

STATE OF NORTH CAROLINA

COUNTY OF VANCE

The Vance County Board of Commissioners met in special session on Monday, September 20, 2010 at 6:00 p.m. in the Commissioners' Conference Room, Vance County Administration Building, 122 Young Street, Henderson, NC. Those Commissioners present were as follows: Chairman Danny W. Wright, Commissioners Eddie L. Wright, Deborah F. Brown, R. Dan Brummitt, A. Scott Hughes, and J. Timothy Pegram.

Absent: Commissioner Terry E. Garrison.

Also present were Finance Director Steven C. Stanton, County Attorney Jonathan S. Care, and Clerk to the Board Kelly H. Grissom. County Manager Jerry L. Ayscue was absent.

Chairman Danny W. Wright gave the invocation and stated that the purpose of this special meeting was to:

- Hold a public hearing to allow citizen input on enacting a moratorium on outdoor firing ranges in Vance County.
- Take action as necessary regarding the moratorium.
- Hold a public hearing immediately following the moratorium public hearing to allow citizen input on the development of an ordinance regulating outdoor firing ranges in Vance County.
- Discuss proposed Outdoor Firing Range Ordinance.
- Schedule subsequent public hearing for October 4 meeting.
- Enter into closed session to discuss a pending legal matter concerning a claimed debt owed and other attorney client information.
- Other items as needed.

Chairman Wright began by stating that one role of the Board of Commissioners is to formulate ordinances that protect Vance County citizens. In doing so, the Board is bound by State laws and the State and Federal Constitutions. Two weeks ago, it was brought to the Board's attention, the possibility of 50 caliber automatic weapons being fired at a range located within 250 feet of a neighboring home, and a tactical training center located in such proximity to the surrounding homes.

As advertised, at 6:00 p.m., a public hearing was held to allow citizen input on enacting a moratorium on the development, construction, or building of outdoor firing ranges in Vance County.

The Board granted a request from Eagle 1 Law Enforcement representatives to allow them to speak first. They were allowed 30 minutes for their remarks. Mr. Pete Edmonds, Eagle 1, spoke in opposition of the moratorium and explained how firing ranges are constructed for safety, what their intended uses are, and how some other ranges in the area have been constructed. He stated that safety of county citizens is of the utmost concern for Eagle 1. In constructing the firing range, Eagle

1 would use NRA guidelines since there are no State guidelines to dictate how to construct a firing range. Berm heights would also be built to NRA guidelines. He stated that the flyer advertising the firing range notes use of 50 BMGs. According to Mr. Edmonds, 50 caliber rounds are not fired solely from machine guns. In its original design, it was used as a machine gun and is still used by the Military. He stated that the 50 BMG is a type of long-range bullet. Machine guns will not be allowed on the range. He stated that Eagle 1 would like to work with County officials in consideration of not allowing 50 caliber shots on the range.

In designing the range, the engineers (Baker Engineering in Cary, NC) took into consideration the surrounding areas. The berms are proposed to be built up and also cut into the land.

Mr. Edmonds stated that he was told three times by Vance County Planning and Development staff that there is no zoning in the county, so they are free to build the firing range, but need to obtain grading permits. He distributed pictures to the Board, for reference purposes, of two firing ranges in North Carolina - the NC Justice Academy and the Henderson Police Department. He also distributed a picture of the proposed site on Glebe Road and the engineering plans.

Mr. Edmonds explained that use of the range will be by membership only. All members will be required to take an orientation class and a proficiency test before they are allowed to shoot on the range.

Mr. Edmonds distributed a decibel range chart to the Board which indicated that decibel rates of the firing range would be equal to that of a busy street or an average factory. Commissioner R. Dan Brummitt asked what caliber weapon is the chart rated for. Mr. Edmonds stated that he was not sure, but believed it was a shotgun.

Mr. Edmonds stated that Eagle 1 has invested \$20,000 in the proposed range and a moratorium would be very costly for them.

Commissioner Deborah F. Brown questioned the use of machine guns. Mr. Edmonds responded that the 50 BMG machine gun is a gun that no one has. Commissioner Brown also questioned when the engineering drawing was done and was told that it was initially started in late spring. Commissioner Brown asked if Eagle 1 owns the property on Glebe Road and was told that they do not, but the property is under contract.

Commissioner A. Scott Hughes asked if it would be possible to move the firing range on the site in order to comply with ordinances that may be adopted in the future. Mr. Edmonds stated that

he would have to consult with the engineer.

Commissioner Eddie L. Wright stated that the proposed range is too close to neighboring homes and a price cannot be placed on human lives. He suggested that Eagle 1 look for another location for the range. Kevin Johnson, Eagle 1, responded that they could consider moving the range. According to Mr. Johnson, Eagle 1 was told by Vance County Planning and Development staff that there would not be any issues in constructing the range. He stated that Eagle 1 should be reimbursed the \$20,000 if they are not allowed to build the range. He added that the firing range would bring 10 to 15 jobs to Vance County that would pay \$30,000 to \$50,000 plus benefits. The range would also bring in millions of dollars to the county with sanctioned events.

Commissioner Deborah F. Brown asked if Eagle 1 would provide a copy of the sales contract for the property to the County Attorney. Mr. Johnson stated that he would provide that.

Chairman Danny W. Wright asked if Eagle 1 would be the entity that owns the proposed firing range. Mr. Johnson responded that Eagle 1 would be a co-owner, along with 7<sup>th</sup> Tactical who will be part owners of the land.

Mr. Robert Duke was the next speaker and stated that he is not in support of or opposed to the firing range, but is opposed to the way the County is trying to block it. Zoning and/or a proper land use plan should already be in place to address this type of matter. The County should be doing something about the amount of Section 8 welfare housing that is in Vance County and also stop the proposed high speed rail project that would run through the county. He stated that more people will be killed by the railroad than by the firing range.

Tim McAllister stated that the proposed firing range is something that he has wanted to do in the past, but never had the capital to make it happen. No one can build behind the proposed range site because that land is owned by the Corps of Engineers. It is the safest place to construct the range.

John Mabe, the attorney representing Eagle 1, stated that it is wrong to stop a company from coming into Vance County just because there is no zoning or law in place. Eagle 1 has abided by all applicable laws and should not be stopped. According to Mr. Mabe, General Statutes require the County to make findings regarding the conditions that the County is going to correct. There is a specific requirement under the Statute that the Board determines and states what development approvals are subject to the moratorium. He stated that there are not any approvals that are required. He noted that the County is also required to state what actions will be taken to address the problem

or condition that the County is trying to correct.

Keith King stated that he has been a State law enforcement firearms instructor for the last 10 years and has been a concealed handgun instructor for the last six years. He stated that he has taught and trained at an Eagle 1 facility and they are very safety conscious. His concern with Vance County is that there is only one firing range and that is only for use by law enforcement. A safe place should be provided for those who wish to shoot firearms such as the proposed firing range.

John Zaczek spoke and stated that he has been an NRA certified safety instructor since 1988. He stated that Eagle 1 is a good company and is safety conscious. The proposed range is positioned so that shooting would be away from any homes in the area. He asked the Board to go out and visit other firing ranges before making a decision on whether the range would be safe or not.

Kym Tyler stated that a moratorium is necessary. She stated that she would like to know more about safety, sound, environmental impact, lead pollution, the site master plan, surface danger zone definition, bullet containment/baffling, lead removal and bullet traps, hours of operation, night fire, bonds, and how would community complaints be handled. She quoted an outdoor range designer “a completely safe outdoor range cannot be designed”. She expressed her concerns with lead pollution into Kerr Lake and asked who would pay to clean up the pollution.

Cindy Jones expressed her concerns about the well-being of residents. She worries about her child playing outside while shooting is taking place at a firing range. She stated that a moratorium is needed in order to give the Board the necessary time to make the right decisions for Vance County and to allow the County Attorney time to review the contract that Mr. Johnson stated he would provide.

John Price asked the Board to enact a 55-day moratorium against the development of outdoor tactical training centers and outdoor rifle ranges in Vance County. He stated that he is not opposed to this type of facility, only the location. His concerns are safety, noise, ammunition containment, hours of operation, types of weapons, and the location of the proposed range. Other concerns included economic development, loss of revenues, de-valuation of real estate, tourism, and livestock and wildlife in the area. He stated that five school buses travel through the proposed site area twice a day. Glebe Road is also a designated bicycle route. A moratorium would allow the citizens of Vance County to continue their search for other issues related to the proposed facility. Mr. Price submitted a petition to the Board with 1,217 signatures opposed to the firing range. He provided maps for the Board that indicated where homes are located in relation to the proposed range.

Lee Wade spoke in favor of the moratorium. He stated his family has been on Glebe Road since 1927 and he is concerned of land values being reduced because of the firing range. He is also concerned about the safety of the residents in the area of the proposed site.

Joseph Sears stated that he is an NRA member, three years former state law enforcement officer, served in the Army, and has been in the National Guard for nearly 39 years. He stated that while he supports the range in the county, he also supports the moratorium so that the Board of Commissioners will have adequate time to look at the acreage of the site and what type of containment needs to be built.

Bill Edwards stated that 10% of Vance County is covered by Kerr Lake. Of the remaining 90%, there are about 170 citizens per square mile. The population density in Vance County is just too great for a firing range. Regulations need to be in place for a business such as Eagle 1.

Nancy Wilson stated that the proposed range will be devastating to the neighbors that live around it. It will also have a negative impact on tourism and visitors to Kerr Lake, as well as wildlife sites, bird watching, canoeing, and other recreational activities.

Bernard Brown stated that he and his wife had attended a convention in New Orleans and the speaker spoke on the Columbine School shootings. He stated that the news did not cover how the shooters were trained at a tactical training center. He asked what will happen when “Junebug” has been trained there, and then someone sets him off?

Aaron Perkinson stated that he is a gun owner and a hunter, but he opposes shooting ranges in neighborhoods. His major concerns are safety, noise, and environmental hazards. He gave two examples of how dangerous shooting ranges can be - two months ago, two contractors were killed at Fort Bragg by stray bullets from a training exercise. Just today, a Utah wildfire was sparked by a firing range. He stated that the Board was given a decibel chart earlier during this meeting, but it is only for one shot, not a concentrated amount of shooting. He is also concerned with the amount of lead that could be going into Kerr Lake. He further stated that the tract of land that the site is being proposed is too small for a firing range.

As there were no other persons who wished to speak on the matter of the moratorium, Chairman Danny W. Wright declared the public hearing closed.

Commissioner A. Scott Hughes stated that he agrees with the safety issues brought by the firing range and he regrets casting his vote to table zoning. The County will continue to have this type of issue as long as there are no regulations in place. He stated that he will support an ordinance

for safety reasons, but he does not support a moratorium because it appears that the County is trying to jump in front of a business and block them.

Motion was made by Commissioner Eddie L. Wright to enact a 55-day moratorium to allow time to discuss what to do about Eagle 1. This motion died for lack of a second.

Motion was made by Commissioner Deborah F. Brown to enact a 55-day moratorium on outdoor firing ranges. This motion was seconded by Commissioner Eddie L. Wright.

Commissioner R. Dan Brummitt stated that he heard valid remarks from both sides of the issue, and intends to support the moratorium. He stated that he would like the proponents to be a positive part in the development of the ordinance. He is not opposed to a firing range, but the proper regulations need to be in place.

Vote on the motion to enact a 55-day moratorium on outdoor firing ranges was ayes - five (5), noes - one (1) with the dissenting vote being cast by Commissioner A. Scott Hughes.

As advertised, a public hearing was held immediately following the moratorium public hearing for the purpose of receiving citizen input on the development of an ordinance regulating outdoor firing ranges in Vance County.

Kym Tyler spoke and stated that we have enough problems to deal with in Vance County and we do not need anymore. She did not ask for an ordinance regulating firing ranges, she asked for no outdoor firing ranges at all in the county.

Brenda Yarborough stated that she enjoys the quiet area in which she lives. If a firing range is constructed, the quality of life that she now enjoys will cease to exist. Six generations of her family have lived on the same farm since 1927.

Sandra Reavis stated that she has lived on Glebe Road for almost 40 years. Her community is currently a quiet, residential neighborhood. She stated that an ordinance is needed to stop the proposed firing range from being constructed. She is not opposed to a firing range in the proper location, but 300 feet from her home is not the proper location. Her concerns are safety, noise pollution, and de-valuation of her property.

Chairman Wright asked the speakers to keep in mind that the public hearing is to address the development of an ordinance that would regulate outdoor firing ranges, not prohibit them.

Deanna Stegall stated that the proposed range will restrict her freedom to enjoy her property. The location of the proposed range is too close to family homes. She asked the Board to say no to Eagle 1.

Cindy Jones stated that she is a hunter and enjoys hunting in the Glebe Road area. There is a big difference between hunting and continuous shooting from a range that allows high caliber weapons. She asked the Board to develop an ordinance that would keep such rifle ranges and tactical training centers out of populated, residential areas. She asked that a border be established of whatever mileage necessary to secure the safety of residents before allowing any such facility to be constructed in Vance County.

John Price spoke and referenced Pitt County's shooting range ordinance. Pitt County's ordinance states that all shooting stations on a range facility shall be located a minimum of 200 feet from the property line. Mr. Price suggested 400 feet in Vance County. Pitt County's ordinance states that warning signs meeting NRA guidelines for shooting ranges shall be posted at 100 foot intervals along the entire parameter of the shooting range. Mr. Price suggested 50 feet in Vance County. Pitt County's ordinance states that all shooting stations shall be located at least 1/4 mile (1,320 feet) from an existing occupied dwelling. Mr. Price suggested a minimum of 1/2 mile in Vance County. Pitt County's ordinance states that Sunday shooting shall not commence before 12:30 p.m. unless permit allowing such activity is issued in advance. Mr. Price suggested that no Sunday shooting be allowed in Vance County. Pitt County's ordinance states that a permit shall be required to carry a minimum of \$500,000 of liability insurance. Mr. Price suggested \$5 million in Vance County. Pitt County's ordinance states that the advocacy for a new range is a \$100 fee. Mr. Price suggested a \$500 fee in Vance County. Pitt County's ordinance states that occupied dwellings be at least 1/4 mile from roads, streets, and other access areas for a range facility. Mr. Price suggested 1/2 mile in Vance County. Pitt County's ordinance states that any person who violates any provision of the ordinance shall be subject to a civil penalty of \$100. Mr. Price suggested a \$500 penalty in Vance County. Pitt County's ordinance states that any person who knowingly or willfully violates the ordinance or who willingly or willfully initiates or continues unapproved actions shall be guilty of a misdemeanor punishable by imprisonment not to exceed 30 days or a fine not to exceed \$50. Mr. Price suggested a fine of \$500 in Vance County.

Joseph Sears stated that a business license is required for a business to locate in Vance County. He suggested that any business that endangers the public should not be licensed at all. He stated that zoning can be manipulated to anyone's favor the way it is set up in North Carolina. Zoning is not a sure bet to stop such facilities. He stated that surface danger zones should be equivalent to the caliber being fired.

Ronnie Perkinson stated that the location of the firing range is his main concern. He suggested that the location be at least one mile from an occupied residence. He stated that there are a lot of people in North Carolina with 50 caliber weapons who are looking for a place to shoot. He suggested no 50 caliber weapons be allowed. He stated that children should not have to grow up hearing gunfire every day. He suggested that wording be incorporated into the ordinance that addresses who will be responsible for reimbursement of lost value to property.

Robert Duke stated that if proper steps had been taken 40 years ago, we would not be faced with this problem. He stated that regulations should be fair-minded and not try to correct prior mistakes. He has heard no one say anything about letting the County be turned into a welfare county. That alone has devalued the entire county, not just Glebe Road.

Aaron Perkinson gave the following suggestions for the proposed ordinance. A minimum of 2600 feet from the shooting station to a residence. The minimum acreage surrounding a shooting range should be 200 acres. There should be a privilege license requirement to construct a firing range. Insurance should be required. Civil penalties should be a minimum of \$500 for disruption of the ordinance. Hours of operation should end at 10:00 p.m. and no Sunday shooting. Any range should follow strict NRA guidelines. No 50 caliber weapons should be allowed on a firing range. A decibel level for adjacent landowners should be set.

John Thomas Stokes stated that he has a 250 yard firing range on his property near the lake. He does not shoot during the summer because a girl scout camp is behind his property. He stated that he would like to see a firing range be built in Vance County because everyone needs to know how to shoot properly. He stated that he hopes the Board will do the right thing.

Lewis Edwards stated that there is a tremendous amount of emotion surrounding this issue. He asked the Board to exercise extreme caution with this matter. It is not the American way for a local Board to address every business that seeks to locate in Vance County.

As there were no other persons who wished to speak on the matter of the development of the ordinance, Chairman Danny W. Wright declared the public hearing closed.

Jordan McMillen, Planning Director, appeared before the Board and gave an overview of the proposed ordinance. He stated that the ordinance is designed to create a permitting registration and compliance period for a shooting range. It addresses noise mitigation and shot containment as well as performance standards, development regulations, operational regulations, etc.

Commissioner R. Dan Brummitt stated that the draft ordinance references 1/4 mile from an occupied residence. He suggested that this be based on the type of round being fired. Another part of the ordinance references NRA standards. He stated that the NRA guideline document advises that it should not be a regulatory document. The EPA has a Best Standards for Practice reference manual that might be helpful with lead abatement and decibel readings.

Commissioner A. Scott Hughes suggested that the staff be directed to look into other counties that have firing range ordinances and see if the ordinances have been effective. As far as decibel ratings, the County needs to update its current Disturbing the Peace ordinance to coincide with whatever language is used in the firing range ordinance.

Chairman Wright asked Attorney Care what the next step should be with the ordinance. Attorney Care suggested that the draft ordinance be referred to the Planning Board for review and the second public hearing be scheduled regarding the ordinance. After the second public hearing has been held, the Board may then decide to take action on the ordinance.

Attorney Care noted that several states have used the NRA Guidebook as the minimum standards for which ranges are developed. The Guidebook also has maintenance and operation suggestions of a range as well as suggestions on lead abatement. He suggested that the Board use the NRA Guidebook as a reference in developing the minimum guidelines for the ordinance.

Commissioner A. Scott Hughes stated that if the proposed ordinance exceeds state standards, he would like to see just cause for doing so.

Commissioner R. Dan Brummitt stated that it would be a problem if distances are arbitrarily established without some basis. That is the purpose of the public hearing. Some of the comments tonight have furnished technical data which can be incorporated into the proposed ordinance.

Motion was made by Commissioner R. Dan Brummitt to refer the proposed ordinance, along with comments made tonight by the public and the Board, to the Planning Board for further consideration with a report back to the Board prior to its October 4<sup>th</sup> meeting. Also, schedule the second public hearing for Monday, October 4, 2010 regarding the proposed ordinance. This motion was seconded by Commissioner A. Scott Hughes and unanimously approved.

At this time, motion was made by Commissioner Deborah F. Brown to enter into closed session for the purpose of discussing a legal matter. This motion was seconded by Commissioner A. Scott Hughes and unanimously approved.

Upon return to regular session, and as there was no further business, at 9:30 p.m., motion was made by Commissioner Deborah F. Brown, seconded by Commissioner R. Dan Brummitt, vote unanimous, that the meeting be adjourned.

Approved and signed October 4, 2010.

---

Chairman