

November 3, 2016

Meeting Notes

Orange County Firearms Safety Committee

Tuesday, October 25, 2016

John M. Link, Jr. Government Services Center, downstairs meeting room

200 South Cameron Street, Hillsborough

Attendees

- Committee members appointed by the Board of Commissioners: Jon Arvik, Roxanne Barksdale, Sara Conti, Keith Kirkland, Vince Tesoro, Greg Tilley, and Keith Webster. [*Jack Hunnell was not present*]
- Liaisons to the Board of Commissioners: Commissioners Earl McKee. [*Barry Jacobs was not present*]
- Resource persons designated by the Board of Commissioners: Travis Myren, Deputy County Manager; Forrest Orr, NC Wildlife Officer; John Roberts, Orange County Attorney; and Jamie Sykes, Chief Deputy, Orange County Sheriff's Office.
- Facilitator: Andy Sachs, Dispute Settlement Center
- There were about 20 observers.

Convene

After introductions and adoption of the proposed desired outcomes and agenda for the meeting, the Committee accepted the proposed notes from the October 17 meeting.

Comments from Observers

This meeting was planned as the final one for the Committee. Comments from observers were taken at the start of the meeting, as opposed to at the end, so that the Committee could incorporate any good ideas raised by observers this evening into its decision making.

John Landreth – Asked if there will be a break during the meeting. Reiterated his interest in seeing a time limit within which firearms noise complaints under the ordinance could be raised. For example, if neighbors raised a firearms noise complaint in October and then again in March, then that should not count as two separate complaints. Offered that sixty days might be reasonable, but not ninety days. Asked when the Committee's recommendations would be considered by the Board of County Commissioners.

David Carter - Is a Concealed Carry Handgun instructor, NRA pistol instructor, firearms safety instructor, and an avid shooter. Asked why everyone has to suffer if only one or two people have complaints about firearms noise. The General Statutes of North Carolina have provisions through which such complaints can be handled. If problems are not being handled in accordance with the General Statutes, then there is a problem with the law's enforcement, not with the General

Statutes. If there is a problem with the General Statutes then we should fix them, but we do not need to pile regulations upon the statutes. Additionally, a lot of people who live in the rural area know that in such areas people are going to hunt, engage in sports shooting, etc. It's like living near the airport and complaining about the sound of the airplanes. I bought my house knowing it was near a railroad line. I don't complain. If you live in the rural area then sometimes guns will go off. If they are not shooting at you then don't worry. And if it keeps going late at night, then there is a General Statute for that.

Chad Resnik – Noted that there are no time restrictions in the definition of “unreasonably loud.” Explained that all firearms create noise within the range of 164-169 decibels. What is different across situations is the amount of time that the firearm stays at that peak noise. For example, the peak millisecond of sound pressure for a .50 rifle stays at that higher level. Anything moving at rate sufficient to create a supersonic crack will usually create noise in the range of 164-169 decibels. So, the noise is the same except for the length of time it is sustained. Asked who will decide whether or not the length of time is unreasonable or inappropriate. I bought the 18 acres I live on so that I could shoot. I shoot far away from others. I own a suppressor company. I shoot at night. I want to be sure that if the County is going to impose restrictions that, first, the restrictions can be followed and, second, I can understand them so I'm not that dude everyone hates. Said he wants to follow the rules, but needs a plain English definition of “disturbing” in order to do so, as opposed to what he is reading in the draft ordinance, especially the last part, “being a type of sound which could be lessened or otherwise controlled by the maker without unduly restricting his conduct.” Is it the intention that people use suppressors? I can't tell. My other concern is, given the ease with which people are able to obtain a CCH permit – and this is not going to make me popular -- that we have people who cannot shoot. I am a Department of Defense sniper instructor, doing a lot of work with elite Special Forces groups. I am the sniper instructor for the NC Tactical Officers Association. I and another person, a Chapel Hill officer, are the only ones certified to go onto a military range, and so help to make the Association's SWAT Competition possible. I am a Concealed Carry Handgun instructor. The state requires that I teach you to clean your gun but not how to carry your gun safely. The draft ordinance limits the avenues people have to train on their own property on their own time. We're not going to change the fact that people are carrying concealed handguns, but we can try not to obstruct their ability to do it safely. The current draft ordinance is much better than the earlier version; this one is less horrible. I understand the concerns completely. I don't like having people outside of my back window shooting. I don't like it now hearing others shoot at the distance I'm hearing it, and I would not like it if they were closer to me. We are moving down the right path. I was under the impression that this is a gun safety committee, not a regulate-how-guns-are-used committee. There is a reason the Second Amendment is second only to the rights to speech, press, petition, assembly, and religion. It is an unalienable right the Creator gave us. We're not having a discussion about whether or not I can have a gun. Right now we are arguing whether or not I can shoot it on my property. I think that there is some middle ground here. We really have to take

care of all sides. When can we have the dialogue, so that I can ask questions and better understand what is in this draft ordinance? One thing I learned from calling JAG and other attorneys is that if we start to restrict the amount of training to a point that it becomes much more difficult for an individual to fire here, then, well, there's shift that occurs when you move from white light to putting thermal or night vision on top of a rifle; if you don't let me zero that, and I make a mistake, then there a potential for Orange County itself to incur some culpability in the event of a problem.

Joshua [last name?] – First saw the Committee's product yesterday on social media, as he works 60-70 hours per week and is taking care of his family. Appreciates everyone's time and efforts, and knows that everyone has good intentions here. Is confused by what he is reading in the draft. The name of the committee is Firearms Safety Committee. Maybe it's like legislation in Washington, where it is called one thing and another thing comes out of it. The only thing I'm seeing of any use with regard to safety is the requirement that projectiles be kept on the shooter's property, unless you have written permission from the other property owner. At the Board of Commissioner's meeting when the earlier proposal was being discussed, Charles Blackwood said pretty clearly that all errant rounds wind up in court; he proposed a rhetorical question as to whether or not there is a need for an ordinance for the lawful shooting of firearms; he said, "I don't know that there is." So, what are we doing here? Is this the firearm tranquility committee? So people can take a nap on their hammock on Sunday afternoon? The majority of what is in the draft ordinance is unnecessary. I don't believe that the real intent is safety. I don't know what it is, and I would like some clarification.

Daniel Patterson – Is Committee member Roxanne Barksdale's husband. Thanked the Committee for all the time it is spending on its work. The final draft contains some pretty modest proposals. I don't see them infringing on anybody's Second Amendment rights or ability to shoot on their own property. My neighbor has a gun and if he wants to shoot it then that's fine. I do have a problem if a bullet comes onto my property, breaks my window, shoots my dog or shoots me. I don't think it is unreasonable to restrict that. I don't think it's reasonable for someone to be shooting an AR-15 at 2:00 in the morning. These are common sense regulations. It all comes down to being a good neighbor and a responsible gun owner. That's not asking too much.

Jennifer Merritt Depew – Is an NRA firearms instructor, range safety officer, Concealed Carry Handgun instructor – one of the few females in this business. Attended the Committee's first meeting and heard a lot of concern about noise, that firearms sound dangerous. Firearms are dangerous, and there are laws in place to address errant rounds. If, God forbid, a window gets shot out then that's already addressed under existing law. I'm kind when I shoot: I don't have to let my neighbors know that I'm shooting but I do inform the ones that I know who care. I also have had trespassers come onto my property to see what I am doing, which is bizarre to me that someone would walk up upon an active shooter. I don't understand that kind of entitlement, to

feel that you are entitled to investigate. I have put up No Trespassing signs, which people ignore, and I have spoken to them to ensure that it does not happen again. I do what I can to ensure that I and all my people are going to be safe. I handle every one of my shooters. As a CCH instructor I make sure that my students know how to shoot before they leave. I take the extra time to do that. But it's true, they might not all do that. I know casual shooters, but I am not a casual shooter. I'll be the first one to jump into somebody's business and say, "You need to be more careful," or "You need to make sure you have that." But I do it in a friendly way. Not in a manner that's ungoverned. I do it in a common sense way, which we all know is not all that common. I don't understand when people say gunfire sounds dangerous, because a barking dog sounds dangerous to me, rap music sounds dangerous; we can't go by what sounds dangerous. A gun can be dangerous in the wrong hands, but that is not what this Committee is here to address. The draft is telling me what I can and cannot do, on land that has been in my family's hands for generations. That offends me. It offends me that this is your business when I'm not hurting you, not placing you in danger. Even though you perceive it that way. I'm helping countless women. I have brand new shooters. Women who have never picked up a gun. By the time we're done they are empowered, they are confident in their abilities. And I encourage them: this is where it starts, and this is where it stops. A formal range is expensive, and a lot of these ladies are not going to do it. So they will carry a handgun, licensed by the State of North Carolina, by whatever County they are in, without training if you put severe limitations on them.

Andy [last name?] – Thanked Committee for taking the time to listen to meeting observers' comments. Is concerned that language in section (g) addressing noise is arbitrary and ambiguous, and potentially limits what he can do on his own property. Prefers to shoot at a gun club, because everything already is set up there, but sometimes likes to shoot on his own 10-acres. I can build a berm, I can comply with that part, but has had experiences with neighbors about the noise from his shooting. I have alerted them that I was going to shoot, and it was not received well. They have a problem with the noise. I'm afraid that the ambiguous language in the draft ordinance if it were passed into law could be abused by people who just don't want others to shoot.

Riley Rusky – Thanked the Committee for all the hard work it has done. But you have worked for a solution to a non-existing problem. When all is said and done, this is no different from your very first meeting, when the data presented by the various police departments showed there is no problem to be solved here about firearms safety. There just aren't the incidents. So you devolved to the issue of noise, and ended up with a very incomprehensible way to determine how shooting is too noisy. I don't understand it, and I don't know if anyone else can understand it. I don't see how you can enforce it in a fair and consistent manner. I see in the draft that you still want to maintain the compounding of errors so you can maximize the penalties to anybody who does make a mistake and gets caught. I think that is absolutely wrong. You're splitting it up into little segments so you can fine people on each different item. C'mon folks: treat people decently and

honestly. Don't play games with these fines. You've worked very hard, you've come up with a solution that is in search of a problem. And you really ought to quit right where you are at.

Becky Ceartas – Is Executive Director of North Carolinians Against Gun Violence. Thanked the Committee for the opportunity to speak about the important work it is doing. Her organization's attention is in helping communities in North Carolina share fact-based information and advocate for preventing gun violence. Thanked the Board of Commissioners and the Committee for joining other counties in paying attention to the role of guns in North Carolina communities. The draft ordinance achieves a good balance in protecting the rights of all citizens of Orange County, those that own guns and those that don't. Looks forward to seeing the Committee's recommendations before the full Board of County Commissioners.

Roy Coe – Asked if there is a way for people to receive a warning from law enforcement officers before being given a \$500 fine. Said that Orange County's current noise ordinance (Article III) imposes a \$100 fine for violations but allows for warnings. Also, had been a Search and Rescue volunteer with a Sheriff's Department in California for 19 years and observed that some deputies are not pro-Second Amendment. Concerned that if two civilians make a firearms noise complaint as provided for under the draft ordinance then that sort of deputy will be quick to issue a violation. And we know if you get a violation then where ever you are shooting you will be shut down. You will never be able to shoot there again. I'm not picking on deputies, but I know there are some that are that way.

Committee Recommendations to the Board of Commissioners

After a quick break, the Committee turned its attention to developing its recommendations.

Mr. Kirkland noted that there is a lot of discussion on social media asking why the Committee is going forward with an ordinance. I said earlier in the process that I did not think we have a problem. As I began to think about how liberal Orange County is, I concluded that if citizens did not do something now, then in six months or two years there would be another document created by the Commissioners which we would not be able to have any input on. So I appreciate that the Commissioners have given us this opportunity now to work on these issues. The draft ordinance is not perfect -- we have some work to do – but that is why we are here now with this document. At least we have some input now that we might not have in a few months or a couple of years down the road.

He added that no reasonable person would be opposed to items (a) – (f) in the draft ordinance. These provisions are the same things we have been doing our entire lives in Orange County. We have not had that many situations where someone has been injured by errant rounds, because we have practiced responsible shooting. We're just putting that on paper now. We're simply saying you can shoot all you want, but just keep that round contained. You can use whatever type of

backstop you need in order to stop whatever kinds of rounds you are shooting. This ordinance is just a way to solidify what most of us is already doing.

I have some problems with some of the definitions in item (g), he said. Who is going to decide if something is unreasonably loud? How do we weigh that? And why would “injures” be included in the definition of “disturbing” if we’re talking about noise? How does “health” come into play if we’re talking about noise? And we’ve already addressed the safety issue, so that doesn’t need to be there.

In reply to a question from Mr. Kirkland, Mr. Roberts said that he is not seeking any outcome or intent in particular through the language he provided to the Committee in the draft. The language came pretty much from Chatham County’s ordinance, he said. We can change it however the Committee would like to change it. If you are not comfortable with any definition or any word in this section then it can be removed. I don’t have any opinion of what the Committee’s intent was, he said.

Mr. Kirkland said that the noise provision is so open-ended that it makes too many situations possible where somebody’s shooting would be restricted. For example, the definition of “disturbing” can be applied too broadly. “Peace” and “safety” in (g) are going to be based on who is making the complaint, what their comfort level is with gun use. If they are the kind of person who just does not like guns, then anytime somebody shoots a firearm the person will feel endangered. No matter how safe the shooting range is.

Mr. Roberts said that he had two exchanges today about section (g). One was an email exchange and the other was a telephone call. In one exchange, he said, I had the opportunity to clarify that section (g) as it is written would only apply to two people and the law enforcement officer complaining about the same incident. Also, if a deputy issued a citation, then ultimately a judge would decide if a violation of the ordinance had occurred: whether the noise was unreasonably loud or disturbing. The judge would do so by putting himself in the position of a prudent person or a reasonable person of ordinary sensibilities. That’s a standard found in a lot of legal issues, even beyond this. The other conversation I had today helped to clarify that section (g) is the most vulnerable to being abused of the draft ordinance provisions. Neighborhood disagreements could be viewed as being resolvable by one or more neighbors by calling a deputy and utilizing section (g). So, on the one hand section (g) is legally enforceable using the reasonable person standard, and on the other hand it is subject to being abused more than any of the other provisions.

Mr. Tilley agreed with Mr. Kirkland regarding support for sections (a) – (f). When the Committee was established, he said, it was for firearms safety. Noise was never mentioned. We were never charged to fix the noise problem. It just kind of evolved as we went on. We don’t need to change (g), he said, we need to omit it.

Dr. Arvik asked how – without (g) -- law enforcement or a neighbor would know that somebody is shooting improperly. How would we know a situation exists where there is a likelihood of an errant bullet? Dr. Arvik reiterated the situation he witnessed in May, where a trained individual was on his own property shooting into crushed rock toward a neighborhood less than 100 yards away. Law enforcement had nothing it could use to stop that man from shooting. Section (g) would give law enforcement the ability to say, “I received the noise complaint, heard the shooting myself, investigated further, determined that the situation was not right, and intervened to stop the shooter before injury or damage occurred.” The only reason the deputy would know about the shooter was the noise, so you can’t separate the noise complaint from the incident.

Mr. Tilley said that if sections (c) and (e) had been in force during that situation in May then the law enforcement officers could have intervened to stop the shooter. Section (g) would not have been needed, he said. A neighbor can hear shooting, call 911, and get an investigation into the safety of the situation without section (g).

Dr. Arvik said that if a neighbor or law enforcement officer does not hear an errant shot, then the only sound will be when that bullet strikes a person or someone else’s property. That’s too late, he said. Something has to trigger that phone call. That is why we need section (g), and training for the deputies, which Deputy Chief Sykes has assured me is happening, he said.

Ms. Barksdale said that she likes having the two civilian complainants as necessary complements to the law enforcement officer in section (g). It’s unfair to have the law enforcement officer as the sole person making the complaint about the noise.

Mr. Tesoro said that (g) is far too subjective to be enforceable or fair. It leaves too much up to the discretion of neighbors, especially nasty neighbors. I see no reason why, if someone sees a dangerous situation as Dr. Arvik did, you need an ordinance with a noise provision to stop the shooter. Dr. Arvik replied that he had heard the shooting before he saw it. Mr. Tesoro said that if you hear gun fire you can call 911 and get a response even without (g) in the ordinance.

In reply to a question from Mr. Tesoro, Chief Deputy Sykes said – off the top of his head -- that his office responded to something along the lines of 450 calls regarding gun shots throughout the year in 2012. Don’t hold me to that number, he said. But we responded to the report of gun fire and investigated. Dr. Arvik replied that in May he called 911 three times, and had to argue with the operator to get somebody to come out while the shooting was taking place. It wasn’t so bad when he was shooting a .22 pistol. But then he pulled out an AR-15 .223. The deputy said it was only a .22, and he had no authority to stop the shooter because the shooter was on his own private land. It was a Saturday afternoon and he was shooting into my neighborhood where there were 7 preschoolers running around. I want something that will give law enforcement the

authority to go to that man and say, “you are in violation of something.” It’s unacceptable that he could not do anything in that situation. I had to tell the third officer that if he didn’t stop the shooter that I would. What do you think the shooter’s attitude is going to be after three officers did nothing and I go down there?

Chief Deputy Sykes said he has responded in his 20 year career to over a thousand gunshot calls. The most frustrating thing for me is to tell a complainant that there is nothing we can do. They look at me like I’m an alien: what do you mean there is nothing you can do? I know Dr. Arvik experienced that in May when we responded to his calls. There was nothing we could do. But if this draft ordinance had been in force at the time, and we saw the insufficient backstop and a man with a .223 shooting toward your neighborhood, then we would have had teeth to do something. Dr. Arvik added that the ordinance also would require the County to provide the deputies with the training necessary to make the necessary judgments. Chief Deputy Sykes said no, that such training does not exist for law enforcement. Mr. Webster and I have searched for that across the state, he said, and it does not exist.

Everybody in law enforcement had a background in firearms when I started in 1995, he said. Now we’re seeing a younger generation enter law enforcement that has grown up in homes without firearms. We’re having to train them. We’re having to send them to urban rifle school and to firearms safety courses. And we’re having to provide remedial firearms instruction in our basic law enforcement training. We want everyone to be safe, so it is our responsibility as leaders in the Sheriff’s Office, to convey the information the guys in the street need to make the necessary judgments. I don’t know who responded to Dr. Arvik’s calls in May, he said, whether they were State Troopers or Sheriff’s Deputies. But what Dr. Arvik says he heard from those officers is the same information I have given officers for 20 years: “If he’s on his own property then I can’t do anything.”

Dr. Arvik said he wants law enforcement to have the authority it needs to stop people from doing stupid things with guns. Mr. Tilley said that if the Board of Commissioners adopts section (c), even without the noise part, then law enforcement would have that authority. Mr. Webster said that law enforcement does not need (g) to investigate a firearm noise complaint; they will come out if you call and say you’re hearing gunshots and are concerned about it. If these other provisions, (a) – (f), are in place then after the deputies get there from the noise complaint they will have the teeth to do something if there is an inadequate backstop. They don’t need (g) to do their job.

Dr. Arvik said that if the shooter had suppressed his gun, and if there were no noise, then the shooter could have been there all day shooting into crushed rock toward the neighborhood. An AR-15, 4,000 feet per second! The officer investigated whether it was an appropriate place to shoot, and determined that it was, and so he couldn’t do anything about it. The whole reason we

are here is to give law enforcement and the County the ability to stop that sort of thing from happening. If that makes it inconvenient for shooters then we have to accept it. I'm a shooter. I'm an NRA instructor. I don't want anybody hurt, and I don't want anything done to restrict anybody's right to shoot. But I want to be sure there are negative consequences to them if they shoot improperly.

Ms. Conti said there is nothing law enforcement can enforce with regard to a noise violation when it comes to firearms. A citizen can call and law enforcement can come to the scene, but once law enforcement arrives it does not have the teeth to enforce anything with respect to noise.

We have talked about danger and perceived danger, she said, but that's a meaningless distinction. When I talk about a person hearing unreasonable shooting I am not talking about hearing someone shooting with their kids, skeet, ducks, dove, targets -- none of that is unreasonable. That is what living in the country is about. I'm talking about the kind of shooting that really is frightening, where you don't know how far away they are, or how many people there are, or what direction they are shooting in, or what caliber they are shooting. Those are the situations that cause reasonable people to be afraid. They perceive danger, and they don't feel safe. So to the extent that we are here to address safety, their not feeling safe from hearing irresponsible shooting is within this Committee's charge.

Things have changed, she said. Living in the country has changed. For all the generations who have been shooting responsibly in the country all these years, still some people are abusing that right. They are shooting assault rifles into exploding targets and they are treating guns like toys. I'm not talking about the people who have bought houses out here and are surprised by the shooting, like those living next to an airport and are surprised by the planes. I have been living in the country a long time. It's different now. We have a noise problem because of the people abusing their right to shoot, and there is nothing in Orange County that gives law enforcement the authority to do anything about that problem.

Maybe the solution is for the Board of Commissioners to take up the noise issue, she said. It would be easy enough to lift the firearms exemption from the noise ordinance. But we're here to address firearms safety, and to the extent that people are not feeling safe when they hear firearms noise I think it is hard to separate noise from this ordinance. We're not here to talk about the Second Amendment, she added. Nobody on this Committee is challenging anybody's right to bear arms. At the same time, none of us have the right to shoot anywhere, anytime, anyhow.

In reply to a question from Mr. Tesoro, Ms. Conti said that, although it is difficult, we can differentiate between noise from unreasonable shooting and noise from reasonable shooting by giving the investigating officer the authority to make that distinction. She noted that Mr. Tilley had introduced the *prima facie* clause in section (g). If we require two complainants and then an

officer to make the determination with regard to the reasonableness of the noise, she said, then that noise will not be the legitimate kind of shooting activity we're all talking about here. If there are a lot of shooters coming from who-knows-where, firing in who-knows-what direction, then that's the kind of noise that's unreasonable and needs to be stopped. We're not talking about normal shooting. I know what normal shooting is. I live in the country. It happens every day. This is different, and you know it when you hear it.

The facilitator suggested that each member of the Committee express an opinion about keeping (g) in the group's recommendations. Should we spend our time trying to improve (g), or should we take it out entirely? Mr. Tilley, noting that Mr. Hunnell was not present this evening, said that the group should not take any binding votes until all the Committee members are present. Mr. Tesoro agreed. Dr. Arvik said that the group cannot wait for Mr. Hunnell to return, since this is supposed to be the Committee's final meeting. Mr. Tesoro said that he had been asked by Mr. Hunnell to let the Committee know that Mr. Hunnell [Tesoro now reading from an email] does "not support the noise clause but suggests that language be added that the two parties not be related and be from the neighborhood affected." The facilitator noted that the group's ground rules contain a quorum rule (to make a decision no fewer than six members must be present) and a decision rule (two more than half of the members present must be in agreement). With seven members present, he said, we have a quorum this evening and six members are needed for a decision tonight.

The group agreed to take a non-binding poll on whether to keep (g) or continue working on it.

- Mr. Kirkland – Does not support (g) as it is written, and does not know what kind of time is available for the Committee to try to improve it.
- Ms. Conti – Feels strongly that there needs to be a noise component to the ordinance if an ordinance is the result of this Committee.
- Mr. Webster – Does not support (g), and thinks the noise issue should be deferred to the Board of Commissioners for resolution in the context of the County's noise ordinance.
- Mr. Tilley – The Committee is not commissioned to work on the noise ordinance. We've done an excellent job at addressing safety through (a) – (f). Noise does not need to be in the safety ordinance.
- Ms. Barksdale – Likes parts of (g), because it gives teeth to law enforcement. Wish it could be part of (c), maybe through some further discussion by the Committee.
- Mr. Tesoro – I don't support (g) at all. Agree that we have developed a substantial gun safety ordinance – that is not needed, because we do not have a safety problem – and I am willing to move forward with the draft ordinance without (g).
- Dr. Arvik – Proposed a modification of (g), because if a noise provision is not included then we have wasted a lot of people's time and money.

The facilitator observed that 4 of the 7 members present this evening were willing to continue working to try to improve (g): Kirland, Conti, Barksdale, and Arvik. He suggested that (g) be set aside temporarily and asked if there were any other provisions in the draft ordinance that any Committee member wanted to address.

Mr. Tesoro asked the group to reconsider section (i), noting that during the observers' comments period this evening Mr. Rusky had raised a concern about each violation of the ordinance being a separate penalty. I know we discussed this at length, he said, but it's excessive to penalize a person for violating each section of the ordinance. Mr. Tilley, referencing comments made by Mr. Coe during the observers' comment period, asked if any other County ordinances allow law enforcement to give warnings instead of citations. Mr. Roberts said that law enforcement officers are always free to give a warning. It need not be specified in an ordinance, he said. Chief Deputy Sykes agreed. Commissioner McKee reminded the group that he had stated in one or more earlier meetings that the Board of Commissioners generally does not look favorably upon "piling up" fines. We've pulled fines out of ordinances dealing with animal control, he said. I won't predict the vote of the Board, but I and other members of the Board have not been in favor of multiplying fines. It could be handled by saying a violation of any provision of this Section *or Sections* shall be guilty of a Class III misdemeanor punishable by a fine of *up to* \$500. Mr. Tilley noted that the draft already says "up to."

Mr. Webster said that he originally had proposed the multiple-penalty provision, but he did not have an issue with removing it now. Mr. Tilley asked, if the multiple violation provision were eliminated, whether a violation of the ordinance on one week would be considered a separate penalty from another violation the next week. Commissioner McKee and Mr. Webster said that those would be separate violations. All agreed to revise the draft by removing references to each violation being a separate penalty. Mr. Roberts volunteered to distribute a revised draft to the Committee.

The Committee took a short break, and then turned its attention to a draft recommendation developed by the facilitator from the Committee's discussion on October 17 regarding voluntary community education on firearms safety, the so-called "non-ordinance" recommendation. Commissioner McKee said that he is interested in supporting good relationships between neighbors. Efforts to educate the community, if done right, will help develop those relationships but if done wrong could damage relationships. Mr. Tesoro asked who would lead the charge on the implementing the recommendation. Mr. Roberts said that if the Board accepts the recommendation then it would direct staff to proceed. The Manager's Office would probably take the lead to make sure it was getting done, and the Board would send the recommendation to the Health Director and Director of the Department of Social Services for implementation. Commissioner McKee said that whatever resolutions the Board passes is generally handed to staff with unspecified directions to "make it happen." The Manager would delegate to Mr. Myren

or someone else in her office to work with whichever Department is responsible to ensure that the resolution is carried out. It would then come back to the Board to approve the specifics of the education effort, and then it would go out through the lead Department. The Committee adopted the non-ordinance recommendation unanimously.

The Committee then turned its attention back to (g). Mr. Kirkland proposed striking (g) completely, and leaving any further consideration of the firearms noise issue with the Board of Commissioners. The matter is too subjective for use to resolve, he said. Dr. Arvik wanted the Committee to address (g), and proposed that references in the draft to “unreasonably loud” be deleted. This would leave a mechanism for addressing “disturbing” noise, he said, where firearms noise is scaring people. Ms. Conti suggested that the clause also be deleted at the end of the definition of “disturbing:” “*and being a type of sound which could be lessened or otherwise controlled by the maker without unduly restricting his conduct.*” Mr. Tesoro said that he is not sure any amount of revision would salvage section (g), and that problematic words for him were “perceived,” “health,” and “safety.” By the time we get done there will be no (g) left, he said. Ms. Conti said that Dr. Arvik’s proposal was a nice compromise, to the extent that people’s objections to (g) were the inclusion of “unreasonably loud.” Mr. Tesoro said that even if “unreasonably loud” were deleted, there is no way to distinguish between disturbing noise from unreasonable shooting and disturbing noise from reasonable shooting.

Ms. Conti said that she was feeling “fed up.” She said she was flabbergasted (happily) when Mr. Tilley proposed a solution to the noise issues. But we have not discussed alternatives to this *prima facie* option. We have not discussed distance, for example, to address noise although distance is included in several local ordinances across the state. We set distance aside in our safety discussions because we said that the prohibition on a projectile crossing the property boundary to address safety was better than a distance provision. But that still leaves the problem of people shooting on, say, one acre lots. You might be able to contain the projectile, but the noise may be disturbing because the shooter is engaged in unreasonable firearm activity so close to someone else’s house. This Committee is tasked with addressing the issue of noise, somehow. Here we are at the last meeting, at the last minute of the last meeting, and now we’re talking about something we had supposedly resolved, with one little tweak from Mr. Hunnell about an unrelated person. What are we doing here??

Mr. Tilley said that at the first meeting he said that the Committee could save itself a lot of problems by adopting the Lenoir County ordinance. The Committee did not want to do that, he said. Ms. Conti said that the whole gun community from the beginning had advocated for the Lenoir County ordinance. Well, she said, Lenoir doesn’t have anything in it that is going to solve the noise problem. You people said that Lenoir does not have any teeth in it, and the irony is that this is what we have wound up with. The draft ordinance with (g) removed is so indistinguishable from Lenoir that one would think that the whole Committee came in

advocating for Lenoir. Section (g) is the one thing that provides some teeth and distinguishes our ordinance from Lenoir. I'm reminded, she said, of a woman who stood in front of us at the end of the previous meeting and asked if we have talked about issues that we have never even broached: time of day, shooting at night, distance from structures, how much land must you own before you can shoot, what is sustained shooting, what's a safe berm, how far must a berm be from a structure.

Mr. Tesoro and Mr. Tilley said that the Committee had indeed talked about all those issues. Maybe, said Ms. Conti, maybe somebody just mentioned that issue. But we never discussed it, and it certainly never got incorporated into the draft ordinance that is in front of us now. What is in front of us now is practically useless to people who are not shooters in this community. I believe this Committee was created because of the blow back that came from the regulations that were proposed by some other governmental entity, to try to assuage the concerns in the gun community that their freedom was being impinged upon. There are other people in the county who have freedoms that are just as important as those. I don't think we have begun to address the freedoms of the non-shooting community. I'm embarrassed now because I realize I was appointed to this Committee to represent the interests of those people, and I feel like I have failed them miserably. So, for all the freedoms in this room, your freedoms as shooters have not been infringed one bit by this ordinance. We have gone through this whole process just to protect the rights of the shooter. Now, how about you address just for one second the rights – which are equally as important – of the non-shooters? There is one paragraph in this ordinance that addresses the rights of the non-shooters, and now we're about to get rid of it. After having spun our wheels for months now. We could have done this at the start by saying, "Let's just do Lenoir County."

In reply to a question from the facilitator, Ms. Conti said she had no idea how to satisfy the needs of non-shooters who are disturbed by the noise from unreasonable firearm activity while at the same time satisfying the needs of responsible shooters who do not want infringements upon their freedom to shoot. If we lose (g) from the ordinance, the facilitator said, it is because we as a Committee could not figure out how to mutually satisfy those two sets of interests. It is OK if we are at that point, he said, to recognize it and let it fall to the Board of County Commissioners to try to figure it out. The Committee would have more control over the solution if it had a good recommendation, but we need a substantive idea. If Dr. Arvik's proposal to eliminate "unreasonably loud" is insufficient then let's keep hacking at it, he said, unless you all have decided that we are done. I don't want you to be done out of frustration. I want you to be done from an intelligent decision that we cannot come up with a solution at this time with this group of seven people who are here tonight.

Dr. Arvik said that we have failed if neighbors are disturbed by the location and time of somebody's shooting. We haven't given Chief Deputy Sykes any tools for dealing with that. If

we just let people shoot whenever they want and where ever they want then we have failed. Shoot at the right place at the right time. Night time is not the right time, unless it is at the right place: if you got access to 18 acres on which you can shoot in the middle of the night then go ahead. As long as you are not bothering your neighbors. If “loud” is problematic to the Committee then let’s take it out, but if shooting is disturbing to one’s neighbors then that shooting is wrong, and should not be allowed. The first thing that happens when a gun goes off is that the non-shooters start worrying. Responsible shooters also worry if another person’s shooting is at the wrong time in the wrong place. We worry more than the non-shooters do.

So, (g) needs to stay, said Dr. Arvik. I would propose that the definition of disturbing become (g) (1) and that portions of (1) be incorporated into the definition of disturbing: “consider or find substantially incompatible with the time and location to the extent...”. I want to get time and location in there, he said. If you are shooting at the wrong time and the wrong place you are violating the regulation. Citizens cannot determine what that is. Law enforcement can make the determination. And law enforcement needs to be trained to be able to do that. The Chief Deputy says that we don’t have a training program for that. Then let’s talk to the BOCC to direct them to begin that training, and give them the resources to do it.

Ms. Barksdale said that she does not want to discount that some people are alarmed by loud gunfire. Maybe the word to use in the ordinance is “alarming.” To discount the people who are alarmed by loud gunfire and do not want to be around it is as discounting as discounting the people who want to be around it. There needs to be an investigation if somebody is alarmed. And I like having the two civilians and the one law enforcement officer all involved in establishing what is alarming.

Chief Deputy Sykes said that if somebody calls and says they are alarmed by their neighbor’s shooting because they do not what is going on, then certainly we can respond and investigate what type of shooting is occurring. If it violated (a) through (f), and we could not come to a conclusion using conflict resolution between the neighbors, then we would have teeth to charge the shooter. Ms. Barksdale said that she cares about the ordinance being enforceable, and if it is enforceable without (g) – even though the three-person provision is in (g) -- then she could support an ordinance that excluded (g). Yes, said the Chief Deputy, if we find a violation under (a) – (f) then we can enforce under those provisions.

Dr. Arvik says that nothing under (a) – (f) would allow the Sheriff’s Office to enforce against a person shooting in the wrong place or at the wrong time. If we could pull those concepts from (g) somewhere into (a) – (f) then we would be giving the deputies the tools they need to address disturbing or alarming shooting. Reasonably intelligent and prudent people who are bothered by shooting – not because it is loud, but because it is occurring at the wrong place or the wrong time

-- should have their needs addressed. If it's not in here then the whole thing falls apart; we're back to the Lenoir ordinance, which is a useless piece of paper.

Mr. Tesoro asked where the noise part of the Committee mandate comes from. When I filled out my application, it said "Firearms Safety Committee." Commissioner McKee read from the BOCC's March 1, 2016 agenda abstract, which includes noise in the Committee charge. It also is repeated on May 17, he said, in the charge when we appointed the Committee.

Mr. Tesoro said that the Committee tried to define "sustained" at an earlier meeting but was not able to do so. Other words, like "alarming" and "disturbing" all come back to perception, he said. I don't think we can answer that. Ms. Conti explained that the "reasonable person standard" is a valid legal standard through which those terms can be defined.

The facilitator said that the Committee appeared to be at the point where it has consensus on an ordinance that contains (a) – (f) and a non-ordinance recommendation regarding community education on firearms safety, but that it does not have consensus on any revision to (g). The Board of Commissioners can read the meeting notes for background, he said, and individuals on the Committee can write or speak to them about the different perspectives they have regarding noise. He suggested a vote on recommending an ordinance that excludes (g) and the non-ordinance recommendation.

Commissioner McKee said that in the end the decision comes back to the Board of Commissioners. Our Board does not have to adhere to any recommendation or it can adhere to every recommendation or it can add other things if we decide to. You all have done some good work. I understand it when Ms. Conti says that without (g) the Committee has wasted its time, but I do not think the Committee has wasted its time. I can guarantee that every Commissioner has read every minute that has come out of this four month conversation. We created this Committee to get input from a group of people who were not the focal points of that meeting in February. We wanted an extended conversation in our community, outside of our Board, to get some recommendations. If the recommendations come back (a) – (f) then we will consider it. If they come back with (g) included then we'll consider it. I can't tell you what the Board might or might not do.

I would recommend that you not let the hunt for the perfect interfere with the possible, he said. From what I see, (a) – (f) gives law enforcement some teeth. I understand the noise issue. I don't know that I agree that the noise issue is absolutely critical to the Sheriff's ability to respond to a call and, if they get out there and see a person shooting into a pile of rock or at a six-inch diameter tree, they have some means of doing something. Back in May when they responded to Dr. Arvik's call they didn't have anything; if (a) – (f) passes then they will have something. Do we have a perfect document tonight? No. Will we have a perfect document after the Board of

Commissioners finishes with this? No. I can't guarantee or predict what the Board will pass or even if it will pass anything at all. But I would ask that you not feel like you wasted your time, because you haven't, because every Board member is following this discussion and lots of people in the community are following this discussion too. We had 200 people at the meeting back in February. I can guarantee you even if you complete your work tonight that this is not the end of the discussion. The current Board and/or a future Board will address this issue again. Don't let the hunt for the perfect interfere with the possible.

Dr. Arvik then proposed, "looking for unanimity," that (g) be struck from the draft ordinance, and that individual members be allowed to submit minority reports. The group voted, and decided 6-1 (Ms. Conti the one nay vote) to recommend to the Board of Commissioners the draft ordinance minus (g) and with the revisions to (i) agreed upon earlier in the meeting. Commissioner McKee thanked the Committee for making a very hard decision, and reminded it that the conversation is not over.

Evaluation of the Committee Process

The facilitator invited Committee members, resource persons, and the Board's liaison to reflect on what worked well in the Committee process, what did not work so well, what they have learned, what was challenging, and any advice they might want to give to the BOCC or to the facilitator for setting up and conducting future committees. Each person took a turn and shared some thoughts, as follows:

- Commissioner McKee – I'm proud of the Committee. This process has informed our Board, even the fact that there was dissent. This is what I wanted to see: a discussion, and not necessarily a polite discussion, where people are at, what people's opinions are. For me, the process worked.
- Mr. Myren – I hope we were able to support the Committee adequately with the research we provided. John Roberts did a great job. The format worked well in general.
- Dr. Arvik – I've been involved in lots of committees like this on different subjects, and the thing that impressed me most is that the facilitator didn't let this run away. Not once. I appreciate that very much. Now, I didn't get everything I wanted out of this, but I got a discussion on everything. Other members might not have liked to have had the discussion, but it needed to come out, and it did come out. And I appreciate that.
- Mr. Roberts – I'll make these changes tonight and send out a final copy to everyone. I'll talk with the two Commissioners who served as liaisons to the Committee to find out when they want this item to come to the full Board; when I know I'll let you all know. The process here seemed to be efficient, and discussed a lot of subject matter that was of concern to people; I think that is a good thing.
- Mr. Tesoro – I appreciate that we had a facilitator. That was key for any of this working, given the diverse group. I feel we made great progress. I feel we addressed safety. It's not

perfect, and I don't think it is ever going to be perfect. But I feel that we accomplished something.

- Ms. Barksdale – We worked hard. I hope it's helpful to the Commissioners, because they are where it comes down. I appreciate what they do. I also appreciate the experts we had access to in this process. It made a difference to me to be able to call on them and to know what they had to say. I also appreciate the facilitation. I felt safe to say what I needed to say. This is an issue that can be hot on both ends. I appreciate all the work Mr. Roberts has done for us, preparing drafts and revising and revising again. It's been a good experience for me and I hope it will be helpful.
- Mr. Tilley – I appreciate the expertise we got from Officer Orr and Chief Deputy Sykes, and from Mr. Roberts, Mr. Myren, Commissioner McKee, and Commissioner Jacobs. Thanks to the two Commissioner liaisons for helping us guide this. The facilitator did a great job keeping us in line and where we needed to be. I also have to get this off my chest: I was open when we first were talking about noise issues, but after I was told that the reason Ms. Conti was here was because she had a problem with a neighbor's shooting range, I felt undermined. I felt deceived by that and think that she should not have even attempted to be on this Committee.
- Mr. Webster – I like that everybody on the Committee had a voice. Everybody had an opportunity to speak their mind. We did it respectfully. Even when it got a little heated, the facilitator checked us and brought down the temperature so that we could make an educated decision. The decision is not perfect, but they never are. It's a living, breathing thing. It will revolve. As Commissioner McKee said, people will continue to discuss this. But I liked the process. It is the first time I have been on a County committee. I appreciate the County providing the experts for us. We made an enormous amount of progress. We are not going to please everybody. There are going to be folks mad on each end of the spectrum. But as long as we make the majority happy then we have accomplished a good thing.
- Chief Deputy Sykes – This was a tough topic. With input from everyone who's been watching us and concerned about the outcome, we had people on both ends of the spectrum. Everyone did a good job of coming to the middle; that's where you solve problems. I don't think it's perfect. But I think the recommendation to the Commissioners is a good starting point. Even if the only thing that comes out of the Commissioners' decision making is our recommendations, for the Sheriff's Office in responding to these calls at least we will not have to tell the people living in this county that there is nothing we can do. I think everyone should give themselves another round of applause for that, because that is going to make a lot of people feel better.
- Ms. Conti – I would like to thank the County Commissioners for addressing this issue. I would encourage the Board to revisit some of the issues that were raised but not addressed adequately.
- Mr. Kirkland – I came into this Committee knowing that we would not make everyone happy, because this is a hot topic issue; it may be very political in some ways. But as a

beginning it has turned out pretty well. I feel that the job unfortunately is unfinished, and I have an issue with leaving a job unfinished and not knowing the full outcome. I appreciate the County Commissioners giving us the opportunity to come together to talk about these issues. I think that their commitment to and understanding of some of the things we talked about will get us a type of ordinance that will be beneficial to the whole community. I guess I will have to step away from this now, although I feel like I'm leaving something hanging out there and the job is unfinished. But under the circumstances and with some of the difficulties we had we have to leave it at that.

- Officer Orr – One of the stories I shared with some of you at the first meeting was of a lady who was absolutely opposed to her daughter going to a Girl Scout meeting and coming to our pellet range. She was scared of the noise, she was scared of firearms in general. And now she is one of the first ladies to come up wanting to shoot every year at the pellet range. I'm not that involved in the County ordinance; I won't be enforcing it. But some of these non-ordinance recommendations do include something I do have to offer: collaborating with the Wildlife Commission for education, especially for young people. You have my full support for anything that I can personally or my agency can do to encourage that.

The meeting was adjourned at approximately 9:35 PM