

**APPROVED 3/16/21**

**MINUTES  
ORANGE COUNTY  
BOARD OF COMMISSIONERS  
VIRTUAL WORK SESSION  
FEBRUARY 9, 2021  
7:00 p.m.**

The Orange County Board of Commissioners met for a Virtual Work Session on Tuesday, February 9, 2021 at 7:00 p.m.

**COUNTY COMMISSIONERS PRESENT:** Chair Renee Price, Vice Chair Jamezetta Bedford, and Commissioners Amy Fowler, Jean Hamilton, Mark Dorosin, Sally Greene, and Earl McKee

**COUNTY COMMISSIONERS ABSENT:** NONE

**COUNTY ATTORNEYS PRESENT:** John Roberts

**COUNTY STAFF PRESENT:** County Manager Bonnie Hammersley, Deputy County Manager Travis Myren, and Clerk to the Board Laura Jensen. (All other staff members will be identified appropriately below)

Chair Price called the meeting to order at 7:00 p.m.

A roll call was called; all members were present.

Due to current public health concerns, the Board of Commissioners is conducting a Virtual Work Session on Tuesday, February 9, 2021. Members of the Board of Commissioners participated in the meeting remotely. As in prior meetings, members of the public were able to view and listen to the meeting via live streaming video at <http://www.orangecountync.gov/967/Meeting-Videos> and on Orange County Gov-TV on channels 1301 or 97.6 (Spectrum Cable).

**1. Advisory Board Appointments Discussion**

Chair Price said two additional applications were received after agenda packet was sent out, and suggested deferring these to the next cycle.

The Board agreed by consensus.

**BACKGROUND:** The following appointment information is for Board consideration:

**Arts Commission**

<b>NAME</b>	<b>SPECIAL REPRESENTATIVE</b>	<b>TYPE OF APPOINTMENT TERM</b>	<b>EXPIRATION DATE</b>
John Bemis	At-Large	First Full Term	03/31/2024
Anita Mills	At-Large	Second Full Term Re-Appointment	03/31/2024
Frederick Joiner	At-Large	Second Full Term Re-Appointment	03/31/2024

**NOTE - If the individuals listed above are appointed, the following vacancies remain:**  
None

A motion was made by Commissioner Greene, seconded by Commissioner Bedford to approve these three appointments.

Commissioner Dorosin said there are other members of this commission with terms expiring in March 2021, and asked if there is a plan to consider these vacancies.

Thom Freeman-Stuart said those positions would be considered at the March work session.

Commissioner Dorosin asked if the Board votes on the positions at this work session.

Chair Price said the Board will confirm a slate of appointments, who will then be confirmed by vote on the consent agenda at the 2/16 Board of County Commissioners (BOCC) meeting.

Commissioner Greene changed her motion to a suggestion that these three appointments be on the slate for approval on 2/16.

The Board agreed by consensus.

#### **Chapel Hill Orange County Visitors Bureau**

<b>NAME</b>	<b>SPECIAL REPRESENTATIVE</b>	<b>TYPE OF APPOINTMENT TERM</b>	<b>EXPIRATION DATE</b>
Manish Atma	Chapel Hill-Carrboro Chamber of Commerce	First Full Term	12/31/2023

**NOTE - If the individuals listed above are appointed, the following vacancies remain:**  
None

Commissioner McKee suggested that Manish Atma be appointed.

The Board agreed by consensus.

#### **Orange County Board of Adjustment**

**NOTE:** On October 6, 2020, the BOCC approved the "Amendment to Orange County Board of Commissioners Advisory Board Policy Regarding Elected Officials". John Roberts, County Attorney has stated that, "only the ethics portions of the policy apply to the quasi-judicial boards, so Samantha Cabe does not have to step down".

<b>NAME</b>	<b>SPECIAL REPRESENTATIVE</b>	<b>TYPE OF APPOINTMENT TERM</b>	<b>EXPIRATION DATE</b>
Samantha Cabe	At-Large	Second Full Term Re-appointment	06/30/2022

**NOTE - If the individuals listed above are appointed, the following vacancies remain:**

<b>POSITION DESIGNATION</b>	<b>EXPIRATION DATE</b>	<b>VACANCY INFORMATION</b>
Alternate	06/30/2022	<b>This position has been vacant since 08/10/2020.</b>

Commissioner Greene asked if John Roberts could clarify his advice regarding the ethics policy.

John Roberts said when the Board approved this policy about elected officials serving, it only applied to certain advisory boards and committees. He said it was not applied to quasi-judicial boards; however, certain provisions of the policy, which included the ethics portion and the reporting of property owned, were applied to quasi-judicial boards.

Commissioner Greene asked if the planning board is a quasi-judicial board.

John Roberts said no.

Commissioner Dorosin said his intent in bringing up the policy, was not to distinguish between boards, but rather his intention was to not appoint any elected officials to any boards. He said, since Samantha Cabe's term has expired, he does not think she should be reappointed.

Commissioner McKee asked if Samantha Cabe is eligible for a second term.

Chair Price said Samantha Cabe is eligible, but she was under the same impression as Commissioner Dorosin, that the BOCC would not appoint elected officials to any board.

Commissioner Dorosin said she has already served an additional year and a half to two years.

Commissioner McKee said he does not support not reappointing her, unless there was a reason other than the Board changed its policy.

Commissioner Dorosin said Cabe has been serving past the end date of her first term.

Commissioner Greene said her first term has ended, and this is not the middle of her second term. She said no one is guaranteed a second term, and a change in policy is a reason not to reappoint.

Commissioner McKee acknowledged that a second term is not a guarantee, but said there is a reasonable assumption that a person would be reappointed to a second term unless there was some other lack of performance. He said Samantha Cabe had nothing to do with the Board's change in policy, and he supports appointing her to a second term.

Chair Price said this situation provides an opportunity to come into compliance with a rule the Board has set. She said there are no other applicants, but the County should continue to look for other applicants. She agreed with Commissioner Dorosin and Commissioner Greene. She said she does not know how many cases the Board of Adjustment is considering.

Thom Freeman-Stuart confirmed there are no other applicants for the position, and he does not know if there are any cases coming before the Board of Adjustment.

Commissioner Dorosin said there is an alternate, and he agreed with the Chair's comment that this is an opportunity to come into compliance. He said it has not been the default policy of the Board to grant a second term. He said he does not support nominating Samantha Cabe to the Board of Adjustment.

Commissioner Fowler said if there is an alternate who could take Samantha Cabe's place, then she supports taking the opportunity to come into compliance.

Commissioner Bedford said she wondered initially if there was a conflict of interest, but that concern was satisfied. She said she can support having the alternate step in, and searching for a new applicant to be consistent with the Board's policy. She said there is one alternate, Leon Meyers, and the other alternate position is vacant.

Commissioner Hamilton said it is important to be consistent, and she is hearing that having any elected official on any board creates a conflict of interest, which she understands. She thinks important to make the change now and use the alternate.

Commissioner Dorosin said, for him, it is less about a conflict of interest, and more about expanding the number of people who serve on boards and commissions to bring in a variety of viewpoints.

Commissioner Greene supported both Commissioner Hamilton and Commissioner Dorosin's remarks. She said she is concerned about the influence elected officials might have on conversations.

Chair Price agreed with Commissioner Greene. She asked if appointing Leon Meyers is the desire of the Board.

Commissioner Bedford asked if Leon Meyers could be appointed to the position.

Thom Freeman-Stuart he is not certain without reading the bylaws, but thought it should be possible

Commissioner Bedford said it could be brought back on the consent agenda.

County Attorney said he would have to research this answer.

Bonnie Hammersley said staff could check with Leon Meyers to see if he is interested in being appointed.

### **Orange County Housing Authority**

<b>NAME</b>	<b>SPECIAL REPRESENTATIVE</b>	<b>TYPE OF APPOINTMENT TERM</b>	<b>EXPIRATION DATE</b>
Adejuwon Ojebuoboh	At-Large	Partial Term	06/30/2024
Dr. Michael Webb	At-Large	Partial Term	06/30/2022

**NOTE - If the individuals listed above are appointed, the following vacancies remain:**  
None

Commissioner Bedford said she supported the candidates, due to their experience and strong applications.

The Board agreed by consensus.

### **Orange County Parks & Recreation Council**

<b>NAME</b>	<b>SPECIAL REPRESENTATIVE</b>	<b>TYPE OF APPOINTMENT TERM</b>	<b>EXPIRATION DATE</b>
Mikki Fleming	Cheeks Township	First Full Term	03/31/2024

**NOTE - If the individuals listed above are appointed, the following vacancies remain:**  
None

The Board agreed by consensus to support this appointment.

**Orange County Planning Board**

<b>NAME</b>	<b>SPECIAL REPRESENTATIVE</b>	<b>TYPE OF APPOINTMENT TERM</b>	<b>EXPIRATION DATE</b>
Melissa Poole	Little River Township	First Full Term Re-appointment	03/31/2024
Patricia Roberts	Cheeks Township	One Year Extension Offer	03/31/2022
Carrie Fletcher	Bingham Township	Second Full Term Re-appointment	03/31/2024
BOCC Appointment	At-Large	First Full Term	03/31/2024
BOCC Appointment	At-Large	First Full Term	03/31/2024

**NOTE - If the individuals listed above are appointed, the following vacancies remain:**  
None

Chair Price said the letter in the packet requested that Patricia Roberts' appointment be extended, but more applications were received after the letter was drafted.

Commissioner Fowler supported looking at the additional applicants for the Cheeks Township.

Commissioner Fowler referred to the at-large appointments that are vacant, and asked if the Board needs to fill these vacancies as well as considering the extension of Patricia Roberts' term.

Chair Price said yes.

Commissioner Dorosin suggested Lamar Proctor for the Cheeks Township position or at-large position.

The Board agreed by consensus that Lamar Proctor should fill the Cheeks Township position.

Commissioner McKee supported the reappointment of Melissa Poole.

Commissioner Greene supported the reappointment of Carrie Fletcher.

The Board agreed by consensus.

Commissioner Hamilton suggested Will Raymond for an at-large position, due to his experience and technical skills.

Commissioner McKee supported Commissioner Hamilton's suggestion of Will Raymond.

Commissioner Fowler suggested Whitney Watson for an at-large position.

Commissioner McKee supported Commissioner Fowler's suggestion of Whitney Watson.

Commissioner Dorosin noted that Bonnie Hauser is an elected official on the school board, and remains in the pool of applicants for the Planning Board. He requested that Thom Freeman-Stuart and the Clerk's Office weed out elected officials from future appointment discussions and send a letter thanking them for their interest.

Chair Price agreed with Commissioner Dorosin's suggestion.

Commissioner Bedford suggested Charity Kirk, due to her industrial design background and some work with the LEEDs building process.

Commissioner Greene agreed. She supported Charity Kirk and Whitney Watson to bring in more diversity to the board.

Chair Price said as a woman, it is nice to have other women on the board.

Commissioner Hamilton pointed out that the Planning Board already has seven women, and appointing a man would actually bring more diversity to the board.

Commissioner McKee said he supported Will Raymond.

Chair Price said she would take votes by a show of hands:

First round of voting:

Will Raymond - 4 votes

Whitney Watson - 4 votes

Charity Kirk - 5 votes

Chair Price said Charity Kirk received the highest number of votes in the first round, and will be considered for one at-large seat.

Second round of voting:

Will Raymond - 3 votes

Whitney Watson - 4 votes

Chair Price said Whitney Watson received the highest number of votes in the second round, and will be considered for the second at-large seat. She reviewed the suggested nominees: Melissa Poole, Lamar Proctor, Carrie Fletcher, Charity Kirk, Whitney Watson

## **2. Additional Discussion Regarding the Regulation of the Discharge of Firearms in Areas of the County with a High Residential Unit Density**

John Roberts reviewed the following background information:

### **BACKGROUND:**

This topic was discussed by the Board of Commissioners in September 2020. The Board of Commissioners directed the County Attorney to bring back additional information at a work session including a map that shows diagrams of buffers of various sizes around residences in the County's jurisdiction and an example of approximate distances of varying types of ammunition.

A more detailed discussion is available in the September agenda packet. The September 10, 2020 agenda item may be reviewed here. One point of clarification regarding the September agenda packet – permits are required for commercial shooting ranges erected in Orange County. Private shooting ranges require adequately constructed or maintained backstops, but do not require permits. Attachment B shows distances in a vacuum and does not account for arc range, barrel length, bullet type, cartridge power, etc.

The County Attorney presented the item. He reminded the board about previous discussions focusing on creating a buffer around residential areas. Brian Carson from GIS created several maps to provide options which were in the agenda packet. The County Attorney read the statutes and local ordinances for firearm restrictions. He specifically noted exceptions in the rules:

**State Preemption § 14-409.40(b)** Unless otherwise permitted by statute, no county or municipality, by ordinance, resolution, or other enactment, shall regulate in any manner the possession, ownership, storage, transfer, sale, purchase, licensing, taxation, manufacture,

transportation, or registration of firearms, firearms ammunition, components of firearms, dealers in firearms, or dealers in handgun components or parts.

**State Authorization § 153A-129.**

(a) Except as provided in this section, a county may by ordinance regulate, restrict, or prohibit the discharge of firearms at any time or place except in any of the following instances:

- (1) When used to take birds or animals pursuant to Chapter 113, Subchapter IV.
- (2) When used in defense of person or property.
- (3) When used pursuant to lawful directions of law-enforcement officers.

Also excepted, sport shooting ranges existing at the time an ordinance is adopted or amended, **§ 14-409.46(e)**. Defined as “An area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.” Applies to private and non-private sport shooting ranges.

**Current Orange County Ordinance Firearm Prohibitions**

**Sec. 14-36 (Emergency Declaration)**

Authorizes the prohibition of the transfer or possession of firearms off one’s own property during a declared state of emergency. (preempted by changes to state law)

**Sec. 18-152 (County Property)**

Prohibits 1) possession of firearms in county owned or leased buildings, 2) possession of firearms on or in county-owned recreational facilities.

**Sec. 24-1 (Authorized by Local Act)**

Prohibits 1) hunting with a firearm while subject to an impairing substance, 2) hunting with a firearm while having any concentration of blood alcohol measurable by an alco-sensor, 3) hunting with a firearm within 150 yards of a government building.

**Sec. 24-3 (Discharge Restrictions)**

Prohibits 1) discharge except into a natural or constructed backstop adequate to stop a projectile, 2) discharge a firearm carelessly or heedlessly in disregard for the safety of others, 3) discharge a firearm in any manner that causes the projectile to leave the property on which it is discharged, 4) discharge of a firearm after a person has consumed alcohol or any other impairing substance.

**Sec. 28-27 (Employees)**

Prohibits possession of a firearm by County employees in the workplace with some exceptions.

**UDO**

County regulates the construction of commercial shooting ranges.

Commissioner Dorosin referred to the shooting range exemption, and said it is pretty broad based on previous discussions. He said anyone target shooting in their yard would have an exemption.

John Roberts said someone putting up a target in their yard does not constitute a sports shooting range. He said there is no case law, except that a shooting range is not a farm use through agro-tourism, but it has to be more than a target.

Commissioner Dorosin said it could be a naturally occurring berm in their yard, which does not require one to take affirmative steps in their yard. He clarified that there is no registration required, no advanced notification to the County or neighbors, etc.

John Roberts discussed various firearms and the scattering of shots based on different types of firearms. He said some would require a backstop, and some would not.

Commissioner Hamilton clarified that there is no definition of what a sports shooting range actually is.

John Roberts said no, except for the description in NCGS 14-409.46(e)

Commissioner McKee asked if he had people over to his house to shoot skeet, would that be grandfathered in as a shooting range.

John Roberts said if the area was reasonably maintained as a shooting range then it could be grandfathered in.

Commissioner McKee said many people shoot skeet with guests at their homes, but do not maintain a defined area/range. He said he is unsure what the Board is trying to accomplish here, but if there is a goal to enforce, then definitions will be important.

Chair Price said she gets complaints about the noise, which cannot be regulated, but with the noise comes concerns about safety.

John Roberts continued to review the current Orange County ordinance firearm prohibitions and relevant UDO language.

Commissioner Dorosin asked if there is a process to enforce the current Orange County firearms ordinances.

John Roberts said he would defer to the Sheriff.

Sheriff Blackwood said his department reviews what the individual is shooting, if there is a backstop or berm, what is the manner in which they are firing their gun, are they target shooting or just walking around, etc. He said his department has had success with educating the public and enforcing the ordinance. He said some citations have been made.

Commissioner Dorosin asked if there is a criminal citation or a fine.

John Roberts said it is a misdemeanor violation, which carries a \$500 fine and a \$500 civil penalty.

Sheriff Blackwood said there are also expensive court costs, in addition to the fine.

Chair Price asked if the Sheriff's Department is able to determine the location of a discharge, when it receives complains about noise.

Sheriff Blackwood said previous knowledge of the people and the community comes into play. He said his department usually get calls for areas of which they are already aware. He said noise is not an issue, and cannot be an issue. He said the Sheriff's department is determining if one is shooting in a safe manner. He said an individual shooting could be shooting in a safe manner, even if they are surrounded by other residences, due to backstops and other set ups on the property. He said most residents are cooperative, and are discharging firearms safely. He said the initial approach to the property is somewhat dangerous for deputies, as it is yet unclear into what the deputy is walking.

Commissioner Hamilton asked if many complaints are received in a year.

Chair Price said she gets about 2 or three complaints, due to the fear of hearing gunshots.

Commissioner Hamilton asked if it is known how many calls involve actual safety issues.

Sheriff Blackwood said calls are seasonal. He said typically, a person complains when they have heard gunshots for several hours, and the Sheriff's department has to determine if the shooting is being done in a safe manner, then they discuss with the individual about

stopping. He said his department suggests that residents call 911 ahead of time to let them know they will be shooting, so public safety can reassure callers, and deputies will understand into what they are walking.

Commissioner Hamilton asked if any calls have had issues of safety.

Sheriff Blackwood said maybe one call out of fifty. He said he will follow up with specific numbers. He encouraged the Commissioners to ride with deputies to see what kinds of calls they get and how deputies handle situations.

Commissioner Hamilton asked if there is a sense of how many people target shoot in the County.

Sheriff Blackwood said numbers are different based on the different districts, with fewer shooters in southern part of County, and more in the northern part. He estimates less than 250 people total.

Commissioner McKee said for historical context this issue has come up over several years, and the task force spent much of its time discussing this very topic. He said he agrees with the Sheriff's estimations. He said he skeet shoots 3-4 times a year, but others do so more regularly. He said where he lives it is normal, and he has heard it all his life. He said it is a different situation in a subdivision, where residents do not know what kind of gun a person is shooting, and there is a wide range of how far the projectiles will go. He said this was a major part of the shooting task force's discussion to try to find a middle ground between the right to own firearms and when to use them. He said it boils down to noise, and whether the noise aggravates the neighbors.

Chair Price said there was discussion on how far they should impose the regulation. She said a 300 foot buffer gives room to shoot, but a 600 or 900 foot buffer gives no room to practice.

Commissioner Greene said this most recently came to the Board over a year ago due to complaints from the west side of Carrboro, but the lots were large and there was nothing the Board could do to regulate the issue at the time. She asked if there is anything the Board can do at this time.

John Roberts said the discussion in September 2020 was regarding subdivisions, and a distance buffer, density and urbanized developments. He said it is not feasible to make ordinances around subdivisions due to the number and variety.

Commissioner Bedford said the Board looked at Durham's noise ordinance, but Durham found it unenforceable. She said a family came in front of the Board who agreed to only shoot one day of a week and communicated this to neighbors, which worked well.

Chair Price said there is very little the BOCC can do, and agreed with the Sheriff about calling 911 before one shoots. She said if someone contacts Commissioners with concerns, they should also call 911.

Sheriff Blackwood said the topic has been discussed many times and all options have been explored, including what other counties do. He said an educational program may be helpful in neighborhoods where lots of shooting is happening to help with expectations, and tools for resolving issues. He said he would be happy to facilitate this type of endeavor. He said people feel entitled to shoot on their own land, while others feel entitled to not have to hear shooting on their own land.

Commissioner Dorosin said a community education policy makes a lot of sense, but he is not ready to jettison the discussion of buffers. He clarified that if a 300-foot buffer is instituted, no shooting could happen in a buffer of 300 feet around a residential structure. He reviewed a map in the agenda packet.

John Roberts said yes.

Commissioner Dorosin said each map has more shaded areas, because the buffer distance is increasing with each one. He said the number of residences does not change.

John Roberts said yes.

Sheriff Blackwood said on a property that was grandfathered in, the next-door neighbor may not be able to shoot because they had not already erected a backstop. He said education is incredibly important.

Chair Price said there is difficulty determining where the shots are fired, due to geography, topography, and sounds echoing.

Commissioner Hamilton clarified that any action the Board takes will have no impact on those who are already shooting.

Commissioner McKee said it is unclear where the actual issues are, and from where the noises are coming. He said instituting buffers may cease all shooting in the County, with the exception of those who are grandfathered in. He said the Board can never address noise, and it is unclear where to draw a line. He said the end result will be no shooting in Orange County. He said he understands the concerns, but does not know how to address it.

Chair Price said she does not feel there is a solution, except by opening lines of communication and giving shooters, as well as neighbors, tools to report and resolve issues. She said if anyone feels they are in danger, they should call the Sheriff's department.

Commissioner Dorosin said he would like the Board to look into the 300-foot buffer, as well as an education campaign. He said not doing anything is not satisfactory to him. He said buffering might help the expansion of new development of shooting ranges. He said he would like more accurate maps with more detail to see what a buffer would look like. He said some kind of baseline and public outreach and communication would be valuable. He said he would like more information on what an ordinance of a 300-foot buffer from any residence would look like.

Chair Price asked if staff could clarify the buffer around public buildings.

John Roberts said the buffer around public buildings is 450 feet.

Commissioner Hamilton said she would like to consider communication strategies for new developments, so residents understand the reality when buying into a new development. She said the issue is very complex in its potential impact on land uses and subdivisions.

Commissioner McKee said if the Board is going to consider this issue further, there needs to be an overlay of the areas of concern on the 300 foot buffer map. He said he does not see how creating a buffer could improve the situation, but feels it would confuse the issue and add additional frustration.

Commissioner Fowler remarked on the juxtaposition of this topic with the next two topics on the agenda, due to the discussion of education and communication. She said if grandfathering can occur, then it seems there would be little impact.

Chair Price agreed with Commissioner Dorosin's suggestion, but does not see how it would be enforced. She asked if the Board wants to direct staff to create 300 foot buffer maps with Commissioner McKee's suggestion of overlaying the locations of complaints.

Commissioner Dorosin requested better detail on the maps. He said the current maps contain basic information, such as where the addresses are. He said if the buffer ordinance was created, he would need to see where the actual residential structures are. He suggested four or five areas of detail to provide examples of what the 300-foot buffer would look like in relation to structures. He said one of those areas should be where there are a lot of complaints.

John Roberts confirmed that the Board wants a map showing buffers with an overlay of known problem areas that the Sheriff has encountered. He said the map would also show actual residential structures in known problem areas, as well as high-density areas.

Commissioner Dorosin said yes, and the Board should also look at areas from which it has received a lot of email complaints.

Commissioner Greene said many places will be grandfathered in, but the Board is also legislating for future developments.

Commissioner Bedford referred to an education campaign, and said there are likely other places that have already been through this. He said staff should review such materials so the County is not creating a program from scratch.

Chair Price said this type of information is likely available, and reviewing it is a good idea.

Commissioner McKee reminded the Board that the state legislature could change the Board's ability to create any sort of rules on this.

### **3. Discussion on Current Policy Regarding Housing Federal Inmates in the Orange County Detention Center**

#### **BACKGROUND:**

The U.S. Marshals Service is responsible for housing and transporting federal prisoners from the time they enter federal custody until they are either acquitted or convicted and sentenced to a designated federal Bureau of Prisons facility. During the time that court proceedings are underway, the Marshals Service relies on state and local governments to provide secure housing for federal prisoners. The Marshals Service reimburses these state and local detention facilities for the cost of housing based on facility costs and other factors through a negotiated rate determination process. The Orange County Sheriff renegotiated its contract with the U.S. Marshals Service in 2016 to receive a reimbursement of \$93 per day to house federal prisoners. A County-engaged consultant determined that the daily cost of housing an inmate in the Orange County detention facility was \$111.02 based on FY 2015 costs to operate the detention facility. If federal detainees are to be housed in the detention center that is currently under construction, the County will likely have a different cost profile, which will need to be determined.

In any year, the total amount of revenue collected from housing federal inmates depends on the daily rate and the number of inmates housed during the fiscal year. The total revenue collected in FY 2018-2019 was approximately \$1.54 million, while that number was \$1.13 million in FY 2019-2020. In March 2020, the Sheriff stopped accepting new federal inmates at the OCDC due to the risk of COVID-19. As inmates were sentenced and transferred to federal prisons, the federal inmate population at the OCDC dropped to nine (9) individuals. Recently, and subject to certain restrictions related to COVID, the Sheriff has resumed accepting limited numbers of federal inmates at the OCDC. For the 12-month period immediately preceding March 2020, the average daily population of federal inmates was approximately 42.

Note: Some information provided herein was obtained, in part, from a 2016 agenda abstract addressing the US Marshals Service Agreement for Federal Inmate Reimbursement

Jamie Sykes, Chief of Operations, said inmate counts are down this year due to COVID-19 and other diversion programs. He said there is currently less than 10. He said the County only accepts federal inmates who have received a negative COVID-19 test. He said new detainees are isolated and monitored for several days before they are moved into the general population in the detention center.

Sheriff Blackwood said Orange County is on the federal marshal contract, and will accept small numbers of federal inmates who meet the Covid criteria.

Chair Price asked if federal inmates will be accepted at the new detention center.

Sheriff Blackwood said, at this time, yes.

Chair Price asked if the increase in the reimbursement rate could be clarified.

Sheriff Blackwood said Travis Myren negotiated the costs. He said they wanted to get reimbursed at a rate that reflected the cost of housing inmates, and Travis Myren did an excellent job. He said Orange County provides excellent care in a strategic location within the State.

Commissioner Hamilton referred to the reimbursement rates, and asked if staff could distinguish between variable costs and fixed costs.

Travis Myren said 60-70% of the costs are personnel. He said the variable costs are connected to food and medical expenses.

Commissioner Hamilton asked if the personnel costs fluctuate due to the jail census.

Travis Myren said the Sheriff makes staffing decisions, but reducing costs would mean closing a housing unit.

Commissioner Hamilton asked if the size of housing units could be identified.

Chief Jamie Sykes said the pods are around 24 people. He said in the old part of the jail, one cell varies from 6-12 people.

Commissioner Dorosin clarified that it does not take the same number of personnel to guard 1 person as it does 24.

Sheriff Blackwood said it takes a certain number of people to operate a jail, which is not dependent on the number of inmates.

Commissioner Dorosin reviewed the costs listed in the agenda abstract, and asked if there is a sense it will cost more in the new facility. He asked if the contract costs are fixed. He said if the plan is to still accept federal inmates after the pandemic, will the average daily federal inmate population go back up to 40-50 people. He asked, if the jail population is low enough to close a unit, would the staffing structure change. He said the conversation started with a discussion on how big the new jail should be, because there is a goal to reduce the incarcerated population in Orange County. He said if the goal is to reduce the population, the County should eliminate the housing of federal inmates.

Sheriff Blackwood said federal inmates will be housed somewhere, and he believes Orange County treats inmates humanely and the detention facility is the best place these inmates can be housed. He discussed how the pod structure works, with deputies watching over the pod in a central location. He said the detention center is already operating with minimal staffing, and all are necessary to the basic functioning of the building. He said costs of the new detention center will not be known until the facility opens. He said measures to reduce costs are being researched and implemented. He said the contract with the federal marshals can be renegotiated if it is felt that the County is not getting reimbursed for the full cost of housing inmates. He said the Board could decide not to have the federal inmate program in Orange County. He said it may reduce logistical headaches, and there will be financial impacts. He said it comes up every single year, and the BOCC should decide what it wants to do.

Commissioner Dorosin said he would like to get rid of the federal inmate program.

Commissioner McKee the Board intended to use diversion programs to reduce the jail population, which have been successful. He said the Board reviews the federal program repeatedly, and if the federal program is ended, the costs of running the detention center will continue. He said the federal reimbursement helps the detention center operate, and if the Board does away with it, the Board will have to find funds elsewhere. He said Orange County treats the inmates well, and the County does not have the money to operate the detention center without the reimbursement.

Chair Price said she supported depopulating the jail of local residents. She asked if the County accepts federal inmates so they are closer to court locations.

Chief Jamie Sykes said Orange County is centrally located to transport federal inmates to federal court in Greensboro and Durham. He agreed that Orange County treats federal

inmates humanely. He said the County agreed to take federal inmates recently because other jails were overcrowded, and taking federal inmates allows the inmates to have some semblance of closeness to their family and friends. He said federal inmates transferred from other jails comment that Orange County provides a better environment and treats them with respect.

Chair Price clarified that federal inmates will be detained somewhere, and taking them in Orange County allows for a smoother process and higher level of treatment and care. She said diversion programs will not impact federal inmates' sentences.

Chair Price asked if medical costs are sufficiently covered by the contract.

Jennifer Galassi, Legal Advisor, said inmates dread being transferred to other facilities. She said federal inmates are treated humanely and with respect by the Orange County detention officers and receive better quality food. She said the federal contract has a 36-month waiting period before the reimbursement rate can be renegotiated, but this was last done in 2016, so a renegotiation will be able to occur, if necessary, as soon as the new jail opens, and costs are better understood.

Commissioner Hamilton asked if the methodology for developing the per diem rate could be identified. She said she is proud that the County provides respect and humane treatment to federal inmates, but does not want to lose money doing so.

Commissioner Dorosin said he still does not understand why it costs the same amount, no matter how many inmates there are. He disagreed with the idea of reducing local incarcerations, but not advocating the same for federal inmates. He believes that allowing federal inmates to be housed in Orange County creates an incentive, and is inconsistent with the County's goal of reducing incarcerations. He said he has no doubt that Orange County treats inmates better.

Chair Price said housing federal inmates is providing assistance so federal inmates are not being transported long distances.

Commissioner Dorosin said it is still facilitating continued incarceration.

Chair Price said not accepting them will not get them out of jail.

Commissioner Bedford said she would also like to see the methodology for determining the cost of housing inmates. She said she admires Commissioner Dorosin's vision, but other counties will not concur. She said there is a benefit to housing people in Orange County where they are treated well, versus possibly being housed in a private prison. She agreed with Chair Price that there is a difference between diversion programs for first time offenders.

Sheriff Blackwood said the local inmate population has not usually been to court, and are awaiting trial. He said the Federal inmate population is quite different, and most have plead guilty, been sentenced, or are awaiting further sentencing. He said there has to be some way to detain people who present a danger to the public. He said some reimbursement is better than no reimbursement.

Commissioner McKee said he does not share Commissioner Dorosin's vision for releasing all federal inmates. He said he does support diversion programs for first time offenders but also supports housing federal inmates, as they will be detained somewhere.

Commissioner Dorosin said de-carcerating federal inmates does not mean letting them walk out the door.

Chair Price said Travis Myren will bring the per diem formula back to the Board, and thanked the Sheriff's department for all it has done through the pandemic.

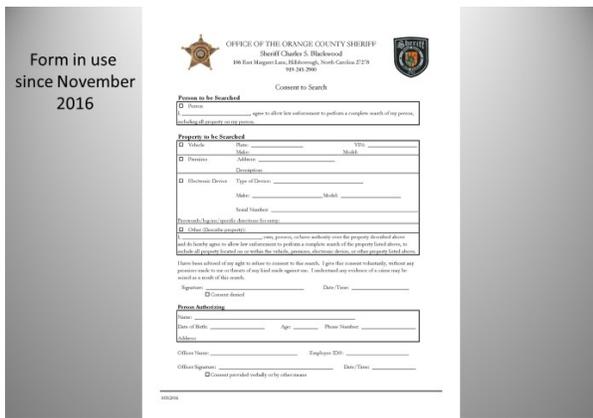
#### **4. Discussion on Written Consent for Conducting Vehicle Searches**

Jennifer Galassi reviewed the following background information:

**BACKGROUND:**

On November 1, 2016, Orange County Sheriff Blackwood announced a new directive regarding searches and formalized it by adding a section to the Sheriff's Office Policy Manual concerning obtaining written consent. The Sheriff recognized that although the US Supreme Court allows consent to be provided verbally, in writing, or by other means, he determined that his deputies should always attempt to obtain written consent prior to conducting a search, when practicable and when the safety of officers, suspects, or members of the public would not be negatively impacted by doing so. The Sheriff and his staff are prepared to report on the implementation of the written consent form.

Major Kevin Jones, Support Services, showed the form used for consent to search, and provided examples of times a deputy might use the form to request consent. He said consent is not required when probable cause is present. He said the Sheriff's Department has been using a form since 2016. He made the following PowerPoint presentation:



**We collected data on 481 vehicle searches.**

- **182 consensual searches (38%)**
- **298 probable cause searches (62%)**
- **.02% refused to give consent**

### Lessons Learned

Vehicle searches represent small percentage of deputy's overall activity.

Year	Total Activity	Vehicle Stops	%
2018	51,697	1710	3.31
2019	53,165	2730	5.13
2020	47,105	2590	5.5

We also learned searches of any type take place in an extremely small percentage of all traffic stops.

Year	Vehicle Stops	Vehicles Searched	%
2018	1710	58	3.4
2019	2730	177	6.5
2020	2590	125	4.8

What We've Done and Future Steps

- Created new form
- Built database to capture and retain information
- Shift supervisors will review forms and seek corrections for errors or omissions
- Supervisors will input information to database for consistency



Major Kevin Jones described the new process for entering data from the form, which will improve the quality of the data collected. He said information on race and gender will also be collected. He resumed the PowerPoint presentation:

**New Form**



**Office Of The Orange County Sheriff**  
 Sheriff Charles S. Blackwood  
 306 East Margaret Lane, Hillsborough, North Carolina 27278  
 919.245.2900

**Consent/Probable Cause to Search**

Consent Search     Probable Cause Search     Items Seized     Charges    DC# \_\_\_\_\_

**Person(s) Involved**

Name \_\_\_\_\_  
 Date of Birth \_\_\_\_\_ Age \_\_\_\_\_ Phone Number \_\_\_\_\_  
 Address \_\_\_\_\_  
 Race/Ethnicity:     Black     White     Hispanic     Other \_\_\_\_\_  
 Sex:     Male     Other \_\_\_\_\_

**Property to be searched**

Vehicle    Make \_\_\_\_\_ Year \_\_\_\_\_  
 Model \_\_\_\_\_  
 Premises    Address \_\_\_\_\_  
 Description \_\_\_\_\_  
 Electronic Device    Type of Device \_\_\_\_\_  
 Make \_\_\_\_\_ Model \_\_\_\_\_  
 Serial Number \_\_\_\_\_  
 Possession/Sign. (If Specific Directions for entry) \_\_\_\_\_  
 Other (Describe Property) \_\_\_\_\_

Consenting person completes block below (N/A for Probable Cause Searches)

Person     Consent provided verbally or by other means

I, \_\_\_\_\_, agree to allow law enforcement to perform a complete search of my person, including all property on my person. Additionally, I own, possess, or have authority over the property described above and do hereby agree to allow law enforcement to perform a complete search of the property listed above to include all property located on or within the vehicle, premises, electronic device, or other property listed above.

I have been advised of my right to decline to consent to this search. I give this consent voluntarily, without any promises made to me or threats of any kind made against me. I understand any evidence of a crime may be seized as a result of this search.

Signature \_\_\_\_\_ Date/Time \_\_\_\_\_

Officer Name \_\_\_\_\_ Employee ID \_\_\_\_\_  
 Officer Signature \_\_\_\_\_ Date/Time \_\_\_\_\_

**Please review the new search consent form.**

**It is my understanding you received a copy in your packet.**

**We ask for your review and feedback.**

**Please submit questions, comments, concerns, or edits to us by February 26, 2021.**

**Thank you.**

Commissioner Dorosin said the original discussion was about the consent to search form and the use of body cameras. He said the Governor’s Task Force on Racial Equity and Criminal Justice issued its report and recommendations in December 2020. He said this task force recommended several things, including that written consent to search be required at all times. He said the current policy allows for officer discretion of when to use the form, which is of concern to him. He said there are racial disparities on who gets searched, and how

frequently. He said he would like a broader discussion on the task force's recommendations at a future work session. He said he would like the written consent to search to be used in all stops.

Commissioner Dorosin referred to the quarterly report sent out by the Chapel Hill Police Chief, and said the data is broken down in different ways for demographics, charges, operators licenses, school resource officers, traffic stops, etc. He said this kind of data is important to share and make available to the public.

Jennifer Galassi said policies with absolutes are difficult. She said if the Sheriff strongly encourages something, it is clear to deputies that they should do so except in extenuating circumstances. She said the body cameras also record consent, or lack thereof, for searches. She said there may be times when it is not safe or practicable for a deputy to use the consent to search form.

Commissioner Greene said the Board should have a larger discussion on the task force recommendations. She asked what other safety issues may be present, if a deputy lacks probable cause. She asked if there are other counties using the form for every stop.

Commissioner Hamilton asked if deputies are able to review the form with those who do not speak English.

Major Kevin Jones said the department has access to translators.

Commissioner Dorosin said Chapel Hill, Carrboro, and Durham all require the consent to search form for all stops. He said he does not doubt that deputies listen to the Sheriff's instructions, but "strongly encouraging" is different than a policy. He said having a policy shows the County's commitment to an issue, and that the County is committed to racial equity. He said policies also help build trust with the community.

Chair Price asked if the task force report allows for searches without written consent, if there is probable cause.

Chief Jamie Sykes clarified that Commissioner Dorosin is asking for written consent on all searches, or just on consent searches.

Commissioner Dorosin said he meant just on consent searches.

Chief Jamie Sykes said he has obtained written consent even when probable cause was present, because it creates a different feeling during the interaction. He said the goal is to defuse situations, not escalate them. He confirmed probable cause means the deputies do not need to obtain consent.

Commissioner Dorosin said the written consent to search informs people of their rights to refuse. He said asking to search a vehicle is a naturally intimidating moment for people.

Chief Jamie Sykes said the Orange County Sheriff's department collects the same data that is provided by Chapel Hill, and it is the Sheriff's discretion as to how it is provided to the public. He said the data is shared with many stakeholders, and discussed the different ways the data could be presented to the public.

Sheriff Blackwood said traffic stop data is horribly inaccurate across the state. He said he serves as vice chair on the Governor's Crime Commission, which is discussing how to improve the process. He said some agencies do not collect the data, while others do, and it is important for all agencies to collect data. He said the recommendations from the task force need to be examined for feasibility, and if they require legislative changes. He said it is important to make sure the recommendations are in the best interest of the public. He said there are further reports to come, and he would like for all of them to be released before there is further discussion. He referred to the different points of the criminal justice system, and said the whole system needs to be examined. He reaffirmed the Department's commitment to do the right thing, and said he is duty bound to serve the public and protect public safety. He said he will discuss anything with anyone, anywhere, and that doing so will make these meetings more productive.

Commissioner Fowler said she was glad to see race and ethnicity added to the consent to search form. She suggested adding the race and ethnicity of the deputy as well. She also asked if there is a reason why the number of searches and stops went up after 2018.

Major Kevin Jones said this data correlated to a time when a lot of deputies retired, and new staff was hired. He said while new staff was being trained, stops went down, and when they were fully trained, stops went back up to normal levels.

Commissioner Fowler said she would like to see a diversionary facility set up for those with mental health problems to keep them out of the jail.

Commissioner Dorosin requested a copy of Major Jones power point. He thanked the Sheriff for always being willing to speak with the Commissioners, and feels is important to always do so publicly.

Chair Price expressed thanks for the Sheriff Department's service to the community and cited examples of its progressive actions in working with the public.

Commissioner Dorosin asked if there is a plan for moving forward.

Chair Price said feedback on the updated consent form is due to Chief Jamie Sykes by February 26th.

Commissioner Dorosin asked if the Sheriff will consider making it a policy to require written consent for all consent searches.

Sheriff Blackwood said he will review the data of when written consent was not obtained and see why this occurred. He said the only time the form should not be filled out is when there is probable cause or an extenuating circumstance that can be articulated. He said this form has been in place for several years.

A motion was made by Commissioner McKee, seconded by Commissioner Hamilton to adjourn the meeting at 9:55 p.m.

Roll call ensued

**VOTE: UNANMIOUS**

Renee Price, Chair

Laura Jensen  
Clerk to the Board

Submitted for approval by Laura Jensen, Clerk to the Board.