Chairman Church opened the meeting and welcomed everyone.

Public Comment

Jerry Henthorne read a prepared statement which is hereby incorporated by reference and made a part of these minutes (Exhibit A).

Susan Ferguson expressed her concern about the gun club. Ms. Ferguson stated she had lived at 4823 Lackey Place for 52 years and had always been able to sit on her porch after a long day of work to enjoy the scenery and serenity; however, since the gun club had begun it was hard to enjoy the outdoors of her property. She said it was too loud and people could not have any conversation on her porch. She informed Commissioners she attended Patterson Grove Baptist Church and, following services, her family comes to her home to visit and enjoy the outdoors. Ms. Ferguson said she called the Sheriff Department one Sunday afternoon to complain about the noise and ask for their help.

Evelyn Lipford also expressed her concern about the gun club. She said she had lived at 4732 Grady Place for 65 years and was a very short distance (about a driveway down) from the gun range. Ms. Lipford said she had always enjoyed her home, scenery, and quietness but cannot now because of the noise. Ms. Lipford said she also called the Sheriff Department two weeks ago because a meeting at church was disrupted because of the noise from the gunfire. She informed Commissioners that there were people firing guns at the range every Sunday evening. Ms. Lipford said her 96 year-old mother lived with her and could no longer go outside for the noise and safety concerns; and, had to turn the volume of the TV up to try to cover up the noise. Ms. Lipford said she was concerned about the safety of her grandchildren and said they could no longer ride their ATV’s and motorcycles because of the gun range. She ended her comments by invited the Commissioners to visit her home any Saturday or Sunday evening to understand her concerns about the dangers and noise from the gun range.

Charles Senf expressed concern about the lack of public notice regarding appointments to the County’s various boards. Particularly, he said he noticed appointments were being made to five
boards and after talking to the clerk about qualifications for each board, found that 23 seats were being appointed. Mr. Senf said he didn't have time to make a great presentation about his concern. He also addressed the issue of the gun club and expressed his opinion that seven appointments for the Planning Board could allow individuals concerned about the gun club to apply for those seats, etc. Mr. Senf said Commissioners made citizens aware that they were running for office and said he felt that citizens should be made aware of open seats being considered on various boards, noting the current procedure worked against the best interests of the County and its citizens.

Regular Session

Chairman Church gave the invocation and Commissioner Branch led the Pledge of Allegiance. Chairman Church asked if there were any additions or amendments to the February 6, 2017 agenda. The Clerk requested three additions to the agenda: 1) to schedule a public hearing regarding a loan refinancing; 2) acknowledgement of ASU’s cycling team’s bike race; and, 3) an appointment to the Juvenile Crime Prevention Council. Commissioner LaBrose moved to approve the agenda as presented and amended. The motion carried unanimously.

Quarterly Customer Service Award

LouAnne Kincaid, Customer Design Team member, announced that Brandy Green was chosen to receive the Excellence in Customer Service Award for the last quarter of 2016. Suzanne Kynner, also a member of the Customer Design Team, read the nomination letter recommending her for the award and the Board of Commissioners commended Ms. Green for her service. In recognition of the honor, Commissioners presented her the Excellence in Customer Service Award.

Service Award

Human Resources Director Jimmy Harrison formally recognized Cindy Craig who was mistakenly omitted from the Service Award Recognition Ceremony in January. Mr. Harrison extended appreciation to Ms. Craig and presented her a gift in acknowledgement of twenty years of service to Caldwell County.

Mr. Harrison noted employees recognized during the recent ceremony had a combined service of 835 years.

WPCOG Sister Cities Association

Gabriele Weinberger, Chair of the WPCOG Sister Cities Association, said the Association would like to have more representation from Caldwell County. She introduced Mr. and Mrs. Christoph Klingspor, the former vice chair and chair of the Association. Mrs. Klingspor said the Sister Cities Program was initiated in 1956 and the local Western Piedmont Sister Cities Association was organized in 1992. In 1993, the WPSCA was incorporated as a regional non-profit organization. She reported the following:

- Local government participants pay annual dues of $500
- Each local government appoints two representatives to the WPSCA Board
• Staff services are provided by the Western Piedmont Council of Governments
• Local government members include Alexander, Burke, Caldwell, and Catawba Counties and the municipalities of Morganton, Valdese, Lenoir, Claremont, Conover, Hickory and Newton
• The WPSCA was the first recognized region-to-region partnership
• The WPSCA chose to pursue its first relationship with Altenburger Land in Germany because of the shared heritage. The signing ceremony took place on March 19, 1997.
• The Association’s goals are to develop ways for the communities to come together and profit from a cooperative program and to engage people, ideas, and culture in a variety of educational, institutional, professional, technical and government projects.
• The Association has had numerous exchanges over the last twenty years with visits to and from Altenburg by government officials, physicians and other medical professionals, sports teams, bankers, students, school superintendents, musicians, and other artists.
• The next opportunity is the 500th Anniversary celebration of the Martin Luther Reformation Movement and individuals from the Western Piedmont region are scheduled to participate in Altenburg August 10-20, 2017.
• The most recent exchange was a visit in May and November 2016 by young musicians, nurses, and hospital administrators.

Mrs. Klingspor summarized the positive influences of the WPSCA to include business startups (micro-breweries, truffle farms, goat dairies, etc.); scholarship opportunities for students; and, the opportunities to travel to Europe as a visitor rather than a tourist, to be welcomed as a partner with reduced travel fare and experiences of family hosting, and authentic food, etc.

Economic Development Incentives

EDC Executive Director Deborah Murray formally presented requests for economic development incentives from the following:

JBS, USA

JBS, USA is a subsidiary of Swift Beef, a world-wide provider of meats to the grocery industry. The company took over the former Vantage Foods operation in Lenoir in October 2014 and has been renovating, upgrading and transitioning since. The company is embarking on an extensive hiring and training program while continuing to invest in upgrades at the site. The company created 36 new, full-time jobs since it took over in 2014 and formally requested a Local Jobs Incentive in anticipation of a very aggressive hiring and training program in 2017. The request is for consideration of a Local Jobs Incentive based on the creation of up to 100 new, full-time jobs over a one-year period at $2000 per job for a possible total incentive of $200,000.

Chairman Church declared the public hearing open. There was no public comment; therefore, he declared the public hearing closed.

Commissioner Branch moved to approve a local Jobs Incentive of up to $200,000 ($2,000 per job) for JBS, USA for the creation of 100 new, full-time jobs over a one-year period.
Amp Services, LLC

AMP Services, LLC has been owned and operated in Granite Falls for seven years by Austin Powell. The company began as a contractor, specializing in lighted signs, commercial and industrial lighting and refrigeration. The company has three divisions and approximately 9 employees. The company’s expansion focus is centered on its LED lighting wholesale, distribution and manufacturing.

The company is acquiring the building it has leased for the last seven years and is buying the two buildings adjacent to it on Main Street in Granite Falls. The company has formally requested the EDC assist with a Building Reuse Grant and a Local Jobs Incentive to assist in expansion on the premises. The company plans on a phased expansion over several years that will result in a total new private investment in excess of $5 million and the creation of 35 new jobs over a two year term that term running concurrently with the Building Reuse term. The Town of Granite Falls was asked to be the applicant for the Building Reuse Grant and the Local Jobs Incentive will provide the required local match for the Building Reuse Grant.

The EDC has registered the project with the EDPNC and will proceed as directed. At this time the company anticipates renovations to total over $700,000.

The EDC requests on behalf of the company a Local Jobs Incentive in the amount of $70,000 based on the creation of 35 new, full-time positions over a two-year period, to run concurrently with the company’s Building Reuse Grant period.

Chairman Church declared the public hearing open. There was no public comment; therefore, he declared the public hearing closed.

Commissioner Potter moved to approve a local Jobs Incentive of up to $70,000 ($2,000 per job) for Amp Services, LLC for the creation of 35 new, full-time jobs over a two-year period. The motion carried unanimously.

Ryan-Al Door Systems, Inc.

Ryan-Al Door Systems, Inc. is a company headquartered in California with manufacturing operations in Jiashan, China and U.S. distribution facilities in Myrtle Beach, SC. The company is considering moving its manufacturing back to the U.S. from China where it has been since 2007. The company specializes in wood and plastic door systems and believes that North Carolina has one of the best workforce populations for this type of manufacturing.

The company has requested consideration for both state and local incentives to assist them in evaluating their relocation options. The EDC has initiated discussions with the Department of Commerce and EDPNC to begin the application process for a One NC Fund Grant as well as a Building Renovation Grant for the company.

The company’s expansion would include a minimum new private investment of $1.5 million in facility re-construction in addition to an undetermined investment in machinery
and equipment. By the end of year two the company will have 30 employees and over 50 employees by year three.

In order to make application for both the One NC Fund Grant and the Building Renovation Grant, the County must assemble its local incentive package which provides matching funds for each of the aforesaid grants. The company has submitted a formal request for a Local Jobs Incentive from Caldwell County based upon creating up to 50 new, full-time jobs over a three year period at $2000 per job for a possible total local incentive of $100,000. The three year term is requested to run concurrently with the One NC Fund Grant when awarded. This request also asks for a Resolution of Support from the County for the One NC Fund Grant.

Chairman Church declared the public hearing open. There was no public comment; therefore, he declared the public hearing closed.

Commissioner LaBrose moved to approve a local Jobs Incentive of up to $100,000 ($2,000 per job) for Ryan-Al Door Systems, Inc. for the creation of 50 new, full-time jobs over a three-year period and formally adopt the resolution in support of a One NC Fund Grant. The motion carried unanimously.

**Project Blue Sky**

Project Blue Sky is a long time, well established Caldwell County manufacturer. The company seeks to expand its facilities with the renovation of vacant buildings on its property. The expansion will include several million dollars of new private investment in addition to new equipment and machinery. It will also provide the opportunity to create as many as 50 new, full-time positions over a two year period. These jobs will exceed the county’s average wage standard of $34,744.

The company requests consideration for both a Building Reuse Grant as well as a Local Jobs Incentive. The Building Reuse Grant will be approximately $500,000 and requires local matching funds will be provided by the company’s Local Jobs Incentive.

The EDC requests on behalf of the company a Local Jobs Incentive in the amount of $100,000 based on the creation of 50 new, full-time positions over a two year period, to run concurrently with the company’s Building Reuse Grant period.

Chairman Church declared the public hearing open. There was no public comment; therefore, he declared the public hearing closed.

Chairman Church moved to approve a local Jobs Incentive of up to $100,000 ($2,000 per job) for Project Blue Sky for the creation of 50 new, full-time jobs over a two-year period. The motion carried unanimously.

**Project Decade**

Project Decade is an existing Caldwell County manufacturer with high growth requiring it expand its manufacturing as well as its packaging and warehousing facilities. The
company also has production facilities outside of North Carolina which provide competing options for this expansion.

This is the company’s third project and it has requested consideration for both state and local incentives to allow for financial comparison between the various location options. The EDC has initiated discussions with the Department of Commerce and EDPNC to begin the application process for a One NC Fund Grant as well as a Building Renovation Grant for the company.

The company’s expansion would include a minimum new private investment of $2.5 million in facility construction in addition to as much or more in machinery and equipment. Over a three-year period the company anticipates adding 40 new full-time jobs in addition to its current labor force.

In order to make application for both the One NC Fund Grant and the Building Renovation Grant, the County must assemble its local incentive package which provides matching funds for each of the aforesaid grants. This is a formal request for a Local Jobs Incentive from Caldwell County based on creating up to 40 new, full-time jobs over a three year period at $2000 per job for a possible total local incentive of $80,000. The three year term is requested to run concurrently with the One NC Fund Grant when awarded. This request also asks for a Resolution of Support from the County for the One NC Fund Grant.

Chairman Church declared the public hearing open. There was no public comment; therefore, he declared the public hearing closed.

Commissioner Wilkie moved to approve a local Jobs Incentive of up to $80,000 ($2,000 per job) for Project Decade for the creation of 40 new, full-time jobs over a three-year period and adopt the resolution in support of a One NC Fund Grant. The motion carried unanimously.

Automated Solutions, LLC

Automated Solutions is a privately-held, 18 year old, diversified manufacturing company headquartered in Sawmills, NC with manufacturing facilities in Sawmills and Lenoir. The 74,000 square foot Sawmills plant manufactures packaging for furniture and other retail and commercial uses; does design and production of OEM packaging related machinery; and produces replacement vacuum conveyor belts for several industries. In 2016 the company also expanded into 150,000 square feet of a former Broyhill facility on Virginia Street in Lenoir which now includes an extruder line for polyethylene foam sheeting, post processing foam converting equipment and warehouse of finished products. The company’s products are sold across the U.S. as well as into Europe, Australia and Mexico. Some of the company’s packaging products are found on retail shelves in the storage and organization department of international retailer Home Depot.

The company has seen a better than 30% growth in 2016 and anticipates the same or greater increase in 2017. The company is installing additional production equipment and adding a second shift. As a result, Automated Solutions will create 20 new, full-time
positions in addition to the 46 full-time positions they already have to facilitate its production growth.

The company has submitted a written request asking for a Local Jobs Incentive from Caldwell County. The incentive is based on creating up to 20 new, full-time jobs over a one year period at $2000 per job for a possible total incentive of $40,000.

Chairman Church declared the public hearing open. There was no public comment; therefore, he declared the public hearing closed.

Chairman Church moved to approve a local Jobs Incentive of up to $40,000 ($2,000 per job) for Automated Solutions for the creation of 20 new, full-time jobs over a one-year period. The motion carried unanimously.

Public Hearing—Proposed Text Amendments to the Zoning Ordinance

Shelley Stevens, Planning Director, highlighted the following as part of a proposed text amendment related to water-hookup and based off of Iredell County’s requirements and consistent with surrounding counties. She noted Iredell County’s ordinance was more detailed than the other counties.

A. Any Major Subdivision with an average lot size less than two (2) acres which has water system lines available, shall be required to extend the water system throughout the subdivision to each lot located therein. All required water line extensions shall include appropriate valves, hydrants, taps and service to the property line of each lot as required by the standards or specifications of the water system provider. Caldwell County will help developers install waterlines by providing labor and engineering (for up to 1,500’ of line). Developers to which this hookup requirement applies are also allowed a 25% lot-density reduction, or reduction of lot size (not below .5 acres), whichever is a greater reduction for the developer after the density reduction is calculated. The term "available" shall mean that:

1. There is an existing line of adequate size, flow, and pressure (as determined by a civil engineer or the water provider) either crossing the subdivision property or immediately available from an adjacent public right-of-way;

or

2. There is an existing line of adequate size, flow, and pressure (as determined by a civil engineer or the water provider) within the distances shown in Table X below of the outside boundary line of the subdivision;

or

3. The water authority indicates its commitment to extend such a line within the distances shown in Table X, below, of the property line of the subdivision at a cost to the subdivider negotiated by the water system provider and the subdivider;

and

4. There are no legal problems and there are no topographic problems that would require additional auxiliary apparatuses (such as a lift, pump or directional bore) which prevent the subdivider from connecting onto and extending the existing system to the subdivision.
In the event there are phases to the subdivision or the subdivision is a part of a larger tract of land owned or under the control of the subdivider, then water service shall be deemed to be available if an existing or proposed water system line extends or will be extended within the distances shown in Table X to the larger tract of land.

Table X Available Water System Lines

<table>
<thead>
<tr>
<th>LOTS DISTANCE</th>
<th>200 feet</th>
<th>300 feet</th>
<th>600 feet</th>
<th>1000 feet</th>
<th>1500 feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>6-10</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>11-20</td>
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<td>21-50</td>
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<tr>
<td>51-100</td>
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<tr>
<td>101+</td>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

B. In addition to meeting all standards and regulations of their respective agencies, water systems must contain water lines a minimum of six (6) inches in diameter, unless this is detrimental to the pressure of the overall system as determined by the water provider, in order to provide for future networking with all other public water systems in Caldwell County. This provision shall NOT apply, however, on cul-de-sac roads with lengths of less than 750 feet. In no instance, however, shall water lines be less than two (2) inches in diameter.

C. All subdivisions shall be accompanied by a written application and/or notice submitted to the appropriate state or local agency responsible for approving the particular system or systems at the time the preliminary plat is submitted. Written approval of such systems shall be required when the final plat is submitted for review. In the event that individual wells and/or septic systems will be used, but have NOT yet been inspected or approved by Caldwell County Environmental Health, a statement that private water will be used shall be placed on the plat.

Ms. Stevens reported the Planning Board Chair, with agreement from Planning Board members present during their special meeting on January 4, 2017, recommended Commissioners approve the proposed amendment with the following addition to the above language recommended by the Planning Board, to be inserted after the fourth sentence in the first paragraph in part A.:

Any other Major Subdivision located beyond the distances stated in Table X that extends water system lines to the subdivision may use the 25% reduction rule. However, County participation is at the discretion of Caldwell County.

She also reported the Planning Board recommended Commissioners also approve the following consistency statement (GS 153A-341).

Consistency Statement:
“Motion to recommend approval because the amendment is consistent with the County’s Comprehensive Land Development Plan and promotes public health, safety and welfare because the amendment allows for reasonable development while helping protect future landowners from fire and lack of water access.”
Chairman Church declared the public hearing open. There was no public comment; therefore, he declared the public hearing closed.

Commissioner Wilkie moved to approve the text amendment along with the additional edit as voted on by the Planning Board January 4, 2017.

The County Attorney recommended a wording change in subsection 4 to read: there are no legal problems and there are no topographical problems that would require……..

Following discussion, the motion carried unanimously.

**Tax Liens on Real Property**

In accordance with General Statute 105-369, Tax Administrator Monty Woods reported the following number of accounts and dollar amounts of unpaid taxes that are liens on real property for 2016 only. He requested authorization from the Board of Commissioners to advertise the tax liens outstanding on February 6, 2017.

- 2016 number of outstanding accounts: 6,102
- 2016 dollar amount outstanding: $2,772,273.90

Commissioner Potter moved to authorize the Tax Administrator to advertise tax liens for the outstanding 2016 accounts. The motion carried unanimously.

**Consent Agenda**

1. Approval of Minutes
   The County Manager recommended the Board of Commissioners approve the January 9, 2017 minutes as presented.

2. Budget Amendment—Health Department
   The County Manager informed Commissioners of a $3,000 increase as well as a decrease of $199 in funding from the Public Health Communicable Disease Branch for the department. He said the net of those changes, $2,801.00, would be used for staff training and medical supplies. He noted no local dollars were required and recommended Commissioners approve the following budget amendment to reflect the changes in funding.
   
   | Increase       | 10.5116.330027 | STD Prevention | $2,801.00 |
   | Increase       | 10.5116.431200 | Training       | $1,000.00 |
   | Increase       | 10.5116.426100 | Medical Supplies | $1,000.00 |
   | Increase       | 10.5116.431100 | Mileage        | $ 801.00  |

   The County Manager recommended the Board of Commissioners schedule a work session for 9:00 a.m. on Friday, February 10, 2017 to be held in Conference Room D at Western Piedmont Council of Governments Offices to allow discussion concerning sales tax revenue funding; short and long term facility and capital outlay needs; and, the County’s Public Utilities and Water Programs.
4. Library Printers/Copiers
It was noted that Caldwell County currently has an office equipment contract with Systel Business Equipment. It is the direction of the County Manager that to leverage buying power and to be more streamlined, county offices utilize the same vendor as much as possible.

It was noted the library was currently operating outside the Systel contract and had currently had a contract with Carolina Office Supply that covered nine pieces of equipment with various levels of functionality. Many of the machines are outdated and most of them are operating without any sort of service agreement, costing the library considerably as the department works to cover the costs of service calls and toner.

It was noted that the Library Director had requested the library accept a lease agreement, with a buyout line item, with Systel Business in order to use a single vendor as well as update and obtain service agreements on all of the library’s equipment. The updated lease will allow for a buyout of the antiquated and expensive lease as well as provide better machinery. With the same number of machines they will be able to cover a new machine in Technical Services as well as a machine in the office of the director.

If the library is unable to enter into a lease with Systel, they will need to request a budget revision in order to obtain equipment in the two service points currently without machines as well additional funding to service and maintain the current equipment not covered under the current Carolina Office Supply lease. The supplies routinely run upwards to $1,000 or more. The two additional machines would also add several thousand dollars to the current budget. The cost of the lease buyout with Carolina Office is 9,640.36. Systel is offering a $2,500 credit and will finance the buyout resulting in a cost to the library of $908.86 per month.

The funding for the monthly payments for the new lease with Systel is currently available in the library’s budget and, according to Ms. Mason after her review of the budget, the new lease and service contract will save the library substantially.

Therefore, the County Manager recommended the Board of Commissioners approve the documents to lease the equipment as requested by the Library Director.

5. Schedule Public Hearing re Refinancing of Loan for WLMS
Tony Helton requested the Board to schedule a public hearing to allow public comment regarding a potential refinace of the loan for construction of William Lenoir Middle School. The terms of the current loan locked in a rate of 2.81% for ten years but the final five years has a variable rate that could go as high as 9%. Hopefully, the refinancing will carry a fixed rate to maturity and will eliminate the risk of high interest rate during the final five years.

The County Manager recommended the Board of Commissioners schedule a public hearing for 6:00 p.m. on Monday, March 6, 2017 in order to consider a loan refinancing.

6. Appalachian State University’s Bicycle Race
Caldwell County received a request for Commissioners’ acknowledgement of cycling events to take place in Caldwell County. William Johnson, ASU’s Cycling Team Vice President advised the events would be April 7th and 8th.
The first day is for time trials and will begin at Hard and Flossie Clark Family Park on Adako Road. It will continue for approximately 5.2 miles down Adako Rd. and conclude at the intersection of Brown Mountain Beach and Johns River Roads. One off-duty Caldwell County deputy will be needed from 4pm-8pm to assist with traffic in the staging area, in proximity to the start at Hard and Flossie Park. It will be a point-to-point race with no intersections and athletes will be starting one-by-one every 30 seconds. Only one officer will be needed at the start to make sure that racers are able to start safely. All normal rules of the road will apply across this course.

The road race the next day will start in Caldwell County and continue into Burke County on Brown Mountain Beach Road. Once the race reaches Burke County on Brown Mountain Beach Road it will need police protected turns on the main loop. There is one left turn to enter the race loop which will need lane closure from the Burke off-duty Sheriff officer. Once on the race loop all of the right turns making the circuit will need marshalling and halting of cars.

The North Carolina Department of Transportation requires its approval of such events; however, the DOT requires acknowledgement by the County of the scheduled event. The DOT requires proof of liability insurance coverage as well as operating plans.

The County Manager recommended the Board of Commissioners acknowledge the event scheduled for April 7 and 8, 2017 contingent upon NCDOT’s final approval.

Commissioner LaBrose moved to approve the six items on the consent agenda as presented and recommended by the County Manager. The motion carried unanimously.

Appointments

The Clerk reported the terms of seven Planning Board members had expired or would expire in March 2017. Of those seven, she said Ken Crump, Chad Gragg, Sam Patterson, and Sharon Schmidt had submitted applications seeking reappointment and, if reappointed, Ken Crump’s and Sharon Schmidt’s terms would be through March 2019 and the terms of Chad Gragg and Sam Patterson would be through March 2020. Ms. Greene noted Lt. Brine Branham (CCSD), Dr. Jeff Church (Caldwell County Schools), Dino DiBernardi (EMS), and B. J. Fore (county retiree) had submitted applications seeking appointment to the Board.

By written vote of the Board of Commissioners, the following individuals were appointed to the Planning Board for the term noted respectively.

- Dr. Jeff Church           March 2018
- Jerry O. Branham, III    March 2019
- B. J. Fore               March 2019
- Sharon Schmidt           March 2019
- Dino DiBernardi          March 2020
- Chad Gragg               March 2020
- Sam Patterson            March 2020

The Clerk reported Edward Terry submitted an application seeking appointment to the Library Board to fill a vacancy as a result of Emily Miller’s resignation from the Board. Mr. Terry’s
initial term will run through June 30, 2017.

The Clerk informed Commissioners that she received a letter from Town of Granite Falls Manager Jerry Church asking Commissioners to appoint Mike Norris to fill a vacant ETJ member representative on the Town’s Board of Adjustment. The vacancy on the board resulted from the resignation of a longtime member, Judy Yount.

The Clerk listed the following individuals that submitted applications seeking appointment to the 2017 Equalization and Review Board.

Robert Baird  Reba Barlow  Debbie Bumgarner, Chair
Phil Case  Shawn Haigler  Phyllis Mitchell
Wayne Parson  Bobby Price  Manning W. (Bill) Puette
Barbara Teague  Betsy Ward  Judy Warren
Betsy Wilson

The Clerk said the new coordinator for the County’s JCPC, Philip Toelkes, requested Commissioners to appoint Amanda Y. Presnell (social worker in Child Protective Services social worker) as the DSS representative to replace Lindsay Cabe who took another position with DSS.

Commissioner LaBrose moved to appoint the individuals to the Boards as read by the Clerk and the motion carried unanimously.

Closed Session

At 7:20 p.m., Commissioner Potter moved to go into closed session pursuant to N.C.G.S. 143-318.11(a)(5) to discuss potential acquisition of property and the motion carried unanimously.

A motion was moved by Commissioner Branch and carried unanimously to come out of closed session to regular session.

There being no further business to discuss, Commissioner Potter moved to adjourn and, by unanimous vote, Chairman Church declared the meeting adjourned.
Members of the Board I am appreciative for the opportunity to address you.

My name is Jerry Henthorne I have resided at 4888 Lackey Place in the Kings Creek community for twenty-three years with my wife Julie, and two children, Jordan and Colton.

I previously spoke to you in August of 2016 in regards to my concerns about the recent opening of the Caldwell Gun Club. Although I have received many sentiments of concern and understanding, it seems as though the onus of remedying this situation has fallen upon the residents of the Kings Creek community, myself included.

On numerous occasions I have been told that the Caldwell Gun Club is within code due to the fact that the lack of any reasonable zoning ordinances at the time of its approval “Grandfathered” the club to operate pretty much unchecked. I am amazed at the changes to zoning since this problem has manifested. I am encouraged that the next neighborhood might fare better than we have. I am even more encouraged that our elected officials apparently have seen the injustice that has been laid upon thetaxpaying citizens within earshot of the Caldwell Gun Club.

Through research and numerous reminders from the Caldwell County Planning Department, I am familiar with Article 53 c of the Sports Shooting Range Protection Act of 1997.

Article 53C.


§ 14-409.46. Sport shooting range protection.
   (a) Notwithstanding any other provision of law, a person who owns, operates, or uses a sport shooting range in this State shall not be subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution resulting from the operation or use of the range if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time the range began operation.
   (b) A person who owns, operates, or uses a sport shooting range is not subject to an action for nuisance on the basis of noise or noise pollution, and a State court shall not enjoin the use or operation of a range on the basis of noise or noise pollution, if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time the range began operation.
(c) Rules adopted by any State department or agency for limiting levels of noise in terms of decibel level that may occur in the outdoor atmosphere shall not apply to a sport shooting range that was in operation prior to the adoption of the rule.

(d) A person who acquires title to real property adversely affected by the use of property with a permanently located and improved sport shooting range constructed and initially operated prior to the time the person acquires title shall not maintain a nuisance action on the basis of noise or noise pollution against the person who owns the range to restrain, enjoin, or impede the use of the range. If there is a substantial change in use of the range after the person acquires title, the person may maintain a nuisance action if the action is brought within one year of the date of a substantial change in use. This section does not prohibit actions for negligence or recklessness in the operation of the range or by a person using the range.

“(e) A sport shooting range that is operated and is not in violation of existing law at the time of the enactment of an ordinance shall be permitted to continue in operation even if the operation of the sport shooting range at a later date does not conform to the new ordinance or an amendment to an existing ordinance, provided there has been no substantial change in use. (1997-465, s. 1; 2015-195, s. 5(a)).”

It seems as though this act also blankets the Caldwell Gun Club with “Grandfathered” protections. The act however, clearly states it is limited to “At the time the range began operation”. As the act reads a gun range must be in compliance with any noise control laws or ordinances that applied to the range and its operation “At the time the range began operation”. At its inception, the Caldwell Gun Club fell under the Caldwell County Nuisance Ordinance. Why this ordinance is not being enforced I do not know. If the Nuisance Ordinance is not being enforced because of “lack of teeth”, then I submit to you the ruling in

TRI-COUNTY MOTOR SPEEDWAY,
Plaintiffs
v.
Caldwell County
No. 12 CVS 839
Caldwell County, North Carolina,
Defendant

In this case the North Carolina Court of Appeals ruled that

Pursuant to N.C. Gen. Stat. § 153A-133 (2013), “[a] county may by ordinance regulate, restrict, or prohibit the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten its citizens.”

I believe this is called precedent and I also believe this gives “teeth” to the nuisance ordinance that I am “Grandfathered” under. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution guarantees citizens equal protection under the law.

As for the classification as a “Private Club”, I fail to see where any semblance of this exists for the Caldwell Gun Club. To date this “club” is
providing hourly rates for range use. Are the shooters using this range hourly considered members and do they have the stated background checks required by the Caldwell Gun Club for its members? This club is operating as a commercial shooting range and this is only compounding the amount of noise and frustration it produces.

40B.99 Shooting Range, Outdoor Commercial. A facility open to the public, where firearms are discharged at targets for profit. These do not include target practice areas on private property, hunter safety course training activities or concealed carry classes (by a certified trainer), turkey shoots, government facilities, or “sighting-in” of firearms.

The second part of my concern involve the effect that the Caldwell Gun Club is having upon my wife’s business Totland Childcare. Totland has been in operation for over eighteen years and has served and is serving many preschool children and their families. The gun club has had a very negative impact on the daycare. Naps are required, by state law, each day for the children. Gunfire from the range has disrupted naptime for these children already. This will only increase as the weather warms and more shooters begin firing away. The gun club is interfering with my wife’s legal obligation to provide a rest time for her children. If you have ever tried to get one small child down for a nap imagine ten.

Another concern for the daycare is the danger inherent to a firing range located less than four hundred yards away. The children love to go outside to the state inspected and certified playground that has been constructed for such use. If the gun club is open for business outside play time stops and the children must return inside. Do we want children becoming accustomed to and comfortable to gunfire? Parents picking up their children have been shocked by the noise of the gunfire and proximity of the range. They have registered complaints with the Caldwell County Sheriff’s Office. Would you want your child or grandchild exposed to this possible tragedy? The nuisance ordinance specifically mentions existing businesses and children being affected by noise violations.

My final concern is for the health and well-being of my family and me. Numerous reports point to the detrimental effect of exposure to gunfire and repeated gunfire on an individual. The gunfire we are being exposed to is not from a distance that mutes it to a tolerable level. It is loud gunfire as has been documented and submitted to the Caldwell County Sheriff’s
Department and the Caldwell County Planning Department. My children, both college students, have had their studies halted by gunfire from the range. It is not possible to concentrate. I suffer from sleep apnea and sometimes a peaceful night sleep is hard to come by. I hate to think about the first warm evening that I am in bed with the window open feeling a nice breeze and the gun club decides it is a good night to open their lighted gun range. We have had to leave our home during open firing range hours to get away from the noise. That seems like a proper action for a tax paying citizen to have to take doesn’t it? My mother and father in-law had to leave our house this past fall due to the gunfire coming from the range. Should we be subject to missing these quality times with our loved ones because of one man’s desire to own and operate a commercial firing range?

I am sure the owner of the Caldwell Gun Club has played the NRA card. I hope that the elected officials that I am addressing this afternoon do not allow this threat to discourage them from doing what is right. The approval of the Caldwell Gun Club in its present location was a mistake. This mistake has been described as “dropping the ball” and “allowing one to fall through the cracks”. In my experience with athletics, when a ball is dropped, it is usually the fumbler that attempts to get the ball back first. And when one falls through the cracks, if it is important enough, you do what is needed to get it out. Other than sheriff’s deputies summoned to our home and business to follow up on noise complaints, no one else has ventured to our home to experience this horrible noise firsthand. You all are welcome. We invited the owner of the gun club and he said he would come over and see how loud it was. That was in October. We haven’t seen him yet.

In closing I want to thank the Caldwell County Sheriff’s Department for their professionalism and concern during this very frustrating time. The have kept me sane – for now. At this time, I ask you, the board, to please endorse the use of the Caldwell County Nuisance Ordinance that has been approved by you, confirmed by the state of North Carolina General Assembly in NC Gen. Statute 153A-133 (2013) and upheld by the North Carolina Court of Appeals to address the unacceptable levels of noise emanating from the Caldwell Gun Club.