed for the activity or whether
it's
18 not needed for the activity looking at what's
19 happening out there.
20 CHAIR MOLINA: Okay. Committee members, comments?
21 Dr. Altenberg.
22 SUBCOMMITTEE MEMBER ALTENBERG: I mean that's what
this
23 definition of nonessential is for, is to clarify
in
24 enforceable terms what it means, and it seems to
me
25 that it does that adequately.

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1 SUBCOMMITTEE MEMBER MABERRY: Agreed.

2 CHAIR MOLINA: Agreed upon?

3 SUBCOMMITTEE MEMBER McCORD: It may be a little vague,
but
4 we've got to try somehow to deal with this
issue.
5 CHAIR MOLINA: Okay. So the Chair will take it that
there
6 is consensus for clarification number 2.
7 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.
8 VICE-CHAIR TAVARES: So what's the consensus?
9 SUBCOMMITTEE MEMBER MABERRY: That it stays.
10 VICE-CHAIR TAVARES: That it stays?
11 SUBCOMMITTEE MEMBER BERNARD: That you strike the
12 brackets.
13 CHAIR MOLINA: It stays as nonessential. The
definition
14 for nonessential stays as is.
15 VICE-CHAIR TAVARES: Oh, okay. I was overhearing my
16 partner over here saying, oh, it's out.
17 CHAIR MOLINA: Okay.
18 VICE-CHAIR TAVARES: It's the bracket part that's out.
19 Okay. Thank you.
20 CHAIR MOLINA: Okay, moving on to page 5, members,
under
21 Rural. Been replaced with the term -- well,
I'll
22 just read the whole thing. "'Rural' means lands
23 that meet the district criteria as set forth in
24 Chapter 19.29, Rural Districts." Comments,
members.
25 SUBCOMMITTEE MEMBER MABERRY: Accept.

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1 SUBCOMMITTEE MEMBER McCORD: Accept.

2 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.

3 CHAIR MOLINA: Accept, okay.

with,

4 Next on up-lighting it's been bracketed

5 "Horizontal plane of what?" and "The fixture?"

6 Questions. I guess is that from Mr. Garneau?

7 VICE-CHAIR TAVARES: Uh-huh.

8 CHAIR MOLINA: Mr. Garneau, if you could respond.

or

9 MR. GARNEAU: Oh, I think in all these, you know, my
10 feelings won't be hurt if you guys reject them

11 whatever. I just -- there were things as I was

12 reading thinking what does that mean? It says

is

13 horizontal plane. I wasn't clear. So maybe it

sure

14 clear and I just was missing it, but I wasn't

15 what was met in that definition.

16 CHAIR MOLINA: All right, Mr. Maberry, followed by

17 Mr. Altenberg.

18 SUBCOMMITTEE MEMBER MABERRY: Yeah, I think it's --

term.

19 personally I think it's clear. It's a regular

in
know,
20 Horizontal to the plane of where the object is
21 reference to the earth and perpendicular, you
22 to the point through the center of the earth, so
23 I -- I think it should stay as is.
24 CHAIR MOLINA: Okay. Dr. Altenberg.
25 SUBCOMMITTEE MEMBER ALTENBERG: It's more precisely

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and
to
light
that
of
3.
12

1 defined under the definition of fully shielded,
2 I propose that the language there be also added
3 the definition of up-light, which is, "the
4 horizontal plane passing through the lowest
5 emitting part of the fixture."
6 SUBCOMMITTEE MEMBER MABERRY: Can you tell us where
7 is?
8 SUBCOMMITTEE MEMBER ALTENBERG: Under the definition
9 fully shielded on page 3 at the bottom.
10 SUBCOMMITTEE MEMBER MABERRY: Page 3.
11 SUBCOMMITTEE MEMBER ALTENBERG: Last sentence of page
12 SUBCOMMITTEE MEMBER McCORD: I can handle that.

13 CHAIR MOLINA: Okay, members. Mr. Chong.
14 SUBCOMMITTEE MEMBER CHONG: That's almost correct,
except
15 because this is an up-light, it would be the
highest
16 emitting point of the luminaire. Instead of the
17 word "lowest," you would say below the -- "above
the
18 horizontal plane passing through the highest
light
19 emitting part of the fixture," because the
fixture
20 is now turned upside down. Right? It's an
21 up-light.
22 SUBCOMMITTEE MEMBER ALTENBERG: Yeah, good. I accept
23 that. That's good.
24 CHAIR MOLINA: Okay.
25 SUBCOMMITTEE MEMBER MABERRY: Got that, Gary?

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1 CHAIR MOLINA: Just trying to get clarification on the
2 consensus. So where are we at again? We're
3 adding --
4 SUBCOMMITTEE MEMBER MABERRY: Gary's got it. Can you
read
5 it back to us?
6 CHAIR MOLINA: Oh, Gary you got it? I don't know if I

7 have it, but I want to make sure.

8 SUBCOMMITTEE MEMBER MABERRY: We'll ask him to read it
9 back to us.

10 CHAIR MOLINA: Gary, can you read that back to us?
Are
11 you ready?

12 MR. GARNEAU: As I understand the definition to read
now,
13 "Up-lighting means lighting that is directed in
such
14 a manner as to shine light rays above the
horizontal
15 plane passing through the highest light emitting
16 part of the fixture."

17 SUBCOMMITTEE MEMBER CHONG: Correct.

18 SUBCOMMITTEE MEMBER MABERRY: Yeah.

19 CHAIR MOLINA: Okay. So I take it we have consensus,
20 members?

21 SUBCOMMITTEE MEMBER ALTENBERG: Yeah.

22 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.

23 CHAIR MOLINA: Okay. Moving on to Water Features, I
24 guess -- I believe this was -- Mr. Garneau, you
had
25 a concern with using the name Jacuzzi's?

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1 SUBCOMMITTEE MEMBER McCORD: I think it might be

2 redundant.

3 VICE-CHAIR TAVARES: It is.

4 CHAIR MOLINA: Okay, is it redundant? Mr. Chong,
followed

5 by Ms. Bernard.

6 SUBCOMMITTEE MEMBER BERNARD: I don't know that the --
--

7 that the traditional Japanese tub is considered

8 it's not -- I mean a Jacuzzi, I think it refers
to

9 the whirlpool effect, and not all tubs
necessarily

10 have the whirlpool in them, so that's why maybe
it's

11 important to have a distinction.

12 CHAIR MOLINA: Okay. Mr. Chong.

13 SUBCOMMITTEE MEMBER CHONG: I mean it's an

14 industry-accepted term. It's also a name of a

15 company.

16 CHAIR MOLINA: So you're talking about trademark
issues.

17 SUBCOMMITTEE MEMBER CHONG: Yeah, Jacuzzi is a name of
a

18 company.

19 CHAIR MOLINA: Members, without any objections, we
have

20 comments from Ms. Vencl from the Hotel
Association,

21 I assume on this, water features.

22 MS. VENCL: Yes, sir, I do. Thank you. I would tend
to

23 agree with Hannah, that a hot tub is a hot tub
and a

24 Jacuzzi generally has some whirlpool action. I

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1 concerned about the word pools in here. I --
for
2 starters, I guess I can't -- I'm not sure why we
3 think a pool that's lighted at the bottom, it
seems
4 to me like it's kind of dim once it gets to the
top,
5 so I'm not sure why that's a problem, but for us
on
6 a property to shut off pool lights in the dark
is a
7 definite liability issue for us. And there are
8 pools that are out in the yards away from what
might
9 be on after 11:00 o'clock on the building, and I
10 think this is a real problem for us, and I don't
11 think that that lighting is terribly --
12 VICE-CHAIR TAVARES: Invasive.
13 MS. VENCL: -- bright.
14 SUBCOMMITTEE MEMBER MABERRY: Are you going to cover -
-
15 SUBCOMMITTEE MEMBER CHONG: (Inaudible).
16 SUBCOMMITTEE MEMBER MABERRY: Okay, I'll yield.
17 CHAIR MOLINA: Okay, Mr. Chong.

but 18 SUBCOMMITTEE MEMBER CHONG: I appreciate her comment,
19 I think her comment is better suited for
paragraph D 20 at the bottom of the page. This is just a
21 definition.
22 MS. VENCL: Yeah, but it's -- but definitions includes
23 pools, then --
24 SUBCOMMITTEE MEMBER CHONG: Right, but I --
25 MS. VENCL: -- how do you --

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as 1 SUBCOMMITTEE MEMBER CHONG: I have the same concerns
gets 2 you do on the last paragraph to clarify what
3 left on and what can't be left on for safety and
construction 4 liability issues, but in general in the
that's 5 industry a water feature includes everything
6 got a body of water in it, whether it's a lily
7 koi -- I mean a lily pond with koi in it or a
8 swimming pool or a hot stub.
9 MS. VENCL: Oh, okay.
whenever 10 SUBCOMMITTEE MEMBER CHONG: It's all of the above
11 we work on a project.

12 MS. VENCL: So you want me to come back?
13 SUBCOMMITTEE MEMBER CHONG: Yes.
14 CHAIR MOLINA: We'll cross that bridge when we get
there.
15 SUBCOMMITTEE MEMBER MABERRY: Refreshen our memory.
16 CHAIR MOLINA: I don't know this Jacuzzi and hot tub
thing
17 reminds me of Xerox and copy machines. All
right,
18 so --
19 SUBCOMMITTEE MEMBER BERNARD: Recommendation.
20 CHAIR MOLINA: Okay, status --
21 SUBCOMMITTEE MEMBER BERNARD: We change the word
"Jacuzzi"
22 to "whirlpool" or some kind of --
23 SUBCOMMITTEE MEMBER CHONG: That's another -- that's
24 another company.
25 VICE-CHAIR TAVARES: Just leave it out.

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1 SUBCOMMITTEE MEMBER MABERRY: Yeah, it's okay.
2 SUBCOMMITTEE MEMBER ALTENBERG: Well, this is --
3 SUBCOMMITTEE MEMBER BERNARD: Okay.
4 SUBCOMMITTEE MEMBER ALTENBERG: "Such as," that's a --
5 should be a non-exhaustive list.

6 SUBCOMMITTEE MEMBER MABERRY: Right. It doesn't have
to
7 cover everything.
8 CHAIR MOLINA: So do we get consensus for this? We'll
9 just cross out "Jacuzzi"?
10 SUBCOMMITTEE MEMBER CHONG: Yes.
11 SUBCOMMITTEE MEMBER MABERRY: Yes.
12 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.
13 CHAIR MOLINA: Okay. Moving on, members, now to
Section
14 .050, letter B, it's been struck from the
paragraph
15 "shall be exempt from the requirements of this
16 chapter and shall be" and instead we have the
words
17 "provided the lighting is extinguished by 11:00
18 p.m." And in brackets, "Is gasoline used?
Should
19 this be propane?" We'll start this first with
20 Mr. Garneau. I guess you wanted a response from
the
21 Committee to those two questions?
22 MR. GARNEAU: Oh, I just didn't know the answer. I
wasn't
23 sure -- when we were talking before about tiki
24 torches --
25 SUBCOMMITTEE MEMBER CHONG: We don't use gasoline.

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1 SUBCOMMITTEE MEMBER BERNARD: Right, you're right.
2 Propane.
3 SUBCOMMITTEE MEMBER CHONG: That would be dangerous.
4 SUBCOMMITTEE MEMBER BERNARD: Propane or other --
yeah,
5 you're right.
6 CHAIR MOLINA: All right. Does that clear things up
for
7 you, Mr. Garneau, on that?
8 MR. GARNEAU: Yes.
9 CHAIR MOLINA: Any other comments on B?
10 VICE-CHAIR TAVARES: Yes.
11 CHAIR MOLINA: First we'll go to Dr. Altenberg, and
then
12 we have Ms. VencI waiting in the wings to
comment.
13 Dr. Altenberg.
14 VICE-CHAIR TAVARES: He doesn't like to look at me.
15 SUBCOMMITTEE MEMBER ALTENBERG: I would propose that
16 instead of saying "fossil fuel," just say "fuel
17 light," and then say -- now we're talking about
the
18 exemptions, correct, general exemptions?
19 SUBCOMMITTEE MEMBER MABERRY: Uh-huh.
20 CHAIR MOLINA: Uh-huh.
21 SUBCOMMITTEE MEMBER ALTENBERG: So I would say just
delete
22 "fossil" and say "fuel lighting" and delete
"fossil"
23 from "fossil fuels" and then "such as kerosene"
--

24 SUBCOMMITTEE MEMBER CHONG: "Propane."
25 SUBCOMMITTEE MEMBER ALTENBERG: -- "propane," and I

would

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1 include "wood and oil."

2 CHAIR MOLINA: "Wood and oil."

3 SUBCOMMITTEE MEMBER ALTENBERG: And then --

4 CHAIR MOLINA: Delete "gasoline"?

uses

5 VICE-CHAIR TAVARES: I don't know of anyplace that

6 gasoline for this.

dangerous.

7 SUBCOMMITTEE MEMBER CHONG: That would be so

8 SUBCOMMITTEE MEMBER MABERRY: Do we really need this

9 much --

10 CHAIR MOLINA: Members. Okay, hang on, Mr. Maberry.

11 Ms. Venc1, I wanted to go to my Vice-Chair. I'm

12 sorry. I tend to always not see her.

13 VICE-CHAIR TAVARES: I know. I'm on the end. Gosh.

14 Yeah, I had the same concerns about the word

15 "fossil," because I was going to suggest

16 "alternative fuel," so that could include

17 everything, because we've got biodiesel, there's

18 gels, there's solar battery packs. There's all

19 kinds of stuff.

20 CHAIR MOLINA: Okay. "Alternative fuel" instead of
21 "fossil." Okay. Ms. Vencl, to be followed by
22 Mr. Maberry.
23 MS. VENCL: What about campers and fishers, what does
this
24 do to them?
25 CHAIR MOLINA: I don't know how many campers use
gasoline.

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1 I'm sorry, Mr. Maberry, you want to go -- okay,
2 we'll go to Mr. Altenberg.
3 SUBCOMMITTEE MEMBER ALTENBERG: Basically this exempts
4 wood and oil fires as well from the ordinance,
5 provided they're off by 11:00 p.m. If they're
on
6 after 11:00 p.m., then they would have to follow
the
7 shielding requirements as required elsewhere.
8 MS. VENCL: Don't we have fishermen who are out after
9 11:00 o'clock? I know they're on the beaches.
I
10 guess I -- how would they shield a fire or --
and
11 don't they use kerosene lamps? I don't know.
12 CHAIR MOLINA: Coleman lanterns. Ms. Bernard,
followed by

13 Ms. Tavares.
14 SUBCOMMITTEE MEMBER BERNARD: Yes, we have fishermen
and
15 people like me, and plenty of us in this room
who do
16 camp on the beaches and things like that. And
we've
17 talked to the fishers when we've been down there
on
18 the beaches watching over the turtle nests and
we
19 just -- we just let them know what's happening
and
20 they're more than happy to comply. We're
talking
21 about shielding the lights so that it doesn't
22 illuminate the whole area, and people -- people
23 voluntarily usually comply. So it's not -- it's
not
24 a -- it's not as if we're saying there's no
light
25 allowed at all. You just have to make sure it's
not

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1 going to violate what we've come up with here.
2 CHAIR MOLINA: Ms. Tavares.
3 VICE-CHAIR TAVARES: I was just going to ask if we can
4 save some wear and tear on our carpet and have

5 Ms. Vencl sit here as a resource person.

6 CHAIR MOLINA: Ms. Vencl, would you like to take a
seat up
7 here?

8 VICE-CHAIR TAVARES: Either that or just keep her back
9 there and not let her talk.

10 CHAIR MOLINA: I think it's easier to have her up
here,
11 members.

12 SUBCOMMITTEE MEMBER MABERRY: We needed a levity.

13 CHAIR MOLINA: We're having a little humor today,
members.

14 Okay. Mr. Chong.

15 SUBCOMMITTEE MEMBER CHONG: I just want to raise the
big of
16 question one more time. Is tiki torches that
tiki
17 a problem? Is there such a proliferation of
We're
18 torches out there that they are of a concern?

19 fighting over I think a small percentage of the
20 lighting that is out there compared to all the
and
21 artificial lighting that's near the shorelines,

22 many of the resorts actually in the design
intent

23 use tiki torches to light their pathways and
things

24 like that. I mean they intentionally, because
of

25 the quality of the light and the drama and the

112

do
artificial
11:00
issue
think
we
that
the
confused.
with
also
--

1 ambience that's created by -- say we're going to
2 tiki torches along here and not do any
3 lighting. Now, if they have to turn it off at
4 p.m., then the liabilities of the walkways and
5 pathways that they use to light them become an
6 for them. So that's my concern. And I don't
7 they're a large offender. I think you have much
8 bigger problems from lots of other artificial
9 lighting sources, so I would -- I propose that
10 strike the by 11:00 p.m.
11 SUBCOMMITTEE MEMBER ALTENBERG: I guess I'm from --
12 was language that you had previously okayed in
13 earlier discussions. That's -- I'm a bit
14 You had said pretty much if it was allowed to go
15 till 11:00 p.m., it would not be a problem if it
16 were turned off after that, but I think I agree
17 you that it could be a problem. So I'm not sure
18 what the best way to address that is, but you
19 said that exempting fossil fuel lights entirely

lighting 20 you know, you were ready to install a whole
Kona 21 system -- outdoor lighting system somewhere in
expensive. 22 but with gaslights, if it hadn't been so
23 So what's the best way to deal with this?
all 24 SUBCOMMITTEE MEMBER CHONG: I mean at the same time
25 along the Kona coast we're working on projects

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the 1 because of the limitations of their ordinance
mean 2 developers have elected to use tiki torches to
much 3 illuminate pathways and things like that, and I
4 that's -- our hands are much -- that code is
5 more stringent than this one is actually, if you
just 6 think about it. This is just simplistic. It's
7 low pressure sodium, period, and fully shielded,
to 8 period. So they have -- they have to find a way
And 9 make it safe, and they've gone to tiki torches.
10 that's the way they're going to light their
11 pathways.

12 CHAIR MOLINA: Okay, members, letter B, I take it we
don't
13 have consensus yet. Ms. Bernard.
14 SUBCOMMITTEE MEMBER MABERRY: I think we're closer
than
15 you think, but let's see.
16 CHAIR MOLINA: Okay.
17 SUBCOMMITTEE MEMBER BERNARD: I think there's a way of
18 measuring the footcandles that tiki torches
emit,
19 and I think the issue is it's spacing but then
it's
20 shielding, so the shielding issue is not going
to be
21 easily resolvable, but the brightness could be
22 resolvable, but the shielding issue --
23 SUBCOMMITTEE MEMBER ALTENBERG: My --
24 CHAIR MOLINA: Dr. Altenberg.
25 SUBCOMMITTEE MEMBER ALTENBERG: My survey of the beach
in

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1 front of the Aston Wailea is that approximately
half
2 of the lights that are visible from the beach
are
3 tiki torches. So it's a significant contributor
to

know, I 4 lights that are visible from the beach. You
to 5 think it's probably an insignificant contributor
the 6 the general light pollution of the sky as far as
people -- 7 observatory goes, and I don't know whether
think 8 whether it contributes to light trespass, I
9 it's probably insignificant as well, but for the
10 beaches I think it's significant as far as the
11 turtles. So perhaps we need to refine -- refine
our 12 lights out period with specific -- with
reference to 13 beaches.

14 CHAIR MOLINA: Ms. Bernard.

15 SUBCOMMITTEE MEMBER BERNARD: A question for Terryl.
What

16 time do they typically extinguish -- or maybe
17 Rick -- the tiki torches; do you know?

18 MS. VENCL: No, I don't know. I think they go --

19 SUBCOMMITTEE MEMBER CHONG: They go from dusk to dawn.

20 MS. VENCL: You know, for my little input here, I
have,

21 since we started talking about this, gone on a
22 couple of walks on different properties, and

I'll

23 give you an example. Grand Wailea from the

grand

24 staircase down to -- headed toward Humuhumu

25 restaurant, that entire walkway is lit by tiki

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do
the
that
plants
and
same
and
down to

1 torches. And it's foliage on both sides, so how
2 you light that? I don't think with the growth
3 there -- as the plants and things grow you --
4 light that's along the walkways on the wings of
5 hotel cannot transfer through that -- those
6 to that walkway, and right now they're all --
7 they're not the only property. Hyatt has the
8 problem, same -- not problem, the same set up,
9 many of them do. Four Seasons also has that
10 their front lawn.

11 CHAIR MOLINA: Okay, Mr. Maberry, you had a comment?

chime
out
that
type

12 SUBCOMMITTEE MEMBER MABERRY: Well, I'd just like to
13 in. I've been in that area. I've checked it
14 myself, and actually the light pollution from
15 area is almost negligible because of using that
16 of lighting.

17 CHAIR MOLINA: Okay. Ms. Bernard.

18 SUBCOMMITTEE MEMBER BERNARD: So do we -- do we need
to
19 just add maybe the sentence at the end of this,
20 "provided the lighting is extinguished by 11:00
p.m.
21 if it can be seen from the high tide line of a
22 beach"?

23 SUBCOMMITTEE MEMBER ALTENBERG: That sounds good.

24 SUBCOMMITTEE MEMBER BERNARD: Something like that.

25 CHAIR MOLINA: Members, comments? Chair would like to

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1 just make one comment, not so much on tiki
torches
2 but on the camp fire lightings, because I know a
lot
3 of people -- you know, I'm just trying to think
how
4 do we gauge what is, you know, excessive camp
fire
5 lighting? I mean if we're talking culturally,
I'm
6 sure the ancient Hawaiians, you know, had camp
fires
7 way beyond 11:00 o'clock. So, I mean, I'm just
8 throwing those comments out there with regards
to
9 this passage here on fuel lighting. But getting

looking 10 back to the tiki torches or tiki lighting,
be" -- 11 at a modification of "by 11:00 p.m. if it can
that. 12 I'm sorry, Ms. Bernard, if you could conclude
the 13 SUBCOMMITTEE MEMBER BERNARD: "Can be observed from
14 high tide."
15 CHAIR MOLINA: Okay, "observed from the high tide."
16 MR. SALDANA: Mr. Chair.
17 CHAIR MOLINA: Mr. Saldana.
18 MR. SALDANA: There's been a series of
recommendations.
19 Can I reiterate it the way I believe it to be at
20 this point for this, the recommendation for
this?
21 CHAIR MOLINA: Proceed.
22 MR. SALDANA: Would that be okay?
23 CHAIR MOLINA: Uh-huh.
24 MR. SALDANA: It would now be entitled, this
particular
25 subsection, alternative fuel lighting. All
outdoor

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1 lighting fixtures producing light directly by
the

2 combustion of alternative fuels, such as
kerosene,
3 propane, wood, and oil, provided the lighting is
4 extinguished by 11:00 p.m. if the light can be
seen
5 by the high -- at the high tide line from the
beach.
6 Something to that effect. I'm sorry. I messed
that
7 last part up, but --
8 CHAIR MOLINA: The high tide line.
9 SUBCOMMITTEE MEMBER CHONG: High tide mark.
10 SUBCOMMITTEE MEMBER BERNARD: High tide line,
whatever.
11 CHAIR MOLINA: Okay, Dr. Altenberg.
12 SUBCOMMITTEE MEMBER ALTENBERG: I would say if the
light
13 is visible from the sandy beach at or below the
high
14 tide mark. That's explicitly -- it deals with
sandy
15 beach rather -- I mean you could have rocky
stuff
16 too, but turtles --
17 SUBCOMMITTEE MEMBER BERNARD: I don't think you --
18 SUBCOMMITTEE MEMBER ALTENBERG: You don't want to do
that?
19 SUBCOMMITTEE MEMBER BERNARD: Yeah, they actually nest
in
20 lava on the Big Island, yeah.
21 SUBCOMMITTEE MEMBER ALTENBERG: Oh, okay. So I would
say
22 at or below the high tide mark.
23 CHAIR MOLINA: At or below the high tide mark.
24 SUBCOMMITTEE MEMBER ALTENBERG: If they're visible.

Is 25 CHAIR MOLINA: Any other comments from other members?

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back? 1 there a request for a tabling this and coming

done 2 SUBCOMMITTEE MEMBER ALTENBERG: I think we're almost

3 with it.

4 SUBCOMMITTEE MEMBER McCORD: Let's go.

5 CHAIR MOLINA: You want to vote on this?

6 SUBCOMMITTEE MEMBER ALTENBERG: Oh.

7 CHAIR MOLINA: Okay, Dr. Altenberg, we need a motion.

seems to 8 SUBCOMMITTEE MEMBER ALTENBERG: Alternative is --

light, 9 be confusing. Just fuel, all kinds of fuel

people 10 the combustion of fuel. Alternative fuel,

You 11 might think that was biodiesel or something.

12 know, I would just say fuel.

you 13 CHAIR MOLINA: You never know. Okay, Member Tavares,

14 proposed the word alternative, comments?

fossil 15 VICE-CHAIR TAVARES: I was trying to get away from

you 16 fuel because there's a lot of stuff out there,

the 17 know, solar. They say -- you know, I didn't use
but 18 word renewal, because that really narrows it,
an 19 alternative was anything except coming through
that's 20 electric line, but, you know, just say fuel,
21 fine.
22 CHAIR MOLINA: You can live without "alternative"?
23 VICE-CHAIR TAVARES: Oh, sure.
24 CHAIR MOLINA: Okay. Is there a motion to accept the
--
25 SUBCOMMITTEE MEMBER McCORD: So moved.

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1 SUBCOMMITTEE MEMBER ALTENBERG: Second.
2 CHAIR MOLINA: It's been moved by Mr. McCord, seconded
by
3 Mr. Altenberg. Comments from you, Mr. McCord,
as
4 the maker of the motion?
5 SUBCOMMITTEE MEMBER McCORD: No, let's do that one.
6 CHAIR MOLINA: Okay. All those in favor of the
motion,
7 say "aye."
8 SUBCOMMITTEE MEMBERS VOICED AYE.
9 CHAIR MOLINA: All those opposed?

Bernard, 10 VOTE: AYES: Subcommittee members Altenberg,
11 Chong, Maberry, McCord, Vice-Chair
Tavares, and Chair Molina.
12 NOES: None.
13 ABSTAIN: None.
14 ABSENT: None.
15 EXC.: None.
16 MOTION CARRIED.
17 ACTION: APPROVE.
18 CHAIR MOLINA: Okay. Thank you. Okay. Moving on to
19 letter D, Water Feature Lighting, pages 5 and 6.
20 Okay, what's been struck are the words "shall be
21 exempt from the requirements of this article and
22 shall," so those have been struck, and the
23 additional language is now read as "provided
24 that the lighting is extinguished by 11:00 p.m.," and
25 the question the from Corporation Counsel, "What if
26 water feature lighting is not on a specific
27 such as general pool lighting? Is this exempt
28 or

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1 not?" Let's start first with Mr. Garneau, and a
2 response from the Committee with regards to this
3 issue of water feature lighting. Mr. Chong.

4 SUBCOMMITTEE MEMBER CHONG: Mr. Garneau, I don't
5 understand your question. Sorry.

6 MR. GARNEAU: Well, I guess it was the -- you see how
it
7 says, "general ambient illumination and accent
8 lighting on special features," should that maybe
be
9 an "or"? I read that and I thought --

10 SUBCOMMITTEE MEMBER CHONG: Well, maybe I should -- I
have
11 a -- I have a proposal, and this is more of what
12 Terryl was talking about.

13 MR. GARNEAU: Okay.

14 SUBCOMMITTEE MEMBER CHONG: There is a big -- I think
15 there's a big liability issue by forcing
anybody's
16 property to turn off their pool lights during
any
17 evening hours, and I think when Gary and I
talked
18 about it and he asked me for some language, the
19 intent was more to keep ambient -- when you say
20 ambient, ambient is considered just general
21 lighting. In other words, you're not
highlighting
22 anything, you're not accenting anything. So --
and
23 many of the pools, even if they have a spouter
or a
24 bubbler, still have the ambient component and
then
25 the bubbler is lighted with separate luminaires.

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1 So my suggestion is to allow the ambient
2 lighting to stay on throughout the evening, but
do
3 limit the bubbling -- the lighting on the
bubbling
4 and the waterfalls and all those kinds of things
to
5 11:00 p.m., and that way the liability issue is
6 addressed, you're allowed to keep some lights on
in
7 the pool for safety reasons, but you have to
turn

8 off all the other frill stuff, the Vegas stuff.
9 So that's -- so as an amendment to this I
10 would say it would be water feature lighting
11 intended to provide general ambient
illumination,
12 period. That's the exemption. And then as a
second
13 sentence you would strike the word "and," and it
14 would be capital A, Accent lighting on specific
15 features, such as waterfalls, jet sprays, and
16 bubblers, shall be exempt from -- shall be
exempt
17 from the requirement of the article and shall --
and
18 provided that the lighting is extinguished by
11:00
19 p.m., so you would limit that. So it's a two

would 20 sentence paragraph there, and that's what I
21 propose, and I think that would address all the
22 resorts and anybody else, including the County
and 23 their pools, to be able to leave their lights on
as 24 needed for safety reasons.
25 CHAIR MOLINA: Could I get a comment from Parks?

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1 Mr. Matsui is gone. Okay. I was just curious
as 2 far as the County -- I think there's no lighting
-- 3 well, maybe Ms. Tavares, as the former Parks
4 Department --
5 VICE-CHAIR TAVARES: About the pools?
6 CHAIR MOLINA: Uh-huh.
7 VICE-CHAIR TAVARES: We have to have lighting on in
the 8 pools and around the pool for safety, and that
9 lighting -- I think what we're trying -- or
what's 10 being done now is to have the shielded --
shielded 11 lighting so you're directing the light
specifically

12 to the area that you need to watch for security
13 reasons.

14 CHAIR MOLINA: Okay.

15 VICE-CHAIR TAVARES: So that is the trend, but all the
16 other lights go off.

17 CHAIR MOLINA: Okay. Thank you. Dr. Altenberg.

18 SUBCOMMITTEE MEMBER ALTENBERG: How about if we said
water

19 feature lighting required for safety, because
that's

20 what we're talking about, be more specific
exempting

21 water feature lighting required for safety, and
then

22 do the second sentence just as Rick proposed.

23 SUBCOMMITTEE MEMBER CHONG: I don't have a problem
with

24 that.

25 CHAIR MOLINA: You don't have a problem? Mr. Saldana,
you

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1 have this latest proposal down?

2 VICE-CHAIR TAVARES: I would add "security," "safety
and

3 security."

4 CHAIR MOLINA: "Safety and security."

5 MR. SALDANA: Mr. Chair.

6 SUBCOMMITTEE MEMBER CHONG: Sounds fine.

7 CHAIR MOLINA: Proceed, Mr. Saldana.

8 MR. SALDANA: So the first sentence will read: "Water
9 feature lighting required for safety and
security
10 intended to provide general ambient lighting,"
or
11 are we eliminating the "general ambient
lighting"?

12 SUBCOMMITTEE MEMBER CHONG: I think he means to say,
13 "water feature lighting intended to provide
safety
14 and security."

15 SUBCOMMITTEE MEMBER MABERRY: Period.

16 SUBCOMMITTEE MEMBER ALTENBERG: Yeah. Period, yeah.

17 VICE-CHAIR TAVARES: Period.

18 SUBCOMMITTEE MEMBER ALTENBERG: And then accept Rick's
19 proposed second sentence as he stated it.

20 MR. GARNEAU: Very good.

21 CHAIR MOLINA: Do we have consensus on that?

22 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.

23 CHAIR MOLINA: Okay, thank you.

24 Members, as a reminder, all resource --
all
25 resource personnel --

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1 VICE-CHAIR TAVARES: Comment.

2 CHAIR MOLINA: Can the Chair make a comment first
3 regarding resource personnel? I've been
reminded
4 that resource personnel are here to respond to
5 questions and generally, as a general rule, not
to
6 ask questions of the Committee. So I just want
to
7 put that reminder out. Now, if any of you would
8 like to request a question or a comment from any
9 resource personnel, you are, of course, welcome
to
10 do so, but I just want to make sure I remind all
11 resource personnel what your role is with
regards to
12 the Subcommittee.

13 Who was -- Member Tavares, you had a
request?

14 VICE-CHAIR TAVARES: Well, I'd like to know if this
15 satisfies --

16 CHAIR MOLINA: Okay, proceed, Ms. Vencl.

17 VICE-CHAIR TAVARES: Or her comments on this part.

18 MS. VENCL: I have two questions. We have properties
who
19 have open ceilings with ponds, not a pool as in
a
20 swimming pool, they're lit on the bottom,
entrance
21 to Grand Wailea is an example. There are
statutes
22 sitting out in the pool. Is that okay? Is that

like 23 situation okay in this proposal? Sounds to me
24 it is because it's still what I would consider
an 25 ambient. I don't know.

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1 CHAIR MOLINA: Member Tavares.
2 VICE-CHAIR TAVARES: Yeah, I think that anyplace --
3 anywhere where you have a body of water that
people 4 could walk into, you have to have it lit. It
has to 5 be there for safety and security. Because if
you 6 turn the lights off on those ponds or even --
you 7 know, people could just walk right into it.
That 8 wouldn't be good.
9 SUBCOMMITTEE MEMBER BERNARD: But to carry it -- to
carry 10 it further --
11 CHAIR MOLINA: I'm sorry, Member Bernard, go ahead.
12 SUBCOMMITTEE MEMBER BERNARD: To carry that further,
so 13 essentially what we would have is the pond will
be 14 lighted but if there were additional, say,
feature

that 15 lighting on the statutes, on the sculptures,
16 would then be turned off; is that what we're
saying? 17 VICE-CHAIR TAVARES: Yeah, I would think that's how it
18 would work, right.
19 CHAIR MOLINA: Okay, Dr. Altenberg.
20 SUBCOMMITTEE MEMBER ALTENBERG: They would be turned
off 21 if they couldn't otherwise be made to be --
22 VICE-CHAIR TAVARES: Shielded.
23 SUBCOMMITTEE MEMBER ALTENBERG: -- shielded and
whatever, 24 but if they can be properly shielded or if
there's a 25 rock wall in the way or something like that,
then

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1 they can be left on all night.
2 CHAIR MOLINA: Okay. Does this answer the concerns of
the 3 Committee with regards to the hotel perspective?
4 VICE-CHAIR TAVARES: Okay.
5 CHAIR MOLINA: Okay, all right, do we have consensus?
6 SUBCOMMITTEE MEMBER MABERRY: Yes.
7 SUBCOMMITTEE MEMBER ALTENBERG: Yes.

8 VICE-CHAIR TAVARES: Yes.
9 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.
10 CHAIR MOLINA: Okay. Thank you, members. Let's move
11 to page 6.
12 SUBCOMMITTEE MEMBER ALTENBERG: Chair.
13 CHAIR MOLINA: Okay, Dr. Altenberg.
14 SUBCOMMITTEE MEMBER ALTENBERG: I'd like to move that
15 Section E on vehicular lights be added to the
16 exemptions, just so that we're actually clear.
17 I would propose this language: "Lights that are
18 legally required for the nighttime operation of
19 vehicle shall be exempt from the requirements of
20 this chapter."
21 CHAIR MOLINA: Okay. Dr. Altenberg, if we could hold
22 on that proposal till a later time. We can come
23 back to that, time be permitting. Okay. Chair
24 would like to proceed with --
25 SUBCOMMITTEE MEMBER ALTENBERG: Well --

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1 CHAIR MOLINA: -- Section .060.

think

2 SUBCOMMITTEE MEMBER ALTENBERG: I made a motion. I

wants

3 we could quickly deal with it now, if anybody

4 to second it.

5 CHAIR MOLINA: Well, the Chair would prefer that it be

allow

6 dealt with quickly. Okay. All right. I'll

7 this -- your motion, Dr. Altenberg.

8 SUBCOMMITTEE MEMBER BERNARD: Second.

and

9 CHAIR MOLINA: Okay. It's been moved by Dr. Altenberg

--

10 seconded by Member Bernard to -- as an exemption

11 could you restate the motion, Dr. Altenberg?

period.

12 SUBCOMMITTEE MEMBER ALTENBERG: Okay. It would be the

13 addition of a Section E, Vehicular Lights,

nighttime

14 "Lights that are legally required for the

15 operation of a vehicle shall be exempt from the

16 requirements of this chapter."

17 CHAIR MOLINA: Comments from the body?

amended,

18 SUBCOMMITTEE MEMBER BERNARD: I'd like a friendly

the

19 provided that they are not used to illuminate

drive

20 beaches or something. I mean somebody could

the

21 right up and just shine their lights all over

22 place with their car.

23 SUBCOMMITTEE MEMBER ALTENBERG: Would that be legally

24 required for the operation of the vehicle?

25 VICE-CHAIR TAVARES: No.

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could
to
that
clarification
proposed
motion
is a
be
just

1 SUBCOMMITTEE MEMBER BERNARD: I don't know. I mean
2 someone argue, well, I needed to see -- I don't
3 know.
4 CHAIR MOLINA: So we're having an amendment proposed
5 the motion on the floor. Is there a second to
6 amendment, Ms. Bernard?
7 SUBCOMMITTEE MEMBER BERNARD: Maybe we need
8 from counsel, if the wording that Dr. Altenberg
9 proposed is --
10 CHAIR MOLINA: Okay. Prior to the amended -- the
11 amendment, comments from Mr. Garneau on the
12 from Dr. Altenberg.
13 MR. GARNEAU: Well, what you're really talking about
14 type of outdoor lighting, correct, and in the
15 definitional section you've defined outdoor
16 lighting. I don't know whether you're going to
17 visiting that later. It might be appropriate

a 18 to indicate there that you're not talking about
19 certain type of lighting. You don't necessarily
include 20 need a whole nother exclusion if you want to
21 it in the definitions.
22 SUBCOMMITTEE MEMBER ALTENBERG: This is taking longer
than 23 I had imagined it would take. I'm happy for it
to 24 be tabled at this point if it can't be quickly
25 resolved.

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original 1 CHAIR MOLINA: Okay. Members, comments?
2 SUBCOMMITTEE MEMBER McCORD: I'll vote for the
it 3 motion without the amendment and we'll just move
4 on.
5 CHAIR MOLINA: Okay, what we'll do is we'll have
6 Dr. Altenberg withdraw -- well, I'm sorry, the
7 motion is on the floor. We'll just go ahead and
8 table this. Is there a motion to table?
9 VICE-CHAIR TAVARES: Yeah, Mr. Chair, I misspoke of
postpone, 10 tabling. It's supposed to be motion to

11 rather than table.
12 CHAIR MOLINA: Okay.
13 VICE-CHAIR TAVARES: So it's a motion to postpone.
14 CHAIR MOLINA: Okay, is there a motion to postpone?
15 SUBCOMMITTEE MEMBER MABERRY: Second.
16 CHAIR MOLINA: Okay, who made the motion to postpone,
17 though? Member Tavares, okay, and seconded by
18 Mr. Maberry. All right, we'll postpone this and
19 come back.
20 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.
21 CHAIR MOLINA: Okay, moving down to Section .060,
22 B, Purpose and Intent, word "Maui County" was
23 inserted. Here we go again with the small C.
24 had deletions of the words "qualities are,"
25 "communities," "within," addition of the words

letter

We've

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1 "associated with," deletion of the word "are"
2 replaced with "is," and a comment the phrase --
3 bracketed comment, "The phrase 'enhance and
4 complement the lighting' doesn't make sense."
5 another bracket, "The term 'appropriate
lighting' is

And

address 6 vague and open to interpretation." Shall we
7 the bracketed concerns first. Mr. Maberry,.
8 SUBCOMMITTEE MEMBER MABERRY: Point of information or
9 clarification, sir, if we could, while we're on
10 this. It's astronomical, not astrological.
That's 11 a major difference.
12 CHAIR MOLINA: Okay. All righty. Is there any
concerns 13 regarding striking out "astrological," replaced
with 14 "astronomical"?
15 SUBCOMMITTEE MEMBER MABERRY: Thank you, sir.
16 CHAIR MOLINA: No objections to that, members?
17 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.
18 CHAIR MOLINA: All right. We shall strike out
19 "astrological" and replace with "astronomical."
20 Okay.
21 VICE-CHAIR TAVARES: Where was that? Oh, there it is.
22 CHAIR MOLINA: It would be letter B. Everybody see
that? 23 Strike out "astrological." We must have respect
for 24 the profession of astronomy.
25 VICE-CHAIR TAVARES: Mr. Chair.

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1 CHAIR MOLINA: Ms. Tavares. On that whole section B,
the
2 purpose and intent, the purpose and intent of
the
3 Outdoor Lighting Standards Committee is to
enforce
4 the provisions of this bill or ordinance. I
mean,
5 you know, it all sounds all flowery, but it's
all
6 the same stuff that was at the purpose and
intent of
7 this ordinance back -- you know, back in the
purpose
8 and intents on page 2. So I don't think it
needs to
9 be repeated here .

10 CHAIR MOLINA: So you're saying it's redundant?

11 SUBCOMMITTEE MEMBER CHONG: I agree.

12 CHAIR MOLINA: Okay, delete the whole I guess Section
B?

13 VICE-CHAIR TAVARES: Well, you don't have to delete
it. I
14 guess you need to put a purpose and intent for
the
15 committee, but it should be, to me, geared to
what
16 they're going to be responsible for in this
17 ordinance.

18 CHAIR MOLINA: So something that's more specific?

19 VICE-CHAIR TAVARES: Maybe they have to look at
purpose
20 and intents of other committees, like the
21 Subdivision Standard Committee, the purpose and

22 intent would be similar to that, I would think.

23 CHAIR MOLINA: Mr. Chong.

24 SUBCOMMITTEE MEMBER CHONG: Don't you just want to say

25 that the purpose and intent of the committee is
to

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1 make sure that the intent of the -- or the
2 requirements of the ordinance are met, period?

3 VICE-CHAIR TAVARES: Something like that.

4 CHAIR MOLINA: Mr. Garneau, can you respond?

5 MR. GARNEAU: I was just looking. For example, the

6 existing Street Lighting Committee, under 12.17
it

7 doesn't have a purpose and intent. Let me look

at

8 Subdivision Engineering.

9 VICE-CHAIR TAVARES: Maybe we don't need it to solve

the

10 problem.

11 MR. GARNEAU: If you just give me a moment, I'd like

to

12 see what Subdivision Engineering says.

13 CHAIR MOLINA: Okay. While Mr. Garneau is researching

14 this matter, any other additional comments?

While

15 he's doing that, the Chair would like to give
staff
16 a break from 12:00 to 1:00, and then we'll
reconvene
17 at 1:00 o'clock. I know Mr. Chong will be gone
by
18 that time, so just letting you know, and of
course
19 Mr. Garneau will have to leave by 1:30. Or do
the
20 members want to work right through? But, you
21 know -- and it's the Chair's recommendation that
we
22 break for lunch. We need to give our Committee
23 Secretary a break as well as staff. Ms.
Bernard.
24 SUBCOMMITTEE MEMBER BERNARD: Two comments. One is I
have
25 no problem with pushing it to 12:15 so that we
can

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1 have an additional 15 minutes with Rick.
2 CHAIR MOLINA: Sure.
3 SUBCOMMITTEE MEMBER BERNARD: And the other is
regarding
4 the purpose and intent of the Committee. It's
sort
5 of like your mission statement. I mean I think
it's

6 helpful for the committee when we're all said
and
7 done with this and new people hopefully some day
8 will be sitting in those chairs looking at what
is
9 this that we're really supposed to be doing. If
10 they had the framework, you know, even if we
11 simplify it, I think it's helpful.

12 CHAIR MOLINA: Okay, so noted. Mr. Garneau, are you
ready
13 to respond or do you need another minute?

14 MR. GARNEAU: I was looking at the Subdivision
Engineering
15 Standards, which is in Chapter 18.40, it doesn't
16 have a purpose and intent either listed, not
17 specifically anything by that heading, so...

18 VICE-CHAIR TAVARES: Mr. Chair.

19 MR. GARNEAU: I can look at some others too, I
suppose.
20 CHAIR MOLINA: Member Tavares.

21 VICE-CHAIR TAVARES: Yeah, I think usually when these
are
22 set up, they're set up for the mechanics of how
this
23 committee would work, and it's like the
membership,
24 the terms, the meetings, that kind of a thing,
25 rather than going through. Because they're

hopefully

receive a

will

they

staggered

to

and

B.

discussion. I

All

1 responsible for this entire chapter, and
2 when they get their orientation, they will
3 copy of the chapter and a discussion, you know,
4 follow, as I think does in other committees as
5 get new members on. And it's going to be
6 terms anyway, so there will be new members every
7 year so that they would be having an orientation
8 what exactly they're supposed to be doing. So I
9 would have no problem with deleting Section B
10 then renumbering -- or reordering the remaining
11 paragraphs, and that's my motion.

12 CHAIR MOLINA: Okay, it's been moved to delete Section

13 Is there a second?

14 SUBCOMMITTEE MEMBER CHONG: Second.

15 CHAIR MOLINA: It's been seconded by Mr. Chong.

16 Discussion, Member Tavares, as the maker of the
17 motion.

18 VICE-CHAIR TAVARES: Yeah, I think no other

19 think I kind of said it all together.

20 CHAIR MOLINA: Okay. Chair will call for the vote.

21 in favor of the motion, say "aye."

22 SUBCOMMITTEE MEMBERS VOICED AYE.
23 CHAIR MOLINA: All those opposed?
24 SUBCOMMITTEE MEMBER BERNARD: No.
25

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Chong, 1 VOTE: AYES: Subcommittee members Altenberg,
Maberry, McCord, Vice-Chair
2 Tavares, and Chair Molina.
NOES: Subcommittee member Bernard.
3 ABSTAIN: None.
4 ABSENT: None.
EXC.: None.
5 MOTION CARRIED.
6 ACTION: APPROVE.
7 CHAIR MOLINA: Okay, we have one no, right, for the
8 record? Okay.
9 Okay, members, let's move on to letter D,
the
10 bottom of page 6 with regard to Powers and
Duties,
11 page 6 and 7. We've had the words "are in
12 conformance with" deleted, replaced with "do not
13 conform to." In brackets, "Need to add phrase
to
14 make clear what the department is expected to
do.
15 Ask for the department's input as to what kind
of

16 permits are currently processed that related to
17 lighting and how they are reviewed." And
18 consideration to add a phrase such as, "The
19 department shall review all applications for
permits
20 for outdoor lighting, construction plans, et
cetera,
21 to determine if the application complies with
the
22 standards set forth in this chapter." So
comments
23 from Public Works at this time or from the
24 Committee?
25 MR. NAKAO: Well, one thing that was discussed earlier
was

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1 you guys were talking about the replacement of
2 lighting. Generally the way we have things set
up
3 right now with our permitting, if you're going
to
4 replace a light, one-for-one replacement, we
don't
5 require permits or inspections for that
6 installation. That's more like maintenance
work.
7 So I don't know how you're going to regulate
people

or 8 swapping out one or two lights on their property
9 facilities like that.
10 CHAIR MOLINA: Okay. Comments from the Committee?
11 Mr. Chong.
12 SUBCOMMITTEE MEMBER CHONG: Also I think this bold
type is
13 also asking the question on just new projects
how
14 the County Public Works is going to review
outdoor
15 lighting currently. We're only regulated by the
16 energy issue, and we just process a letter. And
I
17 know -- I'm pretty sure that the County doesn't
have
18 the time or the manpower or the effort to go
through
19 our entire lighting design and verify if we meet
the
20 letter of the requirement, and they're putting
it
21 back on the professional as a person who signs
the
22 letter that he does comply in case something
happens
23 or somebody points a finger or whatever, then
that
24 professional engineer is responsible. And
that's
25 not -- it's no different here than it is in

1 Honolulu. We have a little signature block we
stick
2 on the drawings and we sign it.
3 Even in Honolulu the Public Works people
4 there, Building Department, do not have the
manpower
5 or the time to go through every drawing and
verify
6 if we comply. So going to the outdoor lighting
7 ordinance, I don't see how the County would do
any
8 different, other than the ones that you know are
9 coming in and want a variance or something like
that
10 or are pretty obvious that they're not
complying,
11 like aim flood light at ocean note kind of
thing, I
12 mean it would be pretty obvious kind of thing.
13 CHAIR MOLINA: Okay, Mr. Maberry.
14 SUBCOMMITTEE MEMBER MABERRY: Did he need to respond
to
15 his question first or was --
16 SUBCOMMITTEE MEMBER CHONG: Yeah, maybe he could --
17 CHAIR MOLINA: Oh, okay. Oh, I'm sorry, Mr. Nakao.
18 MR. NAKAO: I'll respond to Rick's question. Right
now we
19 don't have any regulation as far as how much
light
20 someone puts on their property or how bright
they

Code. 21 make their facility based on the Electrical
22 Okay. I issue electrical permits and we inspect
23 electrical installation for mainly NEC
compliance as 24 far as how it's technically installed. In the
25 Building Code there is a lighting limitation,
and I

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1 think it's based on like square watts per square
2 foot. It's really vague and it's really
general,
3 but there is no building inspection enforcement
on
4 the limits of those lighting based on the size
of
5 those facilities or the size of the parking lots
so
6 far.

7 So if you guys pass an ordinance
regulating
8 outdoor lighting, it gets incorporated into I
guess
9 my code, 16.18, then we will have to review it
10 during the electrical permitting issuing
process,
11 okay. And at that point we can check for the
proper
12 shielding on the fixtures, we'll look at the

but 13 lighting plans, where they're located, so forth,
level, 14 if you're going to apply it on a residential
for 15 plans are presently not required to be submitted
for 16 residential developments. So it's going to be a
for 17 drastic change on the permitting and procedures
18 residential dwellings.
19 CHAIR MOLINA: Okay. Mr. Maberry.
not 20 SUBCOMMITTEE MEMBER MABERRY: Please forgive me for
something in 21 knowing the details. I remember seeing
go 22 the newspaper that a church down in Kihei had to
their 23 through some kind of review of their light --
24 new lighting that they're building, though, here
25 just, what, in the last week or so?

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1 VICE-CHAIR TAVARES: SMA.
2 CHAIR MOLINA: Okay, we have a response from Planning
3 Department, Ms. Laudermilk.
4 MS. LAUDERMILK: Commissioner, you're probably talking

Special 5 about reviews of commercial projects in the
that 6 Management Area for Maui County, and as part of
of 7 review, lighting does come into play, all types
8 lighting. So it is separate and distinct, and
the 9 again, it is only for commercial projects within
10 Special Management Area. Residential we do not
not 11 review. Anything outside of the SMA, we would
12 review for that. So that's the distinction.
13 SUBCOMMITTEE MEMBER MABERRY: Thank you very much.
14 CHAIR MOLINA: Thank you, Mr. Maberry. I also forgot
to 15 add in letter D, the other portion below. It
says, 16 "This paragraph presupposes that outdoor
lighting in 17 both public and private locations are permitted
or 18 reviewed now. As far as the department, we need
a 19 consultation and guidance in drafting this
section, 20 because as written this section is somewhat
awkward. 21 A better understanding of the current process
would 22 help in reworking this section to better define
the 23 function/role of the Outdoor Lighting Standards
24 Committee." So this is one of our major
stumbling 25 blocks, I guess. Any additional comments,
concerns?

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1 Member Tavares.

2 VICE-CHAIR TAVARES: Do you want to postpone this one?

3 CHAIR MOLINA: Yeah, that would be the Chair's

4 recommendation.

5 VICE-CHAIR TAVARES: Okay.

6 CHAIR MOLINA: Move to postpone?

7 VICE-CHAIR TAVARES: So moved.

exactly?

8 SUBCOMMITTEE MEMBER ALTENBERG: Postpone which

9 CHAIR MOLINA: Okay, it's been --

what

10 SUBCOMMITTEE MEMBER ALTENBERG: Postpone -- exactly

11 are we postponing?

section,

12 CHAIR MOLINA: Yeah, addressing this particular

13 Section D of --

14 SUBCOMMITTEE MEMBER ALTENBERG: Powers, Duties, and

15 Functions?

Powers,

16 CHAIR MOLINA: Letter D of .060 with regards to

17 Duties, and Functions. Motion has been made to

18 postpone.

19 SUBCOMMITTEE MEMBER CHONG: Second.

20 CHAIR MOLINA: And it's been second by Mr. Chong.

favor 21 Discussion? Okay. Seeing none, all those in
22 of the motion to postpone, say "aye."
23 SUBCOMMITTEE MEMBERS VOICED AYE.
24 CHAIR MOLINA: All those opposed?
25

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Bernard, 1 VOTE: AYES: Subcommittee members Altenberg,
Chong, Maberry, McCord, Vice-Chair
2 Tavares, and Chair Molina.
NOES: None.
3 ABSTAIN: None.
ABSENT: None.
4 EXC.: None.
5 MOTION CARRIED.
6 ACTION: APPROVE.
7 CHAIR MOLINA: Okay. Moving down to letter F. It's
been
8 bracketed. It says, "Consider adding a Section
F to
9 indicate what department is responsible for
staffing
10 the committee. Might want to say, 'The
Department
11 of Public Works and Waste Management shall
provide
12 staffing and technical and clerical services as
may

okay, 13 be required by the committee.'" maybe we --

14 Member Tavares.

15 VICE-CHAIR TAVARES: Yeah, I move to include that --

16 CHAIR MOLINA: As part of the postponement?

17 VICE-CHAIR TAVARES: Yes. No. To adopt that.

18 SUBCOMMITTEE MEMBER BERNARD: Accept.

19 CHAIR MOLINA: Oh, okay.

20 VICE-CHAIR TAVARES: Accept.

21 SUBCOMMITTEE MEMBER BERNARD: Second.

22 VICE-CHAIR TAVARES: Department of Public Works and
Waste
23 Management, et cetera.

24 CHAIR MOLINA: Okay. So the motion is to add a
Section F
25 to include Public Works as the -- providing the

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It's 1 staffing and technical and clerical services.

2 been moved by Tavares, seconded by Bernard.

3 Discussion?

4 VICE-CHAIR TAVARES: No, no discussion. This should
have
5 been standard when we prepare these so that it's
6 clear whose responsibility it is.

7 CHAIR MOLINA: Okay. Any comments from Public Works

8 before we vote on the motion?

9 MR. NAKAO: I think the Director had some concerns on
10 utilizing our clerical services for this
committee,
11 because it is very time consuming.

12 CHAIR MOLINA: Okay.

13 VICE-CHAIR TAVARES: Yeah, Mr. Chair. We can bring
the
14 department head back afterwards and get
comments,
15 but all other committees that are established by
16 ordinance are required to be staffed somehow,
and it
17 does become another responsibility, but we have
to
18 realize that if this is important, then we've
got to
19 provide the resources to the department that is
20 providing that service, or that we expected to
21 provide the service.

22 CHAIR MOLINA: Okay. Any other comments on the
motion?

23 Seeing none, all those in favor, say "aye."

24 SUBCOMMITTEE MEMBERS VOICED AYE.

25 CHAIR MOLINA: All those opposed?

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Bernard, 1 VOTE: AYES: Subcommittee members Altenberg,
Chong, Maberry, McCord, Vice-Chair
2 Tavares, and Chair Molina.
NOES: None.
3 ABSTAIN: None.
ABSENT: None.
4 EXC.: None.

5 MOTION CARRIED.

6 ACTION: APPROVE.

7 CHAIR MOLINA: Thank you. Okay, members, for
information,
8 we want to get our money's worth out of Mr.
Chong
9 today, or maximize his abilities, so we will
break
10 at 12:15 and return at 1:15. And if there are
no
11 objections, the Chair would like to take today's
12 meeting up till 2:30, okay, no later than.

13 Okay, moving on to page 8, Number 2, with
14 regard to additional exemptions. It's been
15 bracketed, "Term 'critically depends' is vague
and
16 open to interpretation." The words "upon the
17 recommendation of" have been inserted. We've
18 deleted the words "with the approval of the
director
19 and," and the words "and the approval of the
20 director" have been inserted into this Number 2.
21 Comments? Dr. Altenberg.

22 SUBCOMMITTEE MEMBER ALTENBERG: Yeah, I mean this is a
23 change that's been inserted, you know,
consistently
24 throughout this proposal, changing, for example,
in

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1 the -- here we go. Yeah. Talking about upon
the
2 recommendation of the Outdoor Lighting Standards
3 Committee and the approval of the director, so
the
4 committee has been changed to recommending and
5 the -- while the director approves, but perhaps
we
6 could get some clarification from Mr. Garneau.
If
7 the committee recommends against approval and
the
8 director approves, then what?
9 CHAIR MOLINA: Mr. Garneau.
10 MR. GARNEAU: If a committee is advisory and the
ultimate
11 responsibility for approval is within the
discretion
12 of the director, then the director gets the
final
13 say in that event. I mean, that's the way it
works,
14 and I understood that that's what we were doing
is
15 making this advisory; is that correct?
16 CHAIR MOLINA: Yeah, that's correct.

17 MR. GARNEAU: So like with other groups, the
committees,
18 their recommendations are generally accepted. I
19 mean, directors generally accept their
20 recommendations. Or if they come back with
21 recommendations, then the -- whatever applicant
is
22 asked to then comply with those, but ultimately
is
23 your question could the director put it aside
for
24 some reason? Could.
25 SUBCOMMITTEE MEMBER ALTENBERG: I mean to my thinking,

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1 that's a bad idea. As originally conceived,
2 approval for exemptions from the standards would
3 require both the director to sign off and the
4 subcommittee to sign off. If the subcommittee
5 basically has no power, which is what you're
saying
6 is -- would be the state -- the case if we
accepted
7 this language, you know, then its -- its value
is
8 greatly diminished, I believe.
9 And so, you know, I would want to stick
to

10 the original language, which was that the
11 subcommittee -- both -- it's a checks and
balances
12 thing. Both the director and the subcommittee
would
13 have to approve any variances from the
standards.
14 And if the subcommittee's recommendations can be
15 ignored and an exemption goes through, in my
mind
16 the real purpose of the subcommittee has a check
and
17 balance and a committee representation is
destroyed.
18 I mean, this is a substantial issue. This is a
19 three rather than a two.
20 CHAIR MOLINA: Okay. Mr. Garneau, is there -- there
is an
21 appeals process, though, right, to any decision
made
22 by a director?
23 MR. GARNEAU: Yes, just like any appeal from, you
know,
24 Title 18, Title 20, which is where this would be
25 placed, would be to the Board of Variance and

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1 Appeals. So yes, the director's decisions are
2 appealable.

Okay, 3 CHAIR MOLINA: Okay. Any other comments, members?
4 is there consensus or not?
his 5 SUBCOMMITTEE MEMBER McCORD: Well, I understand what
I 6 concern is, but there is no other committee that
we'd 7 know of that has that kind of power. I think
power . 8 be hard pressed to give this committee that
9 CHAIR MOLINA: So noted, Mr. McCord.
10 CHAIR MOLINA: Dr. Altenberg.
new 11 SUBCOMMITTEE MEMBER ALTENBERG: This might be taking a
it's 12 step in terms of County government, but perhaps
off 13 over -- long overdue, but perhaps it's biting
forging 14 more than we want to chew in -- you know, in
design of 15 new ground, but in my mind, as the optimal
between 16 this ordinance, requiring approval of both the
I 17 subcommittee and the director, a consensus
the 18 those two bodies, would be very important. And
19 would want to, if we could, recommend that to
20 Public Works Committee.
21 CHAIR MOLINA: Okay.
22 VICE-CHAIR TAVARES: Mr. Chairman.
23 CHAIR MOLINA: Ms. Tavares.

too,
is

24 VICE-CHAIR TAVARES: We may have to postpone this one
25 because I think that if a committee or a board

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1 going to have that kind of power, it has to come
2 through the Charter. I don't believe we can
make an
3 ordinance to give power like that, because the
BVA
4 and the Planning Commissions are the only ones
that
5 have that kind of power now, and they're both
6 established through the Charter. And, you know,
I
7 would like to see maybe Mr. Garneau do a little
more
8 research on that, if we would be allowed to or
if it
9 is in our jurisdiction to make a law like that.

10 CHAIR MOLINA: Without having to go through the
Charter.

11 VICE-CHAIR TAVARES: Yeah, without having to go
through
12 the public, actually.

13 CHAIR MOLINA: Okay. So I take it is there a motion
to
14 postpone?

15 VICE-CHAIR TAVARES: Yes.

16 CHAIR MOLINA: Okay. It's been moved to postpone, is
17 there a second?
18 SUBCOMMITTEE MEMBER CHONG: Second.
19 CHAIR MOLINA: Okay, it's been seconded by Mr. Chong.
20 Discussion? All those in favor of the motion to
21 postpone, signify by saying "aye."
22 SUBCOMMITTEE MEMBERS VOICED AYE.
23 CHAIR MOLINA: Okay. All those opposed?
24
25

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Bernard,
1 VOTE: AYES: Subcommittee members Altenberg,
Chong, Maberry, McCord, Vice-Chair
2 Tavares, and Chair Molina.
NOES: None.
3 ABSTAIN: None.
ABSENT: None.
4 EXC.: None.
5 MOTION CARRIED.
6 ACTION: APPROVE.
7 VICE-CHAIR TAVARES: Can we change that to a three
also?
8 CHAIR MOLINA: Change that to a three? Okay.
9 Mr. Saldana.
10 MR. SALDANA: May I ask for a point of clarification?

11 When the Committee -- the Subcommittee votes to
12 postpone, are these items that will be discussed
13 later if time permits?

14 CHAIR MOLINA: Providing time permits.

15 MR. SALDANA: Or are they items that will be sent to
the
16 full Committee that will require further review
by
17 the Committee?

18 CHAIR MOLINA: The Chair's intent is if there's not
enough
19 time permitting to discuss it, we'll send this
on to
20 the standing Committee for their review.

21 VICE-CHAIR TAVARES: Mr. Chair.

22 CHAIR MOLINA: Ms. Tavares.

23 VICE-CHAIR TAVARES: Is it your intent to finish this
24 today to send it to Committee?

25 CHAIR MOLINA: We're going to do whatever we can up to

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1 2:30. Whatever is not completed will be sent on
to
2 the standing Committee.

3 VICE-CHAIR TAVARES: So the rest of the deliberation
will
4 happen in the Public Works Committee, then?

5 CHAIR MOLINA: That is correct.

6 VICE-CHAIR TAVARES: Because I don't think we've given
7 enough time for Public Works Director to respond
to
8 some of these questions that have come up.

9 CHAIR MOLINA: And I think the next Council will have
10 to -- will be dealing with this, because we're
late
11 in the term as it is already.

12 Okay. Where are we? Let's go to page 9,
I
13 believe, Section .080, with regard to all flood
or
14 spot luminaires, the word "land" has been
deleted
15 with the word "properties" inserted. In
brackets,
16 "How do we measure 'glare perceptible to persons
17 operating motor vehicles on public ways'? May
be
18 difficult to administer if do not specify."
19 Mr. Chong.

20 SUBCOMMITTEE MEMBER CHONG: I also want to recommend
the
21 900 lumen number be increased -- I've made this
22 recommendation before -- to 3,000 lumens.

23 CHAIR MOLINA: So you're talking going from 900 to --

24 SUBCOMMITTEE MEMBER CHONG: First sentence and also in
the
25 latter parts of that same sentence, lamps rated
at

150

A1

laymen,

lamp,

landscape

that,

watts

we're

leeway.

opens

it

1 900 lumens, I would recommend 3,000 lumens, and
2 actually this would go in hand with other
3 recommendations I would recommend for paragraphs
4 and A2, so it would be all consistent, but since
5 2 -- since paragraph B was brought up, now's the
6 time to bring it up.

7 CHAIR MOLINA: Okay.

8 SUBCOMMITTEE MEMBER CHONG: 3,000 lumens, for the

9 is equivalent to let's say a 100 watt _____

10 which is very commonly used in doing some

11 lighting, large canopy trees and things like

12 and that would -- I mean we can also use high

13 wattages, so I'm suggesting a medium of 100

14 basically roughly just to get a value of what

15 trying to do, but that would give us more

16 900 doesn't give us much punch. But it also

17 up the question, and this is for Dr. Altenberg,

18 we've talked about limiting -- providing some

19 limitation as to total lumens per acreage or

20 whatever it may be, because this doesn't limit

21 that.

22 In other words, I can take a thousand 900
23 watt luminaires and do the same job. Now, my --
my
24 client wouldn't be happy because he's buying a
25 thousand luminaires, and that's not cheap, but
if I

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1 really wanted to get the effect that I want and
2 staying within what the code allows me to do,
this
3 is a potential loophole. So you'd probably want
to
4 postpone this one for further discussion,
because it
5 will take us a while to hash this out.

6 SUBCOMMITTEE MEMBER ALTENBERG: I'd call it a three.

7 SUBCOMMITTEE MEMBER CHONG: I would definitely call it
a
8 three.

9 CHAIR MOLINA: Okay. Any concerns about changing this
to
10 a three and is there a motion to postpone?

11 SUBCOMMITTEE MEMBER CHONG: I motion to postpone.

12 CHAIR MOLINA: Okay. It's been motioned to be
postponed.

13 Is there a second?

14 SUBCOMMITTEE MEMBER McCORD: Second.
15 CHAIR MOLINA: Okay, it's been seconded by Mr. McCord.
16 Discussion? Seeing none, all in favor of the
motion
17 to postpone, signify by saying "aye."
18 SUBCOMMITTEE MEMBERS VOICED AYE.
19 CHAIR MOLINA: Okay. Those opposed?
20 VOTE: AYES: Subcommittee members Altenberg,
Bernard,
21 Chong, Maberry, McCord, Vice-Chair
Tavares, and Chair Molina.
22 NOES: None.
23 ABSTAIN: None.
24 ABSENT: None.
25 EXC.: None.
26 MOTION CARRIED.
27 ACTION: APPROVE.

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1 CHAIR MOLINA: Thank you. Okay, members, let's move
on to
2 page 10, letter C, regarding outdoor advertising
3 signs. In brackets there's a concern about if
this
4 section is needed. "Maui County Code Chapter
16.13
5 deals with commercial signs including
illuminated
6 signs." Comments on the need for this section
at

delete 7 this time? Do we stay status quo or do we
Garneau. 8 it? Maybe we can get a comment from Mr.
you 9 MR. GARNEAU: Yes, the reason I added this comment was
a 10 may not be aware but this year the -- there was
with 11 new ordinance passed that deals specifically
it 12 outdoor -- with signs and includes in it some
13 standards with regards to illuminated signs. So
14 seems that this may be redundant because there's
15 already a section of the Code that's passed.
16 CHAIR MOLINA: Okay. Dr. Altenberg.
new 17 SUBCOMMITTEE MEMBER ALTENBERG: The section in this
does it 18 ordinance that deals with illuminated signs,
19 deal with the illumination -- aspects of the
all 20 illumination, control of glare and shielding and
of 21 that? This would simply basically -- as I
22 understand that ordinance, deals with what kind
the 23 signs are permitted and -- without restricting
trespass 24 kinds of -- the kind of light shielding and
25 that it may produce. So this would simply be a

1 restriction, not question of permitting signs or
2 not, just a restriction on the nature of the
light
3 being emitted from them.

4 CHAIR MOLINA: Okay. Comments? Get somebody from the
5 Planning Department. Ms. Laudermilk for
comments.

6 MS. LAUDERMILK: Yeah, again, Robin Laudermilk from
the
7 Planning Department, and just some background on

8 sign ordinance and the illumination. Under the
sign

9 regulations, they do allow for direct
illumination

10 and indirect illumination. There are some
11 prohibitions in relation to residential
districts,

12 and indirectly illuminated signs must be
shielded.

13 In relationship of the proposed language, you
are

14 correct in that it is providing design
standards,

15 and at this point in time there are no other
16 provisions for design standards, unless you're
in

17 historic district or business district. And you
18 would need to really work with our Department
and

19 the Urban Design Review Board in relationship to
the

features.
20

illuminated signs, as well as architecture

21

If somebody comes to us for a sign and we

22

tell them it has to be such and such and such,

23

they're going to say, why? How is that going to

24

impact my advertising, depending on my location?

25

Because, again, this is basically commercial

signs

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1

that we are dealing with, so the locations are

very

2

different. We are not dealing with residential,

but

3

that would impact the implementation of the sign

4

ordinance and we'd have to work through why the

5

outdoor lighting regulation will tell me how to

do

6

my sign if I'm in Makawao. And so that is a

7

concern.

8

CHAIR MOLINA: Okay, Dr. Altenberg.

9

SUBCOMMITTEE MEMBER ALTENBERG: Yeah, I do see a

problem,

10

because if somebody wants to build a sign,

they're

11

going to go to this ordinance, the sign

ordinance to

12

see what's allowed and what's not. And so I

haven't

13 had a chance to look through the details of
this, 14 but this section needs to be somewhere, and so
15 perhaps it would be best as proposed as we
recommend 16 that as an amendment to the sign ordinance.
17 Basically, you know, it's a restriction over all
18 signs, that all signs would have to meet. So
that 19 would seem to be the most sensible way to deal
with 20 it.

21 MS. LAUDERMILK: I think we need further discussion on
22 that, a lot of further discussion.

23 SUBCOMMITTEE MEMBER MABERRY: Move to strike C from
this 24 document at this time.

25 CHAIR MOLINA: Okay. We have a motion to strike C
from

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1 the document. Is there a second?

2 SUBCOMMITTEE MEMBER McCORD: Second.

3 CHAIR MOLINA: Okay, second. Discussion, Mr. Maberry,
as

4 the maker of the motion?

5 SUBCOMMITTEE MEMBER MABERRY: Based on what I've heard
so

with
sense
you
out

6 far, I feel to try to expedite and moving along
7 this process, and I feel that it seems to make
8 that we need to separately address this issue,
9 know, using this other vehicle.

10 CHAIR MOLINA: Okay. So you're looking at striking C
11 completely?

12 SUBCOMMITTEE MEMBER MABERRY: Correct.

13 CHAIR MOLINA: Rather than postponing. Okay. Any
14 discussion? Dr. Altenberg.

15 SUBCOMMITTEE MEMBER ALTENBERG: It would appear to me
16 there's still a problem in that. That would
17 there's no regulation of the light trespass from
18 signs in, for example, certain districts where
19 these -- where the light sign ordinance doesn't
20 mention anything about illumination. So that

will
what

21 allow a certain loophole of signs in terms of
22 they do with light trespass. So --

23 SUBCOMMITTEE MEMBER MABERRY: But I see a direct
24 conflict --

25 CHAIR MOLINA: Okay, Mr. Maberry.

1 SUBCOMMITTEE MEMBER MABERRY: Mr. Chair.

2 CHAIR MOLINA: Proceed.

here

3 SUBCOMMITTEE MEMBER MABERRY: I see a direct conflict

this

4 between these two, and I don't see us settling

5 right now, and there is a process for addressing

6 that in this other vehicle and that isn't tied -

-

7 doesn't have to be settled right here and now.

I

8 CHAIR MOLINA: So you're saying the -- Mr. Maberry, if

newly

9 may inject, you're saying the existing -- the

as

10 created sign ordinance can address concerns such

11 stray light.

the

12 SUBCOMMITTEE MEMBER MABERRY: Can be amended through

13 regular County process. It doesn't have to be

14 addressed here now.

15 CHAIR MOLINA: Dr. Altenberg.

then

16 SUBCOMMITTEE MEMBER ALTENBERG: Well, I guess I'm --

17 I would -- as perhaps a friendly amendment, that

that

18 we -- that we recommend exactly what you said,

into

19 the existing sign ordinance be amended to take

20 account the issues in section C. That's our

21 recommendation.

question

22 CHAIR MOLINA: Hang on. Ms. Bernard, you had a

23 or something to add?

to

24 SUBCOMMITTEE MEMBER BERNARD: Yeah, what I was going

agreeing

25 add was I'm -- since I raised my hand, I'm

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to

1 with Lee, but my concern was how were we going

out

2 amend our sign ordinance? Is that a long, drawn

3 process?

4 MS. LAUDERMILK: It's --

5 CHAIR MOLINA: Go ahead, Ms. Laudermilk.

You

6 MS. LAUDERMILK: It's how you amend any ordinance.

information.

7 need a proposal, just some background

of

8 On the signs, there are limitations to the size

There

9 the signs. You cannot have them 100 by 100.

light

10 are limitations. So in terms of the amount of

11 and so forth -- and I think, too, both of the

want

12 ordinances, we want to do the same thing. We

I
design
the
to --
is
you're
with
in
with

13 to -- you know, the same goal, to minimize, but
14 think you need to have further discussion. It's
15 perceived that arbitrary design -- arbitrary
16 standards are being put on, and that may not be
17 case, but there has not been enough discussion
18 that everybody would agree that this is -- this
19 the design standards that we want used. And
20 telling us that we have to do it through this
21 ordinance, and you haven't come and consulted
22 our Urban Design Review Board and other people
23 the industry who's -- the sign makers who deal
24 this on a daily basis.
25 CHAIR MOLINA: Okay. Mr. Maberry, your motion on the

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your --
C,

1 floor, there's been a proposed amendment, so
2 oh, the motion on the floor is to delete Section
3 and the amendment from Dr. Altenberg is to I
4 guess -- I'm trying to recall.

5 SUBCOMMITTEE MEMBER ALTENBERG: Is to recommend that
6 Section C be proposed as amendment to the sign
7 ordinance.
8 SUBCOMMITTEE MEMBER MABERRY: My question was, sir, to
9 respond to his motion or his offer, is to
question
10 counsel. I mean is that -- is that even
something
11 that this body can do?
12 CHAIR MOLINA: Mr. Garneau.
13 SUBCOMMITTEE MEMBER MABERRY: I mean she just got
through
14 explaining to us the process for addressing
this,
15 and it doesn't seem that this body has that
16 authority.
17 CHAIR MOLINA: Mr. Garneau.
18 MR. GARNEAU: I think you're free to comment back in
your
19 report to the Public Works and Transportation
20 Committee that as part of your review of the
21 lighting standards within the County it came up
as a
22 discussion item that sign lighting needed to be
23 looked at and that you'd like them to consider,
you
24 know, taking that up as a separate item. I
don't
25 think there's any reason why you can't transmit
that

159

1 to them and just say, you know, we recommend --
that
2 this is an issue. It didn't seem appropriate in
the
3 particular draft bill that we were working on.
4 However, we think it is an issue that needs to
come
5 up in relationship to Chapter 16.12A and have
them
6 take it up.

7 SUBCOMMITTEE MEMBER MABERRY: I accept. Do you accept
as
8 a second? Call for the question.

9 CHAIR MOLINA: Okay. The amendment -- proposed
amendment
10 was made by Dr. Altenberg and seconded by -- I'm
11 trying to recall -- I'm just -- for the record,
12 second by Mr. McCord. Okay, we're voting on the
13 amendment to the main motion. All those in
favor,
14 say "aye."

15 SUBCOMMITTEE MEMBERS VOICED AYE.

16 CHAIR MOLINA: All those opposed?

17 VOTE: AYES: Subcommittee members Altenberg,
Bernard,
 Chong, Maberry, McCord, Vice-Chair
18 Tavares, and Chair Molina.
 NOES: None.
19 ABSTAIN: None.
 ABSENT: None.
20 EXC.: None.

21 MOTION CARRIED.

22 ACTION: APPROVE amendment to main motion.

23 CHAIR MOLINA: Thank you. The amendment carries.

24 Now we're back to the main motion. All
those

25 in favor of the motion to delete C, signify by

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1 saying "aye."

2 SUBCOMMITTEE MEMBERS VOICED AYE.

3 CHAIR MOLINA: All those opposed?

4 VOTE: AYES: Subcommittee members Altenberg,
Bernard, Chong, Maberry, McCord, Vice-Chair
5 Tavares, and Chair Molina.

NOES: None.

6 ABSTAIN: None.

ABSENT: None.

7 EXC.: None.

8 MOTION CARRIED.

9 ACTION: APPROVE main motion as amended.

10 CHAIR MOLINA: Objection. Thank you. Chair marks it
11 unanimous.

12 Okay, members, we're closing in on the
12:15

13 magic time for Mr. Chong, so let's do -- why
don't

14 we do D and then we'll break, okay. And this is
to

15 bracket landward or mauka, I guess a
clarification

16 from the Corporation Counsel. Mr. Chong.
17 SUBCOMMITTEE MEMBER CHONG: I don't want to answer the
18 landward or mauka. I have an additional comment
to
19 make.
20 CHAIR MOLINA: Okay, sure.
21 SUBCOMMITTEE MEMBER CHONG: For the same reason I
22 mentioned changing the amount from 900 on the
23 previous discussion to 3,000, we need to be
24 consistent here.
25 CHAIR MOLINA: Okay.

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I'm
include
members?
same
set

1 SUBCOMMITTEE MEMBER CHONG: That's my suggestion, and
2 probably going to motion to postpone it to
3 all of it in one discussion.
4 CHAIR MOLINA: Okay, any other comments from the
5 Dr. Altenberg.
6 SUBCOMMITTEE MEMBER ALTENBERG: After reviewing the
7 issue, I would recommend that the lumen level be
8 to 260.

900. 9 CHAIR MOLINA: Comments? So it's currently set at
10 There's a proposal for 3,000 and then there's a
11 proposal for 260.
12 SUBCOMMITTEE MEMBER McCORD: 260 lumens?
13 SUBCOMMITTEE MEMBER ALTENBERG: This is for luminaires
14 within 100 meters of the ocean.
15 CHAIR MOLINA: And could we get a clarification,
members?
16 Is this a landward or mauka 100 meters? I guess
17 Corporation Counsel would like a --
18 SUBCOMMITTEE MEMBER CHONG: 100 meters out in the
ocean.
19 SUBCOMMITTEE MEMBER McCORD: What happened to mauka
and
20 makai?
21 SUBCOMMITTEE MEMBER MABERRY: Hannah?
22 SUBCOMMITTEE MEMBER BERNARD: Yeah, I'd like to speak
to
23 that. Of course --
24 CHAIR MOLINA: Proceed.
25 SUBCOMMITTEE MEMBER BERNARD: At first we were really

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1 focused on the land, but after this incident
with
2 the hatchlings going out to the boats, it raised
our

lights 3 awareness that clearly we have an issue with
address 4 on the water. So, you know, do we want to
5 that now? Do you want to change that?
6 SUBCOMMITTEE MEMBER CHONG: Corp. Counsel, do we have
7 any --
8 CHAIR MOLINA: Mr. Garneau.
9 MR. GARNEAU: No, I just thought -- I assumed that's
what 10 it meant, but if you guys are all clear without
it, 11 I mean --
12 SUBCOMMITTEE MEMBER CHONG: No, but the further
question 13 is --
14 SUBCOMMITTEE MEMBER MABERRY: Jurisdiction in the
ocean.
15 SUBCOMMITTEE MEMBER CHONG: Does this ordinance have
any 16 jurisdiction out in the water? I don't think
so. 17 CHAIR MOLINA: So it's just landward, then.
18 SUBCOMMITTEE MEMBER BERNARD: It doesn't matter
whether 19 you put it in there or not.
20 MR. GARNEAU: It's just other places in the Code when
we 21 refer -- we usually say -- we usually specify so
22 much -- so far landward or so far mauka of the -
-
23 you know, we use that language, but if you think
it 24 doesn't need it, then just leave it out.

25 SUBCOMMITTEE MEMBER MABERRY: I can accept if --

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1 CHAIR MOLINA: Mr. Maberry.

2 SUBCOMMITTEE MEMBER MABERRY: -- that's standardized
3 language. I mean...

4 CHAIR MOLINA: The Chair agrees.

5 SUBCOMMITTEE MEMBER ALTENBERG: Landward.

6 SUBCOMMITTEE MEMBER McCORD: What in the world does
7 landward mean?

8 SUBCOMMITTEE MEMBER MABERRY: Toward the land.

9 SUBCOMMITTEE MEMBER BERNARD: Toward land.

10 CHAIR MOLINA: Just as it is written.

11 SUBCOMMITTEE MEMBER BERNARD: You can put leeward in
you
12 want.

13 SUBCOMMITTEE MEMBER McCORD: Where do you stand when
14 you're landward?

15 CHAIR MOLINA: Members? Mr. Altenberg.

16 SUBCOMMITTEE MEMBER ALTENBERG: And also pursuant to
the
17 testimony by the fellow from the World Wildlife
18 Fund, this would probably be a number three, but
I
19 think there should be accumulative footcandle
level

20 from all light sources in terms of what's
shining on
21 the beach, so -- but I'll defer that until we
get to
22 the section three comments, because this is
23 substantial.
24 CHAIR MOLINA: Members, do you want to -- is there a
25 motion to postpone this?

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1 SUBCOMMITTEE MEMBER CHONG: I already did that.
Motion to
2 postpone, sorry.
3 CHAIR MOLINA: Because I know there's discussion of
making
4 the output as 3,000 lumens and there's another
5 proposal for 260 lumens, so Mr. Chong has made a
6 motion to postpone. Is there a second?
7 SUBCOMMITTEE MEMBER ALTENBERG: Question.
8 CHAIR MOLINA: Hang on. We have a proposed motion on
the
9 floor. Is there a second to the motion to
postpone?
10 SUBCOMMITTEE MEMBER McCORD: I don't see any choice.
11 SUBCOMMITTEE MEMBER BERNARD: We have to, yeah.
12 CHAIR MOLINA: Okay. Well, I need a second for it to
13 carry.

14 SUBCOMMITTEE MEMBER McCORD: Second.
15 CHAIR MOLINA: Okay, it's been seconded by Mr. McCord.
16 Discussion?
17 SUBCOMMITTEE MEMBER ALTENBERG: Is --
18 CHAIR MOLINA: Okay, Mr. Altenberg.
19 SUBCOMMITTEE MEMBER ALTENBERG: Is postponing the same
as
20 dealing -- putting it in our section three round
21 of --
22 CHAIR MOLINA: Right, is that the proposal, you guys
want
23 to go with change this to a three?
24 SUBCOMMITTEE MEMBER CHONG: I think for the same
reason we
25 did the other paragraph, it needs to be a three.

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1 SUBCOMMITTEE MEMBER ALTENBERG: Yeah, I mean --
2 CHAIR MOLINA: Since there's going to be significant
3 discussion, I can see.
4 SUBCOMMITTEE MEMBER ALTENBERG: Is postponing the same
as
5 calling it a three? If it is, then I'm for it.
If
6 it's not, then I'd say a friendly amendment,
let's
7 call this a three, with the issues that have
been

8 raised here.

9 SUBCOMMITTEE MEMBER McCORD: I accept.

10 CHAIR MOLINA: Okay, well, we'll -- I guess we'll do
this

11 as time permits, so we'll make it a three and
then

12 we'll get to it should time permit on it.

13 All right, all those in favor of the
motion,

14 say "aye."

15 SUBCOMMITTEE MEMBERS VOICED AYE.

16 CHAIR MOLINA: All those opposed?

17 VOTE: AYES: Subcommittee members Altenberg,
Bernard,
18 Chong, Maberry, McCord, Vice-Chair
Tavares, and Chair Molina.

19 NOES: None.

20 ABSTAIN: None.

21 ABSENT: None.

22 EXC.: None.

23 MOTION CARRIED.

24 ACTION: APPROVE.

25 CHAIR MOLINA: Okay. Thank you. Motion has been
accepted

26 to postpone.

27 Okay, members, it's 12:15. Chair will
call

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1:15. 1 for a one-hour break, and we shall return at

2 Mr. Saldana.

3 MR. SALDANA: (Inaudible).

4 CHAIR MOLINA: And Mr. Garneau, thank you for your
help

5 with this matter. Now, you do have some other

6 matters you have to take care of, so just for
the

7 members' information, you will not be here when
we

8 reconvene at 1:15?

9 MR. GARNEAU: You're reconvening at what time?

10 CHAIR MOLINA: 1:15.

11 MR. GARNEAU: I was going to just stay till 1:30. Why

12 don't I come down. I can give you about half an

13 hour after lunch.

14 CHAIR MOLINA: Okay.

15 MR. GARNEAU: So maybe during the break if people look
and

16 they have particular things coming up, if they
could

17 ask me those first.

18 CHAIR MOLINA: Okay, so noted. Thank you, Mr.
Garneau.

19 The Chair also thanks Mr. Chong for all his hard

20 work. We wish you could stay longer, but thank
you

21 for all your contributions to the Subcommittee,
and

22 we will, needless to say, keep you posted.

23 SUBCOMMITTEE MEMBER CHONG: I'm sure you will.

24 CHAIR MOLINA: Okay, members, this meeting is in
recess.

25 We shall reconvene at 1:15. (Gavel).

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1 RECESS: 12:18 p.m.

2 RECONVENE: 1:27 p.m.

3 CHAIR MOLINA: (Gavel). Subcommittee on Outdoor
Lighting

4 is now back in session. Thank you very much,

5 members. As I stated earlier, we last left off
on

6 page 11, letter B of Section .100 having to do
with,

7 "Locations where the nighttime accident rate
exceeds

8 those of the daylight hours." In brackets, "Who
9 determines this and how is this done?"

Comments,

10 Mr. Maberry.

11 SUBCOMMITTEE MEMBER MABERRY: Mr. Chair, actually I'd
like

12 to recommend that we consider not taking any
action

13 whatsoever on Section 20.35.100, as this is the

14 existing language that Street Lights Standards

15 Committee operates under, that we -- our time
could

16 probably be better spent moving on to some of
the

17 other areas that are more important. Okay.
There's
18 been a --
19 SUBCOMMITTEE MEMBER MABERRY: I'll make it as a
motion, if
20 it's acceptable to the Chair.
21 SUBCOMMITTEE MEMBER McCORD: Second.
22 CHAIR MOLINA: The Chair will entertain a motion.
Okay.
23 It's been motioned by Mr. Maberry and seconded
by
24 Mr. McCord to not address for the time being
Section
25 .100 because these matters could be addressed by
the

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1 Outdoor Lighting Standards Committee.
Discussion?
2 Mr. Maberry, as the maker of the motion.
3 SUBCOMMITTEE MEMBER MABERRY: Well, not so much that
it
4 could be addressed by them. It's just that this
is
5 existing language, and I think it would take
quite a
6 bit of our time and not necessarily address our
7 concerns.
8 CHAIR MOLINA: Okay. Dr. Altenberg, you had a
comment?

This 9 SUBCOMMITTEE MEMBER ALTENBERG: Yeah, I would agree.
10 is almost -- from MC 15 almost verbatim. There
11 are -- to me, there's basically two main defects
12 with the current language that I think need to
be 13 dealt with. That has to do with the cumulative
14 light trespass, and the other is the sale of
15 luminaires that would be in violation of the
other 16 provisions in the ordinance, and those -- in
terms 17 of my priorities, you know, I -- most of these
other 18 notes of Mr. Garneau do not worry me, but those
19 defects do concern me. And I'd like, if we had
20 enough time, that we could have enough -- some
21 discussion of those defects.
22 CHAIR MOLINA: Okay. Thank you, Mr. Altenberg. Any
other 23 comments? Okay.
24 SUBCOMMITTEE MEMBER BERNARD: I'd agree with Lee's
25 comments completely.

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no 1 CHAIR MOLINA: Okay. Thank you. The Chair, hearing

those 2 other comments, will call for the vote. All

3 in favor say, "aye."

4 SUBCOMMITTEE MEMBERS VOICED AYE.

5 CHAIR MOLINA: All those opposed?

Bernard, 6 VOTE: AYES: Subcommittee members Altenberg,
Maberry, McCord, and Chair Molina.

7 NOES: None.

8 ABSTAIN: None.

9 ABSENT: None.

EXC.: Subcommittee member Chong and
Vice-Chair Tavares.

10 MOTION CARRIED.

11 ACTION: APPROVE.

12 CHAIR MOLINA: Thank you.

13 MR. SALDANA: Mr. Chair.

14 CHAIR MOLINA: Okay, members -- okay, Mr. Saldana.

15 MR. SALDANA: So am I understanding that the section

as 16 written is going to stay with no changes, the

entire 17 section?

18 CHAIR MOLINA: Okay, so noted for the record.

19 Okay, moving on to page 12, Section .110,

20 letter C, Number 3, we addressed that earlier.

We 21 decided as a body to put that as a number two.

So I 22 guess we'll yield the microphone to Dr.

Altenberg to 23 give his comments on the fasciae.

24 SUBCOMMITTEE MEMBER ALTENBERG: That was -- the idea

is 25 that this is really a form of architectural

accent

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1 lighting, so that I would change the language to
2 "The sides (fasciae) of the canopy," and instead
of
3 saying, "shall not be illuminated in any
manner,"
4 change it to "shall be categorized as
architectural
5 accent lighting and subject to the provisions" -
-
6 let me find that section. That's a specific
use.
7 That's G. "Subject to the provisions of
Subsection
8 G."
9 CHAIR MOLINA: Subsection G.
10 SUBCOMMITTEE MEMBER ALTENBERG: That's on page 14,
11 Architectural Accent Lighting.
12 SUBCOMMITTEE MEMBER BERNARD: Is that a motion?
13 SUBCOMMITTEE MEMBER ALTENBERG: It's a motion.
14 CHAIR MOLINA: Hang on. Hang on. Let me make sure
staff
15 has gotten that down. Gary, you have the
proposed
16 motion on the floor, which is to add language,
17 "shall be categorized as architectural accent
18 lighting and subject to provisions of Subsection
G."

19 SUBCOMMITTEE MEMBER ALTENBERG: Yeah.
20 CHAIR MOLINA: Did I state that correctly?
21 MR. SALDANA: Mr. Chair.
22 CHAIR MOLINA: Proceed.
23 MR. SALDANA: Just repeat that last part for me, "and
24 shall be subject to" --
25 CHAIR MOLINA: "And shall be" --

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1 MR. SALDANA: Is that Subsection G?
2 CHAIR MOLINA: "And subject to provisions of
Subsection
3 G."
4 MR. SALDANA: Okay.
5 CHAIR MOLINA: Does anybody need the motion on the
floor
6 restated? Okay. I assume that's a motion,
7 Dr. Altenberg?
8 SUBCOMMITTEE MEMBER ALTENBERG: Yes, that's good.
9 CHAIR MOLINA: You can go ahead and form the proposed
10 motion. It's been moved by Dr. Altenberg. Is
there
11 a second?
12 SUBCOMMITTEE MEMBER BERNARD: Second.
13 CHAIR MOLINA: It's been seconded by Ms. Bernard.

14 Discussion? Mr. Maberry, you had a comment?
15 SUBCOMMITTEE MEMBER MABERRY: Can I hear it restated
one
16 more time, please?
17 CHAIR MOLINA: Sure. The motion on the floor is to
add to
18 the language which currently reads -- I'll just
go
19 ahead and read the whole thing, Number 3.
Lights
20 shall not be mounted on the top or sides
(fasciae)
21 of the canopy. The sides (fasciae) of the
canopy
22 shall be" -- okay we're gonna -- so basically
what
23 we're going to do is we're going to strike out
"not
24 be illuminated in any manner." Am I correct?
25 SUBCOMMITTEE MEMBER ALTENBERG: Correct.

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1 CHAIR MOLINA: Okay.
2 SUBCOMMITTEE MEMBER ALTENBERG: Actually, it would
make
3 more sense to say, "Lights mounted on or
4 illuminating the top or sides (fasciae) of the
5 canopy shall be classified as architectural
accent

Section

6 lighting and subject to the provisions of

7 G."

8 SUBCOMMITTEE MEMBER MABERRY: I would second that.

9 CHAIR MOLINA: Okay. So you're going to withdraw the
10 original language?

11 SUBCOMMITTEE MEMBER ALTENBERG: Yeah, or amend it.

12 CHAIR MOLINA: Okay.

13 SUBCOMMITTEE MEMBER MABERRY: That makes better sense.

14 CHAIR MOLINA: Gary, you okay?

15 SUBCOMMITTEE MEMBER MABERRY: One more time.

a

16 CHAIR MOLINA: Can we go ahead and restate it -- just

17 slight -- tad slower for Gary and our secretary.

18 SUBCOMMITTEE MEMBER ALTENBERG: "Lights that are

19 illuminating or mounted on the top or sides

be

20 (fasciae) of the canopy shall be considered to

subject

21 architectural accent lighting and shall be

22 to the provisions of Subsection G."

23 CHAIR MOLINA: We'll let the staff --

24 SUBCOMMITTEE MEMBER MABERRY: Call for the question.

25 CHAIR MOLINA: Okay. Staff, would you like to have

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1 that -- restate what you have written down for
the

2 record?

3 MR. SALDANA: Okay. Let me see if I got this
straight.

4 So Number 3 will read: "Lights that are
5 illuminating or mounted on the top or side
(fasciae)

6 shall be considered architectural accent
lighting

7 and shall be subject to the provisions of
Subsection

8 G."

9 SUBCOMMITTEE MEMBER ALTENBERG: Almost correct.
Should be

10 the fasciae of the canopy, don't leave --
because

11 this is referring to canopies.

12 MR. SALDANA: Okay.

13 CHAIR MOLINA: Too bad we don't have our computer up
on

14 the wall. Okay. Motion has been made and
seconded.

15 Okay, the Chair will call for the vote. All
those

16 in favor, say "aye."

17 SUBCOMMITTEE MEMBERS VOICED AYE.

18 CHAIR MOLINA: All those opposed?

19 VOTE: AYES: Subcommittee members Altenberg,
Bernard,

20 Maberry, McCord, and Chair Molina.
NOES: None.

21 ABSTAIN: None.

22 ABSENT: None.

 EXC.: Subcommittee member Chong and
 Vice-Chair Tavares.

23 MOTION CARRIED.

24 ACTION: APPROVE.

25 CHAIR MOLINA: Okay. Thank you. Okay, moving down to

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being 1 Number 4. In brackets the questions that are

purposes' 2 asked is: "How is term 'enhanced security

Okay. 3 defined? How is this to be administered?"

station 4 This is with regards to areas around service

5 pump islands. Okay, Ms. Bernard.

that 6 SUBCOMMITTEE MEMBER BERNARD: Mr. Chair, I don't feel

safety 7 this Subcommittee really has the expertise in

move 8 issues and definitions for legal purposes and I

9 that we just not waste our time on this issue.

matter? 10 CHAIR MOLINA: So would you like to postpone this

11 SUBCOMMITTEE MEMBER BERNARD: Sure.

12 CHAIR MOLINA: Is that the consideration?

just 13 SUBCOMMITTEE MEMBER McCORD: Rather than postpone it,

14 forward it as is.

Maberry. 15 CHAIR MOLINA: There's a number of options. Mr.

out? 16 SUBCOMMITTEE MEMBER MABERRY: Can I toss something
and 17 Can we just change "enhance," okay? "For safety
18 security," period, rather than using the word
Hannah 19 "enhance." I'd like to make that motion, if
20 would like to withdraw hers.
21 SUBCOMMITTEE MEMBER BERNARD: Fine.
22 CHAIR MOLINA: Okay, motion to postpone has been
23 withdrawn. Mr. Maberry.
should 24 SUBCOMMITTEE MEMBER MABERRY: I would like to -- it
25 read "levels may be permitted for safety and

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1 security purposes only."
word 2 CHAIR MOLINA: Okay, so we're going to take out the
3 "enhance" and add in "safety and."
4 SUBCOMMITTEE MEMBER MABERRY: "And security."
we're 5 CHAIR MOLINA: Okay. Security is there already, so
6 just adding "safety and." Members, you all have
it 7 in there? Okay. All right, Mr. Maberry, are
you 8 going to frame that into a motion? So moved,
sir.

9 I move that we change that wording. Let's see.
"At
10 the discretion of the director, increased
lighting
11 levels may be permitted for safety and security
12 purposes only," period.
13 SUBCOMMITTEE MEMBER McCORD: Second.
14 CHAIR MOLINA: Okay, seconded by Mr. McCord.
Discussion?
15 Okay, all those in favor, say "aye."
16 SUBCOMMITTEE MEMBERS VOICED AYE.
17 CHAIR MOLINA: All those opposed?
18 VOTE: AYES: Subcommittee members Altenberg,
Bernard, Maberry, McCord, and Chair Molina.
19 NOES: None.
20 ABSTAIN: None.
21 ABSENT: None.
22 EXC.: Subcommittee member Chong and
Vice-Chair Tavares.
23 MOTION CARRIED.
24 ACTION: APPROVE.
25 CHAIR MOLINA: Thank you. Now, as far as the
question, I believe it's from Corporation Counsel, enhanced

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1 security purposes defined, and how is that to be
2 administered?

of

3 SUBCOMMITTEE MEMBER MABERRY: Remove the word --
4 MR. SALDANA: I thought you -- that already took care

5 it.

6 SUBCOMMITTEE MEMBER BERNARD: We took it out.

7 CHAIR MOLINA: Okay. Sorry. Sorry. I'm kind of --

8 SUBCOMMITTEE MEMBER BERNARD: Next page.

9 SUBCOMMITTEE MEMBER MABERRY: Next page.

was

10 CHAIR MOLINA: Next page. Excuse me. Sorry. That

Number

11 hard to come back after lunch. All right.

difficult

12 13, page 13, Number 1, in brackets, "The term

13 'impractical' is somewhat vague. May be

14 to administer." Comments? Mr. Maberry.

motion

15 SUBCOMMITTEE MEMBER MABERRY: I'd like to make a

16 that we modify this to say "fully shielded

County

17 characteristics unless determined by the Maui

18 Outdoor Lighting Standards Committee," period.

19 Strike "that such shielding is impractical."

Is

20 CHAIR MOLINA: Okay. It's been moved by Mr. Maberry.

21 there a second to his --

22 SUBCOMMITTEE MEMBER McCORD: Second.

23 CHAIR MOLINA: Okay, it's been seconded.

24 SUBCOMMITTEE MEMBER McCORD: We're just moving here.

change?

25 CHAIR MOLINA: Staff, did you get that proposed

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1 MR. SALDANA: No. Can you repeat it, please?

proposed

2 CHAIR MOLINA: Mr. Maberry, can you repeat your

3 motion?

words

4 SUBCOMMITTEE MEMBER MABERRY: Basically strike the

5 "that such shielding is impractical."

6 SUBCOMMITTEE MEMBER ALTENBERG: Question.

fifth

7 CHAIR MOLINA: This would be one, two, three, the

8 line in, right?

9 SUBCOMMITTEE MEMBER MABERRY: Yeah.

okay,

10 CHAIR MOLINA: "That such shielding is impractical,"

11 we're knocking out those five words.

12 SUBCOMMITTEE MEMBER ALTENBERG: Comments.

13 CHAIR MOLINA: Dr. Altenberg.

this

14 SUBCOMMITTEE MEMBER ALTENBERG: Well, the intent of

--

15 language was basically that if you can't find a

fully

16 if nobody exists who can build lighting that's

17 shielded to give you the light that you want for

it

18 that sports purpose or if they would do it but

we

19 would cost too much for the County, that's what

20 meant by impractical, and that it was up to the
21 Outdoor Lighting Standards Committee to
determine
22 that that was in fact the case.
23 So what I would recommend, instead of
24 saying -- so I think they should still -- well -
-
25 and it was not just to open a general exemption,
but

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1 to say specifically -- so what I would propose
as a
2 counter -- alternative is instead of using
3 impractical, say that such shielding would
prevent
4 the -- the intended use of -- would prevent the
5 lighting needed for the activity or would cause
too
6 high a cost differential.
7 CHAIR MOLINA: Okay. Ms. Bernard.
8 SUBCOMMITTEE MEMBER BERNARD: Another recommendation.
9 What if we just change the words to -- from
10 impractical to is not possible.
11 SUBCOMMITTEE MEMBER MABERRY: But it would -- it could
12 still be possible, just like he said, it maybe
too
13 expensive.

14 SUBCOMMITTEE MEMBER ALTENBERG: That leaves as a vague
15 question what's too expensive.
16 SUBCOMMITTEE MEMBER BERNARD: Yeah, you can't --
17 SUBCOMMITTEE MEMBER MABERRY: I would withdraw my
motion
18 and just ask that we leave this as is.
19 CHAIR MOLINA: As is.
20 SUBCOMMITTEE MEMBER MABERRY: Yeah.
21 CHAIR MOLINA: Okay. Motion has been withdrawn, okay,
and
22 I need a withdrawal on the second. All right.
So
23 the Committee has decided we'll leave it as is?
24 SUBCOMMITTEE MEMBER ALTENBERG: Yes, I'm fine with
that.
25 MR. SALDANA: Mr. Chair.

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1 CHAIR MOLINA: Okay, Mr. Saldana.
2 MR. SALDANA: Just as an FYI, this language was taken
out
3 of another bill.
4 SUBCOMMITTEE MEMBER MABERRY: Thank you very much.
5 MR. SALDANA: Exactly word for word.
6 SUBCOMMITTEE MEMBER MABERRY: Appreciate that.
7 CHAIR MOLINA: All right. Moving down to Number 2, in

Anybody

8 brackets, "How is term 'circumstances' to be
9 defined? May wish to qualify the term."

10 from the Committee would respond to the term
11 circumstances?

12 SUBCOMMITTEE MEMBER ALTENBERG: I'm not worried about
13 this.

14 SUBCOMMITTEE MEMBER MABERRY: Me either.

15 CHAIR MOLINA: No concerns?

16 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.

17 CHAIR MOLINA: Okay, consensus from the group. Moving
18 down to E with regard to security lighting,
19 "Shouldn't this be in the definition section,
20 20.35.040?" Members, if we refer back to that.

21 SUBCOMMITTEE MEMBER ALTENBERG: Yes, if I could make a
22 motion.

23 CHAIR MOLINA: Okay, proceed.

would

24 SUBCOMMITTEE MEMBER ALTENBERG: I would agree, and I
25 move that this be moved into the section of

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1 definitions.

2 CHAIR MOLINA: Okay. Motion has been made --

3 SUBCOMMITTEE MEMBER MABERRY: Second.

4 CHAIR MOLINA: -- to move it into Section .040 and
5 seconded by Mr. Maberry. Discussion? Seeing
none,
6 all those in favor, say "aye."
7 SUBCOMMITTEE MEMBERS VOICED AYE.
8 CHAIR MOLINA: Okay. All those opposed?
9 VOTE: AYES: Subcommittee members Altenberg,
Bernard,
10 Maberry, McCord, and Chair Molina.
11 NOES: None.
12 ABSTAIN: None.
13 ABSENT: None.
14 EXC.: Subcommittee member Chong and
15 Vice-Chair Tavares.
16 MOTION CARRIED.
17 ACTION: APPROVE.
18 CHAIR MOLINA: Thank you. Moving to page 14. Okay,
19 Number 5 -- I'm sorry, Mr. Maberry. Before I
20 proceed, in brackets, "Designated how? By
whom?"
21 Regarding security lighting. Mr. Maberry.
22 SUBCOMMITTEE MEMBER MABERRY: No, sir, I withdraw.
23 CHAIR MOLINA: Comments from the members? As is?
24 SUBCOMMITTEE MEMBER BERNARD: As is.
25 SUBCOMMITTEE MEMBER MABERRY: As is.
26 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.
27 CHAIR MOLINA: Okay. Number 5 will be accepted as
28 consensus by the members as is, status quo.

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1 architectural

Moving down to Number 2 under

2 fixtures,

accent lighting with regards to lighting

3 measured

in parentheses, "How is term 'excessive'

4

and defined?"

5

SUBCOMMITTEE MEMBER BERNARD: Do we need --

6

CHAIR MOLINA: Ms. Bernard.

7

SUBCOMMITTEE MEMBER BERNARD: Do we need a footcandle

8

level here?

9

CHAIR MOLINA: Dr. Altenberg.

10

SUBCOMMITTEE MEMBER BERNARD: This might be the

11

appropriate place.

12 the

SUBCOMMITTEE MEMBER ALTENBERG: Yeah, this might be

13

appropriate place to make explicit definition of

14 mailed to

what is acceptable light trespass, and I e-

15 --

the members some language with that regard, so I

16

I might as well just move at this point that the

17

language be included and see if we can agree on

18

that.

19

SUBCOMMITTEE MEMBER BERNARD: Second.

20 the

CHAIR MOLINA: Okay, it's been moved and second that

21 considered

language forwarded by Dr. Altenberg be

22

for this. Mr. Maberry.

23

SUBCOMMITTEE MEMBER ALTENBERG: Should I read the

24 language?

25 CHAIR MOLINA: Sure.

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1 SUBCOMMITTEE MEMBER ALTENBERG: Because I don't think
2 Mr. McCord was able to get it.

3 SUBCOMMITTEE MEMBER McCORD: I didn't get it.

4 SUBCOMMITTEE MEMBER ALTENBERG: Since I e-mailed it.

5 Should I read the language?

6 CHAIR MOLINA: Please do so.

7 SUBCOMMITTEE MEMBER ALTENBERG: Okay, residential
light

8 trespass. "The light trespass onto a
residential

9 property from any second property shall not
exceed

10 .1 footcandles after 11:00 p.m. The quantity of
11 light trespass attributable to the light source
on

12 the second property shall be determined by
comparing

13 lumen levels within the residential property
when

14 the lights are operating to those when either

15 lights are not operating or an opaque black
shield

16 has been placed between the measuring device and
the

17 light sources on the second property."

18 CHAIR MOLINA: Okay. All right. Members, all got
that?

19 Can you give us a reference as to the date that
20 transmittal was made?

21 SUBCOMMITTEE MEMBER ALTENBERG: It was approximately
one

22 week after our prior --

23 CHAIR MOLINA: Our prior meeting?

24 SUBCOMMITTEE MEMBER ALTENBERG: -- meeting, yeah.

25 CHAIR MOLINA: Via e-mail, I assume?

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1 SUBCOMMITTEE MEMBER ALTENBERG: Yeah.

2 CHAIR MOLINA: Okay. I'm just trying to look for it
here.

3 Any comments? Mr. Garneau.

4 MR. GARNEAU: Since I didn't get the e-mail, the
5 definition -- it's a definition you just read?

6 SUBCOMMITTEE MEMBER MABERRY: Yeah, you can't --

7 SUBCOMMITTEE MEMBER ALTENBERG: It's not a definition.

8 SUBCOMMITTEE MEMBER MABERRY: It's not a definition.

9 SUBCOMMITTEE MEMBER ALTENBERG: It's an additional
10 language. So, I mean, maybe we can --

11 SUBCOMMITTEE MEMBER MABERRY: Does it replace -- does
it

12 replace --

13 SUBCOMMITTEE MEMBER ALTENBERG: Excuse me?

14 SUBCOMMITTEE MEMBER MABERRY: Does it replace lighting
15 fixtures?

16 SUBCOMMITTEE MEMBER ALTENBERG: You got it yourself.

17 SUBCOMMITTEE MEMBER McCORD: It says replace two.

18 SUBCOMMITTEE MEMBER ALTENBERG: You received that e-
mail.

19 Oh, yeah, I have that. I have that language.
Yeah,

20 I've got that language.

21 CHAIR MOLINA: So this must have been in September?

22 SUBCOMMITTEE MEMBER MABERRY: Mr. Chair, can I ask
23 Dr. Altenberg to please be clear as to what he
24 intends to do with that. Does it replace 2 or
does
with
25 it replace more things here? What are we doing

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1 this?

2 SUBCOMMITTEE MEMBER ALTENBERG: Let's see. Okay,
where

3 are we? I'm sorry. To replace -- point me to
4 where --

5 SUBCOMMITTEE MEMBER MABERRY: Okay. We are on page
14.

6 CHAIR MOLINA: Members, Chair's going to call for a
brief
7 recess. (Gavel).
8 RECESS: 1:45 p.m.
9 RECONVENE: 1:46 p.m.
10 CHAIR MOLINA: (Gavel). Subcommittee on Outdoor
Lighting
11 Standards is now back in session for October
23rd.
12 Mr. Maberry, you have the floor.
13 SUBCOMMITTEE MEMBER MABERRY: I yield to Dr.
Altenberg,
14 please.
15 CHAIR MOLINA: Okay, proceed.
16 SUBCOMMITTEE MEMBER ALTENBERG: Okay. Well, I think
this
17 Section 2 here is too subjective and could
simply be
18 deleted because it's unenforceable, and the
language
19 that I would read in would not fall under
20 architectural accent lighting. It would be
Section
21 H.
22 CHAIR MOLINA: Comments, members? Okay, so,
23 Dr. Altenberg, you're asking that this Section 2
be
24 deleted?
25 SUBCOMMITTEE MEMBER ALTENBERG: Yeah.

1 SUBCOMMITTEE MEMBER MABERRY: I will second that.

2 CHAIR MOLINA: Okay. Motion has been made to delete

3 Number 2 and it's been seconded. Any other

4 discussion? Okay. All those in favor, say

"aye."

5 SUBCOMMITTEE MEMBERS VOICED AYE.

6 CHAIR MOLINA: All those opposed?

7 VOTE: AYES: Subcommittee members Altenberg,

Bernard,

Maberry, McCord, and Chair Molina.

8 NOES: None.

ABSTAIN: None.

9 ABSENT: None.

10 EXC.: Subcommittee member Chong and
Vice-Chair Tavares.

11 MOTION CARRIED.

12 ACTION: APPROVE.

13 CHAIR MOLINA: Thank you. Moving on to Number 3,

having

14 to do with flags, in parentheses, "If flags are

not

15 flown after sunset, what is the need for

lighting?"

16 Comments from the Committee?

17 SUBCOMMITTEE MEMBER MABERRY: Mr. Chair, some flags

are

18 flown for some reasons. I can't explain why,

but

19 some flags do stay up after hours.

20 CHAIR MOLINA: Okay. Ms. Bernard.

21 SUBCOMMITTEE MEMBER BERNARD: I think we just skipped

a

22 part. Did you have a two part --

would 23 SUBCOMMITTEE MEMBER ALTENBERG: Well, that -- that
24 come after Section 3 as a Section H.
he 25 SUBCOMMITTEE MEMBER MABERRY: Right. We address this,

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1 can make a motion.
that 2 SUBCOMMITTEE MEMBER ALTENBERG: I would move simply
3 that sentence be deleted. Let people fly their
4 flags whenever they wish.
5 CHAIR MOLINA: Okay. Which sentence -- you're talking
6 about the last sentence?
7 SUBCOMMITTEE MEMBER ALTENBERG: "Flags are to be taken
8 down at sunset."
made 9 CHAIR MOLINA: Okay. All right. The motion has been
10 to -- oh, we need a second. I presume that's a
11 motion.
12 SUBCOMMITTEE MEMBER McCORD: I second.
13 CHAIR MOLINA: Okay. Motion has been made by
delete 14 Dr. Altenberg and seconded by Mr. McCord to
15 the last sentence of Section 3, "Flags are to be
16 taken down at sunset to avoid the need for

in 17 lighting." Discussion? Seeing none, all those
18 favor, say "aye."
19 SUBCOMMITTEE MEMBERS VOICED AYE.
Bernard, 20 VOTE: AYES: Subcommittee members Altenberg,
21 NOES: Maberry, McCord, and Chair Molina.
22 ABSTAIN: None.
23 ABSENT: None.
24 EXC.: Subcommittee member Chong and
25 MOTION CARRIED. Vice-Chair Tavares.
ACTION: APPROVE.

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1 CHAIR MOLINA: Ms. Bernard, you had a concern?
2 SUBCOMMITTEE MEMBER BERNARD: No, no. I think it's
Lee's 3 turn to talk.
4 CHAIR MOLINA: Dr. Altenberg.
5 SUBCOMMITTEE MEMBER ALTENBERG: Then I would propose
that 6 a Section H, Residential Light Trespass, be
added. 7 CHAIR MOLINA: Section H, Residential Light Trespass.
8 SUBCOMMITTEE MEMBER MABERRY: Yes, sir, Mr. Chair,
it's 9 the wording that was just handed out that was
10 discussed.

is 11 CHAIR MOLINA: Excuse me. Okay. Okay. It's been --
12 there a second to the --
13 SUBCOMMITTEE MEMBER MABERRY: I second that.
14 CHAIR MOLINA: Seconded by Mr. Maberry. Comments?
15 Discussion? Ms. Bernard.
I've 16 SUBCOMMITTEE MEMBER BERNARD: I think it's -- what
17 heard over and over again from public testimony
is 18 that there's a real frustration with light
trespass 19 for home -- for people who live all over the
island. 20 So I think we need something like this. I think
21 this is a good idea.
22 CHAIR MOLINA: Thank you. Before going to Dr.
Altenberg,
23 can I get a comment from Corporation Counsel on
this 24 addition, or do you need more time for review?
25 MR. GARNEAU: No, I don't need more time to review.
This

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1 is replacing the section that was just stricken,
2 correct?
3 SUBCOMMITTEE MEMBER ALTENBERG: No.

4 SUBCOMMITTEE MEMBER MABERRY: It's --

5 MR. GARNEAU: That's going to come on as an
additional?

6 SUBCOMMITTEE MEMBER ALTENBERG: Yes.

7 MR. GARNEAU: So instead of having the --

8 SUBCOMMITTEE MEMBER MABERRY: 2.

9 MR. GARNEAU: -- 2, which probably didn't belong there
lighting, 10 because it only applied to architectural
11 you're proposing this as a replacement?

12 SUBCOMMITTEE MEMBER ALTENBERG: No, no, this is not a
13 replacement to 2.

14 MR. GARNEAU: Right, I -- it's not a replacement.
It's an 15 additional section instead of 2.

16 SUBCOMMITTEE MEMBER ALTENBERG: Yeah, okay.

17 MR. GARNEAU: I understand.

18 CHAIR MOLINA: Okay, Dr. Altenberg.

19 SUBCOMMITTEE MEMBER ALTENBERG: Yeah, the thing is the
20 rest of the ordinance, while requiring certain
21 amount of shielding, doesn't say anything about
a
- 22 nice shielded light that happens to be next to -
23 from your next-door neighbor that's blasting in
your
24 window, that sort of thing, or the cumulative
effect
25 of lots of little shielded lights from a near-by

1 property. So this is to deal with that
accumulated
2 effect, and it's specifically dealing with light
--
3 residential light trespass. I mean, I thought
of
4 other light trespass, but I think it's most
critical
5 to people in their houses. It's not as critical
for
6 businesses. So that's why this restriction is
only
7 for residential property.

8 CHAIR MOLINA: Okay. Any additional comments to the
9 motion on the floor?

10 SUBCOMMITTEE MEMBER McCORD: Point of information.

11 CHAIR MOLINA: Mr. McCord.

12 SUBCOMMITTEE MEMBER McCORD: How much is .1
footcandle,
13 for us dodos?

14 SUBCOMMITTEE MEMBER ALTENBERG: That's approximately
three
15 to four times the brightness of the full moon.

16 CHAIR MOLINA: Okay, Mr. Maberry.

17 SUBCOMMITTEE MEMBER MABERRY: I do believe we had
18 testimony from Lance Weisel that that has been
19 accomplished or it is accomplishable.

20 CHAIR MOLINA: Dr. Altenberg.

21 SUBCOMMITTEE MEMBER ALTENBERG: And I -- this also
would

22 require a definition of residential property to
be
23 included, and so that would go under
definitions,
24 and the definition that would be appropriate is
25 "Residential property is property under any land
use

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1 zoning that includes a residence."
2 CHAIR MOLINA: Okay. The Chair would like to ask for
3 comments from either Public Works or Planning on
--
4 just your perspective. I guess it has to do
with
5 enforcement and light trespass, what would be
6 involved.
7 MS. LAUDERMILK: Robin Laudermilk, Planning
Department.
8 Regarding residential, you're gonna leave out a
9 whole bunch of agricultural land, because
10 technically there are no residences allowed in
the
11 State or County agricultural district. They are
12 farm dwellings, so that will be a big loophole.
13 Secondly, it could be construed as an
infringement
14 on the -- of private person's right to light the

15 property how they want to, and it's not a zoning
16 issue, so we would not enforce it. Basically
that
17 the -- you're going to leave -- first of all,
you'll
18 be leaving a lot of structures out, because on
19 residences you also have greenhouses. You have
a
20 whole bunch of different things that would not
21 really fall under or accomplish what you want to
get
22 accomplished, and maybe just it needs to be
23 thought -- thought out a bit more.
24 CHAIR MOLINA: Okay. Comments? Dr. Altenberg.
25 SUBCOMMITTEE MEMBER ALTENBERG: So you're saying that
I

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1 would want to add on to the definition of
2 residential property, "property under any land
use
3 zoning that includes a residence or dwelling"?
4 Would that close that loophole?
5 MS. LAUDERMILK: Yeah, that would be a step in the
right
6 direction, but the bottom line would be that
from a
7 zoning standpoint, it's not a zoning issue. We

8 wouldn't enforce it.

9 CHAIR MOLINA: Mr. Maberry.

10 SUBCOMMITTEE MEMBER MABERRY: We greatly appreciate
that,

11 and this Committee -- no one here wants to
restrict

12 what a person does on their own property. What
this

13 would be concerned with is light that you
generate

14 on your property that goes off and infringes --

15 trespasses on other people's property, and
probably

16 a farm dwelling, you know, I guess if you --
there

17 are certain setbacks, right, from the edges of

18 property where you can put a dwelling, but I
would

19 think that would not probably be as big a
problem as

20 regular residences, although we greatly
appreciate

21 the input and I think we would like to use --
you

22 know, include the term dwelling just to be
clear.

23 MS. LAUDERMILK: And just to let you know, there are
some

24 farm dwellings that are like six, 7,000 square
feet.

25 I mean, they're huge. But in terms of the

1 definition, those are the things that we would
have 2 to consider within the Planning Department, so I
3 appreciate your comments on that.

4 CHAIR MOLINA: Okay. No other discussion? Oh, I'm
sorry,
5 Dr. Altenberg.

6 SUBCOMMITTEE MEMBER ALTENBERG: Well, if -- I mean
7 basically this language is meant to preserve
8 somebody in their house where they're living
from
9 somebody's light pollution. So from what you've
10 said, there may be -- it would seem to still --
it
11 would seem to be adequate as long as we include
the
12 word dwelling to residence, which has a specific
13 technical use.

14 MS. LAUDERMILK: That is correct, with the
understanding

15 that it's not a zoning issue that we would
enforce.

16 SUBCOMMITTEE MEMBER ALTENBERG: No.

17 SUBCOMMITTEE MEMBER MABERRY: Right.

18 SUBCOMMITTEE MEMBER ALTENBERG: Well, this is not
calling
19 it zoning. It's just simply saying that if
20 somebody's doing this to their neighbor, it
would be
21 in violation of the ordinance.

so
-
is
point

22 MS. LAUDERMILK: Correct. It's just the perception,
23 part of the education would have to be that it -
24 though we reference these types of uses, that it
25 not a zoning issue. We're just using it as a

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1 of reference.
2 SUBCOMMITTEE MEMBER ALTENBERG: Yeah, exactly.
3 CHAIR MOLINA: All right. Seeing no other discussion,
all
4 those in favor of the motion to add H to the
5 language, say "aye."
6 SUBCOMMITTEE MEMBERS VOICED AYE.
7 CHAIR MOLINA: All those opposed?
8 VOTE: AYES: Subcommittee members Altenberg,
Bernard,
Maberry, McCord, and Chair Molina.
9 NOES: None.
10 ABSTAIN: None.
11 ABSENT: None.
12 EXC.: Subcommittee member Chong and
Vice-Chair Tavares.
13 MOTION CARRIED.
14 ACTION: APPROVE.
15 CHAIR MOLINA: Okay. Thank you.
of
16 SUBCOMMITTEE MEMBER ALTENBERG: There was the question

16 the definition part.

17 SUBCOMMITTEE MEMBER MABERRY: Does that need an
additional

18 motion now?

19 SUBCOMMITTEE MEMBER ALTENBERG: I'll make an
additional

20 motion, that I move that a definition of
residential

21 property be included in Section .040 with this

22 following language: "Residential property is

23 defined as any property under any land use
zoning

24 that includes a residence or dwelling."

25 CHAIR MOLINA: Okay. Is there a second?

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1 SUBCOMMITTEE MEMBER MABERRY: Second.

2 CHAIR MOLINA: Okay. Motion has been made and
seconded.

3 Discussion? Okay.

4 SUBCOMMITTEE MEMBER McCORD: Question.

5 CHAIR MOLINA: Okay, Mr. McCord.

6 SUBCOMMITTEE MEMBER McCORD: Call for the question.

7 CHAIR MOLINA: Oh, okay. All those in favor, say
"aye."

8 SUBCOMMITTEE MEMBERS VOICED AYE.

9 CHAIR MOLINA: All those opposed?

Bernard, 10 VOTE: AYES: Subcommittee members Altenberg,
Maberry, McCord, and Chair Molina.
11 NOES: None.
ABSTAIN: None.
12 ABSENT: None.
EXC.: Subcommittee member Chong and
13 Vice-Chair Tavares.
14 MOTION CARRIED.
15 ACTION: APPROVE.
16 CHAIR MOLINA: Okay. Thank you. Members, we're on to
17 page 15, Section .130, Notification. In
brackets we
18 have, "Need to be more specific about what
permits
19 require this." I guess if we could get a
comment
20 from planning.
21 MS. LAUDERMILK: Yes, we'd like a clarification on
this,
22 because the Planning Department administers
anywhere
23 from 20 to 40 plus types of permits, some that
deal
24 with lights as part of it, some that doesn't,
but if
25 the intent is just to have anybody come in for
any

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1 type of permit to be aware that if they're going
to

the 2 put any type of outdoor lighting structures and
be 3 statement be put on that, we would -- we would
4 fine with that.
to 5 CHAIR MOLINA: Okay. Committee members, any comments
6 specify the permits required? Dr. Altenberg.
and 7 SUBCOMMITTEE MEMBER ALTENBERG: I think basically if
8 there's a permit that you're currently issuing
that 9 some part of it deals with outdoor lighting,
10 the notification should be given.
11 MS. LAUDERMILK: They also go through multiple permit
Use 12 requirements that go through Greg folks at Land
which 13 and Codes. So the question comes down to at
14 stage. Like we get a lot of requests for
the 15 residential projects. A single-family house in
them 16 Special Management Area, right now we don't ask
show 17 to show us -- at the Special Management Area to
18 us the location of all their light fixtures
you 19 outdoors, but when it goes down to Greg folks,
We 20 know, that would be the more appropriate time.
need 21 don't want to duplicate anything. You know, we
technically 22 to clarify what is the intent. Because

lighting

23 all 40 of our permits could include outdoor
24 fixtures, and at this point in time it's on a
25 case-by-case basis whether we need to see the

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the

1 location of these fixtures on the ground and on
2 building.

language

3 CHAIR MOLINA: Dr. Altenberg.
4 SUBCOMMITTEE MEMBER ALTENBERG: Would the current

include

5 present you with a problem with just a simple
6 question that says, "Does the proposed work
7 any exterior lighting?" and check box yes or no?
8 That's all that Section A requires.

of

9 MS. LAUDERMILK: Then I would -- the type -- the type

Maui

10 wording that I would suggest is instead of the
11 County Building and Planning Department permits,
12 maybe the permits administered by the Department

of

13 Planning and the Department of Public Works and
14 Waste Management. One, to clarify you are

talking

15 about two separate agencies that have different

where 16 roles in reviewing one particular project, and
17 within those permits the -- that checked box or
18 whatever would be appropriate, because as it's -
- as 19 it's written now, it combines the two agencies
and 20 the functions, and that is not correct.
However, 21 there is some overlap and, you know, maybe it's
just 22 the matter of the -- any permit administered by
23 these two different departments would have that
24 check-off box and through rules you can further
25 establish how you want to get that implemented.

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1 SUBCOMMITTEE MEMBER ALTENBERG: To expedite things, I
2 think I would accept the language that you
proposed, 3 which is instead of the Maui County Building and
4 Planning Department permits, say permits
5 administered by the Maui County Department of
Public 6 Works and Maui County Department of Planning.
7 MS. LAUDERMILK: Yeah, yeah.
8 SUBCOMMITTEE MEMBER ALTENBERG: I would substitute
that

9 language.

10 MS. LAUDERMILK: Yeah, for clarification.

11 SUBCOMMITTEE MEMBER MABERRY: I second.

12 CHAIR MOLINA: Okay. It's been moved by Dr. Altenberg
and
13 seconded by Mr. Maberry. Additional discussion?
14 Okay, seeing none, all those in favor, say
"aye."

15 SUBCOMMITTEE MEMBERS VOICED AYE.

16 CHAIR MOLINA: All those opposed?

17 VOTE: AYES: Subcommittee members Altenberg,
Bernard,
18 Maberry, McCord, and Chair Molina.
19 NOES: None.
20 ABSTAIN: None.
21 ABSENT: None.
22 EXC.: Subcommittee member Chong and
Vice-Chair Tavares.

23 MOTION CARRIED.

24 ACTION: APPROVE.

25 CHAIR MOLINA: Okay. Thank you. Okay, members, page
16,
26 under Section .140 regarding violations, okay.
In
27 brackets, "Section B, C, and 20.35.150 deal with
the

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1 administrative enforcement of the chapter and
should
2 be in one section. However, MCC 19.530.030 also

3 covers administrative enforcement and applies to
4 Title 20. It seems that a separate procedure
within
5 the draft ordinance is redundant. The
Subcommittee
6 may consider deleting these sections."
Comments,
7 members? Motion to delete or something else?
8 Dr. Altenberg.
9 SUBCOMMITTEE MEMBER ALTENBERG: Now, this 20.35.150,
oh, I
10 see, they're saying this is redundant to the
penalty
11 section?
12 CHAIR MOLINA: Mr. Garneau, is that correct?
13 MR. GARNEAU: That's right, because Title 19 already
14 applies to Title 20, and it already has
15 administrative enforcement in it.
16 CHAIR MOLINA: Okay. Any other comments?
17 SUBCOMMITTEE MEMBER McCORD: Move to delete B and C.
18 CHAIR MOLINA: Move to delete B and C. Is there a
second?
19 SUBCOMMITTEE MEMBER BERNARD: Second.
20 CHAIR MOLINA: Okay, seconded by Member Bernard.
21 Discussion?
22 SUBCOMMITTEE MEMBER ALTENBERG: Well, we need --
23 CHAIR MOLINA: Dr. Altenberg.
24 SUBCOMMITTEE MEMBER ALTENBERG: We need to say
somewhere
25 what kind of violation this is, if I understand.

I

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criminal,

it's

know

Code --

you're

1 mean we need to say whether it's a civil,
2 what not. We need to say which other section
3 really pointing to. So deleting B, we wouldn't
4 what kind of a violation this even was. So that
5 doesn't seem to me to be workable. So, I mean,
6 this -- I don't see how any other section of
7 let's see here. First of all, okay, so is B
8 saying covered by 20.35.150, Mr. Garneau?

9 CHAIR MOLINA: Mr. Garneau.

10 SUBCOMMITTEE MEMBER MABERRY: How?

11 CHAIR MOLINA: It's under 19.

12 MR. GARNEAU: No, 19.530.030 covers administrative
13 enforcement and by its term applies to Title 20.

14 SUBCOMMITTEE MEMBER ALTENBERG: What is Title 20?

15 MR. GARNEAU: Title 20 is the location of where your
16 proposed language is going.

17 SUBCOMMITTEE MEMBER ALTENBERG: Oh, okay.

18 MR. GARNEAU: So Title 20 deals with environmental
19 protection, but Title 19, the administration and
20 enforcement sections, apply not to just Title 19

but

21 they also by their terms -- I can -- under
22 19.530.030, I'll just read this to you.

23 SUBCOMMITTEE MEMBER ALTENBERG: Okay.

24 MR. GARNEAU: What it says is "In lieu of or in
addition

25 to enforcement by criminal prosecution if the

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1 Director of Public Works determines that any
persons
2 are violating any provisions of Titles 12, 14,
16,
3 18, 19, and 20 of this Code, any rules adopted
4 thereunder, or any permit issued thereto, the
5 Director may have the person served by mail or
6 personal delivery with a notice of violation
order
7 pursuant to this chapter and such administrative
8 rules as the Director may adopted."

9 So, for example, right now if there is --
10 let's say there's a violation -- someone's
operating
11 an illegal short-term rental, then that -- the
12 Planning Department can do a notice of violation
to
13 them, and that then becomes a civil infraction
under

this
same
like
fines
offer a
was it
to

14 Title 19. So Title 20, since it falls within
15 19.530 section, would be administered in the
16 way. So that's the reason why I thought having
17 separate things -- and this does include things
18 what's the contents of the notice, what's the
19 available, and so on and so forth.
20 SUBCOMMITTEE MEMBER ALTENBERG: Okay. If I could
21 friendly amendment to the motion on floor, which
22 would be that instead of deleting Sections --
23 B and C?
24 SUBCOMMITTEE MEMBER MABERRY: B and C.
25 SUBCOMMITTEE MEMBER ALTENBERG: That section be read

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any
1 violate -- "It shall be a civil infraction for
2 person to violate any of the provisions of the
3 outdoor lighting standards and subject to MCC
4 19.530.030."
5 CHAIR MOLINA: Is there a second to the proposed
6 amendment?

7 SUBCOMMITTEE MEMBER MABERRY: Second for discussion.
8 CHAIR MOLINA: Okay, it's been seconded for discussion
by
9 Mr. Maberry. Mr. Maberry, you have a question?
10 SUBCOMMITTEE MEMBER MABERRY: I'm kind of waiting to
see
11 what Corp. Counsel has to say about that. Are
you
12 cool with that?
13 MR. GARNEAU: Oh, well --
14 SUBCOMMITTEE MEMBER ALTENBERG: Are you saying it's
15 already --
16 MR. GARNEAU: By its terms it applies, but there would
be
17 nothing wrong with you making a reference to it.
If
18 you want, you can just --
19 SUBCOMMITTEE MEMBER BERNARD: (Inaudible).
20 MR. GARNEAU: Yeah.
21 SUBCOMMITTEE MEMBER ALTENBERG: Okay.
22 SUBCOMMITTEE MEMBER MABERRY: Okay.
23 MR. GARNEAU: So you could just say subject to the --
in,
24 you know, the administrative enforcement or
25 enforcement procedures set forth in Chapter
19.530.

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1 SUBCOMMITTEE MEMBER MABERRY: Okay.

2 SUBCOMMITTEE MEMBER ALTENBERG: Okay. That would --
so

3 that would be my amendment.

4 SUBCOMMITTEE MEMBER MABERRY: And my second stands.

5 CHAIR MOLINA: Okay. Thank you. Any other
discussion?

6 SUBCOMMITTEE MEMBER McCORD: I'll accept that as part
of

7 the motion.

8 CHAIR MOLINA: All right. The motion to amend has
been

9 made. All those in favor, say "aye."

10 SUBCOMMITTEE MEMBERS VOICED AYE.

11 CHAIR MOLINA: All those opposed?

12 VOTE: AYES: Subcommittee members Altenberg,
Bernard,
13 NOES: Maberry, McCord, and Chair Molina.
14 ABSTAIN: None.
15 ABSENT: None.
16 EXC.: Subcommittee member Chong and
Vice-Chair Tavares.

17 MOTION CARRIED.

18 ACTION: APPROVE amendment to main motion.

19 CHAIR MOLINA: Okay. Thank you. Back to the original
20 motion. All those in favor, say "aye."

21 SUBCOMMITTEE MEMBERS VOICED AYE.

22 CHAIR MOLINA: All those opposed?

23

24

25

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Bernard,
1 VOTE: AYES: Subcommittee members Altenberg,
Maberry, McCord, and Chair Molina.
2 NOES: None.
ABSTAIN: None.
3 ABSENT: None.
4 EXC.: Subcommittee member Chong and
Vice-Chair Tavares.
5 MOTION CARRIED.
6 ACTION: APPROVE main motion as amended.
7 CHAIR MOLINA: Thank you. Okay, moving now to
violations.
8 SUBCOMMITTEE MEMBER MABERRY: We already covered.
9 CHAIR MOLINA: I'm sorry, we did cover that. That's
10 all-inclusive. I'm trying to follow my script
here.
11 Let's go to page 17, Section .150 under
Penalties.
12 Any comments?
13 SUBCOMMITTEE MEMBER ALTENBERG: I would --
14 CHAIR MOLINA: Mr. Maberry.
15 SUBCOMMITTEE MEMBER MABERRY: I would like to ask --
do I
16 have the floor or does he?
17 CHAIR MOLINA: No, you had your hand up, so --
18 SUBCOMMITTEE MEMBER MABERRY: Okay. Thank you. I
would
19 like to ask counsel why he didn't lump B, C, and

already 20 this together? I mean, it looks like you
21 have penalties addressed in administrative
for 22 19.530.030. Now we've got a different number
23 penalties now, or am I missing something here?
you 24 MR. GARNEAU: I guess -- what is your question? Are
25 saying that --

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section 1 SUBCOMMITTEE MEMBER MABERRY: Okay. We now have a
2 called Penalties, right?
3 MR. GARNEAU: Right.
4 SUBCOMMITTEE MEMBER MABERRY: And it defines what the
saying it 5 penalties are, but yet we just got through
6 falls under 19.530.030, which has penalties
defined.
7 MR. GARNEAU: And in my comment under Section B I said
8 Section B, C, and 20.35.150. I did reference
all 9 those. And just for your information, the
penalties 10 under the provision I just read to you, the
11 19.530.030 are greater. The penalties pay a
civil

the
order.
day,
yet.
C a
is
and

12 fine not to exceed a thousand in the manner at
13 place and before the date specified in the
14 Pay a civil fine not to exceed a thousand per
15 so it has both daily fines and --
16 SUBCOMMITTEE MEMBER MABERRY: What was the original
17 motion?
18 SUBCOMMITTEE MEMBER ALTENBERG: There is no motion
19 I'd like to make a motion.
20 SUBCOMMITTEE MEMBER MABERRY: Did we only cover B and
21 while ago?
22 CHAIR MOLINA: Yeah, penalties was part of -- I guess
23 still part of C, is my assumption.
24 SUBCOMMITTEE MEMBER ALTENBERG: May I make a motion,
25 Chair?

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1 CHAIR MOLINA: Okay.
2 SUBCOMMITTEE MEMBER ALTENBERG: I move that Section
3 20.35.150 be deleted.
4 SUBCOMMITTEE MEMBER MABERRY: Second.
5 CHAIR MOLINA: Okay. It's been moved to be deleted

in 6 seconded. Discussion? Hearing none, all those
7 favor, say "aye."
8 SUBCOMMITTEE MEMBERS VOICED AYE.
9 CHAIR MOLINA: Those opposed?
Bernard, 10 VOTE: AYES: Subcommittee members Altenberg,
11 Maberry, McCord, and Chair Molina.
12 NOES: None.
13 ABSTAIN: None.
14 ABSENT: None.
15 EXC.: Subcommittee member Chong and
16 Vice-Chair Tavares.
17 MOTION CARRIED.
18 ACTION: APPROVE.
19 CHAIR MOLINA: Motion carries unanimously, Penalties
20 section has been deleted.
21 Moving on to Severability, .160. Again,
22 there in brackets, "Is this provision necessary?"
Code 23 Seems to be adequately covered by Maui County
24 1.04.050, Severability." Comments?
25 SUBCOMMITTEE MEMBER MABERRY: Move to delete.
26 SUBCOMMITTEE MEMBER ALTENBERG: Second.
27 CHAIR MOLINA: Okay, moved to delete by Mr. Maberry,
28 seconded by Altenberg. Discussion? Seeing
none,

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1 all those in favor, say "aye."

2 SUBCOMMITTEE MEMBERS VOICED AYE.

3 CHAIR MOLINA: All those opposed?

4 VOTE: AYES: Subcommittee members Altenberg,
Bernard, Maberry, McCord, and Chair Molina.
5 NOES: None.
6 ABSTAIN: None.
7 ABSENT: None.
8 EXC.: Subcommittee member Chong and
9 Vice-Chair Tavares.

10 MOTION CARRIED.

11 ACTION: APPROVE.

12 CHAIR MOLINA: Thank you. The Chair marks it
unanimous.

13 And now Repealer Clause, .170, again,
14 suggestion for deletion.

15 SUBCOMMITTEE MEMBER MABERRY: Move to delete.

16 SUBCOMMITTEE MEMBER McCORD: Second.

17 CHAIR MOLINA: Okay. Moved by Maberry to delete and
18 seconded by McCord. Discussion? All those in
19 favor, say "aye."

20 SUBCOMMITTEE MEMBERS VOICED AYE.

21 CHAIR MOLINA: All those opposed?

22 VOTE: AYES: Subcommittee members Altenberg,
Bernard, Maberry, McCord, and Chair Molina.
23 NOES: None.
24 ABSTAIN: None.
25 ABSENT: None.
26 EXC.: Subcommittee member Chong and
27 Vice-Chair Tavares.

28 MOTION CARRIED.

29 ACTION: APPROVE.

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1 CHAIR MOLINA: Chair marks it unanimous.

2 SUBCOMMITTEE MEMBER McCORD: Twos are done.

3 CHAIR MOLINA: Okay, one last thing. Severability is

part

4 covered by Section 20.35.160. I guess this is

5 of .170. Okay, we are done.

6 SUBSTANTIVE CHANGES

7 CHAIR MOLINA: Now let's go to our grand finale, with

the

8 whatever little time we've got left. Okay. Now

page

9 threes. Okay, I presume we'll start first on

10 4, okay, which -- which is part of -- which is

11 "glare." In brackets, "Is this enforceable?

and

12 Language used i.e. 'sensation,' 'visual field,'

and

13 'to which the eyes are adapted' is very vague

actor."

14 open to interpretation depending upon the

15 Dr. Altenberg.

word

16 SUBCOMMITTEE MEMBER ALTENBERG: If I understand, the

17 "glare" in the rest of the bill as it currently

intention

18 stands is used only as a -- to describe an

19 of a phrase. There's no enforceable language

about 20 regarding glare so that we don't need to worry
21 it.
22 CHAIR MOLINA: Okay. Any other comments, members? So
--
23 SUBCOMMITTEE MEMBER MABERRY: I guess I'd like to make
a
24 motion that we do include the one suggestion,
25 changing the word "that" to "then." Is that

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1 appropriate?
2 CHAIR MOLINA: Okay, yeah, we deleted "that," so we
keep
3 it as "than."
4 SUBCOMMITTEE MEMBER MABERRY: But otherwise leave it
as
5 is. That would be my motion.
6 SUBCOMMITTEE MEMBER McCORD: Second.
7 CHAIR MOLINA: Okay. All right. Any discussion?
Okay,
8 seeing none, all those in favor, say "aye."
9 SUBCOMMITTEE MEMBERS VOICED AYE.
10 CHAIR MOLINA: All those opposed?
Bernard,
11 VOTE: AYES: Subcommittee members Altenberg,
Maberry, McCord, and Chair Molina.
12 NOES: None.
ABSTAIN: None.
13 ABSENT: None.

14 EXC.: Subcommittee member Chong and
 Vice-Chair Tavares.
15 MOTION CARRIED.
16 ACTION: APPROVE.
17 CHAIR MOLINA: Okay, moving down to "light pollution."
In
 brackets, "Alters the appearances how? From
what?
18 Any interference or unreasonable interference?
How
19 measure?" And moving down I guess that same
20 paragraph, again in brackets, "Are terms
'artificial
21 light' and 'artificial illumination' the same?
If
22 so, use one term for consistency. Should
define.
23 Use third term 'artificial lighting' below."
Okay,
24 Mr. Maberry.
25

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1 SUBCOMMITTEE MEMBER MABERRY: I would like to make a
2 motion that we change the words -- let me just
read
3 it. "Light pollution means any artificial light
4 that brightens the atmosphere," rather than
"emitted
5 into."

6 CHAIR MOLINA: Okay. So we're going to delete the
words
7 "is" and "emitted" and insert the word
"brightens."
8 Comments from the members? Oh, a motion has
been
9 made. Is there a second?
10 SUBCOMMITTEE MEMBER McCORD: Second.
11 SUBCOMMITTEE MEMBER BERNARD: Second.
12 CHAIR MOLINA: Okay, seconded by Bernard. Okay, any
13 discussion? Okay, seeing none, all those in
favor
14 of the deletion of "is emitted" and to add the
word
15 "brighten" instead or "brightens," say "aye."
16 SUBCOMMITTEE MEMBERS VOICED AYE.
17 CHAIR MOLINA: All those opposed?
18 VOTE: AYES: Subcommittee members Altenberg,
Bernard,
19 Maberry, McCord, and Chair Molina.
NOES: None.
20 ABSTAIN: None.
ABSENT: None.
21 EXC.: Subcommittee member Chong and
Vice-Chair Tavares.
22 MOTION CARRIED.
23 ACTION: APPROVE.
24 CHAIR MOLINA: Okay.
25 SUBCOMMITTEE MEMBER McCORD: It eliminated the word
"into"

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1 too, doesn't it?

2 SUBCOMMITTEE MEMBER BERNARD: Right.

3 CHAIR MOLINA: It means any artificial light that

4 brightens --

5 SUBCOMMITTEE MEMBER MABERRY: "The atmosphere."

6 CHAIR MOLINA: Oh, sorry, "into." Sorry. Thank you,

7 Mr. McCord, for that clarification. Any other

8 comments? How about the terms "artificial
light"?

9 Dr. Altenberg, followed by Mr. Maberry.

10 SUBCOMMITTEE MEMBER MABERRY: I-- I'd like to -- I'd
like

11 to make a motion to withdraw the motion that you

12 just passed. I put it in the wrong place. I

13 apologize. I misread my notes.

14 CHAIR MOLINA: Okay, withdrawal of the second?

15 SUBCOMMITTEE MEMBER MABERRY: Can somebody withdraw
their

16 second?

17 SUBCOMMITTEE MEMBER BERNARD: Yes.

18 CHAIR MOLINA: Ms. Bernard, can you withdraw your
second?

19 SUBCOMMITTEE MEMBER MABERRY: I apologize. I
apologize.

20 I misread my notes.

21 MR. SALDANA: Mr. Chair.

22 CHAIR MOLINA: Mr. Saldana.

23 MR. SALDANA: That should be a motion to reconsider.

24 CHAIR MOLINA: Oh, let's follow our parliamentary

25 procedures.

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1 MR. SALDANA: So it has to be somebody that --

new

2 SUBCOMMITTEE MEMBER MABERRY: How about if I just do a

3 motion for this section? Can I do that?

4 MR. SALDANA: You've already acted on it.

but

5 SUBCOMMITTEE MEMBER MABERRY: It's okay. It's passed,

6 then I -- oh, I see what you're saying.

to

7 CHAIR MOLINA: Before we delete that motion, we have

8 motion to reconsider.

9 SUBCOMMITTEE MEMBER MABERRY: I move to reconsider the

10 previous --

11?: Second.

12?: Second.

13 SUBCOMMITTEE MEMBER MABERRY: I apologize.

to

14 CHAIR MOLINA: Okay, all those in favor of the motion

15 reconsider, say "aye."

16 SUBCOMMITTEE MEMBERS VOICED AYE.

17 CHAIR MOLINA: All those opposed?

Bernard,

18 VOTE: AYES: Subcommittee members Altenberg,

Maberry, McCord, and Chair Molina.

19 NOES: None.

ABSTAIN: None.

20 ABSENT: None.
21 EXC.: Subcommittee member Chong and
Vice-Chair Tavares.
22 MOTION CARRIED.
23 ACTION: APPROVE reconsideration of Section
24 20.35.040, definition of "light
pollution."
25 CHAIR MOLINA: All right. Now we can proceed with

your

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1 request, Mr. Maberry.
2 SUBCOMMITTEE MEMBER MABERRY: Okay, sir. I put the
3 brighten in the wrong place. I didn't read the
4 of my notes. I would like to move that that
5 "Light pollution means any artificial light that
6 emitted into the atmosphere either directly or
7 indirectly by reflection that brightens the
8 appearance," okay, "of the night sky." I'm
9 It was -- I was wanting to get rid of the word
10 "alters." That's -- that's where I intended for
11 to be "brighten."
12 CHAIR MOLINA: Okay. Everybody clear on the motion

word

rest

reads:

is

sorry.

it

made

13 and the second?
14 SUBCOMMITTEE MEMBER ALTENBERG: Second.
15 CHAIR MOLINA: Okay, seconded by Dr. Altenberg.
16 Additional discussion? Okay, seeing none, all
those
17 in favor, say "aye."
18 SUBCOMMITTEE MEMBERS VOICED AYE.
19 CHAIR MOLINA: All those opposed?
20 VOTE: AYES: Subcommittee members Altenberg,
Bernard,
Maberry, McCord, and Chair Molina.
21 NOES: None.
22 ABSTAIN: None.
23 ABSENT: None.
24 EXC.: Subcommittee member Chong and
Vice-Chair Tavares.
25 MOTION CARRIED.
ACTION: APPROVE.

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1 CHAIR MOLINA: Thank you. Motion carries. Okay,
moving
2 down. Any comments -- additional comments
regarding
3 artificial light and that the differences, if
there
4 is one, between artificial light and artificial
5 illumination? Is this the same? Dr. Altenberg.
6 SUBCOMMITTEE MEMBER ALTENBERG: I wouldn't worry about
it.

7 CHAIR MOLINA: Okay.

8 SUBCOMMITTEE MEMBER ALTENBERG: We've got other fish
to

9 fry here.

10 SUBCOMMITTEE MEMBER MABERRY: Yep. Thank you.

11 CHAIR MOLINA: So we'll stay -- there's consensus on
this,

12 then.

13 SUBCOMMITTEE MEMBER BERNARD: You know --

14 CHAIR MOLINA: Comments from Corp. Counsel on it? Do
you

15 need -- do you have any -- you don't have a
problem?

16 MR. GARNEAU: You know, all these were just
suggestions.

17 I think if we revisit it we might want to clean
that

18 up. If you're using a term, you should use the
same

19 term every single time, and we've used --

20 SUBCOMMITTEE MEMBER ALTENBERG: Agreed.

21 MR. GARNEAU: -- a very similar term, and it probably
does

22 all mean the same, but if they want to pass and
just

23 look at it later, then we'll just --

24 CHAIR MOLINA: Which term does the body prefer, then,
for

25 consistency's sake, artificial light or
artificial

1 illumination?

2 SUBCOMMITTEE MEMBER McCORD: It's best to use light.

3 SUBCOMMITTEE MEMBER ALTENBERG: Light.

4 SUBCOMMITTEE MEMBER MABERRY: Throughout.

5 CHAIR MOLINA: All right.

6 SUBCOMMITTEE MEMBER BERNARD: Mr. Chair.

7 CHAIR MOLINA: Ms. Bernard.

8 SUBCOMMITTEE MEMBER BERNARD: Before we leave this

9 section, actually, there's something that kind
of

10 concerns me. It's the use of the term
"nocturnal"

11 in front of "native wildlife" just before that
12 bracketed section there. I'm worried that that
13 could be misinterpreted in the future because
14 turtles and sea birds are not strictly
nocturnal.

15 So we need to just strike that word.

16 SUBCOMMITTEE MEMBER ALTENBERG: Agreed. Delete

17 "nocturnal." I move that we delete "nocturnal."

18 CHAIR MOLINA: Okay. Is there a second?

19 SUBCOMMITTEE MEMBER MABERRY: Second.

20 CHAIR MOLINA: Okay. The motion has been made to
delete

21 the word "nocturnal," which is prior to "native
22 wildlife." Discussion? Hearing none, all those
in

23 favor?

24 SUBCOMMITTEE MEMBERS VOICED AYE.

25 CHAIR MOLINA: All those opposed?

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Bernard, 1 VOTE: AYES: Subcommittee members Altenberg,
2 Maberry, McCord, and Chair Molina.
3 NOES: None.
4 ABSTAIN: None.
5 ABSENT: None.
6 EXC.: Subcommittee member Chong and
7 Vice-Chair Tavares.
8 MOTION CARRIED.
9 ACTION: APPROVE.
10 CHAIR MOLINA: Okay. Is that it for this section?
11 Any
12 other comments? If not, let's move down to the
13 bottom of the page regarding outdoor lighting.
14 In
15 brackets on page 5 it says, "'Floodlight' and
16 'spotlight' are defined. 'area' and 'search'
17 are
18 not." Okay. If some are defined, everything
19 should
20 be defined.
21 CHAIR MOLINA: Mr. Maberry.
22 SUBCOMMITTEE MEMBER MABERRY: Mr. Chair, did we skip
23 outdoor lighting? Is there some at the bottom
24 of
25 page 4?
26 CHAIR MOLINA: Yeah, I think --

19 SUBCOMMITTEE MEMBER BERNARD: He's still on it.
20 CHAIR MOLINA: Yeah, it continues onto page 5.
21 SUBCOMMITTEE MEMBER BERNARD: Yeah, he's on it.
22 SUBCOMMITTEE MEMBER MABERRY: Oh, I got it. I got it.

23 Okay.

24 CHAIR MOLINA: Okay. So "floodlight" and "spotlight"

--

25 I'm sorry, "area" and "search," we're looking
for

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1 specific definitions from the Corp. Counsel.

2 Comments? Is that something to worry about or -

-

3 SUBCOMMITTEE MEMBER ALTENBERG: I would say no because

but

4 it's -- this says, "Such device shall include,

--

5 not be limited to" -- well, no, I guess it would

and

6 I don't think it's a big problem to worry about,

more

7 I think we're short on time and there are other

8 essential issues.

9 SUBCOMMITTEE MEMBER BERNARD: Let's let it go.

Counsel?

10 CHAIR MOLINA: Okay. Any comments from the Corp.

11 No? Okay.

12 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.

13 CHAIR MOLINA: We'll move on. Let's move down to page
5,

14 under emergency lighting, who -- in brackets,
"Who
15 determines what is 'required for public safety'?
16 This is a rather large exception that could be
17 interpreted to exempt all lighting near resorts
18 necessary for safety of guests."

19 SUBCOMMITTEE MEMBER ALTENBERG: I have a motion.

20 CHAIR MOLINA: Okay.

21 SUBCOMMITTEE MEMBER ALTENBERG: I would propose the
22 following language be substituted in -- for
Section
23 A, that "all temporary emergency lighting needed
by
24 the police or fire departments or other
emergency
25 services." That's the language of Kennebunkport,

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1 Maine. That's how they describe emergency
lighting.

2 CHAIR MOLINA: Okay, can you restate that a little
slower.

3 SUBCOMMITTEE MEMBER ALTENBERG: Okay, instead of
saying

required

4 emergency lighting -- "emergency lighting
5 for public safety," I would say, "all temporary
6 emergency lighting needed by the police or fire
7 departments or other emergency services."

8 SUBCOMMITTEE MEMBER BERNARD: Is that a motion?

9 SUBCOMMITTEE MEMBER MABERRY: I'll second that for
10 discussion.

and

11 CHAIR MOLINA: Okay. All right. Motion has been made

12 seconded. Discussion.

for

13 SUBCOMMITTEE MEMBER MABERRY: How will this affect,

14 example, HC&S and their vehicles moving back and

15 forth across between their adjacent properties

safety?

16 crossing the roads and putting up lights for

17 That won't necessarily be by the police.

18 CHAIR MOLINA: A private industry.

19 SUBCOMMITTEE MEMBER ALTENBERG: Well, they would be

20 considered another emergency service.

It's

21 SUBCOMMITTEE MEMBER MABERRY: It's not an emergency.

22 safety, but it's not an emergency.

proposing

23 SUBCOMMITTEE MEMBER ALTENBERG: Well, are you

as

24 that we should have language that exempts those

25 well?

1 SUBCOMMITTEE MEMBER MABERRY: I think for the sake of
2 human lives, yeah, it's necessary that you be
able
3 to --

4 SUBCOMMITTEE MEMBER ALTENBERG: Can that light be
5 shielded?

6 CHAIR MOLINA: Let's ask Mr. Garneau for maybe the
7 appropriate language that could be used.

8 MR. GARNEAU: I was just going to say that it is
9 temporary.

10 SUBCOMMITTEE MEMBER MABERRY: It is temporary.

11 MR. GARNEAU: Different from -- I think my comment
here,
12 and maybe it wasn't -- wasn't that artful, but I
was
13 trying to -- I had done an earlier memo to you,
14 remember, about the liability, and we talked all
15 about the resorts and lights and such. And this
to
16 me would be a loophole that could be used to
17 frustrate that intent. And so I think that
since
18 your language -- Dr. Altenberg said all
temporary
19 emergency light, you could just say needed by
20 police, fire departments, or, you know, you
could
21 put in agricultural activities or something.
It's

It 22 temporary, so you know it would fall in there.
23 wouldn't -- they wouldn't be able to use the
24 exception.
25 SUBCOMMITTEE MEMBER ALTENBERG: Mike.

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1 CHAIR MOLINA: Proceed.
2 SUBCOMMITTEE MEMBER MABERRY: I'm fine with that. I
just
3 wanted to point out that it's not only -- he
4 mentioned agriculture, and that kind of
triggered
5 the fact that I've seen, for example, when
they've
6 had fireworks displays down in Wailea and they
end
7 up parking up on a lawn somewhere as opposed to
in a
8 regular parking area in order to get enough
people
9 parked and they put lights up there for people's
10 safety to get, you know, to and from their
vehicles.
11 It's temporary. It's temporary. I'm just
saying I
12 don't know that we want to use the word
agriculture.
13 SUBCOMMITTEE MEMBER McCORD: I think we have to be
careful

talked 14 with the word agriculture too, because we've
of 15 about this before, road construction, any number
16 things.
track, 17 SUBCOMMITTEE MEMBER MABERRY: You're on the right
18 but I don't think you've come up with the right
19 language yet.
20 SUBCOMMITTEE MEMBER McCORD: It just needs to be more
21 inclusive somehow.
insert 22 CHAIR MOLINA: We'll need appropriate language to
23 in here. Dr. Altenberg.
something 24 SUBCOMMITTEE MEMBER ALTENBERG: Let me propose
25 for discussion. Suppose we said, "all temporary

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1 lighting required to ensure public safety"?
2 SUBCOMMITTEE MEMBER MABERRY: I --
3 SUBCOMMITTEE MEMBER ALTENBERG: Is that --
that. 4 SUBCOMMITTEE MEMBER MABERRY: I modify my second for
5 SUBCOMMITTEE MEMBER ALTENBERG: Does that cut --
6 SUBCOMMITTEE MEMBER MABERRY: It's not --

grain 7 SUBCOMMITTEE MEMBER ALTENBERG: -- cut it along the
8 correctly? "All temporary lighting required to
9 ensure public safety."
10 CHAIR MOLINA: Do we need to withdraw the original
motion?
11 Okay. We need to --
12 SUBCOMMITTEE MEMBER ALTENBERG: This is just
discussion at
13 this point.
14 SUBCOMMITTEE MEMBER MABERRY: I withdraw my -- okay.
15 SUBCOMMITTEE MEMBER ALTENBERG: If it sounds like a
good
16 idea, then we'll do whatever withdraw stuff we
need
17 to do, but I want to know does this sound like a
18 good idea or is it -- should be modified?
19 Mr. Garneau.
20 MR. GARNEAU: Well, I think for sake of time it does
21 indicate your intent better, and maybe it's
22 something we could revisit later. I -- you
know, I
23 would just -- I think right now you could do
that,
24 and then we can look at it some more to make
sure
25 we're including the things that came up during
the

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original

from

my

motion.

Section

safety."

"aye."

1 meeting, like the Public Works doing projects or
2 the, you know, cane or whatever, but it would be
3 eliminating what was my concern with the
4 language, that it was too broad.

5 SUBCOMMITTEE MEMBER MABERRY: I withdraw my second
6 the original motion.

7 CHAIR MOLINA: Okay.

8 SUBCOMMITTEE MEMBER ALTENBERG: I withdraw -- was it
9 motion?

10 CHAIR MOLINA: Yeah, it was your motion.

11 SUBCOMMITTEE MEMBER ALTENBERG: I withdraw the motion.

12 CHAIR MOLINA: We're working backwards here.

13 SUBCOMMITTEE MEMBER MABERRY: Now you can make a

14 SUBCOMMITTEE MEMBER ALTENBERG: Okay. I move that

15 .050, Subsection A be amended to read, "all
16 temporary lighting needed to ensure public

17 CHAIR MOLINA: Okay.

18 SUBCOMMITTEE MEMBER MABERRY: Second.

19 CHAIR MOLINA: All right. Discussion, members?

20 SUBCOMMITTEE MEMBER MABERRY: Call --

21 CHAIR MOLINA: Seeing none, all those in favor, say

22 SUBCOMMITTEE MEMBERS VOICED AYE.

23 CHAIR MOLINA: All those opposed?

24

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Bernard, 1 VOTE: AYES: Subcommittee members Altenberg,
Maberry, McCord, and Chair Molina.
2 NOES: None.
ABSTAIN: None.
3 ABSENT: None.
EXC.: Subcommittee member Chong and
4 Vice-Chair Tavares.

5 MOTION CARRIED.

6 ACTION: APPROVE.

7 CHAIR MOLINA: Thank you. Okay, moving right along.
8 Let's go now to page --

9 SUBCOMMITTEE MEMBER McCORD: Someone said we're
getting
10 time restricted here. We're moving along.

11 CHAIR MOLINA: Page 8, members, having to do with
color
12 rendition under Section .070, Lamp Standards, in
13 brackets, "Is this clause needed? If these are
the
14 accepted activities, then simply list the
15 exceptions. Or is this meant to be a two-part
test?
16 The phrase 'to preserve the effectiveness of the
17 activity' is vague and open to wide
interpretations.

18 Also, the term 'exceptions' is used in this

19 paragraph and the term 'exemptions' in second
20 paragraph below. Should use one term of the
other
21 for consistency." Is that supposed to be "or
the
22 other"? "One term or the other"?
23 MR. GARNEAU: Yes.
24 CHAIR MOLINA: Okay. Comments? Is this clause
necessary?
25 Okay, Dr. Altenberg.

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1 SUBCOMMITTEE MEMBER ALTENBERG: I think we should
leave it
2 as is. It's a specific enumeration. Perhaps we
3 should insert "specifically" after the word
4 "activity" before that list of A, B, C, D, and
E.
5 CHAIR MOLINA: "Specifically" after the word
"activity."
6 I'm trying to find my way up here. Is that the
one
7 where "effectiveness of the activity"?
8 SUBCOMMITTEE MEMBER ALTENBERG: Yeah, comma,
9 "specifically," colon.
10 SUBCOMMITTEE MEMBER MABERRY: Second.
11 CHAIR MOLINA: Okay. It's been moved and seconded to
add

12 the word "specifically." Any comments? Okay,
13 hearing none, all those in favor, say "aye."

14 SUBCOMMITTEE MEMBERS VOICED AYE.

15 CHAIR MOLINA: Okay. Those opposed?

Bernard, 16 VOTE: AYES: Subcommittee members Altenberg,
Maberry, McCord, and Chair Molina.

17 NOES: None.

18 ABSTAIN: None.

19 ABSENT: None.

20 EXC.: Subcommittee member Chong and
Vice-Chair Tavares.

21 MOTION CARRIED.

22 ACTION: APPROVE.

23 CHAIR MOLINA: Okay. Thank you. So we'll leave this
24 clause in there. Any other comments as we look
25 further down to C?

26 SUBCOMMITTEE MEMBER BERNARD: Actually, didn't we turn

--

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1 CHAIR MOLINA: Yeah, that's right Number 2 was turned
into 2 a three. Okay, I'm sorry. I'm getting a little
3 ahead of myself. In brackets, "The term
'critically 4 depends' is vague and open to interpretation."
And 5 the words "upon the recommendation of the
Outdoor

the
about,
of
of
Variances
and I
but
was
is
I

6 Lighting Standards Committee and the approval of
7 director." This is an issue we had talked
8 what kind of leverage we should give this type
9 committee, which is only -- I believe this type
10 authority is only given to the Board of
11 and Planning Commission. Mr. Garneau.
12 MR. GARNEAU: I know I missed one of your meetings,
13 believe one of the other Corp. Counsels came,
14 didn't you already vote on this before, that it
15 to be advisory at your last meeting?
16 SUBCOMMITTEE MEMBER MABERRY: Yes.
17 MR. GARNEAU: So I -- that was my understanding, which
18 why the language was changed the way it was. So
19 don't think you should change it now after you
20 already voted on it.
21 CHAIR MOLINA: To leave it as advisory.
22 SUBCOMMITTEE MEMBER MABERRY: Agreed.
23 CHAIR MOLINA: Is there consensus?
24 SUBCOMMITTEE MEMBER ALTENBERG: Yes.
25 SUBCOMMITTEE MEMBERS VOICED NO OBJECTIONS.

of
and
we
Department
clause,
not
paragraph
road
'major
these
within
apply

1 CHAIR MOLINA: Okay. Moving down towards the bottom
2 the page. "For roadways within the rural or
3 agricultural," the word "areas" has been deleted
4 substituted with "districts," and in brackets,
5 need a confirmation with the Public Works
6 that the lighting -- proposed lighting meets all
7 applicable engineering standards. "The last
8 'unless IESNA' is an incomplete sentence. It's
9 clear from the context what portion of the
10 this clause is modifying. The term 'internal
11 intersections' is not defined nor is the term
12 and/or minor collector road.' depending on
13 definitions, the County may or may not have the
14 authority to regulate the roads if they fall
15 State or Federal jurisdiction. These comments
16 to paragraph D, which is below as well."
17 Dr. Altenberg.
18 SUBCOMMITTEE MEMBER ALTENBERG: I would move that the
19 phrase beginning with "unless" be moved to the

the 20 beginning of this subsection, and so the rest of
21 subsection would follow after it says, "for this
22 usage, for roadways within the urban areas, the
23 maximum," et cetera, et cetera.
Is 24 CHAIR MOLINA: Okay. There's a motion on the floor.
25 there a second?

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1 SUBCOMMITTEE MEMBER BERNARD: Second.
the 2 CHAIR MOLINA: Okay. The motion is to remove -- put
standards 3 sentence "Unless IESNA Federal and State
4 require greater illumination for this usage," to
Seeing 5 start paragraph C, okay. Okay, discussion?
6 none, all those in favor, say "aye."
7 SUBCOMMITTEE MEMBERS VOICED AYE.
8 CHAIR MOLINA: All those opposed?
Bernard, 9 VOTE: AYES: Subcommittee members Altenberg,
10 NOES: Maberry, McCord, and Chair Molina.
11 ABSTAIN: None.
12 ABSENT: None.
13 EXC.: Subcommittee member Chong and
Vice-Chair Tavares.
13 MOTION CARRIED.

14 ACTION: APPROVE.
15 CHAIR MOLINA: Okay. Additional comments? Let's get
16 maybe Public Works to comment on it at this
time, if
17 you have something to say.
18 MR. NAKAO: Well, I'm not the street lighting person.
19 CHAIR MOLINA: We can always get comments later.
20 MR. NAKAO: Yeah, I think it would be better if
someone
21 else were to comment on it.
22 CHAIR MOLINA: We think Mr. Nakao is the Jack of all
23 trades here. He's been so good.
24 Okay, members, let's move down to page 9,
B,
25 word "land" has been substituted with
"properties,"

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1 and "glare perceptible to persons operating
motor
2 vehicles on public ways" may be difficult to
3 administer if do not -- if there's no
specification.
4 Comments?
5 SUBCOMMITTEE MEMBER ALTENBERG: I was wrong. Here's
an
6 example where glare is an enforceable -- used
7 enforceably, so --

8 SUBCOMMITTEE MEMBER McCORD: Well, playing devil's
9 advocate, this is where we had the big
discussion
10 about 900, 3,000.
11 SUBCOMMITTEE MEMBER MABERRY: Right, which I don't
think
12 we're going to settle now, since we don't have
13 Mr. Chong, but we can address the other
language.
14 SUBCOMMITTEE MEMBER McCORD: Well, I'll vote for
3,000.
15 SUBCOMMITTEE MEMBER ALTENBERG: I would oppose that.
16 SUBCOMMITTEE MEMBER BERNARD: I will not.
17 CHAIR MOLINA: Okay.
18 SUBCOMMITTEE MEMBER BERNARD: On the beach?
19 CHAIR MOLINA: The Chair would recommend postpone on
this
20 or --
21 SUBCOMMITTEE MEMBER MABERRY: Mr. Chair, may ----
22 CHAIR MOLINA: Mr. Maberry.
23 SUBCOMMITTEE MEMBER MABERRY: -- I suggest we take
just a
24 moment to see -- is there some language in here
you
25 want to clean up and address other than the
number

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1 of lumens?

2 SUBCOMMITTEE MEMBER ALTENBERG: Having to do with the

3 turtle part of Section D on page 10, nothing --

I'm

4 not so worried about anything else before that.

5 SUBCOMMITTEE MEMBER MABERRY: Okay, but we can accept

6 "properties"?

7 SUBCOMMITTEE MEMBER ALTENBERG: Yes.

8 SUBCOMMITTEE MEMBER MABERRY: Thank you.

9 CHAIR MOLINA: Chair has no objection to accepting

10 "properties." Okay. And the issue of lumens,

does

11 the body want to vote on it?

12 SUBCOMMITTEE MEMBER McCORD: Without Rick, we just

better

13 leave it alone.

14 SUBCOMMITTEE MEMBER ALTENBERG: I should comment --

15 CHAIR MOLINA: Okay. Without our lighting expert --

16 SUBCOMMITTEE MEMBER ALTENBERG: If I may comment.

17 CHAIR MOLINA: Dr. Altenberg.

18 SUBCOMMITTEE MEMBER ALTENBERG: That these lumen

levels

19 are part of the language of -- I believe it's

20 Kennebunkport, Maine, setting 900 for

spotlights.

21 That's where that came from, so it's --

currently

22 that's a standard that's being used for

spotlights.

23 CHAIR MOLINA: Okay. Thank you for that information.

24 Chair would like to entertain a motion to

postpone

25 on this section.

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which 1 SUBCOMMITTEE MEMBER BERNARD: Which -- I'm sorry,
2 section are you wanting to postpone?
3 CHAIR MOLINA: B.
4 SUBCOMMITTEE MEMBER BERNARD: Just B?
5 CHAIR MOLINA: Yeah.
6 SUBCOMMITTEE MEMBER BERNARD: Okay.
would 7 SUBCOMMITTEE MEMBER MABERRY: Mr. Chair, my motion
8 be --
9 CHAIR MOLINA: With regards to lumens.
that 10 SUBCOMMITTEE MEMBER MABERRY: -- that the only thing
11 we do with B for right now is to simply change
12 "land" to "properties."
13 CHAIR MOLINA: Okay.
anything 14 SUBCOMMITTEE MEMBER MABERRY: That we not change
15 else at this time. That would be my motion.
16 SUBCOMMITTEE MEMBER ALTENBERG: Second.
17 CHAIR MOLINA: Okay. It's been moved to just change
else. 18 "land" to "properties" and not change anything

19 Okay. All those in favor, say "aye."

20 SUBCOMMITTEE MEMBERS VOICED AYE.

21 CHAIR MOLINA: All those opposed?

22

23

24

25

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Bernard, 1 VOTE: AYES: Subcommittee members Altenberg,
Maberry, McCord, and Chair Molina.
2 NOES: None.
ABSTAIN: None.
3 ABSENT: None.
4 EXC.: Subcommittee member Chong and
Vice-Chair Tavares.

5 MOTION CARRIED.

6 ACTION: APPROVE.

7 CHAIR MOLINA: All right. Moving on to page 10.

8 SUBCOMMITTEE MEMBER MABERRY: I move that we add
whatever

9 is appropriate. I think we already settled
that,

10 though. I apologize. Did we already have a
motion

11 on "landward" that passed?

12 SUBCOMMITTEE MEMBER ALTENBERG: "Landward," yes.

13 CHAIR MOLINA: But we wanted to further the discussion
as

14 a number three. Dr. Altenberg.
15 SUBCOMMITTEE MEMBER ALTENBERG: Yes, here's where --
one
16 of the main defects I see is there's no
protection
17 from cumulative effect of lights on beaches.
You
18 can have lots of little ones that can still
19 interfere with the turtles. So I would -- let
me
20 move the following -- let me move that Section D
be
21 amended to read as follows: "Luminaires within
100
22 meters landward of the ocean shall be designed,
23 positioned, shielded, or otherwise modified so
that,
24 A, no light from a lamp will 260 or greater
lumens
25 of output shall shine directly on the ocean or
beach

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1 up to the highest tide elevation, and B, the
light
2 trespass from all sources on a property shall
not
3 exceed .1 footcandles at any point on the ocean
or
4 beach up to the high tide elevation."

5 CHAIR MOLINA: Okay. Let's see.

6 SUBCOMMITTEE MEMBER BERNARD: Second.

7 CHAIR MOLINA: Okay, it's been seconded. Comments
from

8 staff?

9 MR. SALDANA: Do you have that language written out?

10 SUBCOMMITTEE MEMBER ALTENBERG: Yes, and again, that
was

11 e-mailed to you and --

12 MR. SALDANA: It's not part of this document, then?

13 SUBCOMMITTEE MEMBER ALTENBERG: It was part of the

14 suggested revisions that I e-mailed to all the

15 Committee members and to the Committee, to you.

16 CHAIR MOLINA: Since that was not part of the
ordinance

17 today, I think the Chair made a point that we're
not

18 going to take this up, anything new until we
address

19 what else -- the other items that are in here.
So

20 if we could move on and then we could come back.

21 Ms. Bernard.

22 SUBCOMMITTEE MEMBER BERNARD: You know what, I think
we've

23 already done that a few -- we've added new
things in

24 here along the way, because it's been relevant
to

25 what we've discussed. So we've already been
doing

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1 that.

2 CHAIR MOLINA: I know we've done it a couple of times.

3 The Chair's been real lenient on it. The Chair

not

4 would like to move on, but realistically we're

5 going to get all of this done anyway, so --

6 SUBCOMMITTEE MEMBER MABERRY: Did somebody second it?

7 CHAIR MOLINA: Yes, there is a motion on the floor.

8 SUBCOMMITTEE MEMBER MABERRY: May I have discussion?

9 CHAIR MOLINA: Okay, Mr. Maberry.

10 SUBCOMMITTEE MEMBER MABERRY: Since we're already over

have

11 here. I have concern about that -- the way it's

12 worded. I appreciate the intent, but what we

that

13 already somewhat sort of loosely agreed to is

lights

14 if they use amber lenses, you know, on their

testimony

15 on the beach, which has been shown through

that

16 that it doesn't negatively impact the wildlife,

that

17 that's acceptable, and you're not addressing

lumens

18 here. And that would significantly be higher

19 than what you've defined.

reason

20 SUBCOMMITTEE MEMBER ALTENBERG: Yeah, I guess the

21 is there was an ordinance in Florida that
originally
22 included references to nanometers to the
spectrum of
23 the light and that it was later deleted --
amended
24 to just include all light levels. So that's why
I
25 went with this language. We -- I could -- I
would

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1 accept as a friendly amendment -- I'll have to
grab
2 the nanometer specification, but to say all
3 footcandles of greater than -- of a frequency
4 greater than X nanometers, so that would -- that
5 would not cover, then, low pressure sodium
light.
6 Would that address your concerns?
7 SUBCOMMITTEE MEMBER MABERRY: It probably would. I
just
8 want to point out that we'll end up fighting
this
9 battle -- we don't have the people from the --
from
10 the visitor industry and we don't have the
hotels
11 and we don't have Rick here. So, I mean, I
don't

12 know that we want to --
13 CHAIR MOLINA: Chair's, recommendation -- sorry. Let
me
14 inject, Mr. Maberry -- is not to make a decision
on
15 this.
16 SUBCOMMITTEE MEMBER MABERRY: Go ahead, yeah.
17 SUBCOMMITTEE MEMBER ALTENBERG: That it be postponed?
18 CHAIR MOLINA: Can I have a motion to postpone?
19 SUBCOMMITTEE MEMBER McCORD: I --
20 CHAIR MOLINA: Well, we need to withdraw the original
21 motion.
22 SUBCOMMITTEE MEMBER MABERRY: Well, only if they want
to.
23 I mean, they can still take a vote on it.
24 SUBCOMMITTEE MEMBER ALTENBERG: I would rather that it
be
25 postponed than withdrawn.

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1 CHAIR MOLINA: Okay. All righty. We already have an
2 existing motion on the floor.
3 SUBCOMMITTEE MEMBER ALTENBERG: Did somebody motion to
4 postpone?
5 CHAIR MOLINA: There's no motion made to postpone

motion

6 because -- unless you withdraw your original

7 and then we'll go with the motion to postpone.

it.

8 SUBCOMMITTEE MEMBER ALTENBERG: Okay. I'll withdraw

9 SUBCOMMITTEE MEMBER McCORD: I'll move to postpone.

10 CHAIR MOLINA: Okay. Hang on. And withdrawal of the
11 second?

12 SUBCOMMITTEE MEMBER BERNARD: Yes.

did

13 CHAIR MOLINA: All right, now, motion to postpone and
14 seconded by Mr. McCord, right? You seconded or

15 you make the motion to postpone?

have

16 SUBCOMMITTEE MEMBER McCORD: I made the motion. We

17 no second yet.

18 CHAIR MOLINA: I need a second to postpone.

19 SUBCOMMITTEE MEMBER ALTENBERG: I second.

All

20 CHAIR MOLINA: Okay, seconded by Altenberg. Okay.

21 right, let's go down to .090.

22 SUBCOMMITTEE MEMBER BERNARD: Point of clarification.

23 CHAIR MOLINA: Proceed.

24 SUBCOMMITTEE MEMBER BERNARD: So this is -- so being

25 postponed now --

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1 SUBCOMMITTEE MEMBER MABERRY: It stays.

2 SUBCOMMITTEE MEMBER BERNARD: -- it stays the same,
but is

3 there any note made that there was this
discussion?

4 I mean what's the --

5 CHAIR MOLINA: It's on public record.

6 SUBCOMMITTEE MEMBER BERNARD: But it gets forwarded to
the

7 Committee this way without any change in
language

8 whatsoever?

9 CHAIR MOLINA: There's no -- couldn't reach any
consensus.

10 A recommendation was because that we didn't have
the

11 resource -- appropriate resource personnel to

12 address this issue. I would guess that's one of
the

13 reasons why we're not planning on making a
decision

14 on this, making a change one way or the other.

15 MR. SALDANA: Mr. Chair.

16 CHAIR MOLINA: Mr. Saldana.

17 MR. SALDANA: We can identify it as part of the
Committee

18 report that this is one of the issue areas or
the

19 sections that needed further clarification or

20 review.

21 SUBCOMMITTEE MEMBER BERNARD: Thank you.

22 MR. SALDANA: If that's the desire of the
Subcommittee.

moment.

23 CHAIR MOLINA: So no changes made to this at the

24 That will be taken up by the standing Committee.

25 Dr. Altenberg.

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other

1 SUBCOMMITTEE MEMBER ALTENBERG: There's still the

would

2 problem that people can sell luminaires that

3 be in violation of this ordinance, and there's

another

4 nothing addressing that. That seems to be

have

5 thing that needs to be dealt with, otherwise we

are

6 a strange -- a strange situation where people

7 selling -- allowed to sell stuff that's illegal.

8 So --

9 SUBCOMMITTEE MEMBER MABERRY: You do have --

10 CHAIR MOLINA: Hang on. Hang on. Dr. Altenberg, are

11 you --

sale

12 SUBCOMMITTEE MEMBER ALTENBERG: Yeah, I mean, I would

13 propose that -- well, language prohibiting the

the

14 of light fixtures that would necessarily violate

something

15 ordinance be prohibited, but if that's not

16 that we can deal with today, then I think it's
17 something we should simply say needs to be
18 considered by the Public Works Committee.

19 CHAIR MOLINA: Okay.

20 SUBCOMMITTEE MEMBER MABERRY: We already -- we still
do
21 have in here the section not allowing the sell
of
22 mercury vapor.

23 SUBCOMMITTEE MEMBER ALTENBERG: Mercury vapors, right.

24 SUBCOMMITTEE MEMBER MABERRY: But --

25 SUBCOMMITTEE MEMBER ALTENBERG: But there's many other

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directed 1 luminaires which could not be installed as
2 by the manufacturer that would put someone in
3 violation of the law, and those are allowed to
be
4 sold on Maui. That seems to be a strange
conflict
5 of policy that needs to be addressed, and I
think
6 the Public Works Committee should address that.

7 CHAIR MOLINA: Looking at the -- what the other
members
8 are thinking, Dr. Altenberg, maybe what we can
do is

not 9 we leave your individual comments as that, maybe
10 necessarily from the whole body, but that can be
11 noted from the record as, you know, an
individual 12 recommendation. Mr. Maberry.
13 SUBCOMMITTEE MEMBER MABERRY: I agree with him. The
14 reason I'm contorting my face here is I realize
that 15 that's going to be something that would require
16 considerable expertise and evaluation, and I
think 17 it probably is more than we can hope for right
at 18 the moment anyhow. You know what I mean?
19 SUBCOMMITTEE MEMBER ALTENBERG: Yeah, I agree.
20 SUBCOMMITTEE MEMBER MABERRY: Because there's going to
be 21 certain applications for some -- it's going to
22 depend more on the application of the luminaire.
23 You know, you may be able to use it indoors or
in a 24 barn or something like that, but outdoors aimed
at 25 your neighbor's house -- and so you get -- how
are

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1 you going to define the sale? I mean...

2 SUBCOMMITTEE MEMBER ALTENBERG: So I guess -- let me
put

3 it in the form of a motion. I move that we

4 recommend that the Public Works Committee
consider

5 the issue of the sale of luminaires that would
be

6 necessary -- that would necessarily be in
violation

7 of the ordinance.

8 CHAIR MOLINA: Okay. Is there a second?

9 SUBCOMMITTEE MEMBER BERNARD: Second.

10 CHAIR MOLINA: Okay. It's been moved and seconded on
the

11 recommendation to the Public Works Committee.

12 Discussion? Seeing none, all those in favor,
say

13 "aye."

14 SUBCOMMITTEE MEMBERS VOICED AYE.

15 CHAIR MOLINA: All those opposed?

16 VOTE: AYES: Subcommittee members Altenberg,
Bernard,
 Maberry, McCord, and Chair Molina.

17 NOES: None.

18 ABSTAIN: None.

19 ABSENT: None.

 EXC.: Subcommittee member Chong and
 Vice-Chair Tavares.

20 MOTION CARRIED.

21 ACTION: APPROVE.

22 CHAIR MOLINA: All right, members, we'll do one more.

23 .090, Luminaire Mount Standards. "This section

24 needs to be reviewed by both Public Works as
well as

change

25

MECO to verify that the provisions requiring

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1 from aluminum to non-reflective poles do not
2 conflict with any other regulation or
administrative
3 rule, whether under Federal, State or County
law,
4 and also needs to be reviewed by the Subdivision
5 Engineering Standards Committee. In paragraph
B,
6 how are street light poles to be handled on
roads
7 other than major collector roadways? How is
this
8 term defined? Are these roadways within the
9 County's jurisdiction?" Dr. Altenberg.
10 SUBCOMMITTEE MEMBER ALTENBERG: I should mention that
this
11 is -- this language is currently the MC 15 rule
on
12 street lights. That's where it was taken from.
13 CHAIR MOLINA: Okay.
14 SUBCOMMITTEE MEMBER MABERRY: Move to leave.
15 CHAIR MOLINA: Postpone?
16 SUBCOMMITTEE MEMBER MABERRY: Not postpone, move to --
17 CHAIR MOLINA: Oh, leave it as is?

18 SUBCOMMITTEE MEMBER BERNARD: Second.
19 CHAIR MOLINA: Okay. It's been moved and seconded to
20 leave as is. Discussion? Seeing none, all
those in
21 favor, say "aye."
22 SUBCOMMITTEE MEMBERS VOICED AYE.
23 CHAIR MOLINA: All those opposed?
24
25

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Bernard,
1 VOTE: AYES: Subcommittee members Altenberg,
Maberry, McCord, and Chair Molina.
2 NOES: None.
ABSTAIN: None.
3 ABSENT: None.
EXC.: Subcommittee member Chong and
4 Vice-Chair Tavares.
5 MOTION CARRIED.
6 ACTION: APPROVE.
7 CHAIR MOLINA: Okay. Thank you. Okay, members, at
this
8 point the Chair's recommendation to the body
will be
9 to have this moved on -- a draft bill be sent to
the
10 Corporation Counsel for further revision and
11 transferred to the -- transmitted to the Public
12 Works and Transportation Committee for its

13 consideration, and also to mention that the
areas
14 that we did not get to -- okay. Hang on. Brief
15 recess. (Gavel).
16 RECESS: 2:42 p.m.
17 RECONVENE: 2:42 p.m.
18 CHAIR MOLINA: (Gavel). Outdoor Lighting Standards
19 Subcommittee is now back in session. Members,
I've
20 just been notified that we don't have too much
more
21 to go. If the members are willing to go till
3:00
22 o'clock, about 15 minutes, we keep things
concise, I
23 think we can get a lot accomplished. Of course
24 we've already extended the time of our
Corporation
25 Counsel here, but is this agreeable to the
members?

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1 The Chair's willing to --
2 SUBCOMMITTEE MEMBER ALTENBERG: Yes.
3 CHAIR MOLINA: -- extend the time again. All righty,
4 let's go, then. Where were we? Are we on page
16
5 now?

6 SUBCOMMITTEE MEMBER MABERRY: 11.
7 MR. SALDANA: Mr. Chair.
8 CHAIR MOLINA: Page 11, right?
9 MR. SALDANA: We already skipped page 11.
10 SUBCOMMITTEE MEMBER MABERRY: Okay. Which page are we
on?
11 MR. SALDANA: Mr. Chair, your next --
12 CHAIR MOLINA: I'm sorry, J?
13 MR. SALDANA: -- would be category Section 20.35.120.
14 CHAIR MOLINA: And page number?
15 MR. SALDANA: 14.
16 CHAIR MOLINA: Okay, members. Development --
17 MR. SALDANA: I'm sorry we skipped two. It's on the
18 bottom of 13, page 13, B, Security Lighting, 2
and
19 3.
20 CHAIR MOLINA: Okay, Security Lighting, numbers 2 and
3,
21 page 13, members. In brackets, "Phrase 'to
22 effectively allow surveillance' needs to be
better
23 explained. By whom? Who determines? How?"
24 Comments? Is there consensus? Is there
something
25 that --

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1 SUBCOMMITTEE MEMBER MABERRY: Are you looking for
2 something?
3 SUBCOMMITTEE MEMBER ALTENBERG: I'm trying to figure
out
4 where we got that language.
5 SUBCOMMITTEE MEMBER MABERRY: Yeah, Mr. Chair, I would
6 also like to point out, if I may, for discussion
7 purposes.
8 CHAIR MOLINA: Proceed.
9 SUBCOMMITTEE MEMBER MABERRY: That illumination, in
this
10 day and age, particularly for security, can be
done
11 in the infrared without causing any problems
12 whatsoever for wildlife or astronomy.
13 CHAIR MOLINA: Okay.
14 SUBCOMMITTEE MEMBER MABERRY: And it's fairly
economical
15 these days too.
16 CHAIR MOLINA: Okay. Any other comments? Okay, so --
17 SUBCOMMITTEE MEMBER MABERRY: I think --
18 CHAIR MOLINA: -- is Dr. Altenberg still in the
process --
19 SUBCOMMITTEE MEMBER MABERRY: -- he's looking to try
to
20 figure out where he came up with the language.
21 MR. GARNEAU: May I make a comment while we're waiting
for
22 Dr. Altenberg?
23 CHAIR MOLINA: Proceed, Mr. Garneau.
24 MR. GARNEAU: When I read this I thought that as we

25 defined it, security lighting designed and used
to

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1 discourage crime and undesirable activity, and
then
2 to me that is really broad. I mean, you know,
it
3 gets back to that whole thing, you could say,
well,
4 we've got a light -- this could be a loophole to
5 light the beach. Because, you know, if it's
needed
6 for security purposes -- I don't know. That's
why
7 I -- when I read it, I thought that it -- the
terms
8 might be better defined in a way that only could
be
9 interpreted by people in one way. Does that
make
10 sense? Because any time you use these
exceptions,
11 like before when we were working on safety or
12 security, people are going to read them broadly
to
13 do what they want.

14 SUBCOMMITTEE MEMBER ALTENBERG: I would agree with
15 Mr. Garneau. To me, the -- "discourage" is the

the 16 problem word. You know, that's talking about
17 emotions of criminals as they look at the light,
18 whether they're encouraged or discouraged. Some
19 more objective language would be preferable,
20 security lighting makes -- you know, it makes
that's 21 criminal activity visible to observers, so
22 primarily -- the way that it discourages crime.
So 23 that we could say that defined as lighting
designed 24 and used to make potential criminal activity
visible 25 to neighboring observers.

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1 CHAIR MOLINA: Mr. Maberry.
2 SUBCOMMITTEE MEMBER MABERRY: Just to remind us, I'm
sorry 3 if this takes a little bit of time, but we've
had 4 testimony that the resorts were instructed by
the 5 Maui Police Department to illuminate their
beaches 6 in order to keep people from congregating on
them in 7 which they might endanger some of their
customers.

8 We've also had testimony from the Police
Department
9 and very -- in a very early on meeting that use
of
10 non-white light has a tendency to discourage
11 congregation, and that while we really do
definitely
12 need to tighten this up, particularly for the
13 beaches, we actually need some kind of a
statement
14 that -- you know, to separate the two, lighting
15 from, say, you know, a site where equipment is
16 stored, you know, as opposed to the beaches
where
17 you're using -- what we hope to eventually gain
I
18 believe is use of amber-lensed lights which will
not
19 have a negative impact on the animals.
20 CHAIR MOLINA: Okay. Dr. Altenberg.
21 SUBCOMMITTEE MEMBER ALTENBERG: Let me try this as a
22 motion. I would move that we amend Section E1
to
23 read "Security lighting" -- or this is now over
in
24 the definition section.
25 SUBCOMMITTEE MEMBER MABERRY: Right, correct.

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1 SUBCOMMITTEE MEMBER ALTENBERG: "Security lighting is
2 defined as lighting designed and used to make
3 criminal activity observable."
4 CHAIR MOLINA: Okay. Is there a second?
5 SUBCOMMITTEE MEMBER MABERRY: Second.
6 CHAIR MOLINA: Okay. Discussion? All those in favor,
say
7 "aye."
8 SUBCOMMITTEE MEMBERS VOICED AYE.
9 CHAIR MOLINA: All those opposed?
10 VOTE: AYES: Subcommittee members Altenberg,
Bernard,
11 Maberry, McCord, and Chair Molina.
12 NOES: None.
13 ABSTAIN: None.
14 ABSENT: None.
15 EXC.: Subcommittee member Chong and
Vice-Chair Tavares.
16 MOTION CARRIED.
17 ACTION: APPROVE.
18 CHAIR MOLINA: Okay. Thank you. Motion carries.
19 SUBCOMMITTEE MEMBER MABERRY: How does this address
number
20 2 and 3 now, though?
21 SUBCOMMITTEE MEMBER ALTENBERG: "Surveillance" then
22 becomes defined as the "observation of criminal
23 activity."
24 CHAIR MOLINA: So 2 and 3 -- or 2 is incorporate into
1
25 with this motion?
26 SUBCOMMITTEE MEMBER ALTENBERG: So I would move that
27 "surveillance" be replaced by the word
"observation"

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1 of criminal activity."
2 CHAIR MOLINA: Second?
3 SUBCOMMITTEE MEMBER MABERRY: Second.
4 CHAIR MOLINA: For discussion? Again, this is in
Section
5 1 or 2?
6 SUBCOMMITTEE MEMBER MABERRY: No, we're in 2, sir, E2.
7 CHAIR MOLINA: Okay.
8 SUBCOMMITTEE MEMBER MABERRY: Which now is actually
E1,
9 correct?
10 SUBCOMMITTEE MEMBER ALTENBERG: Yes.
11 CHAIR MOLINA: Any other discussion?
12 SUBCOMMITTEE MEMBER MABERRY: To speak to the motion,
13 again, my concern is -- and I won't belabor it,
but
14 security illumination, you know, if you're just
15 trying to observe, you can do that in the
infrared.
16 That's all. It can be done with infrared
cameras.
17 You don't have to have lighting. If you're not
18 trying to discourage congregation and criminal
19 activity, if you're just trying to observe it,
20 then --

21 SUBCOMMITTEE MEMBER BERNARD: Comment.

22 CHAIR MOLINA: Okay, Ms. Bernard.

23 SUBCOMMITTEE MEMBER BERNARD: I don't think anybody
would

24 interpret the ordinance that way, though. I
don't

25 think anybody would be thinking of infrared.
Unless

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1 we specify it, it's not going to be used.

2 SUBCOMMITTEE MEMBER MABERRY: Mr. Chair, all I'm
saying is

3 I think later on we're going to have problems.
The

4 "discourage" term is going to come back. That's

5 all. Because that's what they want to use

6 illumination for, is for discouraging activity,
not

7 so much for surveillance. That's all.

8 CHAIR MOLINA: Any other comments to the motion on the
9 floor? Dr. Altenberg.

10 SUBCOMMITTEE MEMBER ALTENBERG: Well, perhaps "deter"
11 would be a better term than "discourage" and --

12 SUBCOMMITTEE MEMBER MABERRY: Sorry, Hannah.

13 SUBCOMMITTEE MEMBER BERNARD: I think they need more
14 lights, is what they think to deter a crime.

question
15 SUBCOMMITTEE MEMBER MABERRY: Okay. Call for the
16 on the motion on the floor, Mr. Chair, and move
on.
17 CHAIR MOLINA: And that is to substitute the word
"deter,"
18 instead of "discourage," for clarification to
the
19 body?
20 SUBCOMMITTEE MEMBER MABERRY: No.
21 SUBCOMMITTEE MEMBER ALTENBERG: No, no.
22 SUBCOMMITTEE MEMBER MABERRY: That's not --
23 SUBCOMMITTEE MEMBER ALTENBERG: That's already been --
24 this would be for this old Section 2.
25 SUBCOMMITTEE MEMBER MABERRY: Correct, which is now

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1 Section 1.
2 CHAIR MOLINA: Okay, allow security illumination,
right?
3 SUBCOMMITTEE MEMBER ALTENBERG: How about -- let me
4 restate it. The motion is to amend it to read:
5 "Security lighting shall use the lowest possible
6 illumination to effectively allow observation
and
7 deterrence of criminal activity" or "observation
or

8 deterrence of criminal activity."

9 SUBCOMMITTEE MEMBER BERNARD: Are we still in
discussion?

10 CHAIR MOLINA: Hang on. Okay.

11 SUBCOMMITTEE MEMBER BERNARD: Are we still discussing?

12 CHAIR MOLINA: Wait a minute. I'm trying to get the
13 bearings -- well, okay.

14 SUBCOMMITTEE MEMBER ALTENBERG: Should I read that
again?

15 CHAIR MOLINA: No, no, no. We already had an existing
16 motion on the floor and now we're going to have
a

17 change.

18 SUBCOMMITTEE MEMBER MABERRY: Now it's lost.

19 CHAIR MOLINA: So now we've got to withdraw the
original

20 motion, am I correct?

21 SUBCOMMITTEE MEMBER MABERRY: Gary, do you remember
the

22 original motion, please? Can we hear what the
23 original motion is?

24 CHAIR MOLINA: Let's go to withdraw the motion. It
might

25 make it cleaner.

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1 MR. SALDANA: The original motion basically was the
same

--

2 as what Dr. Altenberg said except for there was

3 did not include the words "or deterrence."

4 Basically it was "Security lighting should use

the

5 lowest possible illumination to effectively

allow

6 observation of criminal activity."

7 SUBCOMMITTEE MEMBER MABERRY: Call for the question.

8 CHAIR MOLINA: All right. Did we have a second?

9 SUBCOMMITTEE MEMBER MABERRY: No, that was the motion

that

10 was on the floor and seconded, Mr. Chair. That

was

11 the live motion, and I'm calling for the

question on

12 that motion.

13 CHAIR MOLINA: So without these revisions --

14 SUBCOMMITTEE MEMBER MABERRY: Without any revisions,

sir,

15 just as it was just stated.

16 CHAIR MOLINA: The motion -- the question has been

called

17 on the motion. All those in favor, say "aye."

18 SUBCOMMITTEE MEMBERS VOICED AYE.

19 CHAIR MOLINA: All those opposed?

20 VOTE: AYES: Subcommittee members Altenberg,

Bernard,

21 NOES: Maberry, McCord, and Chair Molina.

22 ABSTAIN: None.

23 ABSENT: None.

24 EXC.: Subcommittee member Chong and

Vice-Chair Tavares.

25 MOTION CARRIED.

ACTION: APPROVE.

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1 CHAIR MOLINA: Thank you. Okay. Sensor technologies,
2 number -- well, it would be E2, if I'm correct
now.
3 Okay. In brackets, "What is meant by the phrase
4 'promote compatibility between different land
uses'
5 in relation to sensor technologies?" And "How
is
6 this section to be administered?" Okay.
7 SUBCOMMITTEE MEMBER ALTENBERG: I would like to move
that
8 that phrase be deleted, "and promote
compatibility
9 between different land uses."
10 CHAIR MOLINA: Okay. Is there a second?
11 SUBCOMMITTEE MEMBER MABERRY: Second.
12 CHAIR MOLINA: Okay, moved and seconded to delete the
--
13 if you could restate that again, Dr. Altenberg.
14 SUBCOMMITTEE MEMBER ALTENBERG: Delete the phrase "and
15 promote compatibility between different land
uses."
16 CHAIR MOLINA: Okay. Discussion? Okay. All right.
All
17 those in favor, say "aye."
18 SUBCOMMITTEE MEMBERS VOICED AYE.

19 CHAIR MOLINA: All those opposed?
20 VOTE: AYES: Subcommittee members Altenberg,
Bernard, Maberry, McCord, and Chair Molina.
21 NOES: None.
22 ABSTAIN: None.
23 ABSENT: None.
24 EXC.: Subcommittee member Chong and
Vice-Chair Tavares.
25 MOTION CARRIED.
ACTION: APPROVE.

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1 CHAIR MOLINA: Okay. Thank you. Okay, moving on to
page 14, Development Permits. I'm trying to think.
2 think -- Okay. Hang on. Mr. Garneau, I'm trying to
3 I thought we just discussed this.
4 MR. GARNEAU: Well, we did. Actually, I think
probably 5 Robin and Greg are best to deal with this,
because 6 this is probably taken from another location,
from 7 Maine or something, but we don't have anything
by 8 that particular name, and so I was wondering
what -- 9 which permits are we talking about? Same
discussion 10

11 we had before.

12 CHAIR MOLINA: Okay. So we are on Development

Permits,

13 then. Okay. Comments? Dr. Altenberg.

14 SUBCOMMITTEE MEMBER ALTENBERG: To try to find some

15 solution to that, suppose we said the first --

like

16 the first permit that somebody has to apply for

17 where they would have outdoor lighting, would

that

18 be the one where they would have to answer this

19 question? Would that work?

20 MS. LAUDERMILK: That would be a starting point.

21 SUBCOMMITTEE MEMBER ALTENBERG: You always say that.

22 MS. LAUDERMILK: Because after going through the

section,

23 Subsections 1, 2, 3, and then going through

24 Subsection 4 regarding additional submissions,

it

25 appears that we are looking at either the

building

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1 permit portion, the majority of these documents

will

2 be at the building permit portion. That's when

Greg

3 on the electrical side and the plans examiners

deal

4 with the nitty-gritty, the location of the light
5 fixtures and so forth.

6 So it gets back into the clarification of
7 there are a variety of permits. In relation to
the
8 Planning Department, some of them we would be
9 concerned with light fixtures and so forth in
very
10 limited locations, but if we can give them --
but,
11 you know, the nitty-gritty would come downstairs
12 with Land Use and Codes and Public Works. And
the
13 type of information that you're requesting
appears
14 to be more appropriate in that location. Again,
it
15 gets back to, you know, what is the intent.
This is
16 the implementation, but the implementation of
what
17 intent.

18 CHAIR MOLINA: Okay. Additional comments? Dr.
Altenberg.

19 SUBCOMMITTEE MEMBER ALTENBERG: I mean the way I look
at
20 it, the involvement of the planning process with
the
21 implementation of this ordinance is really a
service
22 to the developer so that later on they don't
have to
23 go and retrofit stuff that's in violation. So
in my
24 mind it's not really essential that we provide
that

25

service, but it's nice that the County would do

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1 that. So whatever way, you know, it would be
the
2 most efficient for the County would be fine,
but, I
3 mean, people need -- if they go ahead and build
4 something and build it in violation of the
5 ordinance, then they would be subject to the
6 violations phase and it would burden the
enforcement
7 division. So this is a way -- it's also
essentially
8 taking a load off enforcement and cutting it off
at
9 the pass. Whatever is most efficient for the
County
10 in that regard I would be in favor of. If it's
too
11 complex for us to figure out in the next 30
12 seconds --
13 MS. LAUDERMILK: Actually, I think this would need
more
14 discussion between the directors of Planning and
15 Public Works. We -- we understand how you want
to
16 implement it. We think we understand, you know,

discussion 17 what the intent is and what -- and the
of 18 between the directors is what is the delineation
19 the role and responsibilities in relation to the
20 implementation of this.
and 21 SUBCOMMITTEE MEMBER ALTENBERG: Maybe -- let me try
22 move -- making this motion, that within -- in
that 23 regards to the language of Section 20.35.120,
ensure 24 it is the intention of the Subcommittee to
25 that conformance with the -- with the outdoor

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language 1 lighting standards is achieved during the -- you
2 know, before the building of a development to
3 prevent later enforcement actions, and any
4 that would achieve that intention would be
5 supported.
6 MR. NAKAO: Well, looking at the wording in here, the
7 thing I'm concerned about is I don't want to see
multiple 8 someone having to submit this information
9 times. Okay. So we're -- we're asking for very
10 specific information, and if you ask for it too

to be 11 early in the project, you know, it's not going
12 available, like what type of luminaires do you
13 intend to use.
intent 14 SUBCOMMITTEE MEMBER ALTENBERG: So I would say the
15 of Subcommittee is to have language that -- that
16 most efficiently causes new developments to have
to
17 be in conformance with the outdoor lighting
18 standards. That's it, and so if you can
pinpoint
19 the point that would be most efficient for
20 submitting plans to be reviewed, that's good.
the 21 MR. NAKAO: Well, if your main concern is going to be
22 illumination around structures, then it's the
23 building permit, okay, but if it's the roadway
24 lighting for the subdivision, let's say right
now
25 it's vacant land, the roads on the ground,

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way 1 utilities, infrastructure need to go in first,
2 before any building permit is issued. Is your
3 concern on that portion or --

4 SUBCOMMITTEE MEMBER ALTENBERG: The concern is that
the
5 right thing be built when they build it, and at
6 whatever point in the review process it takes to
7 guarantee that their plan is to build something
in
8 conformance with the standards, that's all that
9 we're trying to achieve with this entire
section.
10 So the detail -- I'm trying to say is the
details of
11 this may be ignorant of the workings of the
County,
12 but -- and that they may need to be revised. So
I'm
13 trying to say I -- the recommendation of this
14 Committee, say, would be this -- this language
or
15 whatever language achieves the most efficient
16 implementation of pre-construction review.
17 CHAIR MOLINA: Okay, excuse me. Mr. Maberry had --
18 SUBCOMMITTEE MEMBER MABERRY: Yeah, see, we have --
what
19 caused us to go about this this way is that
right
20 now you have new subdivisions where the basic
21 infrastructure is going in that is not in
compliance
22 with the existing street lighting standards,
okay,
23 and so where -- who dropped the ball? We want
to
24 try to make sure that doesn't happen.
25 MR. NAKAO: Okay.

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motion,

1 SUBCOMMITTEE MEMBER ALTENBERG: So to restate the

2 it hasn't been seconded yet, that --

3 CHAIR MOLINA: If you could capsulize it.

4 SUBCOMMITTEE MEMBER ALTENBERG: Okay. That the

other

5 Subcommittee recommends that either the current

6 language of Section 20.35.120 be considered or

7 language that may cause the most efficient

8 implementation of a review process that would

of

9 prevent the construction of lights in violation

10 the provisions of the ordinance.

11 MS. LAUDERMILK: You need to stay positive.

12 SUBCOMMITTEE MEMBER MABERRY: Implement.

13 MS. LAUDERMILK: Implement. So implement.

14 SUBCOMMITTEE MEMBER ALTENBERG: How's -- okay.

15 CHAIR MOLINA: Staff, you got that? Do you need a

16 restatement?

17 SUBCOMMITTEE MEMBER MABERRY: Let's see what you got.

18 SUBCOMMITTEE MEMBER ALTENBERG: Yeah, how does it come

19 out?

20 MR. SALDANA: I don't write that fast. Sorry, I can't

look

21 write that fast. However, what we could do is

22 back on the tape -- I mean if you want us to
23 reiterate it, can we run -- is it possible to
rerun
24 the tape back?
25 SUBCOMMITTEE MEMBER ALTENBERG: Let me try reiterating
it.

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1 Okay. Our recommendation is that either this
2 language -- current language be accepted or
language
3 that attributes to the most efficient process of
4 review before construction to ensure that the
5 outdoor lighting standards are not violated.
6 CHAIR MOLINA: Is there a second?
7 SUBCOMMITTEE MEMBER MABERRY: Second.
8 CHAIR MOLINA: Okay. It's been moved and seconded.
9 SUBCOMMITTEE MEMBER MABERRY: I was going to make it
10 positive, "are implemented," as opposed to "not
11 violated" is what I'd really like to see.
12 SUBCOMMITTEE MEMBER ALTENBERG: Well, "are complied
with,"
13 how about that?
14 SUBCOMMITTEE MEMBER MABERRY: There you go.
15 MS. LAUDERMILK: Yeah, perception is important.

about.

16 SUBCOMMITTEE MEMBER ALTENBERG: Last thing I worry

17 "Are complied with."

I'm

18 CHAIR MOLINA: Any discussion? Okay, seeing none --

19 sorry, question?

20 SUBCOMMITTEE MEMBER McCORD: Call for the question.

hearing

21 CHAIR MOLINA: Oh, call for the question. I keep

22 question. Sorry, that's the only thing I keep

motion,

23 getting. Okay. All those in favor of the

24 say "aye."

25 SUBCOMMITTEE MEMBERS VOICED AYE.

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Bernard,

1 CHAIR MOLINA: All those opposed?

2 VOTE: AYES: Subcommittee members Altenberg,
Maberry, McCord, and Chair Molina.

3 NOES: None.

4 ABSTAIN: None.

5 ABSENT: None.

6 EXC.: Subcommittee member Chong and
Vice-Chair Tavares.

7 MOTION CARRIED.

8 ACTION: APPROVE.

in a

9 SUBCOMMITTEE MEMBER MABERRY: I'm used to him. I sit

lot of meetings with him. I know what he means.

passed,

10 CHAIR MOLINA: Thank you. Okay. The motion has

11 and at this point it is past 3:00 o'clock. The

apologies

12 Chair has been very lenient in time. My

and I

13 to Mr. Garneau. I know you had a commitment,

14 think you went about an hour over, and plus the

15 Chair just realized he had a 2:00 o'clock

16 appointment. My appointment's been waiting out

17 there for about an hour now.

18 SUBCOMMITTEE MEMBER MABERRY: Oops. Sorry, Mike.

a

19 CHAIR MOLINA: So with that, the Chair will entertain

20 motion --

21 SUBCOMMITTEE MEMBER MABERRY: So moved.

22 CHAIR MOLINA: -- to have this moved on to the Public

we

23 Works Committee and included in the report that

think

24 were not able to address all the items, and I

there

25 the appropriate language will be inserted in

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addressed,

1 to address which specific items were not

not

2 because of time constraints the Committee could

3 get and address these items. So it's been moved
by
4 Mr. Maberry.
5 SUBCOMMITTEE MEMBER McCORD: I second it.
6 CHAIR MOLINA: Seconded it by Mr. McCord.
7 SUBCOMMITTEE MEMBER McCORD: With the comment that the
8 Chair has been very patient with us.
9 SUBCOMMITTEE MEMBER MABERRY: Thank you.
10 CHAIR MOLINA: Thank you.
11 SUBCOMMITTEE MEMBER MABERRY: Thank you very much.
12 CHAIR MOLINA: Discussion? Any last details?
13 SUBCOMMITTEE MEMBER BERNARD: I have one question.
14 CHAIR MOLINA: Ms. Bernard.
15 SUBCOMMITTEE MEMBER BERNARD: One quick question. Is
16 there a way -- I know, you know, elections are
17 approaching -- for the next Council, is there a
way
18 that this particular piece of legislation can be
19 earmarked for -- brought up to high priority for
20 consideration for the next Council or next year?
21 Can you do you that yourself?
22 CHAIR MOLINA: Yeah, whoever is the next Public Works
23 Chair -- it's pretty much up to the Chair,
whoever
24 he or she may be in the next Council. So they
could
25 take it up as soon as the year starts or they
could

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1 wait a while. So there's no real weight of law
that
2 can -- of course the Council itself, if, I
believe,
3 two-thirds -- I think three members of the
Council,
4 if I'm correct, maybe, Mr. Garneau, you can help
me
5 clarify it, if they wanted something pulled out
of
6 committee to be discussed, you would take --
need at
7 least, what, three Council members to --
8 MR. GARNEAU: I've got the rules.
9 SUBCOMMITTEE MEMBER BERNARD: While he -- while he
looks
10 for that, I guess my question to you is, as the
11 Chair of this Subcommittee, can you forward -- I
12 mean could you prioritize it? I'm requesting of
you
13 as a recommendation for the next Chair, whether
it's
14 you or not.
15 CHAIR MOLINA: I don't know if it would carry any
weight.
16 Actually, I could just say something, but they
don't
17 have to follow it.
18 SUBCOMMITTEE MEMBER BERNARD: Okay.
19 CHAIR MOLINA: They don't have to follow it, because

20 they're not obligated to, you know, the prior
21 Council's recommendation.

22 SUBCOMMITTEE MEMBER BERNARD: Okay.

23 CHAIR MOLINA: Mr. Garneau, just for clarification,
you
24 would need at least, what, three Council members
to
25 ask the Chair or make a request to the Council
Chair

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1 to get an item pulled out of committee or
addressed?
2 Too bad Charmaine wasn't here. She's been here
a
3 while. Anyway, members, if we don't get that
4 response to you today, we can get it to you
another
5 day.

6 So, again, my appreciation for all of
your
7 hard work, and it was a long odyssey, you know.
I
8 think we've taken steps to address something
that's
9 become an important concern in the community.
So
10 I'd like to thank each and every one of you for
your
11 time.

12 SUBCOMMITTEE MEMBER ALTENBERG: Thank you.
13 SUBCOMMITTEE MEMBER MABERRY: Thank you, Mr. Chair.
14 CHAIR MOLINA: It's still a work in progress, and when
15 it's addressed by the next Council, then I'm
sure
16 we'll see you back here, maybe not as -- well,
of
17 course not as Subcommittee members, but as
valuable
18 resource personnel to offer your input on this
19 matter. And I'd like to thank staff for --
20 SUBCOMMITTEE MEMBER BERNARD: Thank you, yeah.
21 SUBCOMMITTEE MEMBER MABERRY: Thank you, Staff.
22 SUBCOMMITTEE MEMBER ALTENBERG: Thank you very much,
all
23 your great efforts.
24 CHAIR MOLINA: And of course our resource personnel
and
25 Corporation Counsel, thank you all very much.

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1 So, again, if there's no other
discussion,
2 Chair will call for the vote on the motion. All
3 those in favor, say "aye."
4 SUBCOMMITTEE MEMBERS VOICED AYE.

5 CHAIR MOLINA: All those opposed?
6 VOTE: AYES: Subcommittee members Altenberg,
Bernard, Maberry, McCord, and Chair Molina.
7 NOES: None.
8 ABSTAIN: None.
9 ABSENT: None.
10 EXC.: Subcommittee member Chong and
Vice-Chair Tavares.
11 MOTION CARRIED.
12 ACTION: TRANSMIT revised draft bill to the
Public Works and Transportation
Committee.
13 CHAIR MOLINA: Thank you. All right. With that, this
14 Subcommittee meeting and Subcommittee is --
well,
15 we'll be officially terminated on October 31st.
So
16 hearing no other announcements or concerned,
this
17 meeting is adjourned. (Gavel).
18 ADJOURN: 3:09 p.m.
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C E R T I F I C A T E

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF MAUI)

Reporter

I, Jessica R. Perry, Certified Shorthand
for the State of Hawaii, hereby certify that the
proceedings were taken down by me in machine shorthand
was thereafter reduced to typewritten form under my
supervision; that the foregoing represents to the best
my ability, a true and correct transcript of the
proceedings had in the foregoing matter.

and

of

I further certify that I am not attorney for any
the parties hereto, nor in any way concerned with the
cause.

of

Honolulu,

DATED this 3rd day of December, 2002, in
Hawaii.

Jessica R. Perry, CSR NO. 404
Notary Public, State of Hawaii
My Commission Expires: 5/11/03

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