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M I N U T E S

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SUBCOMMITTEE ON OUTDOOR LIGHTING STANDARDS

12

(PUBLIC WORKS AND TRANSPORTATION COMMITTEE)

13

Council of the County of Maui

14

Council Chamber

15

August 21, 2002

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|-------------|----|----------|--|
| | 1 | CONVENE: | 9:00 a.m. |
| | 2 | PRESENT: | Councilmember Michael J. Molina, Chair |
| | | | Lee Altenberg, Member |
| | 3 | | Richard Chong, Member |
| | | | Mike Maberry, Member |
| | 4 | | Warren McCord, Member |
| Chair | 5 | EXCUSED: | Councilmember Charmaine Tavares, Vice- |
| | | | Hannah Bernard, Member |
| | 6 | | |
| | 7 | STAFF: | Gary R. Saldana, Legislative Analyst |
| | | | Camille Sakamoto, Committee Secretary |
| | 8 | ADMIN.: | Patrick Matsui, Chief of Planning and |
| | | | Development, Department of Parks and |
| | 9 | | Recreation |
| Program | | | Cary Yamashita, Assistant Engineering |
| | 10 | | Manager, Engineering Division, |
| | | | Department of Public Works and Waste |
| | 11 | | Management |
| Supervisor, | | | Greg Nakao, Electrical Inspection |
| | 12 | | Land Use and Codes Administration, |
| | | | Department of Public Works and Waste |
| | 13 | | Management |
| Codes | | | Howard Hanzawa, Engineer, Land Use and |
| | 14 | | Administration Division, Department |
| of | | | Public Works and Waste Management |
| | 15 | | Kalvin Kobayashi, Energy Specialist, |
| | | | Department of Management |
| | 16 | | Gregory J. Garneau, Deputy Corporation |
| Corporation | | | Counsel, Department of the |
| | 17 | | Counsel |
| | 18 | OTHERS: | Steve Sutrov |
| | | | Terryl Vencl, Executive Director, |
| | 19 | | Maui Hotel Association |

20 Randy Piltz
Randy Nakama
Bill George
21 Lynne Woods, President, Maui Chamber of
Commerce
22 Additional attendees (2)
23 PRESS: ?
24
. .
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1 CHAIR MOLINA: (Gavel). The Subcommittee on Outdoor
2 Lighting Standards for August 21st is now in
3 session. For the record, we have in attendance
4 Dr. Lee Altenberg; Mr. Mike Maberry; excused,
5 Mr. Warren McCord; and Mr. Rick Chong is
present;
6 and also excused we have the Vice-Chair of the
7 Subcommittee, Charmaine Tavares; and excused is
8 Hannah Bernard. Other individuals in
attendance, we
9 have from the Corporation Counsel's Office Mr.
Greg
10 Garneau and from the Council Staff we have the
11 Legislative Analyst Gary Saldana and Committee
12 Secretary Camille Sakamoto.
13
14 ITEM NO. 1: OUTDOOR LIGHTING STANDARDS (MISC.)

15
16 CHAIR MOLINA: Good morning, members. Everyone's
bright
17 eyed and ready to go on our Outdoor Lighting
18 Standards here for today. Prior to hearing
public
19 testimony, I wanted to provide you all an
overview
20 of the items we will be discussing at today's
21 meeting. I would like to revisit Dr.
Altenberg's
22 recommendations, which was highlighted in a
23 memorandum dated July 9, 2002, which includes
24 Section .050, General Exemptions, to delete
25 exclusion of fossil fuels from this section;
Section

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1 .110, Specific Uses, D, outdoor sports or
recreation
2 field or performance areas; C, incorporating the
3 Volusia County lighting ordinance into the draft
4 bill; D, reviewing the issue of recourse for
light
5 trespass into neighborhood properties,
identified as
6 Item No. 6; and E, considering a lumen exclusion
per

7 acre in agricultural zones, which is Item No. 7.
8 The Subcommittee agreed to include the
9 recommendations for Section .070 and Section
10 submitted by Dr. Altenberg, and with time
11 today, members, I would like to review the
12 action items from the last meeting: One, which
13 to discuss options for the redraft of Section
14 Lamp Standards, to incorporate the use of high
15 pressure sodium and low pressure sodium, and
16 review language for the creation of an outdoor
17 lighting standards committee.
18 So with that, we'll proceed with public
19 testimony. We have one individual signed up.
20 Before we have our public testimony, the Chair
21 like to remind everyone that those wishing to
22 testify should sign up here at the secretary's
23 Testimony shall be limited to three minutes,
24 additional minute to conclude, and if your
25 is not completed, you'll be given an additional

.090 as
permitting
following
is
.070,
two, to
would
desk.
with an
testimony

5

And 1 three minutes after all others have been heard.
the 2 testifiers are requested to state their name for
and 3 record and to indicate who they're representing,
4 to minimize any disturbances during the meeting,
or 5 please turn off all your cell phones and pagers
6 set them to the silent mode.
call up 7 So with that, the Chair would like to
8 Mr. Steve Sutrov.
9 . . .BEGIN PUBLIC TESTIMONY. . .
is 10 MR. SUTROV: Aloha. Good morning, everyone. My name
11 Steve Sutrov. I'm here to testify on behalf of
12 myself, and I am also a board member of the Kula
this 13 Community Association, which has interests in
14 issue, this draft ordinance. Also, I was on the
ad 15 hoc committee for outdoor lighting standards
which 16 helped draft the draft that we're discussing
today, 17 and also I'm a current new member of the Street
18 Lighting Committee on Maui County, and I have a
my 19 couple comments from that perspective, also from
20 own personal view in a moment.

the 21 First thing, I had to leave early from
22 last meeting that we had here and I had to go to
run, 23 work, and I was able to give testimony and then
that 24 but -- and the accounts of that meeting was --
one 25 were written in -- I get the South Maui Times or

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of 1 of the newspapers that I was able to get a copy
they're 2 kind of upset me. You know, I'm not sure if
verified 3 true or not. I wasn't here and I haven't
know, 4 them with public record, but to hear that, you
not 5 Rick Chong was appointed or basically put on the
6 board by the Maui Visitor's Bureau or whether or
but it 7 he's under their payroll or not I don't know,
that 8 seemed like, you know, to come up front with
9 would have been nice to hear about that from the
he 10 beginning, rather than -- I had the impression
with 11 was an independent engineer brought in for --

a -- 12 an open mind to help us move forward on this as
lobbyist 13 rather than just from a perspective of one
me. 14 group. You know, it was a little upsetting to
15 Also, the comments made by the Assistant
it 16 Chief of Police Robert Tam Ho -- Tam Ho, yeah,
there. 17 seemed like he was being very confrontational
together 18 It seems like he didn't want to work this
19 as a body either. He seems like he's not coming
20 with any actual fact for us to review, like the
I 21 facts that we have -- had presented in our file
San 22 think right now which has statements from like
23 Diego, in which we'll talk about also, I'm sure,
24 again and again because of what's going on there
25 with their low pressure sodium.

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their 1 They did studies before they enacted
2 initial ordinance in 1982 of a total of seven
3 different cities with low pressure sodium, high

the 4 pressure sodium, and they found no problem with
security 5 police and the enforcement and safety and
their 6 with low pressure sodium, and it says right in
said 7 reports when they compared these cities. They
more 8 it actually -- on a positive side, there was
low 9 quantity and better distribution of light with
less 10 pressure sodium, especially in off-street areas.
larger 11 The lack of color with low pressure sodium was
Diego, 12 important than the improved ability to see
reduced 13 areas more clearly. This is a police report
Angeles 14 basically that we asked for and got from San
15 and also there's reports that eye strain is
16 from the police force there in different Los
17 communities and in San Diego where low pressure
18 sodium is being utilized.
19 Also, with having lunch with Dr. David
20 Crawford from Dark-Sky who is the Director of
made up 21 Dark-Sky International, where it's basically
22 of lighting engineers, he has stated to us in
there 23 Tucson, where he lives and works, the police
24 report no problems with adjusting to low
pressure 25 sodium. So our Maui Police force I think should

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1 come to us with some facts, rather than just
2 emotional cries for no, we don't want it, we
don't
3 like you, you're not listening to us type
attitude.

4 And so I think that's totally wrong as a public
5 servant for him to address this body in that
way.

6 CHAIR MOLINA: Okay. Thank you, Mr. Sutrov. Members,
7 any -- well, first of all, Mr. Sutrov, would you
8 like to come back for another three minutes?

9 MR. SUTROV: I'll come back or if there's no one else
can
10 I just continue?

11 CHAIR MOLINA: Okay. Let me ask the Committee --
12 Committee Secretary, is there anyone else signed
up
13 at this time? Is there anyone in the gallery
14 interested in testifying at this time? Please
sign

15 up. If not, at this time I'll ask the Committee
16 to -- if they have any questions for our
testifier.

17 Mr. Maberry.

18 SUBCOMMITTEE MEMBER MABERRY: Just verification, do we

19 have a copy on record of that study that he's
20 referring to that the police did in San Diego as
21 part of our record?
22 CHAIR MOLINA: Maybe, Mr. Saldana, if you could
comment.
23 MR. SALDANA: (Inaudible).
24 SUBCOMMITTEE MEMBER MABERRY: Is that something we
could
25 ask Mr. Sutrov to provide us?

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have 1 MR. SUTROV: I -- the actual City Manager reports, I
2 had a copy of those somewhere on file, but I can
3 locate those, but the statement that was sent to
us 4 by a -- one of their assistant chiefs, I think
it 5 was, or division chiefs, I do have that and it
6 states and refers to those city reports, but the
7 actual reports themselves I had a copy of them
and 8 I'll try to locate those. If not, we can get --
we 9 can -- they're actually filed city reports for
San 10 Diego City and we can get those easily, I'm
sure, by 11 request.

12 SUBCOMMITTEE MEMBER MABERRY: Thank you.

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

14 SUBCOMMITTEE MEMBER CHONG: Mr. Sutrov, did you know
that

15 San Diego was repealing their LPS requirements
16 except for a buffer zone around Mount Palomar?

17 MR. SUTROV: They are repealing just the city limits.
18 There's still a 30-mile radius --

19 SUBCOMMITTEE MEMBER CHONG: That's right.

20 MR. SUTROV: -- that's surrounding, right?

21 SUBCOMMITTEE MEMBER CHONG: Right, but did you know
that

22 they're removing the LPS requirements?

23 MR. SUTROV: For the entire area all the way up to the
24 observatory?

25 SUBCOMMITTEE MEMBER CHONG: No, I said except for the

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1 buffer zone.

2 MR. SUTROV: Yeah, I know that. The buffer zone is
3 actually a majority of the area. It's 30 miles
4 radius. All their repealing, though, is the
5 business districts, actually, in which they had
low

they 6 pressure sodium there and the business areas
just 7 want to revitalize and so they're changing over
8 their business districts basically to different
9 standards. They're actually increasing their
standards 10 standards as far as other light pollution
11 as far as incorporating the newest technology in
12 fixtures everywhere else. And so the 30-mile
13 radius --
14 CHAIR MOLINA: Mr. Sutrov, I think you answered
15 Mr. Chong's question.
16 Mr. Chong, do you have any other
questions 17 for Mr. Sutrov?
18 SUBCOMMITTEE MEMBER CHONG: Let me set the record
19 straight. I am not on anybody's payroll from
the 20 Maui -- I didn't know any of these guys before I
21 stepped into this Committee, so you should be
22 careful what you say.
23 MR. SUTROV: It's just an impression that the
newspaper 24 gave. That's all I --
25 SUBCOMMITTEE MEMBER CHONG: Impressions are one thing.

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1 Facts are another thing.

2 CHAIR MOLINA: Okay. Thank you, Mr. Chong. Thank
you,

3 Mr. Sutrov. And the Chair would like to just
make a

4 comment, you know, our objective is to try and
5 create some type of ordinance here, and the last
6 thing we need is any finger pointing or
7 confrontations, and I know it's okay to
disagree,

8 but let's kind of refrain from personalizing
9 anything at this point. So the Chair would just
10 like to ask that request for everyone involved
with

11 this matter. Okay. Thank you.

12 Anyone else in the gallery that would
like to

13 testify? Okay, seeing none, the Chair will
close

14 public testimony for today's agenda item.

15 . . .END OF PUBLIC TESTIMONY. . .

16 CHAIR MOLINA: At this point the Chair would like to
call

17 for a brief recess. (Gavel).

18 RECESS: 9:10 a.m.

19 RECONVENE: 9:12 a.m.

20 CHAIR MOLINA: (Gavel). Okay. The Committee on
Outdoor

21 Lighting Standards is now back in session.
Thank

22 you, members, for the -- allowing the Chair to
take

23 a brief recess to get some clarification on some

overview. 24 items. So let me give you, again, a brief
the 25 At our last meeting the Subcommittee considered

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from 1 following matters, which was, one, a memorandum
continue, 2 Dr. Altenberg providing recommendations for
3 revisions to the draft bill. And before I
Member 4 the Chair would like to recognize Committee
of 5 Warren McCord for his attendance. Two, a matrix
6 revisions to Section .070 to Section .110. The
7 Subcommittee voted to accept certain changes as
8 identified on the matrix, and the matrix has
been 9 distributed for your information. And three,
the 10 creation of an Outdoor Lighting Standards
Committee.
Section 11 And the Subcommittee requested that
and 12 .070 be redrafted to incorporate use of both LPS
achieve 13 HPS, and two, Section .110 be redrafted to
14 the goals outlined in Dr. Altenberg's

will 15 recommendations. Three, Corporation Counsel
16 redraft the Volusia County ordinance to be
language 17 incorporated into the draft bill, and four,
Lighting 18 be developed for establishing an Outdoor
19 Standards Committee. So with all of that said,
any 20 questions before I continue? Okay.
21 The personnel in attendance for today's
22 session, the Chair's invited the representatives
23 from the Public Works and Waste Management, Greg
24 Nakao, and also Cary Yamashita and Howard
Hanzawa.
25 And we have -- we hope to have from the Planning

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and we 1 Department Mr. Joe Alueta. From the Parks and
2 Recreation Department we have Floyd Miyazono,
3 have the Police Department on call, and from the
4 County Energy Department, Kal Kobayashi.
has 5 And resource personnel, again, the Chair
6 invited the following resource people: State
7 Department of Health, their representative was

did

Section

would

on

was

less

and

excluded

it in

Committee

1 of your binders, the July 9th letter, July 9th,
2 2002, that the Chair sent out to you regarding
3 Dr. Altenberg's recommendations. Last time we
4 not address the proposed recommendation for
5 .050, General Exemptions, so let us commence our
6 review of this recommendation, and the Chair
7 like to ask Dr. Altenberg to give us an overview
8 the proposed revision for this section.
9 SUBCOMMITTEE MEMBER ALTENBERG: Well, the original
10 inclusion of the exemption of fossil fuel light
11 borrowed from the Big Island's ordinance which
12 exempts fossil fuel light. However, it has been
13 pointed out to me subsequently there's really
14 nothing about fossil fuel light that makes it
15 of a problem for both light pollution and light
16 trespass and interference with wildlife than any
17 other source of light. It's full spectrum light
18 typically completely unshielded. So my
19 recommendation was that that section that
20 it simply be deleted from the bill, and that's
21 a nutshell. If there are any questions, I'd be
22 happy to --
23 CHAIR MOLINA: Okay. Thank you, Dr. Altenberg.
24 members, any questions or comments with Dr.

25 Altenberg's recommendations? Mr. McCord.

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eliminate 1 SUBCOMMITTEE MEMBER McCORD: Does that mean we
2 all the little tiki torches at the hotels?
3 CHAIR MOLINA: Good question. Would that be -- is
that 4 part of the recommendation, Doctor?
5 SUBCOMMITTEE MEMBER ALTENBERG: No, but the -- in
other 6 words, the tiki torches would be included in any
7 regulation of unshielded lamps, and so basically
it 8 wouldn't be given a special consideration
outside of 9 that.
10 CHAIR MOLINA: Okay. Mr. McCord, does that answer
your 11 question?
12 SUBCOMMITTEE MEMBER McCORD: I don't know how you
shield 13 one of those tiki lamps.
14 SUBCOMMITTEE MEMBER ALTENBERG: Well, as -- something
15 that -- some information that would need to be
found 16 out is what's the typical lumen level of a tiki
17 torch. However, in terms of the issues of

likely 18 protection of sea turtles, those torches are
and, 19 to interfere with their -- with their nesting,
that. 20 you know, we need to -- we need to deal with
21 So later in today's session we're going
to 22 discuss the Volusia County's approach, which is
23 during turtle nesting season having more
restrictive 24 regulations on what kind of lights are
illuminating 25 sandy beaches, but, I mean, the torches are
likely

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they 1 to be a problem for sea turtles, and as such
Subcommittee. 2 should be dealt with I think by this
3 And, you know, in terms of tiki torches that are
4 away from the beach, it's possible that they can
be 5 dealt with like other architectural accent
lighting 6 which we allow to be unshielded but have
7 restrictions on time.
8 CHAIR MOLINA: Okay. Thank you, Dr. Altenberg.

9 Mr. Chong.

10 SUBCOMMITTEE MEMBER CHONG: Would it be acceptable to

11 limit tiki torches within a certain distance of

the

12 beach or allow them and have them to be

extinguished

13 at a certain time of the evening?

14 SUBCOMMITTEE MEMBER ALTENBERG: Yeah, that's a

question I

15 would -- I want to have a turtle expert talk

about,

16 whether -- who is not in attendance. Do lights

17 protect -- is there a time -- basically do the

18 lights have to be out from sundown to sunrise or

is

19 there some time after which they can be turned

off

20 and not interfere with turtle nesting. That's

the

21 question I don't know, that we need to find out,

22 because presumably if you said lights out after

23 10:00 p.m. and that was able to protect the sea

24 turtle nesting, then that would be a good

solution,

25 it would seem to me, but that information I

think we

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1 need to get from our turtle experts.

2 CHAIR MOLINA: Okay. Thank you, Dr. Altenberg.
3 Mr. Chong.
4 SUBCOMMITTEE MEMBER CHONG: You know, tiki torches
let's
5 say on the mauka side of buildings that are away
6 from the beach and not seen by the turtles, one,
7 they're not -- there's not a large proliferation
of
8 these, so I would think it would be reasonable
to
9 exempt those and then just focus on the ones
that
10 are within view of the beach and then talk to
Hannah
11 and all the other experts about if there is a
middle
12 point where they can say it's on from only dusk
till
13 10:00 p.m. or 11:00 p.m.
14 There is a lot of drama and value that
the
15 resort people and their guests get out of the
play
16 and the things that a tiki torch provides them,
and
17 I haven't worked on a resort that didn't have
tiki
18 torches, and that's just what they like to see
and
19 that's part of their marketing and their
experience.
20 So I think there needs to be a little bit of
21 consideration before we just hammer it out and
say
22 no tiki torches.

23 SUBCOMMITTEE MEMBER ALTENBERG: Question.
24 CHAIR MOLINA: Proceed.
25 SUBCOMMITTEE MEMBER ALTENBERG: Do the resorts
typically

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they 1 have the tiki torches on all night long or do
2 turn them off after a certain time?
3 CHAIR MOLINA: I think maybe, if the Chair could
4 interject, we could have somebody from the hotel
5 industry to try and answer Dr. Altenberg's
question,
6 maybe Mr. George or Ms. Vencl, if you don't mind
7 coming down.
take 8 Ms. Vencl, if you'd like to come up and
and 9 a seat here, get comfortable. If you'd go ahead
10 state your name for the record before you
proceed.
Executive 11 MS. VENCL: My name is Terryl Vencl. I'm the
12 Director of the Maui Hotel Association. Tiki
13 torches go out now at about 11:00 o'clock as a
rule.
torches 14 One other thing I'd like to say about tiki

they're 15 out on the walkways or the boardwalk areas,
16 used for lighting safety purposes and security
17 purposes as well as the ambience, but Mr. Chong
is 18 correct in that we certainly do try to present a
19 certain ambience along all of our resort areas,
and 20 if we take out all of the things that help to
bring 21 people here while other folks are allowing it,
22 you're cutting our legs off with regard to
23 competition.
24 CHAIR MOLINA: Any other questions for Ms. Venc1 at
this 25 time? Okay, seeing none, thank you. Mr.
McCord.

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little 1 SUBCOMMITTEE MEMBER McCORD: I suggest we take a
2 alternative to this and put a time limit on it,
3 then. You know, cut off at 11:00 or something
like 4 that. Whatever's convenient. I can't see that
we 5 can do a lot of damage with those on from 7:00
to 6 11:00.

7 CHAIR MOLINA: Mr. Maberry.
8 SUBCOMMITTEE MEMBER MABERRY: I agree with Mr. McCord.
I
9 was down in the resort area this weekend and it
is a
10 very nice ambience and it does provide the
walkways
11 with visibility and yet they definitely could do
12 worst things, you know, for example, some kind
of up
13 lighting along the walkways.
14 CHAIR MOLINA: Okay. Any other comments on tiki
torches?
15 Dr. Altenberg.
16 SUBCOMMITTEE MEMBER ALTENBERG: I have to agree with
17 Ms. Venc1 that I love tiki torches. So, you
know, I
18 would just try to figure out if -- we need to
know
19 whether they are a problem for the turtles the
way
20 they're currently being used, and that would be
the
21 only thing I could see. Otherwise, I would --
it
22 would seem that they would fit in with the class
of
23 architectural accent lighting and -- well, as
you
24 mentioned, though, however, they're also for
25 security and for illumination. So basically
what I

1 would be proposing is that they be included in
2 whatever regulations are adopted for those
classes
3 of lighting and -- you know, unless we feel that
4 their value -- their decorative value merits
them
5 being put into a -- their own class. We have an
6 indigenous architecture ordinance. Perhaps we
need
7 an indigenous lighting ordinance as well.
8 CHAIR MOLINA: Food for thought. Okay. Members, any
9 other comments on Section .050? Mr. Chong.
10 SUBCOMMITTEE MEMBER CHONG: I've always been
suggesting
11 that we should exempt water feature lighting.
It is
12 not a major -- it is not a major producer of
light
13 trespass and light pollution, in my mind, and
14 there's a lot of safety issues with leaving your
15 lights on. They don't make a fully shielded
pool
16 light, I'm sorry. So leaving them on for the
17 resorts defines water's edge for those who may
be
18 walking the grounds late at night. I think
19 exempting all water feature lighting would not
harm
20 the environment, and that's my opinion, but I
think

21 that would be pretty accurate.

22 CHAIR MOLINA: Okay. Thank you, Mr. Chong.

23 Dr. Altenberg.

24 SUBCOMMITTEE MEMBER ALTENBERG: A question with
respect to

25 that. Later on I have a proposal about the --

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1 certain exclusion from full shielding
requirements

2 of lumens per acre and I thought that the water

3 features could be included within that. How do
you

4 think that would be as a way of dealing with it?

5 SUBCOMMITTEE MEMBER CHONG: I would -- I guess I
wouldn't

6 want to include that. We don't -- as lighting

7 design goes, we don't take any light addition or

8 light coming out of the water feature and use
that

9 to light the area. I mean, it's there to light

10 water and obviously some play in the water. If
you

11 wanted to limit it, you could say some -- you
know,

12 half the lights or something like that or --
have to

13 be turned off, but there needs to be some

the 14 illumination in the water so that you can see
15 water.
if 16 SUBCOMMITTEE MEMBER ALTENBERG: Well, the idea is that
17 somebody -- somebody should be allowed to fully
18 light their pools, but that would deduct from
their 19 sort of allocation of lumens per acre that they
can 20 have unshielded. So that if they light up their
21 pools, they have to have a reduction somewhere
else 22 in unshielded lights.
23 CHAIR MOLINA: Okay. Thank you, Dr. Altenberg. So,
24 members, before we move on to Section .110, any
25 other comments or recommendations for Section
.050

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1 that the Chair can make note of? Okay. Seeing
2 none, all right, let's move on to Section .110,
3 specific -- go ahead, Mr. Saldana.
4 MR. SALDANA: May I clarify with the Subcommittee is
5 there -- in terms of the recommendation from
6 Dr. Altenberg, is there a direction as to
whether or

7 not you want to accept, reject, or modify that
8 particular recommendation?
9 CHAIR MOLINA: Okay. Mr. Maberry.
10 SUBCOMMITTEE MEMBER MABERRY: Mr. Chair, I'd like to
make
11 a motion that we simply modify B so that it
reflects
12 the fact that the fossil light should be
13 extinguished by 11:00 p.m.
14 CHAIR MOLINA: Okay. Is there a second?
15 SUBCOMMITTEE MEMBER McCORD: Second.
16 CHAIR MOLINA: Okay. It's been moved by Mr. Maberry
and
17 seconded by Mr. McCord. Discussion, Mr.
Maberry, as
18 the maker of the motion.
19 SUBCOMMITTEE MEMBER MABERRY: I think it's been
discussed.
20 CHAIR MOLINA: Okay. Committee members, any other
21 discussion for the motion on the floor? Seeing
22 none, all those in favor say "aye."
23 SUBCOMMITTEE MEMBERS VOICED AYE.
24 CHAIR MOLINA: All those opposed?
25

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Chong, 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 Bernard and
7 Vice-Chair Tavares.
8 MOTION CARRIED.
9 ACTION: APPROVE revision to Section .050,
10 relating to a time limit on fossil
11 fuel
12 light.
13 CHAIR MOLINA: Okay. Chair marks it unanimous. Any
14 other
15 discussion on Section .050? Mr. Chong.
16 SUBCOMMITTEE MEMBER CHONG: So what are we going to do
17 about water features? Do we have to make a
18 motion
19 to add a paragraph on exempting water features?
20 CHAIR MOLINA: For the Chair we could -- it could be
21 done
22 either way, in the form of a motion or just as a
23 recommendation to exempt water features from the
24 ordinance. The Chair will leave it to the
25 pleasure
26 of the body, if someone would like to make a
27 motion,
28 or we could just leave it as a recommendation.
29 SUBCOMMITTEE MEMBER CHONG: Well, then, I'd like to
30 make a
31 motion that we add a paragraph to exempt water
32 feature lighting from the ordinance.
33 SUBCOMMITTEE MEMBER McCORD: Second.
34 CHAIR MOLINA: Okay. It's been moved by Mr. Chong,
35 seconded by Mr. McCord. Mr. Chong, as the maker
36 of

25 the motion, you have the floor.

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24

1 SUBCOMMITTEE MEMBER CHONG: I already stated what I
2 believe is important.

3 CHAIR MOLINA: Okay. Any other discussion?

4 Dr. Altenberg.

5 SUBCOMMITTEE MEMBER ALTENBERG: Do you think water
feature

6 lighting is something that would be self-
limiting or

7 is it something that could potentially be a
problem

8 in terms of if somebody wants to put in huge
amounts

9 of water feature lighting, that would be a
problem

10 either for light trespass or light pollution.

11 SUBCOMMITTEE MEMBER CHONG: Well, yeah, with this -- I

12 mean, fortunately we don't do our resorts like
Vegas

13 does them, and I've done many other resorts here
on

14 Maui and we've never done a water feature where
it's

15 just way overboard. I think water feature
lighting,

16 if you over do it, it's actually very ugly. So
it's

good
of
to
mike
request

17 very important to do it in good taste and in
18 values. And, again, it's such a small component
19 the outdoor lighting out there, I can't see
20 regulating getting us any major dent in what's
21 already thrown into the sky. So -- and again,
22 me, the safety issue is way more important.
23 CHAIR MOLINA: Okay. Mr. Chong, before I yield the
24 to Dr. Altenberg, if I could ask just one
25 from you, Mr. Chong, can you give us a specific

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you
part
one
time.

1 definition of water feature lighting? I know
2 gave some examples, but do you have any specific
3 definition that we could use for the staff as
4 of the Subcommittee report? If you don't have
5 now, you could provide that for us at a later
6 SUBCOMMITTEE MEMBER CHONG: I can do that.
7 CHAIR MOLINA: Okay. Dr. Altenberg.
8 SUBCOMMITTEE MEMBER ALTENBERG: I guess the worst case

decides 9 scenario is some hotel designer from Vegas
know, 10 to make their grand water feature on Maui, you
and 11 their fountain of Pele or something like that
through 12 with the spotlights going up into the sky
water 13 the water and if it -- if the entire class of
means to 14 features is excluded, there wouldn't be any
that 15 tell them no. So I'm wondering is there a way
16 such abuses of water features could be prevented
17 with proper language?
18 CHAIR MOLINA: Mr. Chong, just to let you know, we do
have 19 the resource personnel from the hotel, if you'd
like 20 to defer or you can respond. Okay, Ms. Vencl.
soul 21 MS. VENCL: I guess I'd like to think if some brave
22 from Vegas comes here and wants to light up a
before it 23 Disneyland on our properties, it will stop
me 24 gets to lighting, but should it not, it seems to
it 25 that there are ways to deal with that issue and

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I 1 wouldn't get through Planning. I can't imagine.
 2 don't know that we have to have something that
 3 says -- I mean I guess I just can't foresee that
they 4 happening, but then I'm sure people would say
 5 haven't -- couldn't foresee other things that
have 6 happened.
 7 But I guess from my perspective, when I -
- 8 when I'm in a property and I'm high in a
property 9 and I'm looking down at the pool, the lighting
is so 10 minimal. You see the blue water, but it doesn't
-- 11 in my mind, at least, it doesn't -- it's not
 12 obstructionist. It's not intrusive. It's not
any 13 of those things. And so even with a telescope,
it 14 seems to me that it would be more like a duller
 15 light than some of the other bigger issues that
we 16 really do need to tackle, and so I guess with
that 17 said, I think that keeping things in perspective
and 18 dealing with like the big pie, the bigger
picture 19 and letting some other things go until we have
to do 20 that. If we -- if somebody did that, somewhere

got 21 along the line somebody would come and say we've
lighting, 22 to stop that. We can't allow that kind of
23 and I think that would happen.
24 CHAIR MOLINA: Okay. Mr. Maberry.
support 25 SUBCOMMITTEE MEMBER MABERRY: Mr. Chair, I could

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know, 1 this motion in the sense that providing, you
pools 2 protection that lighting primarily on swimming
like 3 and on artificial fountains and such. I'd just
of 4 to be sure that this wouldn't include lighting
5 the ocean.
6 CHAIR MOLINA: Mr. Chong, your comments.
7 SUBCOMMITTEE MEMBER CHONG: I mean the language could
lighting 8 definitely state that it does not include
take 9 of the ocean. I mean that's an easy thing to
10 care of.
11 CHAIR MOLINA: For strictly premises on land.
12 SUBCOMMITTEE MEMBER CHONG: Right.
13 SUBCOMMITTEE MEMBER MABERRY: Thank you.

14 CHAIR MOLINA: Dr. Altenberg.
15 SUBCOMMITTEE MEMBER ALTENBERG: Well, you mentioned
that
16 the current levels of lighting that are used in
17 water features are not excessive. Can you come
up
18 with a lumen figure such that we can use the
current
19 standards as a limit?
20 SUBCOMMITTEE MEMBER CHONG: I wish I could. What I
may
21 offer is in most water features there's always
some
22 general -- general ambient illumination, and
those
23 are the lights that are built into the walls.
If
24 the water feature has, let's say, a fountain or
25 something that's shooting water up in the air,

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1 there's usually some light that's based at the
2 bottom of that and it's lighting the jet stream.
3 That could be written into the language where
lights
4 that do those kinds of things have to be turned
off
5 by 11:00 p.m., whereas all the other general

on 6 illumination in the water are allowed to remain
specific 7 all night long. So there can be some more
of 8 language in this exemption to limit those types
9 lights.
Maberry. 10 CHAIR MOLINA: Okay. Thank you, Mr. Chong. Mr.
under 11 SUBCOMMITTEE MEMBER MABERRY: Clarification. I'm
all 12 the impression that you illuminate your pools
13 night long to make sure no one falls into them,
a 14 right? So we've got to be careful about putting
15 time limitation on lighting of swimming pools.
16 SUBCOMMITTEE MEMBER CHONG: Right. I'm not-- in the
feature 17 pools, yes, but when you have a large water
out 18 that has a fountain, a bowl and water spitting
because 19 of the bowl, the effect is to up light it,
20 that's the only way to do it, and we could limit
with 21 those. You could still see the body of water
22 the rest of the illumination on.
23 CHAIR MOLINA: Okay. Mr. McCord.
the 24 SUBCOMMITTEE MEMBER MCCORD: I'd just like to caution
25 Committee, let's not get bogged down here in

1 minutia.

2 CHAIR MOLINA: Okay. Thank you, Mr. McCord. All
right,

3 I'll permit one more time to speak to the motion
on

4 the floor so we can move on and take a vote.

5 Dr. Altenberg.

6 SUBCOMMITTEE MEMBER ALTENBERG: I guess I would argue
that

7 it would still be better to include water
features

8 as either architectural accent lighting and fall
9 under those regulations. You know, in the case
of

10 the fountains or in the case of swimming pools,
that

11 would fall under safety in the illumination, in
12 which case those could be left on all night, and
13 maybe put in a specific exemption for, you know,
14 swimming pools about having to be shielded,
rather

15 than exempting the entire -- the entire class
from

16 the entire ordinance.

17 It seems to me that they really do -- the
18 fountains fit under architectural accent
lighting

19 and -- of, you know, like shining lights into
trees

part 20 is also unshielded and so that they're really a
for 21 of that class. Swimming pool lights are, again,
so I 22 safety and they would fit into that class, and
23 would, as a friendly amendment, suggest that an
specifically 24 exemption of swimming pool lights be
25 put in from shielding requirements and that

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accent 1 architectural -- that the other architectural
2 lighting purposes for water features, the water
3 features be included in that class.
4 CHAIR MOLINA: Okay. Any comments? Mr. Chong.
5 SUBCOMMITTEE MEMBER CHONG: We don't normally consider
6 water feature lighting as architectural accent
7 lighting, and that's just a business thing.
Water 8 feature lighting is a completely separate thing
9 sometimes not even done by us lighting
designers, 10 just done by the water feature guy. So it's --
I'm 11 not necessarily completely sold on that idea.
12 SUBCOMMITTEE MEMBER ALTENBERG: Well, perhaps --

13 CHAIR MOLINA: We could add that, you know, as part of
14 our -- well, it may not be a recommendation but
it
15 could be so noted so later, you know, we could
16 incorporate that, if that's the pleasure of the
body
17 at a later time. Dr. Altenberg.
18 SUBCOMMITTEE MEMBER ALTENBERG: Well, I gather, then,
it's
19 improper use of terminology to call it
architectural
20 accent lighting, but it could be simply -- one
of
21 the options we have for .070 talks about putting
22 different classes of lighting, one of which
23 includes -- I think it's a class 3, includes
24 architectural accent lighting. So water feature
25 lighting could be added to that list of class 3.

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1 That's what I would propose as a friendly
amendment.
2 CHAIR MOLINA: Okay.
3 SUBCOMMITTEE MEMBER CHONG: That will work.
4 CHAIR MOLINA: Okay. We can go through the process,
an
5 amendment and a second, amendment to the motion,
or

just

prefer

say

Chong,

6 we could just add it in there as a friendly
7 amendment. Do we need to get formal or can we
8 add that in there? Members? The Chair would
9 to just leave it as a friendly rather than going
10 through the formalities of an amendment to the
11 motion on the floor. So we'll just go ahead and
12 include that in the proposal.

13 Okay. Any other discussion on the main
14 motion? Okay. Seeing none, all those in favor

15 "aye."

16 SUBCOMMITTEE MEMBERS VOICED AYE.

17 CHAIR MOLINA: All those opposed?

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

22 MOTION CARRIED.

23 ACTION: APPROVE amended revision to Section
24 .050, exempting lighting for water
features.

25 CHAIR MOLINA: Okay. Thank you.

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1 SECTIONS .030, .110, .130, and .150B

2 CHAIR MOLINA: Okay, members, let's move on to Section

3 .110. Prior to that, Sections .070 and Section

.090

4 were agreed upon at our last meeting, so that is

why

5 we're moving forward to Section .110. I'd like

6 to -- it has to do with outdoor sports and

7 recreation fields, and we do have from the Parks

8 Department Mr. Matsui for any questions from the

9 Committee.

10 So at the last meeting, as I stated

earlier,

11 .070 and .090 were agreed upon, and now I'd like

to

12 call upon Dr. Altenberg to give your

recommendations

13 for this section.

14 SUBCOMMITTEE MEMBER ALTENBERG: Well, the -- actually,

the

15 issue has to do with can all outdoor sports and

16 lighting be done fully shielded, and it's come

up in

17 testimony that, for example, to achieve

professional

18 lighting levels, sometimes that has not been

found

19 possible to do. So their slightly more lenient

20 regulations for that level of lighting would

seem to

21 be necessary. So there was -- actually, there's

22 another -- an ordinance from another community

that

23 makes a distinction between professional

lighting

and 24 levels that can't be achieved with full cutoff
25 other outdoor sports lighting. So I'm trying to

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me 1 find my example here. Here we go. It will take
2 a moment to find the exact --
3 CHAIR MOLINA: Okay.
4 SUBCOMMITTEE MEMBER ALTENBERG: -- example for that.
5 CHAIR MOLINA: While you're doing that, Mr. Matsui
from
6 Parks, do you have any comments about this
proposal
7 at this time? Anything you'd like to say, or do
you
8 just want to wait and field questions later?
9 Committee members, any comments so far,
thus
10 far on Section .110 with regard to recreation
fields
11 or performance areas? I guess one field that
comes
12 to mind is King Kekaulike, the lighting there,
so I
13 know that's been an interesting topic of
14 conversation for many.
15 Dr. Altenberg, are you ready?

16 SUBCOMMITTEE MEMBER ALTENBERG: Okay. I have the
17 ordinance from Cottonwood, Arizona, outdoor
lighting
18 standards ordinance, and they have in a Section
H-11
19 dealing with outdoor athletic fields, courts,
20 tracks, or ranges. They consider them class 1,
21 which requires color rendition, and then they
talk
22 about not exceeding the IESNA standards and not
23 having more than half of a foot candle at any
24 location off the parcel of light trespass and
25 concluding all events by 10:00 p.m.

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1 And it says, "Fully shielded lighting
shall
2 be required for fields designed for amateur
3 recreational or non-professional sports
activity.
4 For professional level sports facilities where
fully
5 shielded fixtures are not utilized, acceptable
6 luminaires shall include those which are
provided
7 with internal or external glare control louvers
or
8 both and installed so as to minimize up light
and

greater
fixture
to
provide a
be
the
it
would
would
that
so
9 off-site light trespass and are installed and
10 maintained with aiming angles that permit no
11 than 2 percent of the light emitted by each
12 to protect above the horizontal."
13 So this would -- for example, as I
14 understand, the War Memorial Stadium is lighted
15 professional sports levels, and this would
16 means that they could -- such facilities could
17 built and it would provide some regulation of
18 light pollution and light trespass but not make
19 impossible to build such a facility.
20 CHAIR MOLINA: Okay. Okay, Ms. Vencl, go ahead.
21 MS. VENCL: Question. A special event, a Hula Bowl,
22 what this proposes -- what kind of an effect
23 it have on a Hula Bowl? And the reason I bring
24 up is we have specifically moved the time of day
25 that we get prime time on the mainland, and the

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the
1 ESPNs of the world and the television people of
2 world require certain things. I'm sorry I'm not
3 intelligent enough to tell you what those
certain
4 things are today, but I could certainly find
out,
5 and I guess, if anything, if there's going to be
any
6 sort of restriction, we need to maybe look at
issues
7 of special event type things. Got an answer
8 already.

9 CHAIR MOLINA: I would think the cameras need
lighting,
10 special types of lighting. Mr. Matsui, if you'd
11 like to go ahead and have a seat and give us
your
12 input.

13 MR. MATSUI: As far as -- is this on? Can you hear
me?
14 As far as the War Memorial Stadium or any of our
15 facilities, we have no -- we have not lighted
any of
16 them to professional level. There's like four
17 lighting levels. The professional is the
highest,
18 number 4. Most of ours is at the 3 level, which
is
19 like high school and college. Number 2 level is
20 just regular recreational and number 1 is like
your
21 minimum lighting levels. So as far as
professional,

takes 22 I don't know how that -- you know, we've -- it
the 23 a lot of lighting, and I don't think we're at
24 level where we can afford such lighting.
25 As far as the lower levels, for newer

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the 1 lighting we have been shielding and we've used
lot 2 latest technology, but our problem is we have a
angle 3 of old systems where at that time there's no
4 shielding or the poles were very short so the
to 5 that it illuminates is -- you know, you're going
challenge. 6 have a lot of splash over. So that's our
know, 7 If you pass this ordinance limiting us, you
on 8 it's going to take -- you need to grandfather us
it's 9 our existing facilities. Otherwise, you know,
of 10 a lot of cost for us to go back and replace most
11 our lighting facilities.
12 CHAIR MOLINA: Okay. Mr. Matsui -- I'm sorry,
13 Dr. Altenberg, if I could jump in there. With

can 14 regard to the Musco lighting at Eddie Tam Field,
15 you give us a cost of that lighting that was
16 installed to put in there?
17 MR. MATSUI: I believe it was 300,000 for -- to light
18 the -- it's a soccer field and a ball field.
19 ?: Six poles?
20 MR. MATSUI: Yeah, I think it's like six poles, yeah.
21 Those poles are like 90 feet, 90 feet high.
22 CHAIR MOLINA: Okay. Thank you. Dr. Altenberg you
had a 23 question for --
24 SUBCOMMITTEE MEMBER ALTENBERG: This brings up an
issue 25 that I've talked with Mike Maberry about, which
is

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prospective 1 the question of existing lighting versus
2 lighting, and in a sense they are two separate
3 problems in terms of regulation. The existing
4 lighting is -- it's already -- it's already here
and
5 if we don't do anything about it tomorrow, it
will
6 just continue to be here and there's plenty of
time

7 in the future to deal with it. If prospective
8 lighting -- every day that we delay in terms of
9 having an ordinance is more and more lighting
that's
10 being constructed that is causing light
pollution
11 and light trespass.
12 So one of the thoughts was that we amend
the
13 draft ordinance to deal strictly with new
lighting,
14 leave all existing lighting to another ordinance
15 because, you know, the changing existing
lighting,
16 that's where all your big costs come in and
17 questions of social equity, of where do we want
to
18 invest our money, whose money, et cetera. None
of
19 these -- none of these questions are a part of
20 dealing with future lighting, and so I think if
it
21 would be possible to get a good -- a good
ordinance
22 for dealing with new lighting sooner rather than
23 later by leaving for another day the question of
24 what to do about existing bad lighting, I think
that
25 would be worthwhile. And so I don't know if
this is

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it's 1 the proper point to bring up this issue, but
germane, 2 been -- it was -- in your comments it was
this 3 so I thought I would mention this thought at
4 point.
5 CHAIR MOLINA: Okay. Thank you, Dr. Altenberg.
to 6 Mr. Chong, you had your hand up? You'll yield
7 Mr. Maberry. Mr. Maberry.
8 SUBCOMMITTEE MEMBER MABERRY: Mr. Chair, to that end,
of 9 because I feel it will help facilitate the rest
and 10 this process, if you would allow me to follow up
11 actually make a motion that we delete Section
.130 12 and .150.B from this draft, and that will
13 accomplish, as far as I can tell, what
14 Mr. Altenberg -- what
15 Dr. Altenberg is recommending and allow us to
focus 16 more on future lighting as we discuss these
other 17 sections.
18 CHAIR MOLINA: Okay. All right. There's been a
motion to 19 delete .130 and .150.
20 SUBCOMMITTEE MEMBER MABERRY: .150.B.

that? 21 CHAIR MOLINA: .150.B. Okay. Is there a second to
22 SUBCOMMITTEE MEMBER CHONG: No.
23 CHAIR MOLINA: No, okay.
24 SUBCOMMITTEE MEMBER CHONG: Discussion.
is 25 CHAIR MOLINA: Okay. Right now we have -- the motion

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1 on the floor. If --
then 2 SUBCOMMITTEE MEMBER MABERRY: If there's no second,
3 there's no discussion.
4 CHAIR MOLINA: There's no second at this point?
discussion 5 SUBCOMMITTEE MEMBER McCORD: I'll second it for
6 purposes.
discussion. 7 CHAIR MOLINA: Okay. It's been seconded for
8 Mr. Maberry, as the maker of the motion, you
have 9 the floor.
into 10 SUBCOMMITTEE MEMBER MABERRY: Well, again, sir, going
lighting 11 this we were hoping to address the total
12 problem, but obviously considering our economic
tourism 13 condition and considering the importance of

we're 14 to this County, and as one of the reasons that
-- 15 in better shape than many other counties in this
state, 16 well, probably all the other counties in this
few 17 and because of seeing that we could end up going
think 18 through this whole process, since we only have a
Maui, 19 more months left, and end up with nothing, I
one 20 for the sake of protecting high technology on
our 21 which is also one of -- as I mentioned before,
to 22 of the important legs on this stool as far as
at 23 economy goes and it's one that is growing thanks
dig 24 in part -- in large part due to the facilities
25 the summit of Haleakala, and in order to sort of

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and 1 our toes in somewhere and get a hold of things
2 try to stop the continued degradation of the
good 3 potential use of the summit, that it would be

4 to focus on an ordinance that would address only
5 future lighting installations.

6 CHAIR MOLINA: Okay. Thank you, Mr. McCord [sic].

Any

7 other comments? Mr. McCord.

8 SUBCOMMITTEE MEMBER McCORD: I'm concerned because I'm

not

9 so worried about the resorts, but I really want

10 see some retrofitting on our public sports

11 facilities, tennis courts, football fields, the

12 impact of the King Kekaulike High School, the

13 of what has happened at some of the development

14 around Kamehameha Schools. These are our big

15 polluters and there's got to be some retrofit

there.

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

Chong.

17 SUBCOMMITTEE MEMBER CHONG: First, maybe a friendly

18 amendment to the motion. Instead of only

attacking

19 the new lighting, what if you said any -- if the

20 County decides to completely replace the entire

21 lighting system at an existing field, that also

has

22 to comply versus being -- you know, maybe it's

just

23 verbiage, but that way you're not completely

24 ignoring -- I understand the concern about

forcing

25 the County to spend money, but this way if

they're

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then 1 already planning to replace the entire system,
statement, 2 having them comply, this may be a moot
you're 3 that it now falls into this new category that
4 talking about.

5 CHAIR MOLINA: Mr. Maberry.

6 SUBCOMMITTEE MEMBER MABERRY: I kind of get the
County 7 impression, though, from hearing Pat that the
8 is looking at new technologies as they are being
9 developed in order to protect -- to keep from
around 10 getting complaints from the people who live
11 these facilities.

12 CHAIR MOLINA: I'm sorry. Go ahead.

13 SUBCOMMITTEE MEMBER MABERRY: Excuse me. Anyhow,
that's 14 the impression I got, but I appreciate both of
these 15 comments very much. I would also think that
perhaps 16 the Outdoor Lighting Committee would be able to
17 address some of these things as they come up for
18 retrofit, but I don't know. I definitely agree,
but

in 19 I still think that for us to accomplish anything
focus 20 these next two to three months that we need to
21 primarily on new lighting.
22 CHAIR MOLINA: New lighting, okay. If I could ask
23 Mr. Matsui for his comments. What other areas
are 24 you looking at new lighting? Aside -- you know,
25 Eddie Tam Field you folks put in the Musco
lighting.

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tech 1 Any other parks you've designated for higher
2 lighting, I guess?
3 MR. MATSUI: Right now we're not -- the only thing
we're 4 funded for is redoing the lighting at the War
5 Memorial tennis courts and Wells Park, but we're
6 just replacing the existing lighting. The War
7 Memorial tennis courts, the poles -- the bases
have 8 rusted, so -- one of them fell, so we're
replacing 9 all of the poles.
10 CHAIR MOLINA: Okay.
11 MR. MATSUI: At Wells Park there's not enough light

same 12 fixtures on the poles, so we're still using the
13 poles. We're just adding light fixtures to it.
14 CHAIR MOLINA: All righty. Mr. Chong, followed by
15 Dr. Altenberg.
Are 16 SUBCOMMITTEE MEMBER CHONG: I have a few questions.
they 17 those new lights going in fully shielded or are
18 flood lights with glare shields and things like
19 that?
20 MR. MATSUI: We're looking at shielding it, yeah.
boxes, 21 SUBCOMMITTEE MEMBER CHONG: Fully shielded? Shoe
very 22 basically? For like the tennis courts, it is
23 common to light tennis courts with shoe box type
24 luminaires. In other words, full cutoff, fully
25 shielded --

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1 MR. MATSUI: Shoe box, you mean square?
2 SUBCOMMITTEE MEMBER CHONG: Rectangle, yeah.
3 MR. MATSUI: No. We're using the Musco type.
4 SUBCOMMITTEE MEMBER CHONG: Musco type?
5 MR. MATSUI: Yeah.

the
you'd
for
My
full
company
to
poles
Honolulu,
parks

6 SUBCOMMITTEE MEMBER CHONG: Some other questions. If
7 ordinance were to not put a time limit on when
8 have to convert your systems, is that a problem
9 the County, Parks and Rec?
10 MR. MATSUI: No, I don't think so.
11 SUBCOMMITTEE MEMBER CHONG: The -- another question.
12 understanding is when you do a fully shielded,
13 cutoff lighted field, not play court but field,
14 softball field, baseball field, from like a
15 like Soft Lighting or whatever, and I've talked
16 some other manufacturers, what has to happen,
17 because of the cutoff of the luminaire, the
18 get much taller. Because you have to be able to
19 throw the light up as far as you need it, which
20 means you may have poles upward of 120 feet, 140
21 feet on a pretty good-size baseball field.
22 Is there a safety issue with the County
23 maintenance people climbing that high? That's a
24 serious question, because the County of
25 they limit the heights of their poles in the

44

feet. 1 because their guys don't go any higher than 65
light 2 So, you know -- and it puts a limitation on
in 3 trespass, because now you're limited as to the
4 angle that you're -- to hit the middle point out
5 the field, you may be beyond that angle that an
6 ordinance like this may limit you to because
their 7 safety people say we ain't going above 65 feet.
So 8 is that an issue also for this County?
9 MR. MATSUI: Yes, that would be an issue. I think our
10 highest poles are 90 feet. If you start going
11 higher than that, you know, because you -- at
that 12 height you need like a ladder truck, you know,
to 13 get up there. So, yeah, that's a concern. I'm
not 14 really sure. You know, when you start saying
this 15 degree of angles and you end up with a 120-foot
16 pole, you know, I'd have to look at that, but my
17 understanding is like for a tennis court, a 40-
foot 18 pole would be high enough; a ball field, a 90-
foot 19 pole would be high enough, but I may be wrong.
I

what 20 mean, the standards might be even stricter than
21 we're applying now, so we might end up with a
22 120-foot pole and that would be a problem trying
23 to -- changing the bulbs, that kind of thing.
24 CHAIR MOLINA: Dr. Altenberg.
25 SUBCOMMITTEE MEMBER ALTENBERG: Just as point of

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1 clarification on that matter, having spoken with
2 Soft Lighting Systems, they said that for their
--
3 their top -- their highest poles are 80 feet,
and
4 these are -- so they're probably the most
strictly
5 fully shielded lighting -- sports lighting
company
6 that I've come across, and so that's for their
7 brightest, largest field size is the 80-foot
pole.
8 So at least from what I've gathered from them, a
9 90-foot limit would not be a problem.
10 Let's see, addressing a couple of the
other
11 comments. I think -- I agree with Rick that
when
12 people are, say, repairing or replacing
luminaires

we're 13 that are already in place, we need to be -- if
14 thinking of making this ordinance apply only to
15 future lighting, we need to define what makes
16 something a new light. And I know that some --
in 17 some cases an ordinance will say if some
percentage 18 of the lights of a parking lot are being
replaced, 19 then the new lights have to conform with -- the
new 20 lights would be considered new lights. So I
think 21 I've heard, off the top of my head, like 45
percent, 22 something along those lines. Perhaps somebody
else 23 also recalls that.
24 Now, regarding Warren's comment, the
existing 25 light is a problem and needs to be dealt with at

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what 1 some point. As -- if I recall correctly, from
2 Mike Maberry has said, the current light
pollution 3 on Maui has reduced the power of the telescopes
on

long to 4 Haleakala by 50 percent. They take twice as
if 5 get their photograph as they would if we had --
light 6 we didn't have this light pollution. So the
needs 7 pollution of existing lights is a problem and
proposing 8 to be dealt with, and I'm not -- and I'm
9 that -- not that they be grandfathered in by the
10 ordinance we're considering here, but that they
11 simply be not dealt with.
say 12 Now, some lighting ordinances, they will
13 all existing lighting is exempt, in which case a
14 future ordinance would need to amend that. So
15 I'm -- I would say the amendment I would propose
16 would be simply in the construction, Section
.030,
private 17 that it be changed to read, "All public and
18 outdoor lighting installed in the County of Maui
19 after the effective date of this ordinance shall
be 20 in conformance with the requirements established
by 21 the outdoor lighting standards." And that the
work 22 of crafting an ordinance to deal with existing
light 23 be continued.
because 24 That, to me, is much more complex,

spend 25 when you're making -- mandating that people

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1 money to change their existing lights, that is a
2 social question that needs very careful
3 consideration and I think input from all the
people
4 that would be affected, and that's an area
where,
5 you know, some kind of compromise will have to
be
6 worked out because, you know, you could end up
7 bankrupting everybody on the island with overly
8 severe restrictions and you could end up with a
9 lighting pollution problem that goes off -- goes
10 into the infinite future by inadequate
restrictions.

11 So that actually is a very complicated
social
12 equity question that makes that a difficult
issue,
13 and I'm not proposing in any way that that issue
be
14 neglected, but I think for expediency it's much,
15 much simpler to deal with new lighting --
regulation
16 of new lighting, and if this bill -- or if we,
say,

lighting 17 decided to craft a bill dealing with future
the 18 first and left as a separate bill dealing with
19 existing lighting, I think that would partition
getting a 20 complexity in a way that would facilitate
21 good ordinance sooner to deal with what's
to 22 currently -- you know, in the near future going
23 be built on Maui.
we 24 CHAIR MOLINA: Okay. So, members, at this time while
25 do have a motion on the floor to delete Sections

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to 1 .130 and .150.B, I'd like to first just get back
in 2 Section .110. Any recommendations -- or later
take 3 the meeting we can consider this proposal to
4 out .130 and .150.B. I'd like to focus again on
5 .110 first. Any comments or recommendations on
6 that?
7 MR. SALDANA: Mr. Chair.
8 CHAIR MOLINA: Mr. Saldana.
9 MR. SALDANA: You do have a motion and a second on the

10 floor.

11 CHAIR MOLINA: So maybe we could ask for a withdrawal.

12 MR. SALDANA: Either that or you can just -- there's
been
vote,
13 some level of discussion that they're ready to
14 just take a vote on it and then continue on with
15 .110.

16 CHAIR MOLINA: Okay.

17 SUBCOMMITTEE MEMBER ALTENBERG: Could we restate the
18 motion?

19 CHAIR MOLINA: Okay. The motion was -- maybe,
20 Mr. Maberry, for the record, if you could
restate
21 the motion.

22 SUBCOMMITTEE MEMBER MABERRY: Yes, sir, I could.

23 Basically to delete Section .130 and .150.B,
which
24 would not keep us from establishing another
section
25 during this discussion to address replacement

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1 lighting or upgrades or whatever.

2 CHAIR MOLINA: Okay. Members, any further discussion
on
3 the motion on the floor? Dr. Altenberg.

4 SUBCOMMITTEE MEMBER ALTENBERG: A friendly amendment,
5 which would be in .030 to add in the
construction
6 section --
7 SUBCOMMITTEE MEMBER MABERRY: Which is where?
8 SUBCOMMITTEE MEMBER ALTENBERG: .030.
9 CHAIR MOLINA: Section .030.
10 SUBCOMMITTEE MEMBER MABERRY: Oh, .030, .030, sorry.
11 SUBCOMMITTEE MEMBER ALTENBERG: To add -- to amend
that to
12 read, "All public and private outdoor lighting
13 installed in the County of Maui after the
effective
14 date of this ordinance."
15 SUBCOMMITTEE MEMBER MABERRY: I would accept that.
16 SUBCOMMITTEE MEMBER McCORD: Second will accept.
17 CHAIR MOLINA: All right. So we have an amendment to
the
18 motion. Dr. Altenberg, as the maker of the
19 amendment, your comments. Or you've already
shared
20 with us -- any additional comments?
21 SUBCOMMITTEE MEMBER ALTENBERG: No.
22 CHAIR MOLINA: Members, any other comments on the
amend?
23 Okay. Let's go ahead and vote on the amendment.
24 All those in favor say "aye."
25 SUBCOMMITTEE MEMBERS VOICED AYE.

1 CHAIR MOLINA: All those opposed?

2 VOTE: AYES: Subcommittee members Altenberg,
Chong, Maberry, McCord, and Chair Molina.

3 NOES: None.

4 ABSTAIN: None.

5 ABSENT: None.

6 EXC.: Subcommittee member Bernard and
Vice-Chair Tavares.

7 MOTION CARRIED.

8 ACTION: APPROVE amendment to main motion
(Section .030).

9 CHAIR MOLINA: Okay. Now let's go back to the main
motion

10 to delete Section .130 and .150.B. Any other

11 discussion? All those in favor say "aye."

12 SUBCOMMITTEE MEMBERS VOICED AYE.

13 CHAIR MOLINA: All those opposed?

14 VOTE: AYES: Subcommittee members Altenberg,
Chong, Maberry, McCord, and Chair Molina.

15 NOES: None.

16 ABSTAIN: None.

17 ABSENT: None.

18 EXC.: Subcommittee member Bernard and
Vice-Chair Tavares.

19 MOTION CARRIED.

20 ACTION: APPROVE main motion as amended
(delete Section .130 and .150.B, and revised
Section .030).

21 CHAIR MOLINA: Okay. Thank you. The Chair will mark
it

22 unanimous. Okay.

23 Now, any other comments on .110 or

24 recommendations before we move on? Mr. Chong.

25 SUBCOMMITTEE MEMBER CHONG: Second sentence, "All

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I 1 recreational lighting shall utilize full cutoff
2 luminaires." To me that means it's full cutoff,
3 mean, no light is being emitted above 90
degrees.

4 So I think you'd be hard -- as we've already
5 discussed, that's not completely possible for
every
6 type of ball field, football field out there, so
I
7 think that needs to be amended.

8 CHAIR MOLINA: Okay. And this is Section .110, second
9 sentence. Okay.

10 MR. SALDANA: Mr. Chair.

11 CHAIR MOLINA: Mr. Saldana.

12 MR. SALDANA: Mr. Chong is referring to a proposed
13 language that is -- that was submitted by staff.

14 CHAIR MOLINA: Oh, okay.

15 MR. SALDANA: It is not included in the bill. He's --

16 SUBCOMMITTEE MEMBER CHONG: Sorry.

17 MR. SALDANA: It was in a handout entitled Proposed
18 Language for Section .110, Specific Uses, Item
D,

19 and it was handed out --
20 CHAIR MOLINA: It's in one of our handouts?
21 MR. SALDANA: Yeah.
22 CHAIR MOLINA: Okay, members, if you could take a look
23 at -- let me get my bearings here. This sheet,
24 members.
25 SUBCOMMITTEE MEMBER ALTENBERG: Question.

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1 CHAIR MOLINA: Okay.
2 SUBCOMMITTEE MEMBER ALTENBERG: .110 is Development
3 Permits; is that correct? Or do I have an
outdated draft?
4 draft?
5 SUBCOMMITTEE MEMBER MABERRY: .110 is specific --
6 CHAIR MOLINA: Outdoor sports or recreation field of
7 performance areas. Brief recess, subject to the
8 call of the Chair. (Gavel).
9 RECESS: 10:05 a.m.
10 RECONVENE: 10:07 a.m.
11 CHAIR MOLINA: (Gavel). Outdoor Lighting Standards
12 Subcommittee is now back in session. Thank you,
13 members, for your indulgence. Any other
comments

Chong, 14 with regards to Section .110? I guess, Mr.
say -- 15 anything else? You look like you're about to
16 you have something to say. Okay. Any other
17 comments from either Parks or Public Works?
18 MR. SALDANA: Mr. Chair.
this 19 CHAIR MOLINA: Maybe even Maui Electric on this at
20 point?
21 MR. SALDANA: Excuse me.
22 CHAIR MOLINA: Mr. Saldana.
23 MR. SALDANA: I was just curious, Dr. Altenberg had
that. 24 referenced another ordinance and quoted from
25 Do you want to submit that language as a
possible

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section? 1 amendment or revisions to this particular
2 SUBCOMMITTEE MEMBER ALTENBERG: If I may ask the --
3 perhaps our representative of the Parks, you're
County 4 saying actually none of the lighting in Maui
5 is at professional sports level.
6 MR. MATSUI: That's correct.
7 SUBCOMMITTEE MEMBER ALTENBERG: So putting in a clause

any
the
perhaps
saying
say
given
If
the
internal

8 about exempting professional level from the full
9 shielding would not exempt -- still not exempt
10 future lighting in Maui from having the full
11 shielding requirement.
12 MR. MATSUI: That's right.
13 SUBCOMMITTEE MEMBER ALTENBERG: In that case, then,
14 Musco lights that we have just put in Eddie Tam
15 would not be conforming and so it seems that
16 a more flexible kind of language, instead of
17 professional or non-professional, would be to
18 that if there is available some vendor of sports
19 lighting that can meet the full shielding
20 requirement for a given level that's sought,
21 level of lighting, then that that be required.
22 none is available, then we have the -- put in
23 language that was used here to deal with
24 professional lighting, which is having the
25 or external glare control louvers, minimizing

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more
the
saying
--

1 applied and offset light trespass, and then no
2 than 2 percent of the light projected above the
3 horizontal. That's what Cottonwood requires of
4 professional sports lighting. So instead of
5 professional sports lighting, we would say when
6 when no vendor exists that can provide fully
7 shielded lighting for a certain level of
8 illumination, that it still has to require --
9 conform to these requirements. Should I restate
10 that or was that clear?

11 CHAIR MOLINA: Mr. Matsui.

12 MR. MATSUI: Well, I'd like some time to look at that
13 ordinance and, you know, bounce it off our
14 engineers to see, you know, if -- how restrictive that is.
15 Because by fully shielded, I'm kind of confused
16 on --

17 SUBCOMMITTEE MEMBER ALTENBERG: Well --

18 MR. MATSUI: -- fully shielded.

19 SUBCOMMITTEE MEMBER ALTENBERG: Fully shielded means
20 basically the bottom of the fixture is flat. So
21 the Musco lighting with these louvers is not fully
22 shielded.

23 MR. MATSUI: Okay. Yeah, that would be a problem.

24 SUBCOMMITTEE MEMBER ALTENBERG: So in other words,
what

language 25 I'm suggesting is to put -- to say in the

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1 if no -- if no, what do you call it, vendor,
2 provider can be found to construct the lighting
for
3 the desired level of illumination that's fully
4 shielded, then these less restrictive
requirements,
5 which presumably the Musco lighting would
conform
6 with, would be allowed.

7 In other words, if you can find somebody
to
8 build you a fully shielded sports field that's
going
9 to give you the lighting you want, then you have
to
10 go with that, but if you can't find somebody,
then
11 it falls back to the second tier of the kind of
12 lighting that Musco is providing.

13 MR. MATSUI: Okay. I'd have to look at that, because
the
14 tennis courts at Wells Park, the upper courts,
they
15 have those square fixtures that's --

16 SUBCOMMITTEE MEMBER ALTENBERG: Flat bottom?

17 MR. MATSUI: -- flat bottom and we're replacing those
18 because the lighting isn't real good. I think
19 there's a variance in -- you have dark spots and
20 light spots. So I think at the maximum levels
you
21 might meet the requirements but as far as
uniformity
22 doesn't meet it. So, you know, we've had a lot
of
23 complaints.
24 SUBCOMMITTEE MEMBER ALTENBERG: Yeah. Well, the
language
25 that I'm suggesting here basically would then

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1 require you to see if there's a vendor that can
2 provide better fully shielded lights that
provide
3 the uniformity that you're looking for. For
4 example, I would probably guess that Soft
Lighting
5 Systems could do that, and if they -- if you can
6 find a vendor that could do that, then you would
7 have to go with -- you know, put bids to those
8 vendors. If you can't, then you could put in
the
9 less restrictive shielding.

meet 10 In other words, you still are allowed to
of 11 the lighting requirements that you're desiring
you 12 uniformity, but you have to -- it would require
13 to see if you could do it through fully shielded
14 lighting, because probably the lights you've got
well 15 there are fully shielded but they're not very
design 16 designed, but there may be somebody who can
17 them better that's fully shielded and it would
18 require that you go to those vendors first.
19 CHAIR MOLINA: Dr. Altenberg, can I -- hang on for a
20 second. Mr. Maberry.
21 SUBCOMMITTEE MEMBER MABERRY: Point of clarification.
22 Pat, what I think that would do is help you in
case 23 of dealing with bids, would not force you, you
know, 24 to stick with a lower bid in order to meet the
25 requirements. You might have more flexibility.

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1 Thank you, Mr. Chairman.
2 CHAIR MOLINA: Mr. Matsui.
3 MR. MATSUI: Well, one danger is we'd have just one

4 manufacturer that can meet it and we're stuck
with
5 his bid. You know, the bid won't be
competitive, so
6 we'd have a higher price. You know, if you're
7 looking at excess lighting on adjacent
properties,
8 you know, my understanding is, you know, like
9 without using fully shielded light fixtures, you
can
10 accomplish it without using that fully shielded
11 ones. You can use partial shielding, but it
just --
12 your aiming patterns, just with that you can
13 accomplish it. So I'd be against trying to
limit us
14 to this fully shielded type of fixture.
15 SUBCOMMITTEE MEMBER ALTENBERG: How does the County
deal
16 with in general the question of if you have some
17 requirement and there's only one manufacturer
that
18 can meet that requirement and so you can't get
19 competitive bidding? What does the County do in
20 general in that situation? Say you want to put
in a
21 computer system or, you know, electrical thing
or
22 any kind of County job where there's basically
just
23 one company that can do it?
24 CHAIR MOLINA: So there's no competitive bid process.
25 Mr. Matsui.

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to

sure

1 MR. MATSUI: Yeah, that's true. You know, we put in
2 equal clause, but, you know, if there's only one
3 manufacturer that meet this, it doesn't mean
4 anything. So when you bid it out, you know, you
5 at the mercy of this one company of how much
6 want to charge you.
7 SUBCOMMITTEE MEMBER ALTENBERG: Does it happen much in
8 County business?
9 MR. MATSUI: Most of our stuff is generic. You can
10 several manufacturers. So, you know, just
11 that, you're going to put in your low price, but
12 you know you're the only guy, you know, I don't
13 know, Mr. Chong, _____ business.
14 CHAIR MOLINA: Dr. Altenberg, we can have that
15 answered for you. I guess we could get a
16 I guess, from Finance or whomever with regards
17 the competitive bid process when we do -- I'm
18 there's situations like that that do occur where

you 19 there's just only really one manufacturer that
20 have to deal with, so we could get something in
21 writing for you on that. Okay. Somebody else
had a 22 question or comment?
23 SUBCOMMITTEE MEMBER CHONG: Just a little --
24 CHAIR MOLINA: Mr. Chong.
25 SUBCOMMITTEE MEMBER CHONG: I think what Dr. Altenberg
--

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that 1 maybe another way to put it is he's suggesting
2 the code be written so that you have two options
3 basically. The first option is, obviously, the
most 4 stringent one where you're forced to at least go
5 down the avenue of fully shielded luminaires
with 6 the target being all the IESNA lighting
requirements 7 at the level of play, whether it's professional
all 8 the way down to recreational, and if you're not
able 9 to define equipment that can meet those -- or
10 provide you those standards, then you are
permitted

11 to go to the second option, which is what you're
12 doing now with Musco and other manufacturers
like GE
13 and Hubbell and everybody else who makes porch
light
14 luminaires, but there are some limitations as
far as
15 least light trespass, light pollution and you
have
16 to, like you said, take care of those through
17 aiming. That's real -- what he's trying to say,
and
18 I don't have a problem with that.
19 I think that's -- at least he's forcing
us
20 designers and the engineers of the County and
21 whoever else, the private schools, to look at
that
22 avenue, but he's not hand tying us and saying
that's
23 the only way it's going to work, because you and
I
24 think everybody here has understood now that
there
25 are applications where you're not going to be
able

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1 to use a fully shielded luminaire. It's just
not

2 going to happen. The optics and the technology
3 isn't there yet.

4 CHAIR MOLINA: Okay. Any other -- I'm sorry,
5 Dr. Altenberg.

6 SUBCOMMITTEE MEMBER ALTENBERG: I guess one other
thought.
7 Sort of an escape clause. If you can only find
one
8 vendor that meets the more stringent condition
and
9 there's other vendors that would -- that could
meet
10 the less stringent condition, perhaps you could
say
11 that you'd go to the less stringent condition if
the
12 more stringent would cost you more than some X
13 percent -- cost you X percent more. Now, what X
is
14 you'd have to give me a reasonable idea, 10
percent,
15 20 percent. I don't know. So, you know, what
would
16 your comments be on that basically? Was I clear
17 enough about what I was saying?

18 MR. MATSUI: Yeah, I would prefer that you set more
limits
19 on how much spillover and -- you know, rather
than
20 trying to limit the type of equipment we use. I
21 would rather see you limit the end result of
22 whatever system we use that you end up with this
23 kind of lighting levels and also limiting the
amount

24 of splash over.

25 SUBCOMMITTEE MEMBER ALTENBERG: Well, I mean, that's

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In 1 actually what -- that is currently the language.
2 other words, the way that you prevent light from
Under 3 going above the horizontal is fully shielded.
does 4 partial shielding what the -- what Cottonwood
total 5 is says you can have up to 2 percent of the
-- 6 light going above the horizontal. So that's the
or 7 those are the two limits, either fully shielded
light 8 partially shielded with no more than 2 percent
9 above the horizontal.
about 10 And then they also make specifications
installation 11 foot candles for light spillover. The
foot 12 shall limit off-site spill to a maximum of .5
13 candles at any location on any non-residential
any 14 property and .05 foot candles at any location on
15 residential property as measurable from any

very 16 orientation of the measuring device. It's a
17 specific language. So, let's see, every such
18 lighting system designed shall be certified by a
that 19 registered engineer. So basically the language
were 20 I would be proposing would be exactly as you
21 suggesting.
it 22 MR. MATSUI: Okay. Well, give us some time to look at
23 and we can make our comments.
24 CHAIR MOLINA: Okay. We can do that prior to our next
25 meeting. Okay. All right. Anything else on
.110

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1 before the Chair will call for a break?
is 2 SUBCOMMITTEE MEMBER MABERRY: Clarification. So what
3 going to be the action on this?
4 CHAIR MOLINA: Mr. Chong, I know you had one
this, 5 recommendation. We could go -- according to
used 6 Dr. Altenberg's recommendation about shielding
for 7 by Musco, something to take into consideration

8 ball fields, that's included in your letter from
9 Dr. Altenberg.

10 SUBCOMMITTEE MEMBER MABERRY: Yeah. I just --
11 CHAIR MOLINA: So if the Committee would like --
12 SUBCOMMITTEE MEMBER MABERRY: After this discussion I
was
13 just trying to understand exactly what we're
going
14 to do with this section right now.

15 CHAIR MOLINA: All right. I --
16 SUBCOMMITTEE MEMBER MABERRY: Considering the amount
of
17 discussion that we've had.

18 CHAIR MOLINA: Yeah, just go with the recommendations
that
19 has been made by Dr. Altenberg, if the Committee
20 would support that, or anything else in addition
to.
21 I know Mr. Chong had something else. I'm trying
to
22 recall what you were saying.

23 SUBCOMMITTEE MEMBER CHONG: I'm sorry, we'll go back
to --
24 CHAIR MOLINA: Okay. So we'll go back -- we'll take
into
25 consideration the recommendation made by

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Musco 1 Dr. Altenberg with regard to lighting such as
Department 2 in addition to the request from the Parks
language. 3 for a response for your question regarding
4 Okay.
basically 5 SUBCOMMITTEE MEMBER ALTENBERG: I guess this --
6 the problem of meeting some standard is either
7 nobody does it or they do it but they charge you
8 more for it. So the question is if we get in a
9 situation where they do it but they charge you
more,
are we 10 then the question is, you know, how much more
11 willing to tolerate to be able to meet a better
12 standard. Clearly if nobody does it, then you
can't
13 do anything about it and you have some kind of a
14 more relaxed standard, but I think it would be
15 helpful, because there may be circumstances
where
16 there's two companies, one can meet the full
17 requirements and another meets the less full
18 requirements but they charge you less. When
would
19 we want to go with the cheaper one as a benefit
to
20 the County versus the more expensive one and
what
21 should that difference be. Are there any other
--
22 anything else in procurement policy that has a

Is 23 similar, you know, graded kind of a cost clause?
24 anybody aware of such --
I 25 CHAIR MOLINA: We could get answers to that question,

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1 guess, from Finance as far as the County's
2 perspective.
typically 3 SUBCOMMITTEE MEMBER ALTENBERG: I mean, with --
suppose 4 bidding is you go for the lowest bidder, but
5 you can get some better quality with some higher
higher 6 bid, is there ever any provision to go with a
7 bid?
8 CHAIR MOLINA: That's a good question. Again, the --
have 9 SUBCOMMITTEE MEMBER ALTENBERG: Ms. Vencl seems to
10 information in that regard.
Charter 11 MS. VENCL: I can tell you having just done the
that 12 Commission and some of our things falling into
that. 13 category there are I think ways to deal with
14 I don't know that I've ever heard about just
ever

of
Code
15 being just one vendor. That's a different kind
16 situation. But I'm not sure that the County
17 reads that you have to just necessarily take the
18 lowest bid. Is that -- am I right about that?
19 CHAIR MOLINA: I guess --
20 MS. VENCL: I don't think we have to take the lowest.
21 MR. MATSUI: We do.
22 MS. VENCL: We do?
23 MR. MATSUI: Yes.
but,
24 CHAIR MOLINA: I would think that would be the case,
25 again, I'd like to get a clarification from, you

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1 know, Department of Finance or the appropriate
2 department that could respond to your request,
3 Doctor. Mr. Maberry.
the 4 SUBCOMMITTEE MEMBER MABERRY: Sir, I cannot address
with 5 County obviously, but I have obvious experience
6 State procurement, and we are allowed to do sole
7 sourcing. If we -- you know, if we have
allowed 8 specifications that must be met, then we're

9 to do a sole sourcing.

10 CHAIR MOLINA: So you --

11 SUBCOMMITTEE MEMBER MABERRY: You just fill out a --

12 CHAIR MOLINA: -- don't necessarily have to go for the

13 lowest bid?

14 SUBCOMMITTEE MEMBER MABERRY: Correct, and I would
assume

15 the County would have something similar, and I

16 appreciate what Dr. Altenberg is doing and I
believe

17 we should definitely give the amount of time

18 necessary to have this exchange, but personally
I

19 would -- I would think it would be more
enforceable

20 and more consistent if we actually do have
wording

21 with regards to the measurements, as opposed to

22 something sort of vague here.

23 CHAIR MOLINA: Okay. That could be considered as a

24 recommendation for Section .110.

25 SUBCOMMITTEE MEMBER MABERRY: Thank you, sir.

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1 CHAIR MOLINA: Okay. Any others? Okay. Hearing
none,

2 we'll just go ahead and take that as a

formal 3 recommendation, rather than going through the
4 process of a motion and a second, if that's okay
5 with the body. Okay.
6 MR. SALDANA: Mr. Chair.
7 CHAIR MOLINA: Mr. Saldana.
legislative 8 MR. SALDANA: Just got a call from one of our
and 9 attorneys and they had put their heads together
10 were listening to the conversation and suggested
11 that we don't necessarily have to accept the
lowest 12 bid. However, if we do not take the lowest bid,
we 13 have to justify why we did not take it.
14 CHAIR MOLINA: Okay. That adds more clarity to the
issue.
15 Dr. Altenberg, does that answer your question?
I 16 would like to make sure we get that in writing,
17 Mr. Saldana, too, if possible.
18 Okay. Seeing no other concerns regarding
19 Section .110, the Chair will call for a break
and we 20 shall reconvene at 10:35. (Gavel).
21 RECESS: 10:26 a.m.
22 RECONVENE: 10:40 a.m.
23 CHAIR MOLINA: (Gavel). Committee on Outdoor Lighting
24 Standards session for August 21st is now back in
25 session.

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1 VOLUSIA, FLORIDA ORDINANCE

2 CHAIR MOLINA: Members, let's look at Item No. 5,

3 Dr. Altenberg's next recommendation. In a

4 memorandum that you have is a request to
incorporate

5 the Volusia County ordinance into the draft
bill.

6 The Subcommittee requested that Corporation
Counsel

7 redraft the Volusia ordinance to read
consistently

8 with that of the Maui County Code. The
Corporation

9 Counsel has responded and has requested some

10 clarification from this Subcommittee.

11 Prior to -- excuse me. Prior to hearing
from

12 Mr. Garneau from the Corp. Counsel's Office,
Chair

13 would like to ask, again, to have Dr. Altenberg

14 provide us with a brief overview or
recommendation

15 of this item.

16 SUBCOMMITTEE MEMBER ALTENBERG: Okay. Volusia County,

17 Florida, which includes Daytona Beach, a major

18 resort area, went through an extensive legal
process

19 in coming up with its ordinance for protecting
the

20 endangered sea turtles. They were, as I
understand,
21 sued for failing to meet the environmental --
the
22 Endangered Species Act in protecting the turtle
23 nesting areas, and after a multi-million dollar
cost
24 to the County for defending themselves in this
25 lawsuit they came up with this ordinance.

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1 So we have the same turtles, the same
2 endangered species on Maui, and are subject to
the
3 same Endangered Species Act, and they
essentially
4 have the same biology. As I understand, their
5 nesting season is slightly longer here on Maui
than
6 in Florida but -- so instead of trying to come
up
7 with an ordinance to -- from scratch or putting
8 Maui -- exposing Maui to the possibility of
going
9 through the Endangered Species Act lawsuits, I
10 thought we would see if the Volusia County
ordinance
11 would be satisfactory for Maui and -- because
that's

12 currently on the books. Though I do -- as I do
13 recall, some hotel associations have launched a
14 countersuit about the new ordinances that's
still in
15 the courts. I'm not sure on that, but -- so
that's
16 the background to proposing that we examine the
code
17 that's currently the law in Volusia County,
Florida.
18 So...
19 CHAIR MOLINA: Okay. Thank you, Dr. Altenberg.
20 Mr. Garneau, can you share your comments
now.
21 MR. GARNEAU: Sure. I'd be happy to. When I got to -
- I
22 actually went on line and got a copy of the
Volusia
23 County Land Development Code. There are quite a
lot
24 of differences between their code and the Maui
25 County Code, and so what I tried to do is I took

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1 their code and went through it and made comments
2 where I thought would be appropriate. And they
3 weren't meant to be exhaustive. I just spent
what

4 time I could on it and, you know, at first blush
5 some of the issues I thought the Subcommittee
might like to take up.
6
7 I see no problem with incorporating this
type of language into the proposed ordinance, but a
lot of decisions would have to be made about what is
8 applicable, how you want to handle it, and so
9 forth,
10 and actually I'm sorry that Ms. Bernard is not
here today, because I was hoping that she would be
11 able to answer a lot of these questions that I had
12 about it. I don't know whether she has submitted any
13 response to this or whether she's seen this, but
I would just ask that the Subcommittee spend some
14 time maybe going through the Volusia County ordinance
15 and talk about how they would like it to be
16 incorporated. You know, whether it's going to
be a whole separate section within the ordinance,
17 whether the definitions have to be, you know,
18 incorporated or where this would fall within it. So I need
19 some guidance about what you were expecting to
20 accomplish by doing this.
21
22
23
24

25 CHAIR MOLINA: Members, for your information, towards

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County
had
for

1 the -- I guess maybe a few pages over from
2 Dr. Altenberg's letter you'll see the Volusia
3 Land Development Code with regards to sea turtle
4 protection. So I don't know if any of you have
5 a chance to read it in depth at this time. The
6 Chair's open to suggestions or recommendations
7 this Item No. 5.

know

8 Mr. Maberry, anything at this point? I
9 it's hard without Ms. Bernard, too, who's our
10 resident turtle expert.

concern I

11 SUBCOMMITTEE MEMBER MABERRY: That's exactly the
12 have, Mr. Chair.

from

13 CHAIR MOLINA: We could defer and wait for comments

14 Ms. Bernard prior to our next meeting.

through

15 SUBCOMMITTEE MEMBER MABERRY: Because I have read

very

16 this and he has some very good questions and

today

17 good points, and I told him before the meeting

but 18 how much I appreciate him spending time on this,
19 for us to start -- yeah, I would be concerned
know, 20 without having her or some other expert, you
21 on turtles here.
22 CHAIR MOLINA: Someone from DLNR or something.
23 SUBCOMMITTEE MEMBER MABERRY: Right. I mean, we do
have 24 some written testimony, but I haven't had the
chance 25 to compare.

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1 CHAIR MOLINA: Okay. Dr. Altenberg.
2 SUBCOMMITTEE MEMBER ALTENBERG: I could answer one
3 question -- one biological question, which is in
4 regards to Mr. Garneau's question, does the
5 Subcommittee intend the new ordinance to apply
to 6 all coastal areas. As far as the sea turtles
go, 7 it's sandy beaches only. They don't nest or do
8 anything with rocky -- the rocky coast. So
turtle 9 protection would apply only to sandy beaches,
but it

County. 10 would apply to all the sandy beaches in the
by 11 CHAIR MOLINA: Okay. Thank you. Mr. Chong, followed
12 Mr. Maberry.
before, 13 SUBCOMMITTEE MEMBER CHONG: I asked the question
beaches 14 are the turtles actually using all the sandy
but 15 in Maui? Not to exclude them from any beaches,
16 we asked for a list and I've never seen one.
17 CHAIR MOLINA: Dr. Altenberg, your response.
18 SUBCOMMITTEE MEMBER ALTENBERG: Currently they are not
19 using any of the beaches that are lit up because
20 they avoid those, and currently the current
it 21 population of turtles is only a fragment of what
and so 22 used to be before the species was endangered,
in a 23 there's only enough turtles to nest, you know,
24 few of the spots on the beaches on Maui
currently, 25 but the Endangered Species Act, the whole aim of
it

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population 1 is to get species de-listed and get the

many, 2 levels recovered, in which case there would be
3 many more turtle nesting sites.
4 Based on the experience of the Northwest
5 Hawaiian Islands, basically any sandy beach on
the 6 whole island would be -- a turtle would -- if
there 7 was a turtle there, it would be eyeing that
beach. 8 So using the current turtle nesting areas as a
guide 9 to future ones is not well founded because the
future 10 species is almost depopulated, and so in the
more 11 a recovered population would be using vastly
12 number of sandy beach sites.
13 CHAIR MOLINA: Okay. Does that answer your question,
14 Mr. Chong?
15 SUBCOMMITTEE MEMBER CHONG: Somewhat, but I'll accept
it 16 for now until Ms. Bernard may have --
17 CHAIR MOLINA: Okay. Mr. Maberry.
18 SUBCOMMITTEE MEMBER MABERRY: Point of information.
19 Please, Gary, correct me if I'm wrong, but
didn't 20 the Big Island folks tell you that they don't
allow 21 illumination of any of their beaches?
22 MR. SALDANA: Yeah, that is correct. None of their
hotels 23 have lights shining down onto the beaches.
24 SUBCOMMITTEE MEMBER MABERRY: And another point of

25 information, Mr. Chairman, is that based on
action

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1 taken today, that they would not -- this bill
would
2 not affect any currently existing lights on the
3 beaches, but I think that I would like to have
her
4 here to discuss it, but of course, you know,
there
5 are ways to address lighting on the beaches if
6 that's deemed acceptable or necessary with
proper --
7 not shielding but filters on the light, from
what I
8 understand. The amber filter on the high
pressure
9 sodium lamps were deemed acceptable. Thank you.
10 CHAIR MOLINA: Thank you, Mr. Maberry. I see Ms.
Vencl up
11 here. I think there was the issue, I guess, of
the
12 hotels filing I guess a countersuit to the
turtle
13 situation over in Volusia County. Do you have
any
14 comments on --
15 MS. VENCL: No, not about that, Mr. Chair. I'm not

I 16 familiar with that situation at all. Actually,
17 think Mike just answered my question, because I
18 thought we were working on a bill that is for
new
19 things, so would this -- what we're talking
about at
20 this point with regard to illuminating beaches,
are
21 all of us who are here now, this doesn't include
us
22 and this is only going to be for new
construction?
23 I just want to make -- I just want clarity.
24 CHAIR MOLINA: Yeah, I believe the Subcommittee this
25 morning took the direction of focusing on new

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1 lighting rather than existing lighting.
2 SUBCOMMITTEE MEMBER MABERRY: And if I may say --
sorry,
3 Mr. Chairman, but Ms. Bernard did tell me that
that
4 was okay with her.
5 CHAIR MOLINA: Okay. Thank you. Dr. Altenberg.
6 SUBCOMMITTEE MEMBER ALTENBERG: But I guess I would
want
7 to be on the record to say that existing
lighting is

I'm 8 a problem that does need to be dealt with, but
some 9 proposing that it be deferred, that, you know,
deal 10 form of this Subcommittee be reconstituted to
lighting 11 with an ordinance for dealing with existing
12 because, you know, the telescopes are currently
people 13 impacted, the turtles are currently impacted,
Kahului, et 14 can't see the stars in much of Kihei and
does 15 cetera. There's current impact. So in no way
say 16 eliminating existing lighting from this draft
need 17 that we should forget about it, but I think we
the 18 to then defer that to further consideration by
it 19 department -- by the Public Works Committee, but
20 would probably have to take place in the next
21 session or the next term.
help 22 CHAIR MOLINA: Question for Ms. Venc1. Maybe you can
the 23 me jog my memory. Was the Hotel Association or
24 industry itself considering the filters for the
25 lights on the beaches? Is that something that

75

prior 1 was -- I'm trying to recall if at one of our
of 2 meetings we had that discussion, maybe the use
beaches. 3 filters on the lighting that's used on the

4 MS. VENCL: Mr. Chairman, unfortunately the last two
5 meetings I was off island.
6 CHAIR MOLINA: Oh, okay.

7 MS. VENCL: And I wasn't here, so I'm not sure what
might 8 have been mentioned then. To my knowledge, I
don't 9 recall that, but Bill is here if you want to ask
him 10 specifically.

11 CHAIR MOLINA: Maybe, Mr. George, if you could come --
12 MS. VENCL: The concern that I continue to be aware of
is 13 the issue of safety and liability, but how we
deal 14 with that, I'm not sure if we made a decision.

15 MR. GEORGE: Thank you, Chairman Molina and
Subcommittee 16 members. My name is Bill George. I've been
trying 17 to tell the Committee that I've been here as my
own 18 personal opinion, Rob Hoonan and Terryl Vencel
have 19 been representing the Hotel Association. The
only

with 20 thing I can say about that is -- in speaking
planned 21 Rob and the other engineers is we haven't
So 22 anything until we see what comes out of this.
23 the filter system, we've looked at, we have the
we 24 paperwork and the data. It would be something
have 25 would consider, but as of right now, we don't

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something 1 any plans to do any modifications until
2 comes out of the Subcommittee.
3 CHAIR MOLINA: Okay. Thank you, Mr. George.
4 Dr. Altenberg.
Saldana, 5 SUBCOMMITTEE MEMBER ALTENBERG: Question for Gary
County 6 if he could find the exact language that the
the 7 of Hawaii uses to prevent the illumination of
8 beaches, that would be helpful. Thank you.
9 CHAIR MOLINA: Thank you, Mr. George.
10 MR. SALDANA: I can check the code for you.
11 CHAIR MOLINA: Okay. So at this point for Item 5 the
12 Chair would like to -- well, would have liked to

not 13 have gotten more input from Ms. Bernard, who's
situation. 14 here today, with regards to the turtle
some 15 So we'll make a deferral on that in addition to
for 16 of the other suggestions made by Dr. Altenberg
17 staff.
18 SUBCOMMITTEE MEMBER ALTENBERG'S RECOMMENDATION NO.
6
19 CHAIR MOLINA: So with that let's move on to Item No.
6,
20 which relates to establishing recourse for
21 individuals that are harmed by light trespass
22 originating from a neighborhood property.
23 Dr. Altenberg, if you could give us your
24 recommendation for this item.
25 SUBCOMMITTEE MEMBER ALTENBERG: This would probably be

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existing 1 something that would be largely affecting
some 2 lighting, and, again, I think there needs to be
their 3 legal recognition that people have a right on
somebody 4 property not to have it interfered with by

5 lights from a neighboring property, the issue of
6 light trespass. If the proposal for -- in
7 permitting developments works and -- then there
8 shouldn't -- this problem shouldn't come into
being.

9 So in a sense, our actions of the morning
10 would make this point somewhat less relevant,
but we
11 might still want to consider putting in some
12 provision if -- you know, if all else fails and
some
13 light gets built that is -- has a significant
amount
14 of light trespass, we ought to have a mechanism
by
15 which somebody can file a complaint and get
relief
16 from the County from their neighbor's light
17 trespass.

18 CHAIR MOLINA: Okay. Thank you. Mr. Chong.

19 SUBCOMMITTEE MEMBER CHONG: My concern is defining
light
20 trespass clearly so that when you set recourse
there
21 is a specific number or value that the
homeowner,
22 that the County's going to recognize, because
23 lighting is very relative. It may be bright to
one
24 person and it may not be bright to the other
person.

25 CHAIR MOLINA: I think maybe if we can come up with
some

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1 examples of what is -- maybe, Dr. Altenberg, you
2 could give us a definition or just give us an
3 example of what would be considered light
trespass.

4 I can maybe think of like maybe a ball field or
5 something and the light shining into somebody's
6 living room as maybe that would be some form of
7 light trespass. Any other examples you can
share

8 with us?

9 SUBCOMMITTEE MEMBER ALTENBERG: Well, I think -- I've
10 heard -- well, actually we had testimony from a
11 citizen about their house and how their neighbor
put

12 in a lot of lights that had a lot of light
trespass

13 into their house and they have currently no
14 protection, no recourse about anything they can
do

15 except try to persuade the neighbor. So -- but
I

16 think, you know, in any residential situation,
in

17 particular, where you want to be able to go to
bed

18 and not to have to barricade your house to get
19 darkness in your room, protection would be

20 important.
21 I don't know. There may be other
commercial
22 situations where somebody's property next door
is
23 shining in your eyes and interfering with your
24 commercial business. You know, suppose you had
an
25 outdoor seating area and there was somebody's,
you

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1 know, industrial building across there that was
2 shining glaring lights and making it hard for
your
3 customers to sit outside, so those would be the
kind
4 of situations.
5 Now, in regards to the coming up with the
6 quantitation of light trespass, that example of
7 Cottonwood, Arizona where they said .05 foot
candles
8 at any location on any residential property as
9 measurable from any orientation of the measuring
10 device, that's a specific, you know, code that,
you
11 know, can be objectively enforced. It requires
that
12 there be somebody in the enforcing division of,

13 what, Public Works or whatever office that would
14 have a light meter and be working at night.
That's
15 something that we tried to avoid previously in
16 drafting the ordinance, but it may be something
17 that's inescapable, to have to have some kind of
a
18 person who goes out at night with a light meter
to
19 measure violations of light trespass.
20 CHAIR MOLINA: Okay. Thank you, Dr. Altenberg. I'd
like
21 to get comments from Public Works. Any -- if
you'd
22 like to share your thoughts with the Committee
on
23 feasibility of, I guess, someone with a light
meter
24 or just your thoughts in general to this,
25 Mr. Hanzawa or Mr. Nakao.

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1 MR. NAKAO: I guess it could be done with appropriate
2 equipment and the overtime compensation. You
know,
3 we could have individuals go and measure the
light
4 illumination levels of properties under
complaints,

5 but if you're going with a figure of like .05, I
6 think, you know, just from the street lighting
or
7 just the ambient lighting in the area, you're
going
8 to get at least that much. I mean, how are you
9 going to determine -- you know, it has to be a
10 pretty significant disturbance, I think, as far
as
11 the amount of light pollution trespassing on
one's
12 property to really justify a valid complaint and
a
13 fine or a violation. Something like .05 to me
is
14 pretty low, yeah.
15 CHAIR MOLINA: Mr. Chong.
16 SUBCOMMITTEE MEMBER CHONG: There's some real finite
17 issues here. If you build a couple of homes
that
18 are five feet setback, typical setback from
property
19 line, Electrical Code requires that you put a
light
20 fixture outside any point of egress out of your
21 residence that -- there's no regulation on what
that
22 luminaire looks like or what it does, what kind
of
23 light it is, what kind of distribution it has,
and
24 in that kind of a close proximity, .05 would
happen
25 right there at that guy's property line. I
mean,

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get 1 easily be exceeded with -- and then we start to
2 real nit-picky as to are we going to start
3 regulating luminaire types on residences. You
know, 4 I mean, it gets to be -- there's no end to it if
we 5 keep going with this.
6 So that level is very critical. If you
set 7 it too low, nobody's going to be able to comply
with 8 without a light that's shining straight down,
and 9 they may not like it. I mean, it's the
homeowner's 10 prerogative to pick a luminaire that matches his
11 house and he likes it, and so that's just one
12 example of the kinds of issues. The other issue
is 13 about -- you mentioned about the County doing
their 14 normal building permit process. I don't know
how 15 equipped the County is to try to catch potential
16 violations before they -- before they're built.
17 CHAIR MOLINA: Okay. Mr. Nakao.

luminaire 18 MR. NAKAO: Currently we don't even look at the
19 schedules on what's coming up on the commercial
20 drawings because there's no specific requirement
as
21 far as limiting the type of lights being put on
22 these commercial buildings. On residential we
don't
23 even review the plans for electrical permits.
In
24 fact, most homeowners I think select their
25 luminaires last with an allowance list in the

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really 1 bidding of their homes. So, you know, they
2 don't know what kind of light fixtures they're
going 3 to be putting outside of their, you know, exits,
4 things like that, on their walkways and decks
and
5 things like that until the house is pretty near
6 completion.

7 CHAIR MOLINA: Thank you, Mr. Nakao. Ms. Vencel, you
had
8 some comments?

9 MS. VENCL: I have some history with the noise
ordinance

10 that might apply a bit to this particular
situation.

11 What we learned when we went out to deal with
the

12 noise ordinance was that, first of all, there
was a

13 time limit. That could be a consideration here
as

14 well. When we went out and measured the noise
and

15 people were shooting -- and I don't know the
numbers

16 about lights, but, for example, with noise,
people

17 were shooting for a 55 decibel and when we went
out

18 to properties just on a practice run and looked
at

19 this issue, the palm trees, the waves washing up
on

20 the beaches, and those things were at like 75,
78.

21 So all of those things have to be -- you know,
it

22 can't be just a set amount. I think you have to
23 deal with some sort of an ambience level. So if
you

24 were to set a level, I think you'd have to talk
25 about what kind of level's already there.

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house 1 I'll give you a personal example. My
2 is directly behind the stadium, War Memorial
3 Stadium. My house is lit all the time, and so
for 4
neighbor, 5
trespass 6
would 7
to 8
9
know 10
11
12
what 13
the 14
degree or 15
not 16
level of 17
situation. 18

19 CHAIR MOLINA: Okay, Ms. Vencel. Committee members,
20 other comments on Item 6? Does the Committee
feel
to it necessary to add a section to the ordinance

21 address property owners' recourse against light
22 trespass?

23 MS. VENCL: One final question, Mr. Chair. Who would
be

24 the enforcing agency of this?

25 CHAIR MOLINA: More than likely I believe it would be

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1 Public Works.

2 MR. NAKAO: Electrical inspectors. The County
electrical
3 inspectors more likely.

4 CHAIR MOLINA: Committee members, your input on this.
Is

5 this a recommendation the Committee would like
to
6 consider or not? Mr. Maberry.

7 SUBCOMMITTEE MEMBER MABERRY: Under the circumstances,
8 which Dr. Altenberg also addressed, that with
the

9 changes in our approach toward this I'm curious,
and

10 I know something that's on the agenda possibly
is

11 the Lighting Ordinance Committee, or whatever it
was

12 called. That might be a place, you know, for --
13 under their purview to address this particular

received. 14 incident, you know, based on complaints
I 15 don't know.
16 CHAIR MOLINA: Dr. Altenberg.
17 SUBCOMMITTEE MEMBER ALTENBERG: Well, perhaps the way
--
18 the best way to deal with it would be in the --
in
19 the planning review thing to say that if you're
20 proposing lighting your property, that your
proposal
21 will not throw -- will not illuminate
neighboring
22 properties above a certain foot candle level,
which
23 I think we have to do more research to find out
what
24 the reasonable level is, because I'm not
confident
25 in the .05 level of Cottonwood's ordinance, that

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1 that's what we would want to choose. But I know
2 that there are other -- a number of other
3 communities, their light pollution ordinances do
4 have a specific foot candle level that you're
5 protected from light trespass.
6 So I think if we would say -- my
suggestion

for 7 would be, then, to include in the requirements
light 8 proposed lighting that they meet the -- this
question 9 trespass requirement and that -- then the
basically a 10 is how do you deal with violations, that
a 11 resident or a property owner would have to file
12 complaint in order to initiate an enforcement
perfectly 13 action. In other words, if somebody is
neighbor, 14 happy with this light coming from their
current 15 there's no reason to enforce it, so that our
who 16 enforcement section doesn't have anything about
light 17 initiates it, but I would -- in the case of
18 trespass, that it should be initiated by the
property 19 resident or property owner or renter of the
20 where the light trespass is occurring.
research 21 So we would need, then, to do some
the 22 on what the proper foot candle -- find out what
23 other communities that have these light trespass
using 24 protections, what foot candle levels they are
Maui, 25 and see how that would work in the context of

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thing 1 and then put in a section in the enforcement
2 about the initiation of complaints.
3 CHAIR MOLINA: Okay. Thank you. Mr. Maberry.
and it 4 SUBCOMMITTEE MEMBER MABERRY: I would support that,
5 wouldn't be necessarily a requirement that had
to be 6 found in the review process, but by notifying
the 7 individual who is installing the new lighting
system 8 that there are standards and here they are, so
it 9 wouldn't have to be incumbent upon your
engineers to 10 define whether or not what they're presenting to
11 you, you know, meets the requirements. You can
tell 12 them that there are specific requirements and
that 13 potentially if there was a complaint, that
someone 14 would come measure, something along those lines.
15 CHAIR MOLINA: Okay. So at this point the Chair, just
16 rehashing the recommendations with regards to
Number 17 6, for staff's -- for the purpose of staff
taking

could 18 this down, again, maybe, Dr. Altenberg, if you
do 19 restate your recommendation, which was the -- to
20 research on the foot candle --
21 SUBCOMMITTEE MEMBER ALTENBERG: Yes, I -- the
22 recommendation is --
23 MR. SALDANA: I've got it. I've got it.
all? 24 CHAIR MOLINA: You've got it. Okay. You've got it
25 MR. SALDANA: Yeah.

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think 1 CHAIR MOLINA: And did you get Mr. Maberry's -- I
2 Mr. Maberry added something in there too.
3 SUBCOMMITTEE MEMBER MABERRY: Well, it was just --
4 Mr. Chair, I was just thinking about how -- you
5 know, how to approach the process from the
6 standpoint of Public Works.
7 CHAIR MOLINA: Okay.
8 SUBCOMMITTEE MEMBER MABERRY: Rather than --
9 CHAIR MOLINA: As a recommendation.
10 SUBCOMMITTEE MEMBER MABERRY: Yeah, just a
recommendation,
11 that it wouldn't be incumbent upon their
engineers

12 to identify and -- you know, by looking at the
13 person's plans and tell them whether or not
they're
14 in compliance, but simply by notifying them of
what
15 the regulations are and, you know, what the
16 potential liability would be.
17 CHAIR MOLINA: Okay. Thank you. Mr. Chong.
18 SUBCOMMITTEE MEMBER CHONG: Currently for energy
19 calculations pertaining to lighting and
mechanical
20 envelope, the County doesn't actually check any
kind
21 of calculations. They just ask the engineers of
22 record to send in a letter with our stamp on it
23 signing our life away. Would an ordinance -- if
the
24 ordinance is passed this way with levels and
what
25 not about light trespass, is now the
professional of

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1 record, in a residence maybe just the architect,
in
2 a commercial development or a production
properties,
3 multi-family in other words, that would fall
under

4 possibly an electrical engineer, would they also
be
5 sending in a second letter so that the County is
not
6 exposed legally saying, it's your law, you
checked
7 the drawings, you let it pass, why am I now
having
8 to change it after I already bought the
luminaire
9 and it's now hanging on the wall.
10 MR. NAKAO: On commercial, yeah, we'd probably be
looking
11 at a second certification statement from the
design
12 professionals on the construction drawings, one
13 meeting the building code, lighting, you know,
14 wattage limitations and then a second one
probably
15 saying compliance with the outdoor lighting
16 ordinance requirements.
17 CHAIR MOLINA: Okay. Dr. Altenberg.
18 SUBCOMMITTEE MEMBER ALTENBERG: This is probably more
a
19 question for Mr. Garneau, but in, for example,
drug
20 regulations, when the Food and Drug
Administration
21 approves the marketing of a drug, it does not
remove
22 the manufacturer from liability for any harm
caused
23 by the drug. So I would hope that in a similar
way
24 that approval of a plan by the County would not
25 remove the contractor from meeting the lighting

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and
and
approved
1 requirements. In other words, it's still their
2 responsibility, and if the plan were approved
3 what they put in fails to meet the requirements
4 a complaint follows, that the County having
5 it does not remove the responsibility from the
6 developer, the owner from meeting those
7 requirements.

have
you
to
10 I don't know. Maybe there's a similar
11 situation with pollution, you know, when you
12 polluted properties. When you buy a polluted
13 property, it's the buyers -- the new owner's
14 responsibility to clean up whatever's there.
15 They're not relieved of that responsibility by,
16 know, approval of the purchase by whatever
17 government regulations approve it. Any comments
18 those questions?

meeting
17 CHAIR MOLINA: Mr. Garneau or --

18 SUBCOMMITTEE MEMBER ALTENBERG: I mean, say just

19 electrical -- I mean suppose that, you know, the
20 County approves some -- gives a permit --
21 development permit and then the developer puts
in
22 something, they do what they said but it turns
out
23 to be not in compliance with some statute
regarding
24 safety or whatever, what happens then? Are they
25 shielded from having to meet that or they still
have

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1 to -- you know, if there's some problem, are
they
2 still -- is the contractor still liable?
3 CHAIR MOLINA: We could ask Mr. Hanzawa to comment on
4 that.
5 MR. HANZAWA: I think what was suggested is doable in
6 terms of having the permittee supply the
information
7 and we also give them the information as to what
is
8 required. For example, we do it in other ways,
such
9 as for grading. When a homeowner or a
contractor
10 comes in for a building permit, we ask them to
fill

11 out a form as to how much grading is going to be
12 occurring on the property, and then from that
13 information that's provided we determine whether
he
14 needs a permit or not. If he does not supply
the
15 correct information and we go out and inspect
later
16 and he's beyond the levels that he had put down
17 initially, then he'd be in violation and subject
to
18 fines.

19 CHAIR MOLINA: Okay.

20 SUBCOMMITTEE MEMBER ALTENBERG: Is it reasonable to
say in
21 a request for a permit that they sign -- that
they
22 certify that this will be in compliance with the
23 light pollution standards?

24 MR. HANZAWA: I would say that anything that, you
know,
25 comes out of this Committee in terms of having
to

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1 enforce later would have to be very measurable.
It
2 would be very difficult for an inspector to go
out

3 and have to, you know, subjectively determine
4 whether light pollution is not in compliance
with
5 the provisions of the ordinance or the rules.
So it
6 would have to be very measurable. He would have
to
7 have an instrument to measure and he would have
to
8 be able to determine where to stand, where to
place
9 the instrument, and determine from that reading
10 whether it's in compliance or not.
11 CHAIR MOLINA: Okay. Thank you, Dr. Altenberg.
12 Mr. Chong.
13 SUBCOMMITTEE MEMBER CHONG: Lighting professionals
have
14 the capability of calculating what the light
level
15 would be at distances away from the luminaire as
16 long as there's photometric data available for
that
17 luminaire. When it comes to residential
luminaires,
18 that data is not readily available because it's
not
19 an area where people really worry about the
light
20 level, per se. It's sort of experience and what
21 you've done in the past and what has worked.
22 So somebody hiring us professionally
would
23 say, well, you better make sure you comply with
this
24 ordinance, and we're going to turn around and
tell

25 them, well, I'd be happy to make sure but I
don't

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1 have any data here that's going to help me.
You've
2 got to help me pay a laboratory to photometer
the
3 luminaire that you like because it's pretty, and
4 that's going to cost you a thousand dollars
because
5 we've got to ship it all the way to some place
in
6 the United States where an official listed
7 laboratory can photometer it and give us the
data we
8 need to do the proper lighting calculations so
that
9 your neighbor here, who's a lawyer, doesn't turn
10 around and file a complaint.
11 These are just some practical things that
12 have to happen for us designers to sign off and
say
13 we can comply -- we know we're going to comply
with
14 all the requirements of the County. Just so you
15 guys realize that. I mean, if that's the law,
then,

we're 16 yeah, we'll have to do things like that, or
pretty 17 just going to say, sorry, you can't buy that
18 luminaire that has glass on the front and shines
19 light everywhere. You've got to put in this
20 cylinder that shines the light straight down on
a 21 house he just spent \$4 million on. That's not
going 22 to wash.
23 CHAIR MOLINA: Okay. Any other comments? Mr.
Maberry. 24 SUBCOMMITTEE MEMBER MABERRY: I hope I can articulate
25 this, but the testimony I remember -- early on

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people 1 testimony we had was primarily complaints by
2 whose neighbors are using sort of flood lights,
3 flood-type lights that are shining over onto
their 4 property or into their windows, and that --
they're 5 aimable, right? You can control them after the
6 house is built at some point in time. I guess I
7 would like to ask Rick, I mean, with that as
8 background, how do you think we could go about

of 9 trying to help the public enjoy some protection
should 10 their night ambience on their property? How
11 we try to address this, then?
12 SUBCOMMITTEE MEMBER CHONG: I think there could be
that 13 specific language about aimable luminaires and
people's 14 you are not permitted to aim it into other
15 properties, and that's easily observed. That's
16 not -- that's not something that --
17 SUBCOMMITTEE MEMBER MABERRY: (Inaudible).
can 18 SUBCOMMITTEE MEMBER CHONG: No, you just -- I mean you
guy's 19 say from the center point of the beam, if that
20 angle is directly into somebody's property, you
21 could say that that is a violation. He's not
22 allowed to aim any type of directional luminaire
a 23 into the adjoining properties, and that could be
24 paragraph in the law. That's just one type of
25 lighting.

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that 1 The other concern is just these things

They

the

coming

for

is

much --

to

you

that,

of

2 hang on walls or hang below trellises and lanais
3 that don't have any specific directionality.
4 throw light everywhere, but yet are in close
5 proximity to somebody's property line and the
6 neighbor thinks it's offensive and now he calls
7 County, and unless you have, again, specific
8 numbers, it's going to be a nightmare for the
9 Committee, or whoever's going to enforce this.
10 CHAIR MOLINA: Okay. Thank you. Dr. Altenberg.
11 SUBCOMMITTEE MEMBER ALTENBERG: Well, I would say
12 up with specific numbers is definitely what we
13 should do. Lots of counties already have that
14 light -- dealing with light trespass. The only
15 technically difficult area, from what I've read,
16 the question of glare, because that's not so
17 you can't measure it with a light meter. It has
18 do with you're looking at it with your eye, but,
19 know, like a really brilliant piercing light
20 you know, leaves traces on your eye, those kind
21 things, that's what they call glare, so -- but I
22 would propose that we not try to deal with that,
23 that we only deal with something where you can
24 measure the foot candles of light trespass.

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1 CHAIR MOLINA: Okay. All right, members, if there's
2 nothing else on Number 6, the Chair would like
to
3 move on to Number 7. Final recommendation from
4 Dr. Altenberg is in regards to lumens per acre
5 exclusion from shielding in certain agricultural
6 zones. Dr. Altenberg.
7 SUBCOMMITTEE MEMBER ALTENBERG: Actually that was a
8 misinterpretation of what I had written. The
9 proposal was not just about agricultural areas,
but
10 in general putting -- a number of communities,
11 including Cottonwood, Arizona, have -- basically
12 they allow people to exclude up to 550 lumens
from a
13 shielded -- unshielded or partially shielded
light
14 from the requirement for full shielding.
15 Now, the problem is in an agricultural
area
16 with huge numbers of acres, that would basically
17 mean a building would have no shielding
requirement
18 at all. So that's why I put in a -- for

19 agricultural areas, put in the exclusion not in
20 terms of acreage but in terms of building square
21 footage. That was the intent in my original
22 message.

23 So I would be happy if the other
Subcommittee
24 members and the resource people would discuss
the
25 idea of -- basically it's like you give
everybody

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with 1 550 lumens per acre that they can play around
would 2 that they don't have to fully shield, and that
their 3 be -- you know, that's where they can put in
know, 4 water fountains, lighting up the trees, you
cathode 5 such things as this, you know, their cold
So 6 blue lights on the outside of their building.
7 this would be basically kind of a rationing of
not 8 lumens for people to play around with that would
that 9 have to meet the shielding requirements. So

some 10 would be -- that would not -- that would allow
11 more freedom for kinds of decorative outdoor
12 lighting that people might want to do but it
would 13 put a cap on it.
14 So I'd be happy to hear what people think
of 15 that idea. Would that be a loophole that would
16 allow significant light pollution to exist? You
17 know, suppose they're putting in mercury vapor
18 lamps, I know that those are -- really do
terrible 19 things for astronomy. I would be happy to get
20 comments from the other members.
21 CHAIR MOLINA: Okay. Thank you, Mr. Altenberg.
Committee 22 members, any comments to Dr. Altenberg's
23 recommendations. Mr. Chong.
24 SUBCOMMITTEE MEMBER CHONG: I'm not against this
concept.
25 I think it's a -- it's a good middle ground, but
I

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higher 1 would like to probably think about a little
2 lumen per acre or -- and maybe it needs to be
broken

there's 3 down into types of properties. Obviously
in 4 probably more intent to do a little more of that
5 resort properties or shopping centers and things
6 like that where there is -- there is something
7 that's trying to be created visually and maybe a
8 little lower number for other types of
properties 9 and breaking it up even further, but I think
5500 10 might be too limiting. Also, maybe as a
suggestion, 11 you -- it's 5500 lumen per acre, we could throw
all 12 that in one lamp and it could be a real eye
sore. 13 So maybe limiting the max per lamp or something
like 14 that at least so you're forcing them to spread
it 15 around or distribute it a little more.
16 CHAIR MOLINA: Okay. Thank you, Mr. Chong. Committee
17 members, any other comments on Dr. Altenberg's
18 recommendation? Okay. We have from the hotel
19 association Ms. Vencl, her comments.
20 MS. VENCL: I just have a question. Does this -- does
21 Number 7 apply to residences as well as
business? 22 CHAIR MOLINA: Dr. Altenberg.
23 SUBCOMMITTEE MEMBER ALTENBERG: This idea of an
exclusion? 24 MS. VENCL: Uh-huh.
25 SUBCOMMITTEE MEMBER ALTENBERG: It would be across the

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1 board. Except you'd just have to distinguish
2 agricultural buildings differently because
3 they're -- you don't want to count crop fields
as --
4 towards that acreage, but otherwise it would be
5 residential, commercial, industrial, et cetera.
6 MS. VENCL: Okay. I'm going to really show my
ignorance
7 here, but I'm going to use my house for an
example.
8 Am I reading this correctly that at my house I
would
9 be allowed one 100 watt bulb for outside
lighting or
10 the -- or maybe a 50 on the front and a 50 on
the
11 back or something like that?
12 SUBCOMMITTEE MEMBER ALTENBERG: Yeah. For, say, a
quarter
13 acre lot, it's about --
14 MS. VENCL: Right.
15 SUBCOMMITTEE MEMBER ALTENBERG: Be like four 100 watt
16 bulbs per acre, right. I have a question for
you.
17 Do you know how many acres, for example, the
Grand

18 Wailea is in total?
19 MS. VENCL: No.
20 SUBCOMMITTEE MEMBER ALTENBERG: Or any of the resorts?
21 SUBCOMMITTEE MEMBER CHONG: I have no idea.
22 MS. VENCL: Rick might even know that. I don't know.
23 SUBCOMMITTEE MEMBER CHONG: No, we didn't do Grand
Wailea.
24 CHAIR MOLINA: We could get that information prior to
the
25 next meeting.

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1 MS. VENCL: Oh, you did?
2 SUBCOMMITTEE MEMBER CHONG: I did not do Grand Wailea.
3 MS. VENCL: Oh.
4 SUBCOMMITTEE MEMBER CHONG: We did Four Seasons next
door.
5 I mean an acre is a large expanse of land, and
5500
6 is -- I mean that's -- it will look like a
7 flashlight out there. It's -- it's a little too
8 restricting. Again, trying to find a little
higher
9 number or a higher number that will allow us to
do
10 something. I mean a 100 watt bulb over a
quarter of
11 an acre, that has no effect at all. I mean you

12 might as well not even turn it on.
13 CHAIR MOLINA: Okay. We have a question from Mr.
Maberry,
14 to be followed by Corporation Counsel's Office.
15 SUBCOMMITTEE MEMBER MABERRY: Okay. Mr. Chairman, I
was
16 just going to suggest that it appears that we're
17 sort of into what Gary provided us as far as
some of
18 these options, and I was -- I was curious as to
he
19 has some numbers under option 3 that look
similar to
20 what Dr. Altenberg is recommending, and I was
21 curious where these came from.
22 CHAIR MOLINA: Is that a question for Gary?
23 SUBCOMMITTEE MEMBER MABERRY: Well, really for Gary,
but I
24 believe it's germane because, I mean, it looks
like
25 sort of the same thing we're talking about here
in

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1 Number 7, if I may, Mr. Chair.
2 CHAIR MOLINA: Go ahead, Mr. Saldana.
3 MR. SALDANA: The options that were distributed to you
via

4 email and again today came from a variety of
5 different ordinances. In an attempt to try to
6 determine exactly what the Committee was wishing
to
7 do with .070, we pulled various options from
8 different ordinances and submitted them as -- as
to
9 help generate some dialogue on this matter,
so...
10 SUBCOMMITTEE MEMBER MABERRY: So, again, Mr. Chair, I
11 believe it's germane. Obviously he hadn't had
an
12 opportunity to review this probably, but I'm
13 wondering what Rick thinks about the numbers,
this
14 sort of level of numbers in number 3.
15 CHAIR MOLINA: Okay, Mr. Chong.
16 SUBCOMMITTEE MEMBER MABERRY: Not to put you on the
spot.
17 CHAIR MOLINA: Mr. Chong, I'll give you -- oh, go
ahead.
18 I was going to give you another minute if you
wanted
19 it and I could get a response from Corp.
Counsel.
20 SUBCOMMITTEE MEMBER CHONG: These are all under
categories
21 that require full or partial shielding, if I
read
22 this right, and I believe we're talking about
23 lights -- exempting a percentage or whatever of
24 lights that are not restricted at all.
25 SUBCOMMITTEE MEMBER MABERRY: I'm sorry, Mr. Chair,
but I

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if 1 guess this level -- I mean if you exclude that,
just 2 you look at these numbers as far as acreage,
along 3 say, for example, in column A, is this more
is 4 the line of what you had in mind that you think
at? 5 reasonable, I guess, is what I'm trying to get
come 6 And again, I thought maybe these had originally
That's 7 from you, but I understand now they haven't.
8 why I asked me question -- my original question.
your 9 CHAIR MOLINA: Mr. Chong, while you're thinking of
wanted 10 response, Corporation Counsel, you had -- you
11 to make a comment earlier?
from 12 MR. GARNEAU: Well, I just wanted some clarification
13 Dr. Altenberg on this recommendation. As it's
14 written it said on all land zoned agricultural
15 and -- so that to me would include agricultural
16 subdivisions, of which there are quite a number
probably 17 within the County, and, you know, as you're

18 aware, in an agricultural subdivision, under our
19 current zoning, there's a lot of residents, a
farm
20 dwelling of -- with no limit in size really up
to
21 the 10 percent of the lot and a second dwelling
of
22 up to 1,000 square feet, plus there's additional
23 agricultural buildings.
24 So if that's what you had in mind and
you're
25 talking about a 100 watt bulb per quarter acre,
it

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lighting 1 could be -- that would be hard to provide
2 for that many structures within that framework,
and 3 so I was unclear. Do you mean agricultural
lands 4 that are used -- you know, don't have farm
dwellings 5 on them or do you require all agricultural
lands? 6
to 6 SUBCOMMITTEE MEMBER ALTENBERG: Well, the intent was
towards 7 exclude fields and pastures from counting
the 8 the net acreage in agriculture areas. That was

9 intent of referring to agricultural zoned areas.

10 SUBCOMMITTEE MEMBER MABERRY: So, if I may, I think
he's

11 talking about the curtilage area of a residence.

12 MR. GARNEAU: This action, then, you are intending to
13 exclude a farm dwelling and a second farm
dwelling.

14 SUBCOMMITTEE MEMBER ALTENBERG: No, no. The intent is
in

15 calculating the -- a number of lumens that can
be

16 excluded from the full shielding requirement,
the

17 net acreage would not include acreage that's,
you

18 know, being used in food production or, you
know,

19 grazing pasture. So you wouldn't count that in
your

20 number of acres to calculate your number of
lumens

21 to exclude. So in other words, if the Grand
Wailea

22 wanted to turn its yards into field -- into
crops,

23 then that would reduce the number of unshielded
24 lights they could have on their buildings.
That's

25 the idea.

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1 CHAIR MOLINA: So in a nutshell, anything with a
2 structure -- well, anything that is a structure.
3 SUBCOMMITTEE MEMBER MABERRY: Curtilage, usable area
4 around a building, a facility.
5 SUBCOMMITTEE MEMBER ALTENBERG: So I don't know if
that's
6 legal to define -- that's why I said just to do
it
7 on the basis of square footage of building in
areas
8 that are likely to have a lot of land that's
just
9 crop or grazing. That was the intent. Is that
10 clear?
11 MR. GARNEAU: So when you say square foot of building,
it
12 could be any buildings, then, any buildings that
are
13 allowed --
14 SUBCOMMITTEE MEMBER ALTENBERG: Yeah, yeah.
15 MR. GARNEAU: Whether they're dwellings or agriculture
16 buildings.
17 SUBCOMMITTEE MEMBER ALTENBERG: Yeah, whatever.
18 CHAIR MOLINA: Okay. Thank you. Mr. McCord, you had
your
19 hand up?
20 SUBCOMMITTEE MEMBER MCCORD: Well, my math may not be
21 correct, but I live in an agricultural zone and
we
22 cover 6,000 square feet with building, that
allows
23 me about a 155 watt bulb.

a 24 SUBCOMMITTEE MEMBER CHONG: You're not going to light
25 whole lot with that.

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to 1 SUBCOMMITTEE MEMBER McCORD: Yeah. So I think we need
of 2 look at this a little bit, particularly in light
agricultural 3 the fact that we've got a number of new
watt 4 subdivisions going in in Kula, you know, a 155
unshielded. 5 bulb around my house isn't going to hack it.
6 SUBCOMMITTEE MEMBER ALTENBERG: Again, that's
if 7 You can put in as much shielded as you want, but
there, 8 you want to have just a bare bulb sitting out
9 then that would count towards the allocation.
10 SUBCOMMITTEE MEMBER McCORD: I'm glad I'm
grandfathered 11 in, because I've got four big spotlights to
cover 12 people leaving and coming to the house.
13 CHAIR MOLINA: Thank you, Mr. McCord. For the
Committee's 14 information, the Chair would like to remind
everyone

15 quorum will be lost at 12:00 o'clock today, so
we
16 would like to move on. So any other
recommendations
17 for staff to take into consideration for Number
7?
18 And, Mr. Chong, I think you finally got your
19 response ready for the earlier question.
20 SUBCOMMITTEE MEMBER CHONG: Yeah. Mike Maberry wanted
me
21 to look at these numbers as possible numbers.
Just
22 to put -- shed more on these numbers, option 3,
23 200,000 lumens per acre, you know, if you're
working
24 with _____ land, that would limit you to
only 40
25 luminaires over an acre. Unfortunately, in a

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1 resort, that still may not be enough. I mean,
an
2 acre's a large piece of land. In the current
way we
3 like to light resorts, just to put some hard
4 tangibles to it other than just lumens, not
5 everybody understands what a lumen feels like,
so, I

to 6 mean, it would be -- I'm thinking it would have
usable. 7 be in that six-digit range to be workable or
8 That's just my opinion.
9 CHAIR MOLINA: Okay. Thank you, Mr. Chong. Any other
Number 10 opinions or recommendations, suggestions for
11 7? Dr. Altenberg.
12 SUBCOMMITTEE MEMBER ALTENBERG: I guess I'm not
I 13 recommending that this exclusion be adopted, but
14 was recommending that we discuss it, whether it
15 would solve -- be a more efficient regulatory
16 solution, less complicated than the other
measures.
17 The other measures -- the other way of dealing
with
18 it is you simply say that lamps over a certain -
-
19 certain number of lumens shall be fully shielded
and
20 if they're in a certain class. Say, the class -
-
21 was it class B of just lighting up -- just
providing
22 illumination or I guess class A, color
rendition, so
23 one of the ideas, say, if you want to light up
your
24 trees is -- is that that would be sort of
decorative
25 lighting and decorative lighting needs to be off
by

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1 a certain time of night. That's another way of
2 dealing with it.

3 So these two alternatives are basically
4 saying your unshielded lights, you limit them by
5 turning them off at a certain time of night or
you
6 limit them by saying you have a certain number
of
7 lumens per acre to play with. I proposed the
lumens
8 per acre just as an alternative means of dealing
9 with your unshielded/partially shielded light,
but
10 it may be that it's more efficient or more
11 reasonable, more clear to simply deal with them
in
12 terms of the proposed categories of different
kinds
13 of lights, the color rendition, category A, the
14 illumination, which was category B, and then
15 category C, which was decorative.

16 And then the way to deal with -- clearly
you
17 can't have all your decorative lights shielded
18 because you can't get light up into the tree or
in
19 your fountain with just full shielding. So how
do

20 you limit the light pollution effects from that?
21 The time limits were the other preferred means.
You
22 know, they have to turn them off by 11:00,
something
23 like that. You know, whichever would be --
provide
24 a more an elegant, simpler, equitable solution
to
25 dealing with the light pollution problem I would
be

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1 in favor of, but I just wanted to bring up this
idea
2 of the exclusion if that might be advantageous.
3 CHAIR MOLINA: Okay. Thank you. Mr. Chong.
4 SUBCOMMITTEE MEMBER CHONG: I don't have a problem
with
5 having to turn off those types of accent
lighting at
6 a specific time. We would deal with -- we still
7 have to deal with the issue of safety along
pathways
8 and things like that throughout the grounds, and
9 that can be handled with fully shielded or
10 well-placed lights along the pathway or entries
11 shining straight down. We do that on the Big
12 Island. So, I mean, if that's the other option,

13 that's fine with me too.

14 CHAIR MOLINA: Okay. Staff, any comments about this -

15 for Number 7? Clear on the suggestions and

16 recommendations? Mr. Saldana.

17 MR. SALDANA: Thank you, Mr. Chair. Just based on the

18 discussion, it seems like the specific

19 recommendation, if I understand correct, has

20 actually not been embraced by the Subcommittee

as of

21 yet. However, is it -- what's not clear is

whether

22 or not the Committee does want to pursue this

23 further, accept it, or in fact reject it. So

some

24 kind of clearer action would really be helpful

at

25 this time.

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1 CHAIR MOLINA: Okay. Committee members. Mr. Maberry.

2 SUBCOMMITTEE MEMBER MABERRY: Mr. Chairman, under the

3 circumstances and based on the discussion, I

would

4 recommend that we not move forward on this. I

also

5 believe it would be extremely difficult to

measure

6 and to enforce.

7 CHAIR MOLINA: Would you like to frame that in the
form of

8 a motion?

9 SUBCOMMITTEE MEMBER MABERRY: Is that necessary?

10 MR. SALDANA: No.

11 CHAIR MOLINA: No.

12 SUBCOMMITTEE MEMBER MABERRY: Okay.

13 CHAIR MOLINA: Okay. All righty. So for the record,
the

14 Committee will not pursue this matter. Okay.

15 Dr. Altenberg, any --

16 SUBCOMMITTEE MEMBER ALTENBERG: I would agree with
both

17 Mike and Rick have said, that it really doesn't
give

18 you much of an advantage as a regulatory tool.
I

19 think it's better -- clearer just to state the

20 luminaire requirements with the categories of

21 lighting, more clearly enforceable, and I would
not

22 pursue the exclusion at this point.

23 CHAIR MOLINA: Okay. Thank you, Dr. Altenberg. Okay,

24 members, that wraps up the recommendations from

25 Dr. Altenberg. The Chair has just one -- well,
we

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ask 1 do have a few more minutes. Chair would like to
redraft 2 the Subcommittee to focus on section -- the
most 3 of Section .070, Lamp Standards, and from the
4 recent meetings the Subcommittee directed that
5 Section .070, Lamp Standards, be redrafted to
6 incorporate the use of LPS and HPS. Mr.
Maberry.

considering 7 SUBCOMMITTEE MEMBER MABERRY: Mr. Chairman,
8 the time and before we get into this next issue
9 could we discuss for a moment the fact that I
10 believe this Committee is -- only has two more
11 meetings.

12 CHAIR MOLINA: So far scheduled, yes. The Chair would
13 consider adding another meeting in October,
having 14 two meetings in October.

15 SUBCOMMITTEE MEMBER MABERRY: My concern is that -- I
may 16 be wrong, but it seems like we do need to make
some 17 decision at this particular meeting in order to
meet 18 the required time line for extension. Is that
19 correct? No? Okay. Gary's saying no.

20 CHAIR MOLINA: We could have that discussion at the
21 meeting in September.

22 SUBCOMMITTEE MEMBER MABERRY: At the next meeting?

23 CHAIR MOLINA: Gary.

just 24 MR. SALDANA: Yeah, basically what we need to do is

25 we need to request it prior to the expiration of

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be 1 your term, which is October 31st. So we need to

2 able to put in the request to the Public Works

the 3 Committee prior to that date. So it has to be

4 meeting prior to the -- the Public Works meeting

granting 5 prior to October 31st so they can act on

Subcommittee 6 the extension if the Committee -- the

7 so chooses to go that direction.

8 SUBCOMMITTEE MEMBER MABERRY: Thank you, Mr. Chair.

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

10 Dr. Altenberg.

suggesting 11 SUBCOMMITTEE MEMBER ALTENBERG: Mike, you were

12 that the Subcommittee be extended into, what,

13 November and December, to the end of the current

14 County Council term or are you suggesting --

15 SUBCOMMITTEE MEMBER MABERRY: At the beginning of this

far, so 16 meeting, yes, but we've made some headway so
would 17 maybe -- maybe it won't be necessary, but I
before 18 definitely like to see us wrap this thing up
19 the end of the current Council --
20 CHAIR MOLINA: So would the Chair.
21 SUBCOMMITTEE MEMBER MABERRY: Thank you.
22 CHAIR MOLINA: Getting back to the redraft of Section
23 .070 --
24 SUBCOMMITTEE MEMBER ALTENBERG: Question. Would it be
25 possible to have a two-minute recess?

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recess. 1 CHAIR MOLINA: Okay. Let's make it a two-minute
2 (Gavel).
3 RECESS: 11:39 a.m.
4 RECONVENE: 11:45 a.m.
Standards 5 CHAIR MOLINA: (Gavel). The Outdoor Lighting
6 Subcommittee is now back in session. Thank you,
7 members, for the brief recess to get our
bearings 8 together here. I believe, Dr. Altenberg, you
have a

Committee? 9 comment that you'd like to share with the

10 SUBCOMMITTEE MEMBER ALTENBERG: I think there's the

11 risk -- in our action today of dealing with just

12 existing lighting, there's a risk that -- of

being 13 perceived as saying that the existing lighting -

- I 14 mean to -- excuse me. I got that backwards. In

our 15 move to deal just with new lighting, there's a

risk 16 that we perceive -- that we would be perceived

as 17 saying existing lighting is not a problem, and,

18 Warren, in your comment you said, well, you were

19 glad that you were grandfathered in on your

lights, 20 but I think that's -- I wanted explicitly to say

21 that we're not proposing that we grandfather

22 anything but that we're simply deferring action

on 23 existing lighting.

24 So I'm going to make a motion that the

25 Subcommittee make a recommendation to the Public

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1 Works Committee that an ordinance be developed

to

lighting. 2 alleviate the problems caused by existing

3 CHAIR MOLINA: Okay. Is there a second to the motion?

4 SUBCOMMITTEE MEMBER McCORD: I'll second it, because I

5 agree totally, particularly when we're talking

6 about --

7 CHAIR MOLINA: Okay. Okay. We have your second.

We'll 8 get your comments after the -- once the motion

has 9 been put in play. Okay. It's been moved by

10 Dr. Altenberg that the Subcommittee recommend

that 11 the Public Works Committee address an existing

light 12 ordinance be enacted.

13 SUBCOMMITTEE MEMBER ALTENBERG: Let me restate that.

We 14 recommend to the Public Works Committee that an

15 ordinance should be drafted to alleviate the

16 problems caused by existing lighting.

17 CHAIR MOLINA: Okay. It's been -- motion has been

made by 18 Dr. Altenberg and seconded by Mr. McCord.

19 Additional discussion, Dr. Altenberg, on the

motion. 20 SUBCOMMITTEE MEMBER ALTENBERG: Rick has something to

say. 21 CHAIR MOLINA: Okay. As the -- well, let me ask the

22 seconder of the motion, Mr. McCord, now you can

give 23 your comments, and then we'll have Mr. Chong to

24 follow.

it's 25 SUBCOMMITTEE MEMBER McCORD: Well, my home excluded,

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think 1 the ball fields and that sort of thing that I
those 2 we need to address, and these are existing,
line, 3 that are the bigger polluters right down the
4 and that's what we have to look at and somehow
5 modify.

6 CHAIR MOLINA: Okay. Thank you. Mr. Chong.

just 7 SUBCOMMITTEE MEMBER CHONG: I think it's all good. I

into 8 don't understand why we can't incorporate it

9 this ordinance when you're ready at the table,
10 versus waiting to get to the table again? I'm

existing 11 just in your guy's plight and I agree, the

of 12 lighting needs to be addressed, just as a matter

to 13 setting when and a timetable, if there is going

14 be one, so that you're not forcing anybody into
15 economic duress.

16 SUBCOMMITTEE MEMBER ALTENBERG: So --

17 CHAIR MOLINA: Dr. Altenberg.

then, 18 SUBCOMMITTEE MEMBER ALTENBERG: Are you suggesting,
include a 19 that we -- as a friendly amendment that I
lighting? 20 timetable for having the Public Works Committee
21 develop an ordinance to deal with existing
22 SUBCOMMITTEE MEMBER CHONG: No. I actually mean that
we 23 include in the language in this ordinance how to
24 deal with the existing lighting.
put it 25 SUBCOMMITTEE MEMBER ALTENBERG: So perhaps we could

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develops 1 this way, that as soon as this Subcommittee
lighting, 2 a recommendation for an ordinance for new
3 that it continue considering an ordinance for
if 4 existing -- to deal with existing lighting, and
5 that can't be done within the term of this
Subcommittee 6 Subcommittee, that we recommend that a
7 be established that would continue to work on
the 8 existing lighting problem.
9 CHAIR MOLINA: Okay. Mr. Maberry.

guess 10 SUBCOMMITTEE MEMBER MABERRY: Mr. Chair, question I
this 11 to either Public Works or Corp. Counsel, but
12 Committee will be going through the process of
to 13 establishing the standards that we need in order
once 14 protect our island. Would it then be possible,
ordinance 15 these are established in the form of an
Lighting 16 and as part of this ordinance an Outdoor
any 17 Standards Committee is formed, would they have
address a 18 jurisdiction to then at that point in time
19 process of addressing existing lighting or any
that 20 retrofitting? Would that be possible or would
ordinance 21 be -- does it have to be in the form of an
and 22 to address any bringing up to standards of --
23 the timetable and such.
24 CHAIR MOLINA: Mr. Maberry, that's a good question,
with 25 because I did have that on my agenda to discuss

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1 the Corporation Counsel. I don't know if,
2 Mr. Garneau, are you prepared to respond to that
3 question by Mr. Maberry?
4 MR. GARNEAU: Yes. Right now you've been working on
up
5 until today an ordinance that would cover all
6 lighting, whether it was existing or future. So
I
7 understood that you've made the decision now to
just
8 have an ordinance that addresses future
lighting.
9 So to that -- to the extent you would want to
10 address existing lighting, you either need to do
it
11 now or it would require later that whatever
12 ordinance is adopted to deal with lighting be
13 amended. So you're going to have to add to that
14 ordinance, amend it somehow to address existing
15 lighting.
16 Whatever procedures are in place, whether
17 it's a committee to deal -- they only have --
would
18 have the authority that's set out by ordinance.
So
19 you can't give them greater authority. It would
20 have to be done by ordinance, I guess is my
bottom
21 line. So it's very significant today if you're
22 moving away from addressing existing lighting
23 because what it would require would be a -- not
an

but 24 entirely new ordinance, if this one gets passed,
existing. 25 certainly an amendment to it to address

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1 CHAIR MOLINA: Okay. Mr. Maberry.
2 SUBCOMMITTEE MEMBER MABERRY: Thank you, sir, and to
that
3 end I greatly appreciate what Dr. Altenberg is
4 attempting to do. Again, I feel for the sake of
5 getting anything past -- I mean because not just
6 does it have to get through this Committee and
7 through the Public Works Committee, but it has
to
8 get past the whole Council before this -- end of
9 this term is over.
10 What I would like to see is now that we
know
11 who the stakeholders are in this issue, or at
least
12 the ones that are extremely concerned, that I
would
13 like to see that sort of an ad hoc committee get
14 together, expanded from the three of us to
include
15 the known stakeholders and start to look at --
as

involved 16 well as the County. We would need someone
17 in the County who can address the costs of
18 retrofitting that it would be, you know, to the
side 19 County and to actually, you know, work on the
20 and come up with some ideas that would then
amend 21 this particular ordinance in the future, as
opposed 22 to risking not getting an ordinance at all this
23 year.
24 CHAIR MOLINA: Thank you. Dr. Altenberg.
25 SUBCOMMITTEE MEMBER ALTENBERG: A couple comments.

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effective 1 Because the construction of this ordinance is to
2 only include lighting installed after its
another 3 date, it would not need to be amended, but
4 ordinance would need to be enacted that would
lights 5 apply -- whose construction would apply to
6 that were installed before the effective date of
7 this ordinance. So it would be a separate
8 ordinance. Nothing would need to be amended.
So --

Outdoor 9 and in regards to having some kind of like
 10 Lighting Standards Committee be responsible for
 11 proposing ordinance for retrofit, I don't --
that 12 would be in the administrative wing of
government, 13 and I think it's very important that anything
that's 14 being considered as an ordinance be under the
aegis 15 of the Council, as this Subcommittee is.
 16 CHAIR MOLINA: Okay.
 17 SUBCOMMITTEE MEMBER ALTENBERG: So if I could restate
the 18 motion based on the discussion so far, which is
that 19 the Subcommittee recommends to the Public Works
 20 Committee that after a proposal is made for
dealing 21 with new lights, that an ordinance be developed
to 22 deal with existing lights as either part of the
work 23 of this current Subcommittee or --
 24 CHAIR MOLINA: A task force.
 25 SUBCOMMITTEE MEMBER ALTENBERG: -- in a subcommittee
to be

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1 established in the next County Council term.

2 CHAIR MOLINA: Okay. So what we'll do is you'll go
ahead

3 and withdraw your original motion as stated, as
well

4 as the second, Mr. McCord? Okay. And now we
need a

5 second for the new motion that's been made.

6 SUBCOMMITTEE MEMBER McCORD: I'll second for
discussion

7 purposes.

8 CHAIR MOLINA: Okay. Before I go to Dr. Altenberg,
one

9 question for Corporation Counsel. The concern
about

10 setting a specific time or date where the next
11 Public Works standing committee would take up an
12 issue like this, are they bound, the future
Public

13 Works standing committee, to -- say if this
14 Subcommittee were to set up a time, say, within
a

15 year that they should take this issue up, that
16 standing committee is not bound by the time
17 parameters set by this Subcommittee, am I
correct,

18 Mr. Garneau?

19 MR. GARNEAU: No, that's correct, and I think the
20 appropriate way to do this would be to -- I'm
21 anticipating that the Subcommittee's going to be
22 transmitting a draft ordinance and a Committee
23 report. So within that Committee report you
would

ordinance 24 want to say, okay, attached is our draft
25 and we specifically addressed future lighting,

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to 1 because we felt that was the most expedient way
2 get that done. We haven't addressed existing
problem 3 lighting, although we've identified it as a
Committee 4 and this is why and we recommend that the
do. 5 take it up. I mean, you can't tell them what to
6 It would be up to them ultimately.
language 7 SUBCOMMITTEE MEMBER ALTENBERG: No, I never -- my
Public 8 was that our Subcommittee recommend to the
deal 9 Works Committee that an ordinance be drafted to
by 10 with existing lights, with the problems caused
11 existing lights either after we complete our
or in 12 recommendation for an ordinance for new lights
13 the next term of the County Council, so that's a
14 recommendation. It's not an obligation. It's a
Public 15 recommendation of this Subcommittee to the

16 Works Committee.

17 CHAIR MOLINA: Okay. Thank you. Any other discussion

18 with regards to the motion on the floor? Mr.

Chong.

19 SUBCOMMITTEE MEMBER CHONG: It's called an outdoor

20 lighting ordinance, and if it means it deals

with --

21 I mean you're right in saying that the ordinance

22 only affects the lights that are installed after

the

23 ordinance is in place, but if the ordinance says

24 that it -- has a paragraph on existing lighting

and

25 you have to do such and such and such, whether

it

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1 means replacing it within ten years or you

replace

2 it when you -- you have to change it to comply

when

3 you replace it, it's still dealing with outdoor

4 lighting and we need to change the title of the

5 ordinance. I mean, it's kind of a misnomer. It

may

6 cause confusion.

7 SUBCOMMITTEE MEMBER McCORD: Point of information.

8 CHAIR MOLINA: Okay.

9 SUBCOMMITTEE MEMBER McCORD: Isn't it just as easy to
10 amend an ordinance as it would be to pass a new
11 ordinance?
12 MR. GARNEAU: It would be the same procedures and
would
13 not make sense to me, from just a construction
14 standpoint, to have more than one outdoor
lighting
15 standards in the Maui County Code. So in my
mind
16 what would make more sense would be if you're
only
17 going to deal with future lighting now and down
the
18 road put in sections that deal with existing
19 lighting, then they should be incorporated into
the
20 same ordinance. I mean otherwise, from a
practical
21 perspective, you don't want to have to look
through
22 the code at more than one place. A lot of the
23 standards, definitions, it's all going to be the
24 same anyway. So it would just be a matter of,
you
25 know, amending it down the road. That's what I

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1 would recommend if I was asked.

2 SUBCOMMITTEE MEMBER ALTENBERG: Okay. I'll accept

that as

3 a friendly amendment, that the language be --

that

4 the Subcommittee recommends to the Public Works

5 Committee that after our recommendation for the

6 ordinance to deal with future lighting that an

7 amendment be developed to deal with existing

8 lighting.

9 SUBCOMMITTEE MEMBER McCORD: Second _____.

10 CHAIR MOLINA: Okay. Been seconded by Mr. McCord.

11 Amendment's been made by Dr. Altenberg. Any

12 discussion on the amendment? All those in favor

of

13 the amendment say "aye."

14 SUBCOMMITTEE MEMBERS VOICED AYE.

15 CHAIR MOLINA: All those opposed?

16 VOTE: AYES: Subcommittee members Altenberg,

Chong,

 Maberry, McCord, and Chair Molina.

17 NOES: None.

 ABSTAIN: None.

18 ABSENT: None.

 EXC.: Subcommittee member Bernard and

19 Vice-Chair Tavares.

20 MOTION CARRIED.

21 ACTION: APPROVE amendment to main motion.

22 CHAIR MOLINA: Okay. Now we're back to the main

motion.

23 Any other discussion on the main motion? Okay.

All

24 those in favor say "aye."

25 SUBCOMMITTEE MEMBERS VOICED AYE.

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1 CHAIR MOLINA: All those opposed?

Chong,

2 VOTE: AYES: Subcommittee members Altenberg,
Maberry, McCord, and Chair Molina.

3 NOES: None.

4 ABSTAIN: None.

5 ABSENT: None.

6 EXC.: Subcommittee member Bernard and
Vice-Chair Tavares.

7 MOTION CARRIED.

(relating

8 ACTION: APPROVE main motion as amended
to an ordinance to address existing
lighting).

9 CHAIR MOLINA: Okay. Thank you. The motion carries.

hour.

10 Okay, members, we've reached the 12:00 o'clock

other

11 Our next meeting we're scheduled to see each

back

12 again is September 25th, 9:00 o'clock, right

other

13 here in the chambers, and being that -- any

to

14 comments from Corporation Counsel with regards

15 whether this Committee goes with just

16 recommendations or crafting another ordinance

we're

17 itself? I know we have some time constraints

31st

18 looking at, assuming we stay with our October

19 deadline.

with 20 MR. GARNEAU: The only comment I have is generally

21 proposed ordinances they're -- once the draft is

22 done, they're reviewed by our office, and that

the 23 typically would mean that I would review it and

all 24 First Deputy and the Corporation Counsel would

25 review it, make comments, and those comments are

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standing 1 transmitted back to the -- normal case is

2 committee.

the 3 So as a Subcommittee, since you aren't at

4 point where you have a draft for us, and it's a

5 relatively short amount of time, I'm not certain

6 that there would be time to go through that. So

Corp. 7 you'd have to make a decision. If you want

8 Counsel to do that, we would need a draft, you

know, 9 really quickly. I mean it would have to come

after 10 the next meeting.

11 Other than that, then I suppose the draft

12 could be transmitted to the Public Works and
13 Transportation Committee and then they'll have
to
14 send it out to our office for review and
comment.
15 So just to let you know, that is a procedure we
do
16 with all proposed ordinances, and so you are
under a
17 little bit of a time constraint if you want us
to do
18 that prior to the time that this Committee --
19 Subcommittee's term ends.
20 CHAIR MOLINA: So the bottom line, members, I think at
our
21 September 25th meeting it's essential we get
22 something out. We may have to look at a longer
day,
23 if that's something the body may want to
consider.
24 So I'll just leave the Committee with that
thought.
25 Dr. Altenberg, before we adjourn.

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1 SUBCOMMITTEE MEMBER ALTENBERG: Should we schedule an
2 additional meeting?
3 CHAIR MOLINA: I would consider looking at an
additional

4 meeting in October. I know we had one slated --
5 Gary, do you have the date for the October
meeting
6 that we had planned for?
7 MR. SALDANA: October 23rd.
8 CHAIR MOLINA: Okay. We could schedule one -- another
one
9 prior to the 23rd.
10 MR. SALDANA: If you will, Mr. Chair --
11 CHAIR MOLINA: If it's necessary.
12 MR. SALDANA: If the Committee can come -- or
Subcommittee
13 can come fairly close to conclusion at the next
14 meeting, then we can send off the
recommendations or
15 revisions to Corporation Counsel and hopefully
have
16 that back for review. We would need to give
them
17 sufficient time to do that, however. We have
been
18 tracking the changes and we do have them on a
19 matrix, so we'll include the changes that were
done
20 here so we'll have everything pretty consistent
and
21 ready for inclusion into the new ordinance.
22 CHAIR MOLINA: Okay. Thank you, Mr. Saldana.
23 SUBCOMMITTEE MEMBER ALTENBERG: 7th through the 16th
I'll
24 be on the mainland, sir.
25 CHAIR MOLINA: Okay, October 7th through the 16th,
okay.

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seeing 1 All right. Any other announcements? Okay,
members 2 none, the Chair thanks all the Subcommittee
our 3 and our resource personnel for participating in
(Gavel) . 4 meeting today. This meeting is adjourned.

5 ADJOURNED: 12:02 p.m.

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1 C E R T I F I C A T E

2 STATE OF HAWAII)
3) SS.
4 CITY AND COUNTY OF MAUI)

5
6 I, Jessica R. Perry, Certified Shorthand
Reporter
7 for the State of Hawaii, hereby certify that the
8 proceedings were taken down by me in machine shorthand
and
9 was thereafter reduced to typewritten form under my
10 supervision; that the foregoing represents to the best
of
11 my ability, a true and correct transcript of the
12 proceedings had in the foregoing matter.

13 I further certify that I am not attorney for any
of
14 the parties hereto, nor in any way concerned with the
15 cause.

16 DATED this 19th day of September, 2002, in
Honolulu,

17 Hawaii.

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21 Jessica R. Perry, CSR NO. 404
22 Notary Public, State of Hawaii
23 My Commission Expires: 5/11/03

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