

Has not been reviewed or approved by the Committee

August 3, 2016

**Draft Meeting Notes**

*Has not been reviewed or approved by the Committee*

Orange County Firearms Safety Committee

**Monday, August 1, 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, Jack Hunnell, Keith Kirkland, Vince Tesoro, Greg Tilley, and Keith Webster.
- Liaison to the Board of Commissioner: Commissioners Earl McKee and Barry Jacobs
- Resource persons designated by the Board of Commissioners: Travis Myren, Deputy County Manager; Forrest Orr, Wildlife Officer, NC Wildlife Resources Commission; John L. Roberts, Orange County Attorney; Jamie Sykes, Chief Deputy, Orange County Sheriff's Office.
- Facilitator: Andy Sachs, Dispute Settlement Center.
- There were approximately 4 observers.

**Convening**

After introductions, the Committee adopted the proposed desired outcomes and agenda for the meeting that had been distributed earlier. The Committee adopted the proposed notes on the July 20, 2016 meeting. The Committee set the following dates for three more meetings: Tuesday, August 23; Monday, October 17; and Tuesday, October 25.

**Brainstorming Solution Ideas**

Temporarily postponing judgment, the Committee generated the following ideas for addressing the three problems it identified on July 20:

Safety

- Prevent errant round from crossing property line via ordinance.
- Sobriety test
- Detailed guidelines for safe berm/back stop via education, pamphlet, etc.
  - Organize the above by projectile type/by gun.
- Provide information so that residents can know where shooting ranges are.
- Guidelines for law enforcement to use in assessing safety problems
- Ordinance to give law enforcement "teeth"
  - Develop specifics based for example on Lenoir County, other counties, other states
  - Regulated by distance/proximity to school/proximity to other structures
  - Contain the projectile

Noise

- Restrict shooting to times between sunup and sun down.
- Ordinance based on Chatham County ordinance (adopted October 2015)

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- By decibels (dB)
- Lift firearms exemption from Orange County noise ordinance
- Research what the three municipalities have in place
- Distance restrictions.
- Have law enforcement use safety guidelines when responding to noise complaints.

#### Perceptions

- Provide information so the non-shooting public will understand what is in place about:
  - Firearms safety
  - What is in County ordinances
  - Law enforcement's role
- Offer courses for young people on firearms safety and ethics, perhaps as part of a community shooting range that may be associated with the firefighter and law enforcement training center under early discussions by the County.
- Set up a training range for young people, perhaps in the basement of an existing Sheriff's Office facility.
- Consider how the NC Wildlife Commission's hunter safety program addresses perceptions; and make use of what's good in that approach to address negative perceptions about firearms safety more generally.
- Partner with NC Wildlife Commission to reach out to community groups and at community events on firearms safety. Bring out the mobile pellet range.
- An effective noise ordinance will lower community perceptions that a firearms safety problem exists.

#### **Clarification of Ideas**

The Committee then discussed these ideas. Mr. Kirkland noted that there has not been much property damage or injuries from errant projectiles. Unfortunately the possibility exists, he said, making it worth considering an ordinance that would prohibit shooting that resulted in a round crossing a property line.

The Buckhorn Gun Club, off of Mt. Willard Road, is the only commercial shooting range operating in Orange County of which Committee members are aware. It is a private club that limits its membership and isn't open to the general public. Ms. Barksdale said earlier she had found online a commercial range near Dodson's Crossroads but the website no longer appears to be available.

In reply to a question, Mr. Roberts said about a dozen other counties in North Carolina have firearms safety ordinances. Most regulate by distance (from a property line, road, or building), perhaps two regulate by noise. He agreed to share copies of the other counties' ordinances with the Committee. Ms. Conti said she had copies of ordinances from Lenoir, Johnston, Cabarrus, Polk, Harnett, Mecklenburg, Wake, and Randolph counties; she thinks this is not an exhaustive set of North Carolina counties with firearms ordinances. She said that distance puts "the teeth" in the regulations, and should be based on what is known about how far a projectile can travel. Mr. Hunnell said that he has looked at firearms safety regulations from states other than North

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Carolina; although some have noise limits and distances from schools and other structures, they are all very similar in that their approach is to contain the projectile.

Regarding restricting shooting to the time between sunrise and sunset, Mr. Tesoro said there is no good reason for a person to be shooting in the dark. He agreed with Dr. Arvik that a commercial range might be a good place for after dark shooting, and with Mr. Hunnell that coyote control after dark might be necessary, but he added that hunting is outside the purview of this Committee.

Ms. Conti said that the specific decibel limits in the Chatham County noise ordinance appear to be based on the Orange County ordinance. However, the Orange County noise ordinance exempts firearms. The easiest solution to the noise problem, she said, would be to lift the exemption from the noise ordinance; it is one simple line, she said. The Orange County noise ordinance defines “unreasonably loud and disturbing “ in a specific, enforceable way, she said. The Chatham County noise ordinance has a few more specifics that might be useful to us, she added. Mr. Hunnell asked for a copy of the Orange County noise ordinance. Ms. Conti distributed copies to the Committee.

Mr. Tilley said he did not see where firearms are mentioned in the Chatham County noise ordinance, except in the exceptions. Ms. Conti said she would follow-up with him later.

Mr. Hunnell asked Ms. Conti what decibel levels she thinks she is getting from her neighbor’s shooting, and where in any potential noise ordinances she thinks a level is defined that would be reasonable. Ms. Conti said she did not know what the decibel level is from her neighbor’s shooting. She pointed to the different residential decibel limits for different time periods in the Orange County noise ordinance – from which firearms are exempt – as those she would support. She added that “we are not here because there is a shooting range behind my house.” We are here because citizens of Orange County – whether their concerns are perceptions or reality -- would like to see the Board of Commissioners address firearms safety. The noise from my neighbor is a problem for me, and the perceived danger from my neighbor’s shooting range is a problem for me. I don’t know what they are firing back there and I have grandchildren and dogs running around. If we agreed to lift the exemption on firearms from the Orange County noise ordinance then I would be ecstatic, but I would still be left with the issue of firearms safety. The broader perspective than just my situation is that there are people in our community who are not responsible firearms users. Given that all the Committee members who are firearms users are examples of the responsible ones, this Committee is the perfect group to address firearms safety in a broader context than my neighbor’s shooting range.

In reply to a question from Dr. Arvik, Mr. Roberts said that the County’s noise ordinance applies only to the unincorporated areas of Orange County, which is everything except for the municipalities (Hillsborough, Carrboro, and Chapel Hill). The municipalities are authorized to adopt their own noise restrictions, he added. Dr. Arvik said the municipalities are an additional source of noise ordinances that the Committee could consider.

Mr. Kirkland said that he deals a lot with decibel levels in his career. Not too long ago we were doing some environmental safety work at Ft. Bragg, he said, looking at what noise levels the

soldiers were being exposed to at the shooting ranges. Any type of firearm is going to be between 140 – 180 dB. The higher number in that range is going to be created by a 155mm Howitzer; we are not going to get that in Orange County. The typical noise from firearms on average is going to be between 100-157 dB. Those decibels are measured at 1.5 meters to up to 6 meters away from the source of the sound. As sound travels, we know that the sound waves expand. They bounce off of things. The further you get away from the source, the less likely will be the dosimeter's effectiveness. It will be difficult to test from the side of the road or at someone's residence what decibel level is being created by a firearm on a neighbor's property 500 feet away. It might register, but it is going to register at a very low point. The Orange County noise ordinance contains decibel limits, but a firearm is a sudden-impact source of sound that will need another type of device to catch its noise level. It is not as simple as using a meter at the property line to get an accurate reading. I don't think the Orange County noise ordinance with the firearms exemption lifted would be enforceable because of all of this. The ordinance refers at Section 16-53 (b) to "any continuous, regular, frequent, or intermittent source..." But how often? If we can't make those accurate measurements with a dosimeter then how are the standards in the noise ordinance going to be enforced in shooting situations? There are a lot of things you have to consider once you start using these meters: distance, ambient air temperature, moisture density in air. I'm leaning toward a distance restriction to get at the noise rather than having someone try to measure the noise from a firearm.

Mr. Tilley said that a problem with enforcing against firearms noise using decibel measurement is that the noise has to be present when the deputy arrives. Most often it is not. He agreed with Mr. Kirland's leaning toward a distance restriction. It would also help people to feel safer, he said.

Dr. Arvik asked that "relentless" be removed from the problem definition for noise ("Relentless shooting creating gunfire noise that is bothersome to neighbors."). It is a subjective term, he said, and suggested "persistent" as a substitute. Mr. Tilley and Mr. Tesoro said the two words mean the same thing. Other suggestions from the group were repetitive, continuous, ongoing, and sustained. Mr. Tilley said all the suggested words were synonyms. Dr. Arvik said they did not mean the same thing, and that if we do not choose the right words then lawyers later will frustrate the Committee's goals. Mr. Tesoro said that the firearms noise problem is like the Orange County Speedway bothering some people. Different people consider different numbers of rounds – one shot every day for a week to someone not comfortable with gunfire -- as being as relentless or persistent or ongoing. Law enforcement uses "sustained," said Chief Sykes. "Relentless" is a biased word, said Dr. Arvik. Ms. Barksdale said that "relentless" has an egregious tone to it, while "sustained" is more objective. The group agreed on "persistent."

Mr. Webster said that distance and time of day restrictions would give the Sheriff's Office a solid basis for enforcing against firearms noise. Anybody can measure those things, he said. But we also need to decide whether we even need an ordinance.

In reply to a question from Ms. Conti, Chief Sykes said that the new digital noise meters being acquired by the Sheriff's Office operate on the same premise as the analogue meters currently being used. The readings will be taken in the same way. Enforcement against firearms noise using instrument readings is not going to be a feasible option, he added. Impact noise such as

gunfire has to be read differently. It is very difficult to capture that sound. There are two pages of requirements under the Orange County noise ordinance for taking measurements and establishing certain facts. In my experience, when you go to court and there is this much verbiage to go along with enforcement then it just opens up a can of worms for the other side to say, for example, that the officer did not calibrate his equipment correctly or exactly where – show us on a GPS overlay map -- was the officer standing when he took the measurement. In my experience, even with a loud party we get very little to go on using our meters. We rely a lot of times on our conversation with the party hosts, asking them to reposition or turn down their outdoor speakers, and gaining compliance that way. We do not like trying to prove in court under the County noise ordinance that there has been a violation. The rules are not bad: they come from the State and that is how the State operates. It is just very difficult to issue a citation that will hold up in court.

In reply to a question from Mr. Hunnell, Commissioner McKee said that the incorporation of a public shooting range into the firefighter/law enforcement training facility that is under early discussion by the County is “more of a long term conversation” that might reach fruition 1-3 years from now.

In reply to a question from Mr. Hunnell, Chief Sykes said that he knew of no Sheriff’s Office facility where a training range for young people could be set up, for example, in a basement.

Officer Orr said that the NC Wildlife Commission’s hunter safety classes addressed perceptions regarding hunting. We explain that about 5% of the population actively opposes hunting, 5% is pro-hunting, and 90% can take it either way. The behavior of people in either of the poles can influence the opinions of those in the 90%. We also have a mobile pellet range through which we can introduce young people to safe shooting. About two years ago one person associated with a Girl Scout troop was reluctant for us to bring the mobile range to the troop, but we gained permission to bring it and not only did everyone have a good time but the person who was reluctant became an enthusiastic supporter of us coming back the next year. I would be very interested in us partnering with the County to promote positive perceptions about safe shooting, he said. I have worked with Orange County Safe Kids, which also is interested in safe bicycle use and car seats, to set up the mobile pellet range at community events; as well as the YMCA in Chapel Hill, and Blackwood Farm. Ms. Barksdale said that she would like to see more educational opportunities for young people to learn about firearms safety, so that more people will perceive more positively that responsible people know what they are doing with their guns.

Ms. Conti said that much of the negative perceptions about firearms safety is associated with the noise. Some residents of Orange County become afraid when they hear gunfire. An ordinance against unreasonable and burdensome gunfire noise would be a deterrent against those who would create such noise, and so diminish negative perceptions. Mr. Tilley said that he is hearing from Chief Sykes, Mr. Webster, and Mr. Kirkland that a decibel-based approach to gunfire noise would be difficult to implement; if so then that approach would not be a deterrent, he said. Ms. Conti said that a well-publicized ordinance, even if it is difficult to implement, can send a signal that the community expects noise from gunfire to be reasonable and not burdensome.

Mr. Tilley said that he thinks the Committee is ready to decide on whether or not an ordinance is needed. Mr. Tesoro said that he is still thinking of safety and noise as “perceived” problems. I don’t think any of us has agreed that there is a real problem, he said. I think the facilitator forced a decision on this at the July 20 meeting, he said, and I have had some time to think about it and listen to other people. There are no statistics pointing to a real safety problem. Mr. Hunnell said that the concern is pre-emptive; to do something before damage to property or injury occurs. He suggested some items to be considered for inclusion in an ordinance: intoxication, willful disregard of the safety of others, containment of the cartridge on the shooter’s property, containment of the cartridge on another person’s property where you have permission to hunt, and possession of the written permission to hunt on another’s land.

Each Committee member then shared his or her position on whether or not an ordinance is needed:

- Mr. Kirkland recalled the controversial ordinance that had been rejected by the Board of Commissioners earlier in the year. There was an item in there about restricting people to shooting two days a week; that was extreme. There was not anything in there about training or general firearms handling. It was all about safety – meaning containing the projectile -- and noise. So, if we’re doing an ordinance that focuses on safety and noise then it shouldn’t be hard for us to come up with something. But if we’re going to go off and talk about general firearms safety, how you handle them, and how you store them, then that sort of ordinance is not going to go very far. If we’re going to recommend an ordinance to the Commissioners then we need to stick to keeping that projectile on your property and to reducing the impact of the noise on the community. If we do nothing, then I think that opens us up to some kind of ordinance in a year or two from now that may be even more restrictive than what we can create here. I believe we have to come up with an ordinance that encompasses both safe range shooting and noise.
- Ms. Conti said that the Committee has been tasked to deal with the issue of firearms safety. The residents of Orange County are not expecting to be told that they need to get themselves educated. They are expecting specific measures that will give them some comfort. The issue is bigger than education. I would support an ordinance that deals with noise and/or distance, she said. It ought to be simple enough to figure out how far a projectile can go. We might also look at some of the measures used to regulate hunting that we could use to deal with firearms safety and noise outside of hunting, for example, you can’t hunt with a firearm on Sundays between 9:30 and 12:30, or all day on Sunday within 500 yards of a church or residence.
- Mr. Webster said he is in favor of an ordinance. I’m in favor of restricting distance and time, making sure people are shooting safely, zero tolerance for alcohol when handling a firearm, and having a large fine. When you impose a large fine then you are creating a disincentive to violate the ordinance, and it helps people to make good decisions. When you tap into someone’s finances, then it opens their eyes.
- Mr. Tilley said he is in favor of discussing an ordinance if the right factors are put into it. I don’t think you can use decibels for addressing noise, because it’s burdensome on the Sheriff’s Office. We can do the distance and some of the other things probably, but not the decibels.
- Ms. Barksdale said she is in favor of developing an ordinance and she likes the items that have been suggested so far. I’ll continue to think about it, she said, including as I sit in my

office and hear from clients about domestic violence. But other than that, I like what we have so far.

- Mr. Tesoro said that the Committee has been tasked with developing a recommendation to the Board of County Commissioners, not necessarily to draft an ordinance. We are supposed to recommend to the Board what we think they should do. The ordinance that had been rejected by the Board of Commissioners earlier in the year had distance in it, and it created a huge backlash so we have to be very careful about how we define the distance. Distance is key. When I shoot I consider a lot of things, and distance is one of them. I want to be careful not to go back to where we were four months ago. I would be “on board” for distance, and certainly for day/time restrictions. I also think Ms. Conti brings up a good point, he said, that there is no reason why we can’t parallel some of the hunting laws that are in effect, like shooting on Sundays between 9:30 and 12:30 and things like that; it’s common sense. I’m also on board with zero tolerance for alcohol. And of course you have to have the teeth, and the large fine is the teeth.
- Mr. Hunnell said he did not fully understand how a distance restriction would be defined or what purpose it would serve. I think it has to be related to the projectile, and how it is contained within the property line, he said. We should not pass something that is not enforceable. I’m not opposed to a Sunday restriction, he said, but I think it is disrespectful to people for whom that day is their one day off when they can shoot. A lot of the hunting regulations have transitioned from a Christian-centered approach to being more respectful of other religions that do not worship on Sundays. Personally, I’m not opposed to it, but we need to be cognizant of other ethnic and religious backgrounds.
- Dr. Arvik said he agreed with having a distance restriction. I also think we have to recommend something to the Board about the noise. The County needs to have some way to react to a situation where a person is creating noise repeatedly that is irritating everyone else. We also need to have day and time restrictions. Safety guidelines for law enforcement should be part of their basic training. I like large fines. But I would not let whoever wrote the last ordinance write this one, he said.

In reply to a question from Mr. Tilley, Mr. Roberts said he would draft an ordinance after the Committee identified the things that the Committee thought should be addressed in it. Following Mr. Roberts, the other resource people and the two liaisons to the Board of County Commissioners then shared their thoughts on the discussion thus far, as follows:

- Officer Orr said there are good ways to measure an alcohol violation. You can use the Alcho-Sensor to check for zero tolerance, so zero tolerance would be an enforceable goal. Also note that you would have to exempt hunting. For example, people are allowed 24-hours a day, seven days a week, to hunt coyotes; and dove hunting creates “sustained gunfire.”
- Chief Sykes said the Alcho-Sensor is useful on a willing person, but if the goal is zero tolerance then any additional evidence we can provide to the court demonstrating shooting while drinking would be helpful to us, for example, smelling alcohol on the person or by the shooter’s own admission. The other element that would be important is an exemption for hunting, because it would prevent people from getting confused. Officer Orr added, “playing devil’s advocate,” that the bad thing about a hunting exemption is that people will claim to be hunting in order to get around the restrictions. Mr. Tesoro agreed.
- Commissioner Jacobs noted that some developers sometime use exemptions to get around restrictions in the County’s land use ordinances. For example, they will timber a property to

get around a tree protection ordinance. People will do that, he said. He asked if people who live on one-acre lots, for example, are able to shoot without disturbing their neighbors by the noise. I'm listening for that, he said.

- Commissioner McKee said that the Committee's charge, beyond recommending whether an ordinance is needed and what the ordinance should cover, is to recommend specifics to the Board of Commissioners. We can have the County Attorney write the proposal, and then vet it back through the Committee, but the more specifics this Committee provides to the staff and the more discussion we have together, the better off we will be. The ordinance that was proposed back in February was over the top and I would not support it. I have 160 acres and with the restrictions in that rejected ordinance I only had a very narrow lane that I would have been allowed to shoot on. Distance is a concern, he added. I tend to think that there is no way you can shoot safely on a one-acre lot because of the proximity to neighboring properties.
- Mr. Roberts said that the State's limit on a local government's authority to impose a fine is \$500, but it can apply to each incident and each incident can be a daily violation or twice in a day. He said it had been correctly stated that the ordinance would need to state clearly that hunting would be exempt. Also, the NC Sports Shooting Range Act protects some shooting ranges against nuisance violations: those already in existence at the time the ordinance is adopted. I have not found any case law distinguishing a commercial shooting range from someone hanging a target from a tree, but we can go to court to try it if we have to. Finally, the County can enact an ordinance that reflects the kinds of restrictions that Committee members have raised; some will be more difficult than others to enforce (for example, it would be hard to enforce noise and distance restrictions against someone who is shooting up into the air).

The facilitator created a list of possible elements for inclusion in an ordinance based on what Committee members said over the course of the meeting, as follows:

- Noise
- Distance
- Day/time restrictions
- Safety guidelines for law enforcement
- Zero tolerance for alcohol
- Large fine
- Parallel hunting laws
- Exempt hunting
- Exempt existing sports shooting ranges
- Contain the projectile
- Respect ethnic/religious backgrounds other than Christian.

The group agreed to discuss each element with the goal of providing specific recommendations to the County Attorney about how to address each element within a firearms safety ordinance and perhaps the County's noise ordinance as well. In reply to a question from Mr. Webster, Mr. Roberts said that the ordinance could be written so that *each element* would carry a fine. Each element could be an independent violation with an independent fine associated with it; theoretically you could have multiple violations at a time, he said.

When the group returned from a break, it continued its discussion of the possible ordinance elements as follows:

Zero tolerance for alcohol Mr. Hunnell suggested that the ordinance set a standard consistent with the State impairment level of .08 blood alcohol concentration. Mr. Webster replied that no one who has been drinking in any amount should be handling firearms. It has been proven that people can be impaired at .03, he said, even though the legal limit for driving in North Carolina is .08. A zero tolerance also would be an easier standard to enforce: the officer would only need to smell alcohol on the shooter, or use the Preliminary Breath Test device to determine the presence of alcohol without needing to record measured levels. Breath levels can dissipate in minutes, he said. The officer's write-up need only be "yes" or "no" with regard to the presence of alcohol. Mr. Hunnell replied that with zero tolerance Orange County would be creating a new legal limit even though the State "with all of its greater resources" has established that .08 is the definition of impairment. No, said Mr. Webster, that definition is for driving. In Orange County under current law, Chief Sykes added, having any level of alcohol while hunting is illegal. In reply to a question from Mr. Tesoro, Mr. Roberts said that the zero tolerance for drinking while hunting in Orange County is a good ordinance, authorized by the State of North Carolina. Mr. Tilley concluded that it would not be a new standard if an Orange County firearms safety ordinance tolerated no alcohol level, because the standard already exists in the hunting ordinance. In reply to a question from Commissioner McKee, Mr. Roberts said that Orange County would not need state authorization to adopt zero tolerance in a county firearms safety ordinance. Mr. Roberts noted that Chief Sykes had also asked for tools in the ordinance to enforce the zero tolerance, such as a field sobriety test. We would like to be able to use any kind of valid observation to enforce the ordinance, Chief Sykes replied. He also asked the Committee to consider expanding the restriction from alcohol alone to any impairing substance. Commissioner Jacobs said that the hunting ordinance prohibits alcohol or any impairing substance, and Chief Sykes read the concurring language from the hunting ordinance. "Impairing substance" is already defined in the North Carolina General Statutes, and a reference to that definition is in the County's hunting ordinance. Mr. Tilley supported using that same language from the hunting ordinance in the firearms safety ordinance.

Noise Mr. Tilley proposed consideration of a paragraph from the Chatham County noise ordinance that says a complaint from a law enforcement officer would be sufficient evidence that a person's shooting is unreasonably loud and disturbing. This would address the persistent, annoying, aggravating shooter, he said.

Mr. Hunnell objected. The language means I can't shoot my shotgun on my 26 acres because some neighbor feels it's too loud, he said. I typically have a couple of young people over to my place, take them out, educate them, and shoot skeet for 30 minutes to an hour. I have two neighbors that fall into the category of the shooter that's behind Sara's house, he said. On Sundays, their shooting is constant. But we live in the country, and they have every right to shoot on their property. The language cited by Mr. Tilley is too general, he said. It means that a deputy will be required to enforce against anyone who fires a shotgun -- say, every 8 seconds or 10 seconds or 20 seconds -- after a neighbor complains about it. Chief Sykes said that a deputy has discretion, and would enforce against the shooter only when there is nothing else the deputy can do. Enforcement will be one of the last things we will use where a neighbor is complaining about

noise from another neighbor, he said. The officer would first make a professional determination about whether the gunfire is unreasonably loud and disturbing. No one on our force would arrive on the scene, hear the noise, determine right away that the shooting is unreasonably loud and disturbing, and then write the shooter a ticket. That's counter to what we do. Our attempt is to diffuse the situation between the complainant and the shooter, so that after we leave everybody is getting along.

Mr. Hunnell acknowledged that, in all his experiences, the Sheriff's Office has been fair and reasonable. But the community won't accept this, he said. We are going to have 2,000 people objecting at the next meeting. Ms. Conti said that she trusts law enforcement's discretion. The proposed language gives law enforcement the discretion to use their professional judgment in assessing what is reasonable and what is not. If someone is shooting at skeet then no reasonable law enforcement officer would consider that a violation of any kind of noise ordinance. I wouldn't, she said. Mr. Hunnell said that the criteria for enforcement are too vague. No, said Ms. Conti, the criterion is the discretion of law enforcement, which is a valid legal standard in this context.

Mr. Roberts said that the Board of County Commissioners intends to reexamine the County noise ordinance. If this Committee wants to advise the Commissioners that firearms be addressed in that ordinance then the opportunity for the Commissioners to take that into consideration will be presenting itself, probably before the end of the year.

Mr. Tesoro suggested that noise will not be a quick issue to resolve, and that the group set it aside for another time, perhaps to discuss it along with distance at a future meeting. All agreed.

Large Fine Mr. Roberts explained to the Committee that according to State statute all county ordinances are class 3 misdemeanors, counties are restricted from imposing fines greater than \$500, and the penalty for a violation may include up to 30 days in jail in addition to or instead of a fine. Mr. Webster suggested that the ordinance language not say "up to" \$500 but instead set the maximum fine as the penalty. In reply to a question from Dr. Arvik, Mr. Webster explained that a shooter who causes damage to personal property, injury, or death may incur criminal penalties in addition to a County fine and/or jail sentence. Commissioner McKee said he would not expect the Board of County Commissioners to adopt a 30-day jail penalty in a firearms safety ordinance. Mr. Webster and Dr. Arvik agreed that a fine would be sufficient.

Parallel Hunting Law The Committee considered whether there are elements from the State's hunting law that might be relevant to a county firearms safety or noise ordinance. In reply to a question from Ms. Conti, Officer Orr explained that the hunting law forbids hunting at any time on a Sunday with a firearm within 500 yards of a place of worship or any accessory structure thereof, or within 500 yards of a residence not owned by the landowner. He said it is his opinion that this restriction is in place to limit noise, because if it were for safety then he would expect it would be applied 7 days a week. Ms. Conti said that if this restriction works to limit noise from hunting on Sundays then maybe it also would work to limit noise on Sundays from shooting more generally. Mr. Tesoro asked that the matter be deferred and reconsidered when the Committee returns to noise in a future meeting. Ms. Barksdale agreed.

In reply to questions from the Committee, Officer Orr said that he did not think there were other elements of the State hunting law that would help the Committee address firearms safety. Some counties require hunters to be elevated at least 8 feet above the ground when

discharging certain calibers, but that has limited applicability to what the Committee is working on, he said.

Containing the Projectile Mr. Tilley asked the Committee to consider the Lenoir County ordinance. An ordinance like this that simply requires the shooter to keep their projectiles on their property leaves it up to the shooter to figure out the best way to do that; there would be no need for specific back stop or berm requirements. Dr. Arvik said that the ordinance should define what a safe back stop is and require its use, because those elements would enable a deputy to enforce responsible shooting. Chief Sykes said that specific back stop or berm requirements actually would be difficult to enforce. Every responding officer does not know the difference between, for example, a .22 rifle and a 7mm Magnum. If we determine that a back stop is sufficient for a .22, but the next day the shooter is using a .30-30, or a .308, or a 7mm, then we'll have a problem. We'll be brought into the liability side of it. Officer Orr added that a berm requirement, say 30' x 30', might keep the property behind it safe but not necessarily the properties on each side; there would be no enforcement against projectiles going onto those other properties. But a simple prohibition against the projectile crossing the property line can be enforced directly. Mr. Hunnel said that the NRA has 20-30 pages extensively defining acceptable back stops, including those with roofs. Extensive requirements would preclude individuals from shooting in their backyards without incurring great costs.

Mr. Kirkland said that a shooter should be allowed to choose the method by which the projectile is contained. A big log pile could work, or a pile of good old Orange County red dirt. We can't legitimately say that it has to be manufactured and built in specific ways in order for it to be effective. The point is to keep that projectile on your property. We can make multiple recommendations as to the different means to do this, but we should not mandate the specific means. Mr. Tesoro wondered whether it would work to require an effective back stop without requiring any particular form of back stop. There was not an effective back stop in the situation described by Dr. Arvik at the June and July Committee meetings, he said. A general requirement for an effective back stop would have allowed the deputy to stop the shooter. Chief Sykes agreed that in that situation it would have been a clear cut violation if a general requirement for an effective back stop were in place at the time. An officer could write a report clearly describing that a shooter was using an AR-15 with a 1/8" piece of plywood; that was not a reasonable back stop.

The group agreed at 9:15 to hear from observers.

### **Comments from Observers**

Michael Joerling – As difficult as it is to say, we're trying through the development of this ordinance to address the people who don't care. They are not like the people here who are responsible gun users. There may not be a lot we can do about this, some of the problems we just have to live with. But those are the people we have to worry about. We wouldn't have to be here if people respected each other's peace and quiet and privacy and were aware of what is in the direction they are shooting. We're all gun owners and like to shoot, and nobody wants to give up anything, but I have neighbors who are not gun owners and I have to respect them. They're hoping they can have a peaceful weekend, and occasionally they do not. I've sometimes had to

go to a shooter and ask them to stop, but I won't do it again because now I feel threatened. Those are the people we are trying to corral. That's the toughest bunch.

Larry Roberts – Lives on St. Mary's Road. Attended the Board of County Commissioner's public meeting in Chapel Hill a few months ago and recognized the strong feelings in the community on this issue; was hopeful a committee would be put together to make some good recommendations to solve some of the issues. Concerned early this evening that the Committee was not in agreement as to its mission, but Commissioner McKee cleared it up well. The mission of this Committee is not about firearms restriction; it is about noise and safety. You need to be careful about defining noise and safety. It is not the noise on the property of the shooter and it is not the safety of the person using the firearm. It is safety and noise off the property. Noise from the firearms really is nothing more than being a bad neighbor, if you are causing a problem with someone who adjoins your property. Being a bad neighbor is very subjective. After the public meeting in Chapel Hill I made contact with six of my eight neighbors. I asked if my shooting bothered them. Five of the six said that it did not. I explained that we shoot on my property, we shoot at targets and clay pigeons, and we hunt deer, doves and coyotes. We shoot pistols, shot guns, and rifles. I told them that if what we're doing bothers you, then please let me know. One neighbor said she was concerned about the proximity of our shooting to their house. We are 85 yards away. I welcomed her to view where I shoot, and after she did she said she no longer had any problems with our shooting. As I met my neighbors I told them we will hunt (and when we do so we will follow all the regulations with regard to hours, etc.) and we will shoot at targets. Second, no projectile will cross my property line. I will not allow anyone to shoot on my property whose projectile will cross my property line. I will make that commitment to you. And if the noise is a problem, please let me know. A big part of it is being a good neighbor. Remember, if you start dealing with the 1% who are not responsible then you are going to upset the 99% who are. Your approach has got to be balanced. I'm not sure my neighbors can determine what noise is OK and what noise is not OK. The Committee is in a tough position. And without measuring the noise it will be hard to hold enforcement up in a court of law. I had a neighbor who complained about me a few years ago. The complaint was that we shot deer that was running across their yard. We were shooting out of a deer stand 180 yards away from their house, using a shotgun. Obviously it was not a valid complaint. Here's my point: it is going to be really difficult to set a guideline for noise, to measure it, and to give citations based on it. If a projectile crosses a property line then the owner of the property from which it came is guilty. Not necessarily the shooter, because it can be hard to determine who the shooter is, but the property owner is guilty. To Commissioner Jacobs, I wonder if the size of a lot needs to be 1-acre or 1.5-acres; I don't know. I would not want to be living next door to someone living on one acre who is shooting even a small caliber firearm on a regular basis.

The Committee adjourned at approximately 9:30pm