

**TOWN OF WEDDINGTON  
JOINT PUBLIC HEARING OF THE WEDDINGTON TOWN COUNCIL  
AND THE UNION COUNTY BOARD OF COMMISSIONERS  
CONCERNING THE APPLICATION OF THE WESLEY CHAPEL WEDDINGTON  
ATHLETIC ASSOCIATION FOR MITIGATION OF VIOLATION  
OF FLOODPLAIN MANAGEMENT ORDINANCE AND RELATED MATTERS  
MONDAY, SEPTEMBER 10, 2012 - 7:00 P.M.  
MINUTES**

The Town Council of the Town of Weddington, North Carolina, met in a Joint Session with the Union County Board of Commissioners at the Weddington High School Auditorium, 4901 Monroe-Weddington Road, Matthews, NC 28104 on September 10, 2012, with Mayor Walker F. Davidson presiding.

**Weddington Town Council**

Present: Mayor Walker F. Davidson, Mayor Pro Tem Daniel Barry, Councilmembers Werner Thomisser, Pamela Hadley and Barbara Harrison, Town Attorney Anthony Fox, Town Planner Jordan Cook and Town Administrator Amy S. McCollum

Absent: None

**Union County Commissioners**

Present: Chairman Jerry B. Simpson, Vice Chairman Todd Johnson, Commissioner Tracy Kuehler, and Commissioner Jonathan Thomas, County Manager Cynthia A. Coto, Clerk to the Board of Commissioners Lynn G. West, Senior Staff Attorney Jeff Crook, County Attorney H. Ligon Bundy

Absent: Commissioner Rogers

**Item No. 1. Weddington Town Council Opens its Meeting.** Mayor Walker F. Davidson called the September 10, 2012 Special Town Council Meeting to order at 7:06 p.m. There was a quorum.

**Item No. 2. Union County Board of Commissioners Opens its Meeting.** Chairman Jerry Simpson called the September 10, 2012 Special Union County Board of Commissioners Meeting to order at 7:07 p.m. There was a quorum.

**Item No. 3. Governing Bodies Determine Rules of Procedure Governing Conduct of Meeting.** Both Boards received a copy of the Rules of Procedure governing the conduct of the meeting. Mayor Pro Tem Daniel Barry moved to approve the Rules of Procedure governing the conduct of the meeting. All were in favor, with votes recorded as follows:

AYES: Councilmembers Thomisser, Hadley, Harrison and Mayor Pro Tem Barry  
NAYS: None

Vice-Chairman Todd Johnson moved to approve the Rules of Procedure governing the conduct of the meeting. The vote was 4/0 – Commissioner Rogers was absent.

**Item No. 4. Adoption of Agenda.** Councilwoman Pamela Hadley moved to approve the agenda as presented. All were in favor, with votes recorded as follows:

AYES: Councilmembers Thomisser, Hadley, Harrison and Mayor Pro Tem Barry  
NAYS: None

Chairman Simpson moved to approve the agenda as presented. The vote was 4/0 – Commissioner Rogers was absent.

**Item No. 5. Presentation of background of Floodplain Management Ordinance Violation at the Optimist Park.** County Attorney Ligon Bundy gave the following presentation:

I am going to give you some background information concerning the floodplain violation at the Optimist Park, in order to help you understand the history of this matter and to put what you are about to hear into context. This is a very complicated issue, and, due to time constraints, this presentation is intended to be only a summary of the history of this matter.

In 2001, the Wesley Chapel Weddington Athletic Association, which I will refer to as WCWAA, wanted to develop the property now known as the Optimist Park into a Youth Athletic Complex. The property was in unincorporated Union County, and the County had zoning jurisdiction. In order to develop the Park in compliance with the County zoning ordinance, WCWAA applied for a Special Use Permit from the Union County Board of Adjustment.

The Park is bordered on the West by the West Fork of the 12 Mile Creek. Part of the Park property was in the floodplain and the floodway. The County's zoning ordinance requires property owners, when developing their property, to comply with floodplain management standards that meet the regulations of the Federal Emergency Management Agency, or FEMA, which oversees the National Flood Insurance Program. FEMA regulations generally prohibit placing fill in a floodway unless the developer gets prior approval from FEMA.

As part of the materials that WCWAA provided to the Union County Board of Adjustment in support of its application for the Special Use Permit, it provided a letter from its engineer, Yarbrough-Williams & Houle, Inc., dated October 11, 2001 that addressed the plans to develop that portion of the property next to the creek. The letter stated the following:

*This letter is written to inform you that the proposed grading plan for the Weddington Optimist Park shall be in accordance with FEMA regulations which allow additional fill material to be placed within the area between the floodplain and the floodway boundaries. As part of our plan permitting process, we will be requesting authorization from FEMA to grade within the floodway with the stipulation that the cut/fill analysis will verify that no additional material has been added to the floodway. Please call me if you need additional information.*

Relying upon the letter from WCWAA's engineer that FEMA regulations would be complied with, the Union County Board of Adjustment granted the request for a Special Use Permit on December 3, 2001. The WCWAA then began construction activities, including placing fill in the floodplain and floodway of the creek.

In late 2004 and early 2005, Union County began to receive complaints about flooding from the owners of residences on the other side of the creek from the Park, and County staff began to investigate these complaints. The County staff determined that fill had been placed into the floodplain and floodway, and asked the WCWAA's engineer for a flood study, verifying that no increase in the base flood elevations had occurred as a result of the development activities. After the WCWAA's engineer failed to produce the requested flood study, the County's zoning enforcement officer issued a notice of violation to the WCWAA on July 7, 2005. The stated violation was the failure on the part of the WCWAA to provide the requested flood study.

After the Notice of Violation was issued, the WCWAA's engineer provided numerous engineering studies over the period of several years concerning the Park to the County's engineer. These studies generally showed that there was no rise in the base flood elevations due to construction activities in the Park. These studies were rejected by the County's engineer, who stated that the methodology of the studies was incorrect. Engineers in the office of the NC Office of Geospatial and Technology Management, (I will refer to this office as the "State of North Carolina" from now on) which oversees the enforcement of FEMA regulations in NC, got involved and determined that the County's engineer was correct, and that the WCWAA's engineer was not using the correct methodology in its studies.

During the time that the WCWAA's engineer was providing the engineering studies to the County, the Town of Weddington involuntarily annexed the Park and the property of the residents who were complaining about the flooding. The annexation was complete on November 20, 2007. The Town of Weddington has a zoning ordinance that, like the County's ordinance, states that owners and developers of property within the town limits of Weddington must meet standards that in turn comply with FEMA regulations.

A disagreement occurred between the County and the Town of Weddington as to who had responsibility to resolve the FEMA violation. In March of 2009, the State of North Carolina determined that the Town and County both had the responsibility to resolve the violation. As a result of this determination, the Town and County entered into an interlocal agreement in April of 2009, in which they agreed to work together to resolve the violation.

USI, an engineering firm that Weddington had an existing relationship with, began to work on this matter on behalf of Weddington. The County's engineer and USI began to work with the WCWAA's engineer, Yarbrough-Williams & Houle, in order to determine the extent of the FEMA violation. At this time, the WCWAA's engineer was maintaining either that there was no violation of the FEMA regulations or that the violation was minor and could be easily remedied.

In 2009, the WCWAA's engineer submitted an engineering model of the Park, addressing the flooding issue. Both USI and the County's engineers rejected the model upon the grounds that the methodology was incorrect. The model was sent to the State of North Carolina for review. The State sent a letter in September, 2009, which stated that since the engineers couldn't agree, it was up to the Town and County to prepare an engineering model to identify the extent of the problem.

The County and Town then amended the interlocal agreement, and agreed that USI would model the problem. USI prepared a modeling report that showed that the flooding problem was much greater than originally suspected.

USI's findings were presented to WCWAA representatives at a meeting in 2010. WCWAA representatives stated that if it had to fully mitigate the problem in accordance with FEMA regulations, it would go bankrupt and would not be able to do any mitigation at all. In June of 2010, the WCWAA discharged its engineer, Yarbrough-Williams & Houle, Inc., and filed suit against it in Union County Superior Court. The lawsuit is still pending, and it is not known whether the WCWAA can or will recover any money as a result of these events that would be available to assist it in mitigating this problem.

The WCWAA acknowledges that there is a FEMA violation at its facility. It has hired a different engineering firm, The Isaacs Group, to assist it in resolving this situation. The Isaacs Group has prepared a proposed mitigation plan, which it will submit to you in a few minutes. The proposed mitigation plan does not return the base flood elevation of the West Fork of the 12 Mile Creek to conditions that existed before the Park was built, but both the Isaacs Group and USI agree that it has the effect of reducing the

flooding problem. The mitigation plan has not yet been submitted to either the State of North Carolina or FEMA for their consideration.

The Isaacs Group and WCWAA have previously met with the owners of property affected by the flooding. They presented a draft of the mitigation plan to the owners. The owners have been notified of tonight's hearing by notice mailed to their last known address, and also by notice published in the newspapers. They have been told that the final mitigation plan is available for their review and that it will not be submitted to the State or to FEMA until they have had an opportunity to be heard. Many of these owners are probably present tonight, and will probably speak to you concerning their property and the mitigation plan.

The County and Town have jointly hired an expert in FEMA law, Mr. Ernest B. Abbott, in order to assist in this matter. After the WCWAA presents its mitigation plan, he will address you concerning this matter. He will discuss issues such as the regulatory background of FEMA, how this mitigation plan fits into that regulatory background, and what your options are. Mr. Abbott previously addressed the owners of the property affected by the flooding when the Isaacs Group presented the draft mitigation plan to them.

Let me briefly introduce Mr. Abbott to you. He is an attorney in Washington, DC. He graduated Magna Cum Laude from Harvard Law School in 1976. He was the general counsel to FEMA from July, 1997 to January, 2001. His areas of practice include the FEMA Public Assistance Program, Land Use and Zoning, and the National Flood Insurance Program. His clients include local governments, public authorities and non-profit organizations eligible for FEMA assistance, flood insurance policy holders, land owners and land developers.

Now, WCWAA and its engineer, The Isaacs Group, will present the mitigation plan.

**Item No. 6. Presentation of Mitigation Plan by the WCWAA.** Attorney Chris Duggan spoke to the group:

I represent the WCWAA. I would like to thank you for the opportunity to speak to you and allow my client to submit this proposed mitigation plan which we believe is the greatest extent practicable which the park can accomplish in mitigation. As Mr. Bundy as told you this parcel has been through a long sordid tale since 2001 at its purchase through the violation in 2005 and the seven years that leads us here to today. All sides at this point have expended significant amounts of money, time and energy in an attempt to find a resolution to this very difficult situation. It is such a difficult situation that we have had to enlist the services of Mr. Abbott to assist us through this regulatory process. When my client first contemplated purchasing the property, it was owned by Bill Nolan. My clients had a vision of expanding the park to take in more kids and families to utilize its facilities. It offers these facilities not at the County or Town's expense – it is member financed. When my client had contemplated building the property, they wanted to make sure they complied with all the rules and regulations. They enlisted the services of an engineer to assist them in providing a special use permit relying upon those engineers' expertise to guide them through this process. The engineers assisted them, the park filed for their special use permit and they were granted a special use permit in November 2001. While Mr. Bundy has read to you the letter from Yarbrough-Williams and Houle, which is a significant letter, the parks contention is that according to the FEMA regulations the flood study should have been in the file before any permit was issued. Why is that significant? We might not be here today if that had taken place. What took place in the next four years is the park began construction figuring that they were in total compliance with all the rules and regulations. They had inspectors come out to the property. These inspectors were from the State on the erosion control issue. Anytime there was an issue with the permit the park diligently and quickly complied with any of those issues. During the construction phase, there was no notice of any

problems that may have been developing. Certainly our engineers did not tell us that there was a problem that was going to be looming on the horizon. In fact based on the engineers' representations we went forward. The park was built. Then in late 2004 early 2005 when the park is substantially completed and when significant funds are expended by the park through its members to construct this new facility that is going to benefit a whole host of additional population in both the County and in the Town; that is when we get notice of a problem. The park thought it had gone through everything it had to do but apparently the park was wrong. There is arguably a violation and the park acknowledges that. But what happened after that notice of violation is that the park had its former engineers take a look at it. Again this led to nine submissions over the course of these many years from the park's former engineer to attempt to remedy the alleged violation. Each time those submissions were made my clients relied on their engineers' expertise. The engineers telling them that it was okay and they were not in violation and they will submit it and it will be okay. They thought that was taking place and could be rectified. Again, my clients were wrong. It was in the January 2010 meeting that my clients first realized the full extent of the alleged violation. Once my clients were made aware of the significant violation they worked immediately to try to find a solution. They let go the services of their former engineer and hired the Isaacs Group to assist them in trying to find a solution. There were two proposals made at the January 2010 meeting by US Infrastructure which is the firm that Mr. Bundy spoke about. One was to lower all the fields some of them by six feet. The second proposal was to create an overflow channel that would run essentially parallel to the existing Twelve Mile Creek. The problem with that is two fold. One is the cost and second is the impact on the park. The first mitigation proposal to lower all of the fields has a significant effect because there is a short time frame for the park to conduct this mitigation. The park has a season that essentially allows for a construction period at the end of November through late January early February before things get ramped back up again. That is a significant area to lower all of those fields and to have it accomplished in a short period of time without affecting any of the programs. What is going to happen is the park is then going to lose its income source/revenue stream and potentially its participants – its kids. If they cannot get in the park they are going to look somewhere else. We estimated the cost of the first proposal to be approximately \$3.5 million. That is a lot of money. It is a lot more than this park has to commit to the mitigation. This includes the lowering of the fields and the cost to rebuild the fields, put back up the fencing and lights, take care all of the irrigation - everything that is needed and associated with construction of fields. Clearly we believe the first option would leave the park with absolutely no finances and if forced to engage in that mitigation would result in the park trying to satisfy its debts and obligations currently on the books with no money left over to try to accomplish the mitigation. The second proposal is the overflow channel. That too is cost prohibitive for my clients. We estimate that to be \$780,000 give or take. What that does not include is the cost to purchase new land for the fields that are not going to be replaced. When you have that overflow channel you are going to be cutting through two of the baseball fields that have to be moved somewhere else. The cost for purchasing new property in Weddington would end up costing the park close to a \$1 million to get sufficient enough space to put in new fields. We would need the Town to approve us to develop these new fields - a new park close to our park so it could continue on. Again we think this is cost prohibitive for my client. What we do have is a mitigation plan that we feel is the greatest extent practicable that the park can accomplish. Currently the park has an obligation that we should all keep in mind. It has an obligation for two loans. These loans are associated with the upper portion of the park - the portion of the park that is outside of the floodplain. These obligations for the loans amount to roughly \$728,000 as of the end of July. That is a lot of obligations that the park and the bank would like to have back if it ever got down to it. The park takes a look at what we can do. Again it worked with the engineers, worked with US Infrastructure through submissions, worked with the County and the Town to figure out what exactly could be done and how can we accomplish this. What we came up with is a mitigation plan that would expend significant money on the part of the park to accomplish this mitigation. Right now we have that estimated at approximately \$345,000 for the park to spend to mitigate this property. Again that is a significant amount of money. The park has approximately that amount of money to mitigate. That \$345,000 does not take into account unforeseen circumstances. We have not put this out to bid. We do not know the exact construction

dollars. These are the best estimates that we are able to ascertain of what it will cost to do this mitigation. Also there are significant costs that are going to be attached to it - the engineering costs and permitting costs. It is likely going to be increased by \$100,000 by the time it is all said and done. What is the park to do? The park hired the Isaacs Group that will give a presentation in a moment here to mitigate this property to the greatest extent practicable. What the park has done is looked at a way that they can accomplish the greatest mitigation possible without affecting the revenue stream. It is not something that the park is saying we are doing this solely to not touch the fields because we do not want our precious fields to be hurt. They need that revenue stream in order to continue to operate. They have to meet their obligations. They have obligations for each of the nine sports. Each of them has their own separate budget. Some operating at a loss as you saw in the packet and some operating at a profit. Some of these sports have specific set asides for instance some money was raised by baseball for a playground. There are a lot of things that go into how we came up with the amount that the park is able to spend. We are left with more than half of the park's current finances would be spent on this mitigation plan. We have this \$728,000 loan out there from a bank that is going to want their money back at some point. We have these fields and these kids that want to play on these fields. If we lose some of these fields some of the programs, even if we continue to operate some of the programs, would have to be cut because we just do not have the sufficient field space to continue to operate as we are. We were looking to grow and to expand but based on this current issue with the FEMA violation the park has to put off all expansion plans. They cannot grow right now until they figure out what we can do to fix the program to the greatest extent practicable. The park recognizes that the neighbors are not going to be happy. All the park asks is that the neighbors and the participants understand that the park was acting in good faith. It did everything that it thought it had to do in order to build this parcel. It got an engineer, special use permit, and erosion control permit. It complied with any inspections. It did everything it thought it had to do. Some of that lay at the feet of the former engineer. The park as the property owner acknowledges that there is a violation and that it is incumbent upon the park as the property owner to mitigate that violation. In an attempt to mitigate that violation, I will have Chris Isaacs from the Isaacs Group to stand up here and present the mitigation plan at this time.

Councilmember Werner Thomisser – US Infrastructure said in order to fix this problem there would have to be a no rise. You went out and got your engineer and they came back and said that the best they could do is reduce it by one third. What guarantee do we have that that will fix the problem? I have walked this property and given each County Commissioner and Councilmember pictures of this flooding. You are talking about an enormous amount of water. What guarantee do we have that these affected homeowners will not have water coming to their back door?

Attorney Duggan – We have proposed a mitigation plan that would reduce the elevations and floodplain lines so that no structures are impacted according to the FEMA mapping. That is the best guarantee that I can do for you.

Councilmember Thomisser – Are you aware that the homeowners that are affected have water wells and septic systems?

Attorney Duggan – I am not.

Councilmember Thomisser – What is important is the contamination of the drinking water and the effect that it has on the septic systems. Obviously that has not been taken into consideration.

Attorney Duggan – I do not know where the wells or the septic tanks are located on the individual properties. I am not aware of whether they were within the floodplain originally and if based on the modeling it has decreased it out of that floodplain. It is my understanding that the engineers will be looking at that going forward and a resubmission on that will be done.

Councilmember Thomisser – You gave us three options. Where is the \$345,000 coming from for option 3?

Attorney Duggan – the Park’s finances.

Councilmember Thomisser – Has the athletic association considered assessing each one of the 2,600 families that use this park in order to mitigate this situation? If you assessed everybody \$500 you would raise \$1.3 million. We had a Bath and Racquet Club in Charlotte where we had a flooding problem and that is exactly what happened. Any one that has belonged to a country club knows that when a country club wants to do something they assess their members. Has any consideration been given by the Board of Directors of the Athletic Association as to assessing the people that use it? Only 54% of the people that use that park are from Weddington.

Attorney Duggan – I do not believe there has been any consideration of assessing the members. I am not sure of the finances of the members as a whole. These are people from all walks of life most of whom I would dare to say do not belong to a country club. If you tell each family we are going to assess you \$500 per family to play here, I am not sure how many families would stick around.

**Item No. 7. Presentation of report acknowledging receipt of the Mitigation Plan by the Town of Weddington.**

Mr. Chris Isaacs – I am a registered engineer with the Isaacs Group. My firm was hired by WCWAA back in the fall of 2010 to assist with the preparation of mitigation plan alternatives to help remedy the FEMA violation that occurred. We were provided previous studies that had been performed by US Infrastructure including field observations and existing surveys that had been previously prepared. We conducted independent surveys and verification of the information that we were given as needed to incorporate that into our modeling. We were given the modeling that USI prepared that was associated with the mitigation alternatives that were provided and proven to be cost prohibitive. The plan that I have given you is an overview. It shows the area of mitigation. It shows the FEMA cross sections that were used to conduct the study and to do the modeling. The cross sections are shown in the heavy dash lines and there is yellow text representing two sets of data. At the time of the violation in 2001, the FEMA flood study in place was a 1994 study. That flood study was revised in 2008. There is a 2008 flood insurance study and a 1994 flood insurance study. We have evaluated the impacts of the mitigation based upon both those flood studies relative to the change in elevations as a result of the mitigation that we are proposing. The heavy dashed yellow lines are the cross section locations per the FEMA study in addition to additional cross sections that were added to better define the existing conditions at the park. The red shaded area represents the change in the 100-year floodplain limits based on the 2008 study. The red is a reduction in land as a result of the proposed mitigation to the current flood elevations. The red area on the map is the area that will no longer be in the floodplain per the current 2008 flood insurance study based upon the implementation of the mitigation plan. There are two areas that we are proposing to remove fill material that had been placed in the floodplain. Area 1 is an existing gravel parking area to the south of the existing ball fields and it is shown right in here (pointing to map) just south of the existing baseball fields. We are proposing in that area approximately 2 to 2 ½ feet which is 9,000 to 10,000 cubic yards of dirt that will be removed from that area and taken out of the floodplain and disposed of offsite. There is a second mitigation area which is to the north of an existing football field that we are proposing grading to remove fill that was placed and move that material outside of the floodplain and dispose of at some offsite location. The total volume of material that we are removing is approximately 18,000 cubic yards which is 470,000 cubic feet of dirt that had been placed in the floodplain in 2001 that contributed to an increase in the base flood elevations based on the flood studies. The yellow box shows the water surface elevation reduction that is the reduction to the water surface

elevations based on the 2008 study that will result from the mitigation plan. Based on the 2008 flood insurance study, the mitigation plan will lower water surface elevations over several hundred feet beginning around the baseball fields all the way to about half way between Antioch Church Road and the baseball fields. The water surface elevations will go down anywhere from 0 feet to about 1.8 feet which results in the 100 year floodplain boundary contracting since the water surface goes down. The impact is up to 1.8 feet reduction based on the 2008 study. Based on the 1994 flood insurance study which was the study in place at the time of the violation the water surface elevations increased as a result of the fill approximately up to 1.2 feet in one particular area that is just upstream of the baseball fields. Our mitigation plan that we are proposing consistently lowers water surface elevations relative to the location of the cross sections that saw an increase. The reduction is anywhere from 3 inches to 8 inches. The net result is that we still have an increase in the water surface elevations compared to the 1994 study that was in place at the time of the violation; however, the increase based on our analysis is less than a foot which is within the parameters of what FEMA has the ability to approve. We will be seeking a grading permit to perform this work from the State. We have applied for a Floodplain Development Permit from the Town of Weddington. We have received comments from USI on that submittal. We have reviewed those comments. We find those comments to be acceptable. We intend to revise our plans as needed to address those comments. There are no structures that are being impacted. In the flood study that we prepared based on the 2008 study that is in place as of today there are three structures that are currently impacted. Those are shown on the drawing. It is in the report that we prepared. Based on the mitigation, we will be lowering the water surface elevations adjacent to those structures to the point where the home will no longer have water up on the foundation. We are not impacting existing structures - we are actually improving the condition of three existing homes that during a 100 year storm event have water on the foundation. In all three of those areas we are improving the condition based on lowering the water surface elevation. The discharge shown on the 2008 study for a 100 year storm event is approximately 60% higher flow than the 1994 study. The upstream drainage area from Highway 84 upstream in the West Fork of the Twelve Mile Creek based upon development that occurred in the 1994 study showed approximately 3,000 cubic feet per second of flow for the 100 year storm. In the 2008 study there is 5,000 cubic feet per second. There is a change over time with flood elevations. In 1994 you had predominately farmland, large parcels and a substantial amount of undeveloped vacant property upstream of Highway 84 which in turn lowers the discharge because you do not have as much impervious area and as many buildings or driveways, storm drainage curb and gutter. As development occurs in the upstream watershed there is noticeably more flow and you have a difference of a 70% increase just in the discharge. In no regard to what WCWAA did at the park, this was just a change based upon the hydrologic and hydraulic conditions of the upstream basin. The increase in flow had nothing to do with what the park did. It was purely based upon the watershed conditions that resulted in 3,000 cubic feet per second in 1994 versus 5,000 cubic feet per second in the 2008 study. There is a substantial difference in stormwater discharge that has an impact on the surface elevations. The more flow you have the higher the water surface is. It is not terribly unusual if the park had done nothing you will have an increase in elevations over time just based upon upstream development.

Councilmember Thomisser – What are you proposing to do – dig two holes? The water goes into the holes and then what happens to it?

Mr. Isaacs – We are proposing to lower the existing ground elevations which provide additional storage capacity for the 100-year storm event. The more storage you have the lower your water surface elevations are. If you take material out of the floodplain, the effect is that there is more storage capacity for the 100 year storm event which lowers the water surface elevation. As you start adding fill into the floodplain like what happened in 2001, the levels can go up. We are mitigating by removing a portion of the material that was placed in the floodplain. What we are proposing to do if we are approved and we can move forward is to submit plans, calculations to FEMA, have them review our proposal to ensure



compliance with their requirements and then modify the flood insurance study to show the contracted limits in the lower elevations based on our proposed mitigation plan.

Commissioner Kuehler – You are talking about the CLOMR Process being that FEMA makes that decision and they have not done that yet. You are given an area that is a finite area for that study. I would imagine that you have that same area in the no rise. Is it different between going and getting a CLOMR and if you are doing a no rise study the two points between which you have to do the base flood elevation calculations and the cross section?

Mr. Isaacs – Our down stream point of analysis was just to the south of Highway 84. We extended the analysis up to a cross section just to the north of Antioch Church Road. That was the limit of our analysis. We followed FEMA protocol in regards to confirming that our starting point and our ending point was within a ½ foot of published elevations.

Commissioner Kuehler – You feel that the area that is represented in this mitigation plan is the area you are going to be required to provide those numbers for to FEMA.

Mr. Isaacs – Yes.

Commissioner Kuehler – I do not want anyone to say that my area was excluded for your study or that I am upstream and I was not included. You are saying that there are rules that govern where you have to study and you believe as the engineer for the project that you have complied with that.

Mr. Isaacs – Yes we have.

**Item No. 8. Discussion of FEMA requirements by Ernest B. Abbott of FEMA Law Associates,**

**PLLC.** Attorney Ernie Abbott - As you know, I have been retained to assist the Town and the County with FEMA compliance issues raised by the illegal placement of fill during the construction of the Optimist Park more than a decade ago. I want to review briefly how FEMA and FEMA compliance issues are involved in the mitigation plan and approval of the mitigation plan submitted by WCWAA. Basically, under the National Flood Insurance Program, the federal government agreed through this program to provide insurance in communities across the country. Because flooding is such a big risk and it depends so much where people build relative to water sources Congress included a requirement that says that only communities can be part of this program if they adopt and enforce floodplain management regulations which will mean that any new buildings or developments are built in a manner that reduces flood risk and allows flood insurance premiums to be lower and more affordable. Thus, FEMA does not directly engage in the enforcement of these floodplain management regulations as it relates to property owners. What FEMA regulates is the communities who have agreed to adopt and enforce ordinances which meet the FEMA requirements. The County for example had an ordinance that prohibited the placement of fill in floodways. A permit was granted. We are here tonight because for whatever the reason there was the illegal placement of fill. What is FEMA's role in this? FEMA's role is to determine whether this action is such that the Town or the County or both have not shown themselves to be enforcing their floodplain management regulations and therefore might need to be put on probation or suspended from the program. What probation means is every flood insurance policy holder in the community has a \$50.00 increase in their flood insurance premiums to get the attention of the community that this is serious. If the community does not take whatever steps to enforce floodplain management regulations and to remedy past violations the best they can to the maximum extent practicable, then the community can be suspended from the National Flood Insurance Program. When that happens, no flood insurance is available and no existing flood insurance can be renewed. Federal disaster assistance for flooding in special flood hazard areas is extremely limited and premiums will go up. There may even be

some issues with respect to financing of homes. If there is a federally regulated loan that requirement may still be there despite the fact that the flood insurance is no longer available.

Both Union County and the Town of Weddington joined the NFIP a number of years ago so they both have adopted and enforced floodplain management ordinances and as a result your residents and businesses have flood insurance available to them. However, the question is what do you do and what will FEMA do with the fact that there was this violation and placement of fill a decade ago? As Mr. Bundy's brief chronology of events makes clear, the State of North Carolina's Floodplain Management office is very aware of this violation and has been waiting for the County and the Town – which now has floodplain management jurisdiction over the park property – to take and complete enforcement action. This violation has been sufficiently prominent and is so long-standing that FEMA and its floodplain management staff in Atlanta are aware of it and is waiting for the floodplain management violation matter to be resolved.

If the WCWAA had proposed a mitigation plan that would reduce the amount of flood rise from placement of fill to zero or they were able to afford all of the work that would lead to a no rise then I would not be here and the issue would be easy. However, the original analysis of mitigation alternatives by the County and the Town's engineer indicated that the construction of such a no-rise would be very extension and very expensive. This analysis was confirmed in the more detailed analysis that the Isaacs Group did in putting together the WCWAA's mitigation plan. Since it does not achieve a 'no-rise', there is going to be this outstanding violation and the question is how will FEMA deal with that? It is going to be reviewed by FEMA as part of a CLOMR application that has been mentioned. I have heard officials at FEMA make this statement generically in a situation where there is mitigation being proposed. In floodplain management violations one of the things to watch carefully is if the mitigation does not actually remedy the whole thing does it at least get all of the structures that are in the standard flood hazard area that became in the standard flood hazard area because of a violation out of the floodplain. That is what the Isaacs Group just indicated their plan would do and that is something that FEMA would review very carefully in my view.

The current effective flood insurance map in the area is a 2008 map which when the flood study for it was put together basically reflects the existence of the fill and reflects the construction of the park. With the construction of the mitigation plan as proposed there will be a reduction of the area that is the standard flood hazard area. The way you implement the map changes is through the filing first of the CLOMR to get approval of the concept that they agreed with the modeling and mapping and this is the way they would revise the plan if the construction was to take place as proposed. Then at the completion of construction FEMA would again look at the demonstration that the construction which was proposed actually did happen to make sure they actually did in fact build what they said they were going to build before they then revise the map itself. They also look to see whether there is an issue of past violations that are involved and will generally withhold issuance of a CLOMR (Conditional Letter of Map Revision) unless they have determined in their view that past violations have been remedied to the maximum extent practical. That gives you the sense of the FEMA framework. What the County and the Town from a FEMA perspective are doing is demonstrating that they do in fact adopt and enforce floodplain management requirements so that they can continue to be part of the National Flood Insurance Program and therefore so that flood insurance and flood disaster assistance can be available.

The Weddington Town Council and Union County Commissioners took a 10 minute recess.

**Item No. 9. Public Comment.** Chairman Jerry Simpson discussed the Proposed Rules for Public Comment that was approved.

Tom Schwartz – For the past 60 days I have been a resident of Mecklenburg County but for 22 years prior to that I was a resident of Union County and over the last 12 years lived in Weddington and my five children were all raised here and went through Weddington schools and have spent time at WCWAA. I am currently the Athletic Director at Weddington High School. I wanted to speak briefly about what I see as the tremendous benefit that WCWAA has provided both families and children in this community. We have over 600 athletes at the High School about the same amount of athletes at Marvin Ridge and I would venture that the vast majority of those athletes have spent a good bit of their childhood over in those fields at WCWAA. While they are over there, they are developing a lot more than just athletic ability. They are developing things like character, the ability to work as a team, integrity, determination and a commitment to excellence and we feel that here at the high school when these kids walk in the door. Last year the NC High School Athletic Association gave Weddington High School the Exemplary Award. They give to one high school in the state regardless of size. It is based not only on athletics but on sportsmanship, academics and a commitment to excellence. At the high school we like to think we developed that in the kids – that is not the truth. They walk in the door with that. We thank the folks at WCWAA because a lot of that was fostered on those fields. I wanted to thank WCWAA for the significant contribution they have made to the kids here in our community.

Scott Wahlers – I am a six year resident of Waxhaw, Union County. I am currently the Basketball Commissioner on the Board of WCWAA. We have hired the professionals and this was not done with Weekend Warriors. The park serves so many people. It is not just a Western Union County park. We are interacting with the folks at Piedmont and Wingate. We work hand in hand with all of them in a lot of our different programs. There is a lot of blame to go along. That has been happening for the six years. It seems like the people that lose all the time are the kids. It is time for us to come together with the best resolution and move forward for not only for the Town, Union County and Western Union County but most definitely for the kids. They should not be the ones who suffer for some mistakes that someone has made. It is not time to blame. It is time to move forward for the kids.

Ethan Troub – I am a resident of Union County for all of my 11 years and I am from Marvin. I am a 6<sup>th</sup> grader and I have played baseball at Weddington for four years. My teams have been very successful and I enjoy playing at Weddington because the baseball is very competitive and lots of my friends play at Weddington. I am happy to say that I played for the 9<sup>th</sup> largest little league in the world. I also like playing with the community that cares for baseball and being friends. When our team plays in tournaments away from Weddington, I want to represent Weddington's little league well and ensure that we respect the game. This will be my last year playing for little league. I hope that I can come back some day to the Town of Weddington and see my name on a banner that hung many years from now and see the same great lower fields with so many memories.

Michael Corrigan – I live on Wedgewood Drive. I am one of the adjacent property owners of the Weddington Optimist Park. My children have played at that field. I have coached on that field and I want to see that field be successful. Unfortunately for me, when they show these highlighted areas over here, these structures that were impacted, that is my home. My home is at the tax value at which the Optimist Park is proposing to make these remediations. In that house I have three children and two dogs. That is my life right there. While I applaud the Optimist Park, I have volunteered with them and I completely agree with their concepts and philosophies and I will support them any way that I can. Unfortunately that is my home. That is where I live. That is what I have been working for for the past 30 years. That is where my children have been raised. Unfortunately I have no option but to oppose this. I ask you to consider something a little bit different. I wonder sometimes if the remediation that has been identified might have been done on purpose to highlight significant areas that would have the most dramatic impact to these folks. I would personally volunteer to go over there and help with this remediation. Am I going to have to worry every time that we get a major storm that one of my kids will be out there or the dog will be missing? It gets pretty rough and pretty nasty back there. I cannot

completely agree with some of the statements that were made earlier by some of the legal advice. There are three different kinds of fields out there – football, baseball and soccer fields. We do not play those fields all the time. I do not see why we could not do this in phases. I think that the revenue stream could still be adequately addressed yet we could also come to some kind of compromise. Right now what this proposal is doing is putting the flood waters instead of in front of my house, my well and over my septic system, it is putting it right at my back door. When I purchased this house in 2001 the flood area was a lot further down. I can concede to some of the comments that as development continues that flood line is going to rise. Until we live in downtown Charlotte where we have that much asphalt it is going to continue to happen but what this plan does is it removes any kind of a buffer that I may have. It could have taken 200 years for that flood to get up to my house. As it stands right now as I walk out my back door it is right there. I am friends of the previous owners. They were there for Hurricane Gloria. The house has been there since 1991. The floods that we get now with an inch of rain do not compare to the water that we have seen. They are equivalent to the waters that they saw with Hurricane Gloria is what we are getting right now with a typical three-quarter of an inch in an hour rain. We do not want the park to fail. I need to protect my investment and my family.

Russ Brasher – I am resident of Union County since 1994 and now a proud resident of Weddington as of a few years ago. I am here to request that the mitigation plan as it stands now be rejected in favor of complete remediation back to the way it was whenever the WCWAA started putting fill dirt into the park. The fill dirt that the Weddington Athletic Association placed there violates the FEMA regulations which are threatening the availability of flood insurance to everyone in Union County not just the people that live on the other side. The rise in the 100 year flood plain caused by the Athletic Associations constitutes water trespass on the neighboring properties and a legal situation. The rise in the 100-year floodplain caused by the Athletic Association threatens and reduces the values of several homes on the other side of the creek. The proposed mitigation plan does not fully restore the floodplain to the level prior to the illegal filling of dirt and that is the standard to which any law violation should be held - put people whole back where they were to start with. Two of the wronged property owners in this situation are hydrologists that have presented lots of data and calculations to show that these studies along the way have not been accurate – they have been smoking mirrors and less than honest. I find this one dubious as well. The tax paying property owners and citizens of the whole county count on you our County leaders to look out for us in situations like this. Everybody here is probably a resident and probably a property owner and whenever this fire storm dies down of all the propaganda – all of us love kids and we want the park to continue. None of us want the park to discontinue but we want our rights protected. Every single one of us here would want our properties protected – the biggest investment in our lives and we look to you to help us with that. I am definitely not against the park. I spent five years on the Board and three years as President. I have sacrificed a lot of time on that board volunteering helping in many ways with that park that I should not be required to sacrifice my home, value and integrity of my home. I ask you to stand up tonight for all of the property owners in Union County and especially those affected by this fill dirt and insist on complete and full remediation.

Wayne Griffin – I am a resident of Weddington for 17 years. I am against this also. I raised my kids on this ballpark. I sponsored teams, donated building materials to build scoring booths. I am in favor of the ballpark. I love to hear them playing. I live on Antioch Church Road at the corner of High Meadow where the horses are. A lot of the kids will come over at times and pet the horses which I enjoy seeing. This is not against the kids. I hope my grandkids can play over there in the next two years. The biggest thing is the fill dirt that was brought in. Commissioners and Councilmembers – you have received all of our emails and pictures. I appreciate the responses I received. We feel like we have had our property taken away. I have 630+ feet on the creek. Back in 1995 the water would come 15 feet to 20 feet out of the creek. If you look at this map now my barn which is 175 feet from the creek with 2 ½ inches of rain we have to bring the horses up into our front yard. That is the amount of water that we have coming through there. All of you on the Council and Commissioners today had nothing to do with this. It was

your predecessors. They approved permits that should not have been approved. You cannot get a permit for a well or septic tank in Union County if it is in a floodplain. Right now they could condemn a few of our septic systems and wells. That is our drinking water. Somebody mentioned about assessments. That is a good way to raise money – not \$500.00 – maybe \$50.00. If you start removing this fill dirt I would like to get the Isaacs Group to put some of that dirt to on my property to raise my area up and stay out of the floodplain. I am willing to help. I cannot give up 4 ½ acres every time we have a massive storm. Mr. Bundy – like the water tower, we do not get used to it.

Brooke Dunwoody – I live in the Wedgewood Neighborhood. I have lived in Union County for 21 years. I do not want to repeat what everyone else has said. I support the park. My child played at Weddington – played soccer and baseball. That is not the issue. The issue is the fill that has been put in the floodplain. When I first moved into my house, the flood would come up to the creek bank and it would go both ways. Now it comes up - there is a three to six foot wall on the park side of it. Where does that water go? It comes our way. If you look at the map referenced Mr. Corrigan and I are probably the two most impacted homes. The proposed mitigation plan shows the existing 100-year floodplain. The proposed mitigation plan is going to make it even closer to my home. When I moved into my home in 1991, the 100 year floodplain was 50 feet from my home. Now it is less than 12 feet from my home, according to this plan. This is my house. I have worked hard for it. You have worked hard for your houses. Put yourself in my shoes. I am not against the ball park. I am all for you playing. My biggest issue is that I have had flood insurance since 1996. Am I going to lose my flood insurance? If I do, who is going to pay for it when the flood does get up that extra foot or so and floods out my house? I have been active in this since day one during the first initial hearing. I expressed my concern about the flood insurance. I constantly call Union County. Union County dropped the ball. They knew about this issue. We told them about the fill being brought in and they just ignored it. We need some help. It may not be all WCWAA's responsibility. The County needs to step up on this too as well as the engineer. Where is their responsibility in this whole thing? I feel like a heathen to a lot of people. I am not a terrible person. It is my home. I am trying to protect what is mine. I have not added one shovel of dirt on my side but there is 80,000 cubic yards of dirt on your side.

Tracey Clinton – I am currently the President of WCWAA. We are a non-profit organization providing youth athletic programs to children of Western Union County. Because of the service that we and other organizations like us provide to the County, your citizens do not complain to you about the lack of recreation programs provided by local government. WCWAA and other athletic associations in Union County are a great example of how privatization of a government service can be successful. We are funded through registration fees paid for by our members, business sponsorships and donations. We offer scholarships to those in need. We have over 1,100 people that volunteer their time to help make our programs successful. Let's talk about growth. Ten years ago in 2003 when our lower fields were under development there were slightly over 3,000 kids in three elementary schools and one middle school in this area of Union County - 41% of those kids at that time participated in our programs. Over the past 10 years Union County has opened five new elementary schools and two middle schools to serve the 9,000+ elementary and middle school kids that live in this area today. WCWAA still serves 41% of that current population of those schools. So we have grown just as fast as the schools have. Last year WCWAA had over 6,800 registrations across our nine different sports. In addition to providing athletic opportunities to our youth our association benefits the community in lots of other ways. We feed into highly successful middle and high school sports teams. We partner with the local schools to provide field space when they do not have any. We rent their gym space and provide them with some revenue to fund the schools. Our association helps support many local businesses in the purchase of their goods and services to run our park. Our members frequent many local restaurants and retail stores on the way to and from practice and games. As the numbers of businesses serving youth athletics increases, WCWAA continues to grow and is one of the few that will not turn away kids based on their skill level. Our recreational level programs are still the core foundation of our association. We do not want to get into a situation where we have to

say no to the kids in our community because of the lack of field space. With our growth the last few years, our limited field space and our inability to resolve this flood issue we have been forced to find creative ways to continue to provide our programs to all who wish to participate. We cannot afford to lose any of our existing fields. In the plan we have submitted to you, we are committing to spend our financial reserves to mitigate the flood issue to the greatest extent we can without losing our fields. These reserves were originally planned for future expansion and improvements. The plan is financially and logistically the best we can do without additional financial help and availability of alternative field space to run our programs. Eleven years ago the leadership of WCWAA did all the right things. They hired an engineer to develop plans for the park. They received approval from the County to develop the park. They developed the park according to the plans. After the park was completed only then were we notified of the floodplain issue. As adult leaders in this community, we have to look out for our children. Do not allow a series of errors made by adults to negatively impact our kids. It is within your power tonight to send this plan to FEMA for technical review. Please help us to continue to serve the youth in our community. They are counting on you.

Susan Harvey – I am a resident of Union County. I live in Weddington and am one of the adjacent property owners. My husband and I worked very hard for our home. It is the single most expensive investment that you will ever make and because the WCWAA has put in the fill and had all of the flooding our property values decline every single day. We have not been able to sell our home because of WCWAA. The only plan that will work is if the WCWAA is made to take the property back to its original state.

Dennis DelValle – I am a Union County resident and I reside in the Town of Waxhaw for the past six years. I am a homeowner and like these other homeowners I have plenty of sympathy for them. This is a problem that just does not begin and end with WCWAA. There is plenty of blame to go along. If it is something that is going to be resolved, I think it should be incumbent upon the Town and also Union County to help fix the problem. I am for the mitigation plan that we have proposed. For the first time in my 43 years, this is the first time I have ever felt part of a community. I coach in WCWAA. My son participates in three different sports. My youngest daughter participates in two different sports. This is an important resource for the community. It begins in these children learning life lessons. This is where we build character and where we begin to teach them to deal with adversity. It is about inclusion. As our president has said we do not turn away kids because of ability. We take everybody. The goal that we have is to develop everybody. It builds confidence and success.

Michael Babcock – I am a resident of Waxhaw for the last five years. I am the Vice President of Administration for Weddington Little League. I wanted to talk about the impact of not approving this mitigation plan would have on our program. Losing the two fields that are in question here would force us to cut our program by 25%. That means that in any season we are talking about 300 kids that would not be allowed to be part of our program. I am not sure how we would ever decide who those 300 are but that is the impact. That is a significant impact to everybody's community and it is not something that we want to see and hope that you will be able to help us fix that problem.

Kevin Qualls – I have been a homeowner here in Union County since 2007 living in Waxhaw. I want to thank you as Town Council and Board of Commissioners the opportunity to share tonight. My family has been a part of WCWAA since 2009 with my two sons playing baseball, football and soccer. We found out very quickly that WCWAA was a class organization. We are so proud to be a part of it so much so that my wife and I begin to volunteer in many different roles. One role that I volunteered for that has been so rewarding was to be a head coach in baseball. One of the true blessings of my life has been the opportunity to pour into the lives of children and families as a head coach in baseball the last five seasons. My hope is that I and others like me will continue to have the opportunity to instruct kids in the area of sports but more importantly model for them and teach them life principals that will help and guide them

as they become young men and women in our community. I am afraid that a decision to downsize the recreational fields in any way will greatly diminish that opportunity. It is obvious that some mistakes were made in the past to bring us where we are today. This is not the time to blame any group or any one person. As a senior pastor the last 10 years in some large churches in North Carolina and South Carolina, I realize personally how it is impossible to please everyone with every decision that you make. For me this has been an especially difficult thing to learn personally as I want to befriend all people and do not want to have anyone upset with me. Now as a 41 year old pastor at First Baptist Church in Charlotte with a little more maturity and experience there is one filter that helps me in decision making and especially controversial issues. That is to do as much research and study as possible making sure as to not make a decision that is best for me and what I can gain from personally but to spend time on my knees in prayer and seeking what is pleasing and honorable to God. As I do that I know that I can lay my head on my pillow at night that I have honored God in what I have done and felt what was right. Serving in the position of leadership can be a blessing and at other times it can be very agonizing. I want to thank you as a citizen of this County and on behalf of WCWAA for all you do as the Town of Weddington and Union County and my prayer is that we can come to a peaceful resolution that will result in the homeowners being satisfied and WCWAA continuing to be a growing and positive influence for kids and families in the future.

Mark Hudson – I have been a resident of Waxhaw, Union County for the past seven years. Sometimes to see the value in something is to take a look in from the outside. The outside is referring to how other organizations function in their effective outcomes. It is my intent to help the WCWAA as well as Councilmembers to see the need for these ball fields and to see from that perspective. I am a proud part of the WCWAA organization. My son has received invitations to join travel teams but we have remained at WCWAA all due to the objectives that this organization stands for and the equal opportunity that it offers these kids from the highest skilled athletes to the brave children who in some way are athletically challenged. I have coached or umpired little league baseball in six different states in eight major cities over the last 30 years. I have seen first hand and can personally attest to the disappointment kids experience due to being turned away for lack of available fields to accommodate the number of interested participants. I can describe the desire of younger siblings to want to play ball like big brother but can't because the lack of fields limits the progress to 10 year olds and above. I have had my son in the little league program at WCWAA since 2007 and can speak to the fact that WCWAA is the best of the best. No kids are turned away regardless of their ability and are given an equal chance to experience baseball at a very early age. At WCWAA, I have seen the joy of recreationally skilled kids playing equal time with all others, those whom in other organizations were being placed in a pool for call up due to a limited number of available teams and roster positions. With other leagues I have experienced seasons where tryouts ended and 50 or more kids stood in the infield and were explained to that they did not make the team and they would be placed in a pool and would be called up if an active player left during the season. I have seen those same kids try out year after year only to be turned down until they aged out of the program. At WCWAA I have seen the difference it makes to the children to make the program available to all not just the pick of the crop in tryouts. I have seen how WCWAA goes to great lengths to not expose any kid to the above mentioned disappointments while instilling the proper values that prepare you for the trials of tomorrow. WCWAA is envied by many for their success for providing the competitive level of play to those who desire as well as the recreational experience to those who are not quite as skilled at the time. Where does this lead? It all has the same basic foundation - the foundation for space and gracious volunteers but mostly available fields for use. Without WCWAA, we will face turning kids away and be forced to work with skill based rosters and a huge waiting list of kids wanting the opportunity to join in.

Joe Tolan – My wife and I own the property at the corner of Highway 84 and Deal Road. I will not go into additional information regarding the engineering studies since my wife will address that situation but I will note the amount of fill that is being proposed to be removed is far less than the substantial 40,000+

yards that were brought in. I doubt that there is anyone in this room that would take a position different than mine if it was their home and property that was being flooded or living with the threat of that possibility every time it rains. Charlotte and Myers Park Country Club golf courses are located in the floodplain, if it rains and high water is expected they do not play golf. What makes this park other than the activities different is if it rains, people go home to non-flooded properties. If our income is reduced and we spend our money on other things such as medical expenses, necessary or frivolous purchases would Union County or the Town of Weddington forgive our taxes because we said we could not afford to pay them. I doubt it. Has Union County or Weddington ever been presented with a certified audit from an independent auditing firm? Why do Union County and Weddington continue to distribute funds after the notice of violation was issued in terms of 10's of 1000's of dollars? This mitigation plan should be a fact not inaccurate misinformed opinions and what ifs. Unless the mitigation plan returns the water surface elevation to the predevelopment elevation it should not be considered for approval.

David Miesse – I live in Weddington, Union County for the past six years. Every good town and county in America has a park to learn sports and practice sports. That is why people move to the towns and the counties. It is a part of life. What you have here is a perfect example of the public and private sector working together so we all do not have to pony it up – I did not see any toll booths up at Colonel Beatty Park lately for the \$500 fee to play up there. It is what towns and counties do – parks. I feel sorry for the homeowners as well but my suggestion is for the County and the Town to move forward and pay for whatever plan that FEMA and everybody agrees on. Buy the property next to the fields so that we can have the park for our kids to learn and practice sports and move forward.

Tom Grommersch – I am against the mitigation. I have sent you emails with pictures attached that showed where Antioch Church Road was closed due to the flooding. I have lived there about nine years and ever since the impact of the fill the water has gotten higher. I have seen kids come down through the road and try to go through the water, their cars stall out and the brakes get wet and it is a dangerous situation. I bought the property knowing it was in a floodplain – 1% chance. It is twice a year at least. Little more extreme than what people seem to think anyway. I pay property taxes. WCWAA does not pay property taxes on a \$2.6 million property and has paid nothing for the past 10 years. I have paid \$38,000 in five years for my property. I feel like I deserve some protection. My kids played soccer there and I coached and volunteered and did all the right things just like everyone else here has. The last thing that I can say is if they go to zero fill why can't the fields still be played on?

Boyd Despard – I have lived in Union County for eight years and I live in the Town of Waxhaw. We have been attending WCWAA for the last eight years. I am speaking as a father on behalf of four kids who enjoy all kinds of different sports as well as a volunteer coach there. If you look at a place that you want to raise your family and grow into a community what Weddington brings is not just a park but a place to really grow as a community. I spend most of my time at the park and the life lessons learned for your kids and as parents the opportunities to give yourself to the community are tremendous. Looking back in history and hearing a lot tonight, I was not aware of the detail and the history. There have been some honest mistakes that have been made. Weddington is trying to come forward with a proposed plan and I am for that. It is not going to make everyone whole but I think we have to look at the best interest of both together. I am for the plan tonight and I hope you vote for that.

Eric Riden – I am a homeowner in Weddington, Union County. I have been coaching baseball at Weddington for the last eight seasons and have four children that all use the park. I came here tonight with an open mind as a coach here at Weddington. I have a vested interest in the park and have developed a lot of great relationships with families there. At the same time I am a homeowner myself. I have empathy for the folks that have been expressing issues with their homes. We have a quandary. What do we do? Every one of the homeowners said that they love kids and I do not doubt that. I appreciate that we have been able to have a nice and open discussion here and they have said that they



hope that their kids and grandkids can play at the park. The reality is that they will not be able to play at the park if we have to go beyond what the park can afford for remediation. At the same time as a homeowner to do nothing and to hear the stories about the flooding I do not like that either. We do not hear compromise. We need to come up with a compromise. As a great philosopher said the good of the many outweighs the good of the few. Pastor Kevin said it better than I could about spending enough time on my knees trying to think about what to do in situations like this. Sometimes the best is the enemy of better. This has been studied for 7 to 8 years and those waters still come. I hear tonight about more studies and it seems like we could go on for another 7 to 8 years whereas the plan that is put forth makes it better. It may not make it perfect. There have been other factors such as how much development there has been in the area. It is a very complicated issue. There is no one here saying that the plan will not make it better. Everyone loves kids and everybody wants these homeowners to be satisfied. The plan that has been put forth will make the situation better if we approve it.

Ryan Clinton – I have lived in Union County all my life and I started playing sports at WCWAA since – I really cannot remember a time that I was not playing at WCWAA. That park really made me who I am today. I would not know half of the people I know and I would not have the same relationships with all the families that I have in the area that I have now. I want to ask all the kids that have played a sport or are currently playing a sport to stand up. All the kids that are not playing a sport right now would not be the same people without WCWAA just like I am. That young man standing up right there participates in the Challenger Program at WCWAA. Once a year when we do Challenger Baseball and we have the Charlotte Knights who are the local AAA team come out and play baseball with the young men and women who are participating in that program. I can tell you that is one of the highlights of their season and they are all smiling from ear to ear. That event takes place on the lower fields because the upper fields cannot handle that many people. We need the lower fields for that and for all the kids that we have playing in the 9<sup>th</sup> biggest little league program of the world. We can't turn away all of those kids because they could quit baseball and honestly I would hate to see that happen. Everyone knows the story about Michael Jordan and how he got cut and he practiced and practiced. We do not want to turn someone away and make them not want to practice and not be the best baseball player, soccer or football player that they can be. If we do not have that field space it is going to hurt everything that WCWAA is about, equal opportunity and how everyone no matter the skill level gets to play. Try to consider all the kids that play at the park and all the families that participate and how it benefits everything here before you make your decision.

Susan Tolan – I do have a couple of technical things that I want to bring up. I am a registered professional engineer in North Carolina. You heard Mr. Isaacs talk about how the first version of this plan was submitted to USI. They offered some comments and Mr. Isaacs said that they agreed with the comments but when I review this revised version of the plan there is a comment that stands out that I do not think has been addressed. She read the comment that USI made. (USI identified an errant negative channel profile slope used in the study and if not corrected could significantly mask the impacts of the fill placed on the WCWAA property and therefore correcting the downstream channel slope is necessary to actually determine the extent of the impacts and the effectiveness of the mitigation plan.) I do not see where that has been addressed. That is going to have a substantial influence on the results. If that comment was not addressed, the results of the success of the mitigation plan are not going to be the same. The other thing that I want to talk about is something Mr. Abbott talked about and also Mr. Isaacs talked about. They talked about the 1994 study and the 2008 study. We talked about how the flows were higher in 2008. We talked about how the affected maps adopted in 2008 were based on illegally placed fill. That seems to be the benchmark that we are determining the success of this mitigation plan off of. Where is the study that uses the 1994 topo and run the 2008 flows through it? I know the flows went up. The flows increasing have nothing to do with the park. Run the higher flows through the 1994 topo. What are the results? Those results show that the water surface rises almost 2 feet more than the original. Then run the mitigation plan and compare it to the 1994 topo? Use the mitigation topo with the higher flows and

see what are the results are. The results are the mitigation plan lowers it some but it still remains at 1 foot 4 inches in some locations.

Burke McKinney – I live in Waxhaw, Union County and have been a resident for the past two years. A lot of what has been said is extremely repetitive. Same things that I had planned to say many others have said. Many have shown some emotional response. You are drawing young people into a situation to put them in an area around leaders that could potentially be progressive in an outstanding community. I know what it is like to live in a State and an area when we had a meeting like this just four years ago with a Town Council wondering how in the world are we going to maintain youth athletics in a State with one of the highest obesity rates in the country. We have to work really hard to determine which steps we are going to take next to enhance our leaders of the world. There are so many challenges among all these young people that are pulling them in directions that are wrong and right as we try to lead them as coaches and as parents. In all due respect to the homeowners because no one ever wants to see anyone lose value in their home, I do ask based on comments from Mr. Abbott and the other engineers involved let's move the political positioning out of the way make a decision that is at least progressive.

Steve Gertzman – I am a resident of Weddington for 19 years. I want to speak basically to how WCWAA has been a woven fabric of Union County. Through WCWAA's programs I have coached 7 girls that are on Marvin Ridge's softball team, two at Piedmont, two at Parkwood, 6 at Weddington and 3 at Cuthbertson. We tried to instill how to win graciously, how to lose with dignity, social skills and working within a group. The bottom line is if this facility is not able to take care of the kids in the community where do they go and what do they do? These people have the right to have their properties maintained at their current values at least. You are our elected officials of the community. We need your help. Help this facility maintain and help these people to take care of their property. WCWAA has put as much forward as they can. They have gotten pushed back a lot from the Union County Engineering Department 10 years ago. We are here tonight to ask all of you to help these people get whole but do not take away from the kids. We have more kids to come. That is the future and that is your responsibility to make sure these kids have the opportunity to learn, grow, socialize and to be part of the community.

Janice Dunwoody – I have owned our home for 21 years and we are one of the homeowners on the other side of the creek. This is personal to us. I am personally against this plan. When I was looking at the mitigation plan I thought to myself what is the difference between mitigate and remediate? Mitigate is to cause or become less harsh or to make less severe. Remediate is to correct and I think that is what we need to be doing is to correct the problems and actions that have been made over the past few years. Let's play fair.

Gina Fisher – I live in Wesley Chapel since 2003. My family has been involved at WCWAA since we moved here in 2003. In 2007 we started the sports program for the special needs mentally and physically handicapped program and we were totally embraced by those members of the WCWAA and the community at large. My heart goes out to these homeowners. I have sat on the WCWAA board for the last four years and have learned more about floodplains, engineering, FEMA, attorneys than I ever wanted to know about. There has got to be some type of way that we make this all work for a community that has no boundaries. It is not a Weddington property, it is not a Union County property it expands through several jurisdictions, several municipalities and is bringing in people from South Mecklenburg. It is a community program. It does not belong to a municipality or a county. I love this community. Yes, it is a mitigation plan. It is not full remediation. As I understand what I have learned over the past four years and what has been presented tonight it will severely reduce the amount of flooding without impacting all of the lower complex of the WCWAA which would totally erase the opportunity for additional soccer or even maintain the soccer levels that we have and additional baseball for the 9<sup>th</sup> largest little league in the world. Do you know what a diamond you have out here? It would totally eliminate that if we went with

full mitigation. It would totally eliminate additional football. Do you know you are feeding how many schools here – how many champions? My single most important investment in my life is my children.

Chris Coleman – I had left on the form for or against the mitigation blank because honestly I did not know what side of the issue I would fall on. I am trying to be impartial and put myself in the homeowners’ shoes and the people from WCWAA’s shoes. I think you have heard compelling arguments for both sides. I would be alarmed if I was any of these homeowners and I see water rising and animals being endangered and worried about the safety of my family. I also hear all these compelling arguments for what a great organization this is and what an institution it is becoming. I have come up with this, if I was a homeowner and WCWAA would just say, “Hey, we are just too big to fail, we have become so important in this community and we did all our due diligence, not our problem.” I would be irate. But that is not the case here. They have committed money to a plan and I think you can see that they are trying here and as a non profit organization they cannot move mountains. I have made my decision in favor of this mitigation plan and I hope you will vote for it also.

The group took a five minute recess.

**Item No. 10. Presentation of Governing Bodies’ Options by Mr. Abbott.** Attorney Abbott - At the moment there is only one mitigation plan that has been presented to the Town and the County. That is a plan that has been engineered and the property owner has agreed to construct it. They have file applications for the necessary conditional letter of map revision from FEMA that if approved would indicate FEMA’s agreement that the plan in fact would reduce the flood risk in the way that it is proposed in the plans and that FEMA would consider that this action is sufficient to allow the County and the Town to be in the National Flood Insurance Program. The plan is not a plan that would remove all of the flood rise. It would make it better. One option would be to allow that plan to go forward for FEMA review. The second option is to send the plan back essentially and ask that the County and the Town Staff work to see if there is another plan that the property owner is both willing and able financially to propose. It is not possible for the County to approve and the Town to disapprove or vice versa. What the County’s approval would do is that we are finding that the notice of violation that was issued 7 years ago in 2005 will be deemed settled upon completion of the construction that is proposed in the plan. The construction that is proposed in the plan cannot start without the Town agreeing to the Floodplain Development Permit and the certification in the application for the conditional letter of map revision that allows it to go to FEMA. Action from one body without the other body is essentially a rejection by both bodies. If the Town and the County decide to go forward there have been draft resolutions prepared for the County and the Town. They set forth the history of how we got here. The County for its part would determine that it would deem the floodplain management violation settled upon completion of construction. This action is subject to FEMA’s approval of the CLOMR which indicates that the County had taken action to protect its status as participating communities in the National Flood Insurance Program. The Town did not issue the notice of violation so it does not say anything about the NOV. The Town would be agreeing to certify that the areas removed from the standard flood hazard area by the proposed mitigation are reasonably safe from flooding. That is the standard part of any condition letter of map revision or letter of map revision application. The Town also would be approving the Flood Plain Development Permit which would be subject to the approval by FEMA of the CLOMR and that approval provides the confirmation that the actions to be taken in resolving this matter are consistent with the Town’s status as members of a participating community in the National Flood Insurance Program. Go forward with this plan because it is better than nothing or hope that another plan can be developed through additional work by the staff in negotiations with WCWAA.

**Item No. 11. Joint deliberations and consideration of action by Board and Council.** Chairman Simpson made a motion to approve the Resolution that was in front of the Commission with regards to the mitigation plan.

Commissioner Kuehler – I have been involved with this since I took office four years ago. I have heard things tonight about the impacts of rise and I hear a lot about 1 foot to 2 feet based on the fill that was put in the floodplain. Then I hear people get up and talk about increased levels of flooding and how it has come on to their yards and we were talking 200 to 250 yards. I live on a floodplain. I know they are hard to understand. I also live on a floodplain where somebody developed on my creek line and got a CLOMR that legally increased the floodways by a foot. I am very aware of the impact. The impact or the lack of or the mitigation or the correction that is not what this board is being asked to decide. That is the CLOMR process that is up to FEMA and the engineers and the experts that are better equipped to handle those kinds of decisions than we are. What we are being asked to do is to determine whether we believe based on the information that we have been presented from all the parties whether this plan meets the maximum extent practicable given the resources and revenues and bank accounts and the financial wherewithal of the park. We are not approving or disapproving the plan. We are trying to move this forward. I am sure the park is not happy that things were not the way they thought they were going to be and they are expending funds and disrupting their membership and doing the things that they got to do and living on a floodplain I know that everybody would like for it to go back to zero. It is my understanding that people will have the opportunity to talk to FEMA during the CLOMR process as well. I would support the motion.

Commissioner Thomas – I think it is important for you to know that as your elected officials where we stand and the rationalization behind our decision in the positions that we take. Couple of comments that were made tonight that I believe are important to repeat. Mr. Abbott stated that in his FEMA overview that if nothing is done we are looking a \$50.00 increase in order to get our attention. Regardless of where you stand on the issue you realize that we have an issue that is brewing about and if we do not take action then we are looking at suspension, of no flood insurance that would be available and an increase in premiums and the possibility of no national assistance if there is a case of severe flooding. Now is the time to move forward. I know the opportunity to look at a second plan has been put forth. It has taken us 7 years to get here tonight. I have spent time sitting behind this desk here tonight and saying where was I seven years ago? Where were you seven years ago? Probably the majority of us were not in this community. I am not in the WCWAA not by choice but by close proximity. I understand what those property owners that have come forward tonight said and from a parent that has seen the benefit in one's own family and then as a former athlete the impact it has made on my life. You are absolutely right. I learned more lessons of life on the baseball field and the basketball court than I did in the classroom. That is not against our educators. It is just the way that athletics is built you learn how to deal with the issue. Mr. Isaacs said tonight this plan consistently lowers the water elevations and another quote was which is less than a foot which is what FEMA would have approved. I want to reiterate what Commissioner Kuehler said tonight. We are not the jury or the judge. We are simply moving this plan along with a vote to allow those experts to hear from all interested parties and make the best decision based on technicalities and objectivity and not subjectivity because this can be a tremendously polarizing issue. I want to close and say thank you for the spirit in which you spoke tonight, the respect for one another because we are all citizens of the same community and we all share the same values and we all come at it with a different perspective. I want to thank those speakers who spoke and the courage. I thought you did so eloquently particularly little Ethan. I was impressed with the courage that he took. I know his parents are proud and that is an example of tomorrow's community for someone who will stand up tonight as intimidating as that can be. I will support the plan. I made it very clear when I sought public office that I would do anything I possibly could with the leadership of WCWAA to try to be able to determine the solution that mitigated the impact to both parties to be able to move forward. Right after the election I met with the President and the Board of Directors to let them know how willing I was to work with them. I believe tonight we are just a little bit closer in bringing some resolution. Thank you for your attendance here tonight.

Chairman Simpson – Thank you for coming out tonight and I appreciate your passion for both sides of the issue. I would like to express our appreciation for our staffs and attorneys. I do appreciate the time you have given to that.

The vote from the County Commissioner on the Resolution was 4/0 – (Commissioner Rogers was absent).

Mayor Pro Tem Barry moved to approve the Resolution that they were presented:

Councilmember Thomisser - I would like to echo what Commissioner Thomas said. As a former baseball player and football player I understand the benefit of youth sports and we have a lot of people here tonight who talked about the advantages of getting youth involved in sports. I want to ask you to suppose you bought a house in 1993 and paid \$600,000 precession and then attempted to sell the house and kept reducing the house until you got to \$400,000 and today you are still not able to sell that house. That is what these homeowners have experienced – a huge financial loss. I have also heard that the WCWAA is financially unable to remedy the current violation and to return the property to a no rise situation. My deceased mother used to say, “Where there is a will, there is a way.” I cannot tell you what the way is you probably know it better than I do. In my opinion, the mitigation plan is insufficient and must be corrected to a no rise situation. The current plan only addresses one third of the problem and the homeowners will still have flooding. It may not come up to their patio but it will certainly be in their back yard and I remind you 80% of the homes in Weddington are on water wells and on septic systems and do you really want to contaminate people’s wells? I cannot support this.

Mayor Pro Tem Barry - There are no winners. The park has to deal with it and certainly the adjacent homeowners have had to deal with it. I have a whole list of questions but at the end of the day Commissioner Kuehler was right, we are not asked to be the judge and to pick winners and losers. We are to determine if this is the best we got and it is the best we got in a horrible situation. Let the real professionals get involved and hopefully you will have your time with those FEMA engineers as the final plans get drawn.

Mayor Davidson – I want to say this is not an easy decision. No one is a clear winner here and we do not want winners and losers. It has been 7 years and three entities have probably spent \$200,000 and we have not moved any dirt. If we move forward with this and FEMA approves it, we are going to move some dirt and I think it is time to do that. I support this. We do not want to be in the suspension phase of the National Flood Insurance Program. This plan does not violate any of our ordinances and it is up to FEMA to determine if it is going to meet their requirements that we have to enforce. This is merely going on to FEMA and they will decide whether they approve it or not.

Attorney Fox - One point of clarification is that the Resolution that is before you does contemplate that there has been a certification by the Floodplain Administrator but in light of the comments from USI those have to be addressed by the park and that is a continued process. I want to make you aware that the language may be modified slightly to reflect USI comments.

The vote on the motion is as follows:

AYES: Councilmembers Hadley, Harrison and Mayor Pro Tem Barry  
NAYS: Councilmember Thomisser

**Item No. 12. Adjourn Meetings.** Mayor Pro Tem Barry moved to adjourn the September 10, 2012 Special Town Council Meeting. All were in favor, with votes recorded as follows:

AYES: Councilmembers Thomisser, Hadley, Harrison and Mayor Pro Tem Barry  
NAYS: None

Chairman Simpson moved to adjourn the Commission Meeting. The vote was 4/0 to adjourn.

The meeting ended at 9:53 p.m.

---

Walker F. Davidson, Mayor

Attest:

---

Amy S. McCollum, Town Clerk