



# Agenda

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## ARCHAEOLOGICAL REVIEW COMMITTEE HEARING

THURSDAY, August 6, 2015 at 4:30 PM

CITY COUNCILORS CONFERENCE ROOM

CITY HALL - 200 LINCOLN AVENUE, SANTA FE, NM

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF AGENDA

D. APPROVAL OF MINUTES: June 18, 2015

July 2, 2015

July 16, 2015

E. MATTERS FROM THE FLOOR

F. ACTION ITEMS

1) Case #AR-22-15. River and Trails and Suburban Archaeological Review Districts. Request to Reconsider Conditions of ARC Action Taken on the City of Santa Fe Parks Playground Shade Structures Project. Lisa Martinez on behalf of the City of Santa Fe. (Lisa Roach)

2) Case #AR-23-15. Suburban Archaeological Review District. Archaeological Reconnaissance Report for a Planned Extension of the Arroyo Chamiso Trail. Gerry Raymond for City of Santa Fe. (Lisa Roach)

3) Case # AR-08-15. Historic Downtown Archaeological Review Districts. Archaeological Monitoring Report for the CenturyLink Project at Griffin Street and Paseo de Peralta. Ron Winters for CenturyLink. (Lisa Roach)

G. DISCUSSION ITEMS

H. MATTERS FROM THE COMMITTEE

I. ADMINISTRATIVE MATTERS AND COMMUNICATIONS

J. ADJOURNMENT

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**Thursday, August 6, 2015**

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**MINUTES OF THE  
CITY OF SANTA FE  
ARCHAEOLOGICAL REVIEW COMMITTEE HEARING  
City Councilors Conference Room  
August 6, 2015**

**A. CALL TO ORDER**

The Archaeological Review Committee Hearing was called to order by David Eck, Chair, at approximately 4:30 p.m., on August 6, 2015, in the Historic Preservation Conference Room, City Hall, Santa Fe, New Mexico.

**B. ROLL CALL**

**Members Present**

David Eck, Chair  
Tess Monahan, Vice-Chair  
James Edward Ivey  
Derek Pierce  
Gary Funkhouser

**Others Present**

Lisa Roach, Historic Preservation Division  
Zachary Shandler, Assistant City Attorney  
Melessia Helberg, Stenographer

**NOTE:** All items in the Committee packet for all agenda items are incorporated herewith to these minutes by reference, and the original Committee packet is on file in, and may be obtained from, the City of Santa Fe Historic Preservation Division.

**C. APPROVAL OF AGENDA**

Ms. Roach said there is a correction to Item #F(2) caption, noting it should be the Planned Extension of the Tierra Contenta Trail, and not the Arroyo Chamiso Trail.

**MOTION:** Derek Pierce moved, seconded by Jake Ivey, to approve the Agenda as amended.

**VOTE:** The motion was approved unanimously on a voice vote.

**D. APPROVAL OF MINUTES: JUNE 18, 2015  
JULY 2, 2015  
JULY 16, 2015**

There were no corrections to the minutes of June 18, 2015.

**MOTION:** Gary Funkhouser moved, seconded by Derek Pierce, to approve the minutes of the meeting of June 18, 2015, as.

**VOTE:** The motion was approved unanimously on a voice vote.

There were no corrections to the minutes of July 2, 2015.

**MOTION:** Tess Monahan moved, seconded by Derek Pierce, to approve the minutes of the meeting of July 2, 2015, as.

**VOTE:** The motion was approved unanimously on a voice vote.

The following corrections were made to the minutes of July 16, 2015:

Page 6, line 1, under Gary Funkhouser, correct as follows: "...said ~~you say~~ Mr. Kluck said..."  
Global change of "Klute" to "Kluck," throughout the minutes.  
Page 13, paragraph 9, line 2, correct as follows: "... of those 3 items. ~~you just ready.~~"

**MOTION:** Gary Funkhouser moved, seconded by Tess Monahan, to approve the minutes of the meeting of July 16, 2015, as amended.

**VOTE:** The motion was approved unanimously on a voice vote.

**E. MATTERS FROM THE FLOOR**

There were no matters from the floor.

**F. ACTION ITEMS**

- 1) **CASE #AR-22-15. RIVER AND TRAILS SUBURBAN ARCHAEOLOGICAL REVIEW DISTRICTS. REQUEST TO RECONSIDER CONDITIONS OF ART ACTION TAKEN ON THE CITY OF SANTA FE PARKS PLAYGROUND SHADE STRUCTURE PROJECT. LISA MARTINEZ ON BEHALF OF THE CITY OF SANTA FE. (LISA ROACH)**

## **BACKGROUND & SUMMARY**

At the regular hearing of the Archaeological Review Committee (ARC) on July 16, 2015, the ARC reviewed and took action on a monitoring plan presented by Ron Winters on behalf of the City of Santa Fe Public Works Department, Facilities Division, for archaeological monitoring of post holes associated with the installation of shade structures in 35 parks throughout the City. All but 11 of the parks included in the project have received previous archaeological clearance, and 5 of these are under one acre in size. The monitoring plan called for archaeological monitoring at 6 parks; however, the ARC made as a condition of their approval that the 5 parks under one acre be included in the monitoring scope if no previous research had resulted in archaeological clearance at these locations. Although Section 14-3.13(B)(2) and (3) specify that archaeological clearance shall be required for City park projects on parcels over one acre in size, the ARC felt that the project involving 35 parks should be considered as a whole, and this was the basis of their action and conditions. Land Use Director, Lisa Martinez, requests that the Committee reconsider.

## **STAFF RECOMMENDATION:**

Staff defers to the Committee for discussion of this matter as it applies to Section 14-3.13(B)(2)(c) and 14-3.13(B)(3)(c).

Ms. Roach said she has nothing to add.

Lisa Martinez, Director, Land Use Department, said the memo summarizes everything they are requesting. She said she is looking for reconsideration of the 5 parcels that are one-acre in size, to take those out of the requirements for the archeological clearance. She said Jason Kluck and Richard Thompson are here to answer any questions. She said basically these are tied to funding and available resources for this project, and it would assist them a great deal if they would not have to provide clearance for those 5 parcels.

Ms. Monahan said she is sure that Ms. Martinez read all of the minutes, asked her if she can address those issues with the assistance of Mr. Winters because he is more familiar with the technical questions raised by the discussion. She asked if there is any reason for the request, besides the fact that they are under one acre, to exempt them.

Mr. Winters said that has been the whole point and why it was in question. He said he received the initial table from Ms. Roach who worked with Ms. Ensey to compile the list, but he revised it after the meeting.

Mr. Funkhouser said in an effort to avoid the kind of minutes we just went through, which are highly confusing – As an example of how confusing this is, he noted the Memo states, '*archaeological clearance shall be required for City park projects on parcels over one acre.*' He said, "This isn't exactly what the Ordinance says. The Ordinance says on park projects over one acre, so that gets back into the debate about what either of those means, and I really want to avoid that. I think the issue here, however we decide this, is that this part of the Ordinance is not applicable to this question at this time. The reason

is when this case started, we took this part of the Ordinance and our discussions on what the definition of a project is, and they crossed each other out. And that cleared the path for us to get to this monitoring solution. We made those decisions based on any of these all the way through the process, and so we can't introduce it now."

Mr. Funkhouser continued, "It seems to me that we have two choices. We can stay where we are in terms of our flexible interpretation of this and our definition of what a project is. Or if we reconsider this, we have to go back to the point at which we did consider it and that's when we went around it to get to the monitoring solution. What we cannot do is redefine, reinterpret everything on an item by item basis as we go through time. We have to do one or the other. And if we're going to reconsider the size thing, which was never made at no point in any decision of the monitoring at all. And we have to go back to the point where we took it out. And then that starts it over again, what is the nature of the project and what does that inference mean. But we can't take it out for the benefit of someone at the beginning, and then not include it all the way along, and then get to the end and bring a new version of it when it again is just to benefit someone. And its only purpose in doing that would be to benefit someone. Whatever we do with them, is that we have to be consistent at least throughout the process of this one case."

Mr. Shandler said, "Mr. Chair, I think either interpretation is legally defensible, and that's why I didn't preclude you from making the motion you did last time."

Ms. Roach said, "The issue comes down to what the Committee considers a project."

Mr. Funkhouser said, "No. We didn't finish that discussion. We let that go, because that was debatable, that would be an undertaking under, and we don't have those exact words you stated, what would be that definition. And so the whole issue of the acreage criterion and the definition of what a project is, those kind of cancel each other out, and we accepted an empirical kind of definition of what the project was. And we did it specifically to get to the monitoring solution which was the minimal one to go to is still our response. And my point is that you can't abandon it, go through the process of making decisions about getting somewhere and then bring it up again at the end with a different meaning than you used to start with. So whatever it is, it has to be the same at both points in time, at least in this one case. Or we have to explain why we redefined it to get to a solution, and then we redefine so we can change the solution where we are at. I'm just saying that, however we want to discuss it, this particular part of the Code can't answer his question because we did not use that to get to the solution all the way through the process, and we can't just start doing it now once we're here."

Chair Eck said, "Point taken."

Ms. Monahan asked, "Can you elucidate for me when we began. Is it in this case, in this park, or is it another City project?"

Mr. Funkhouser said, "No. This case. When it started out, it was the definition of like, are they separate parks, different projects. Are they one project spread over however many parks."

Ms. Monahan said, "I just wanted to make sure it was this one."

Mr. Funkhouser said, "It's this one. And that decision to broaden the interpretation of this part of the Code, along with whatever the definition of the project was, we made so that it would free our path to get to the archaeological monitoring outcome as a solution. And so it's actually, this was a similarly necessary step in order to get there, and whether we could get there without having that interpretation is doubtful. So, where we are, depends on where we started."

Ms. Roach said, "If I may interject one more time, just to be clear we're talking about the monitoring as a solution as an alternative means to performing reconnaissance on all the parks that don't already have clearance."

Mr. Funkhouser said, "That's right. If we don't make that interpretation that allows us to go to the monitoring option, we are back to the other which is a lot more expensive. The intent really was to relieve the City of as much burden as we possibly could."

Ms. Martinez said, "I don't know what the original intent was when the Code provision was written that suggested exempting parcels that were less than an acre. I don't know if anybody here was around when that was done, but I would be curious to know why that was put in place, for what purpose."

Chair Eck said, "None of us were here at the time. In fact, that was so long ago, most of the people who were involved at the time are probably deceased."

Mr. Funkhouser said, "I think it has to be with development and property ownership changes and that kind of [inaudible], or this project. But then again, back to the point, in the case of the park project it doesn't say parcels. It only says park projects greater than an acre. And so then that becomes what does that mean also."

Mr. Kluck said, "So my understanding is that entire section of the Code represents development lands which this is not. I think that's our argument, and that also, we have never been beholden to do monitoring on any project during the last 6 years which are numerous, for any park project under an acre, so why are we now doing that. That's the two arguments that I have."

Ms. Martinez said, "Those [inaudible] were for facilities. In terms of the definition of a project, we had told them the installation of a shade structure, the project is the development of a whole part and all the components that go along with it. I agree with Jason that it does tie into a full development plan for these larger projects, and anything less than that wouldn't require the same thing. And so, to me it's all going to a different category."

Chair Eck said, "I understand where you're coming from. Absolutely. But... Is there anything you want to interject at this point. I'm about to make one of my loud statements. The project encompasses however many parks are in this list, however many hundreds of acres that is, that is the project, that is how I see it, in order to get to monitoring as a solution, an alternative means of compliance for doing things differently. Otherwise, as has been alluded to, I think you need to do a full blown survey of the whole

thing, every inch that has not been surveyed. I don't have any other options. It's either identify by a survey, or we are willing to take a risk, and it is a risk, a big risk in certain places to accept monitoring as an alternative means of compliance. It's a very simple, straight-forward, cost effective solution that is the best we can come up with easily, without a tremendous amount of further debate."

Mr. Funkhouser said, "It is as far as we can go and be ethically responsible for what we're doing. We have no further ground to back up. We've pushed it as far as we can to get to this point. And, in fact anything more that, it would just be clear favoritism on the part of this Committee, and we can't have that."

Mr. Pierce said, "I'm in agreement that regulations cite the acreage of a project, not of a parcel. I don't know how parcel got introduced in this conversation, because it's not in the Code, and there is nothing substantively new in this argument from when we made our decision last time. If there was some new interpretation, then I might be open to it, but there isn't. It's just a question of whether this is one project or many, and I see it clearly as one. And I would also like to echo Mr. Funkhouser's concern here that, were we to approve this, it would certainly raise issues of favoritism that we are not holding the City to the same standard we're holding private developers to. And I certainly would not want to have private developers think that they can segment their projects out to avoid compliance."

Mr. Ivey said, "It looks to me like it's all one project, like we decided last time."

Mr. Kluck said, "I just have to say I'm confused about the whole debate about the project, because the whole section of the Code is in reference to development plans which we're not talking about, so it seems like it doesn't apply."

Mr. Funkhouser said, "Well that was my point. It doesn't apply. It's irrelevant, but we are here to monitor the thing, and the other thing is we're back to what a project is, which is back at sort of the front. And those are the choices."

Chair Eck said, "And while I agree that there is much that is tangled about the City's Ordinances and where things are under various large headings, and if that has to do with development, it is quite unfortunate. But the language we keep focusing on is all we have. An alternative would be for this Committee to throw up their hands and say, okay, we have no control over anything, there's no reason for our existence, we should all go home. We're either here to do something or we're not. I believe we're here to do something. And what we have done is to advise the City from the beginning. We have asked for clarification and more information, we have received that, we are very grateful of that. And we considered all of that and made a decision. We believe we have acted in the best faith possible for all parties involved, and we believe that our decision was rendered in open discussion and reached by all normal procedures and should reflect our sentiments at the time."

Chair Eck continued, "And we've heard members speak to the fact that they really don't feel any different now. So unless we have new information, we will consider this matter on the face of the information already at hand. And we would pursue a motion in the very near future if there is no new information to consider."



Ms. Roach said, "May I ask a question, and pardon my ignorance on this matter. But, thinking about the language of the Code and how confusing it is, and difficult to interpret, do City projects have to go before the Planning Commission. Do City projects have development plans that go through the Planning Commission."

Ms. Martinez said, "I think that's a question that we've been wanting to ask Zack, because we do have a couple coming up, and we actually asked the question among ourselves the other day. And ultimately, we decided that we would visit with you about that."

Ms. Roach said, "I think it speaks to a larger question that is a problem, potentially, with our Code. In the applicability threshold it does, as Mr. Kluck made reference to the fact that a clearance permit shall be required prior to the approval of a Final Development Plan for the following types of projects, and 2 of the 3 of those are City projects over 2 acres in size, and all City parks projects over 1 acre in size. But development plans are not required for City projects. And how does that work."

Mr. Kluck said, "I had a discussion with Tamara before she retired about the MRC, and this is just on that project, but her opinion was, in general they're not required for City projects. That's for what that's worth."

Ms. Roach said, "So in that case, if we had found that development plans are not required for City projects and that may or may not be a fixed assumption, then how do we apply 4-3.13(B)(2)(b) & (c) and B(3)(b) & (c). And I think, my suggestion is we have to apply 4-3.13(B)(2)(b) & (c) and B(3)(b) & (c) to projects in general and not just those requiring development plans."

Mr. Pierce said, "Lisa, I think we're beginning to debate whether this case should ever come before the Committee at all, but the fact is it did come before the Committee, and in absence of any new evidentiary argument, I think the outcome is almost pre-ordained."

Ms. Roach said, "My apologies for taking us down that road. I'm wondering how I can better advise City Staff and other applicants as to how to comply with these regulations which are rather difficult to understand."

Mr. Funkhouser said, "I just want to point out that because things have not been done in the past, does not mean they should not have been done and does not answer the question of whether they should come before the City or not. And certainly, if it has to do with funding *[inaudible]* under the Ordinance, however that was determined. And it would be interesting because I'm sure that signed contracts, where funding has been given, this topic has been a clause in the contract in terms of what compliance needs to be met, or what City Ordinances are followed or issues of segmentation of project scope. And somewhere in there is the solution or the answer to that question."

Ms. Monahan said, "I will restate something that I raised at our last discussion, in the past we discovered in retrospect that certain bureaus in the City decided they were exempt and proceeded without any kind of supervision. And, obviously, we can't exempt the City from things that are required from the general public. And we have to be very careful that in the future that City departments cannot arbitrarily

decide they don't need to comply, with not only our statutes, but the H-Board. It's a difficult issue and it's one of the things that preserves our uniqueness as a City and a wonderful place to live. So anyway, I think we need to be very careful."

Mr. Funkhouser said, "And some of it is not included either, so this is not only State laws, but in terms of Federal 106. If you have, for example a trail that goes to two points and the middle part has been funded entirely by local money, it is still 106 in its entirety. So that connection triggers that whole process."

Ms. Roach asked to what 106 refers.

Mr. Funkhouser said it is the federal cultural resource legislation.

Ms. Roach said it is the National Historic Preservation Act.

Mr. Funkhouser said, "If the City built the Convention Center with its own money but requires an exit ramp from a highway, that becomes a 106 because a ramp is required to get to the Convention Center and becomes part of the 106 process. When you come into any money, permits or any connection with the federal agencies they tend to *[inaudible]*."

Ms. Martinez said, "Let me ask one additional question, thinking of the future. As this project moves forward and it goes out to bid and the bids come in, depending on what we end up, we may not be able to complete the entire project. That has often been the case on lots of things that we work on. If it turns out that we're able to do the majority, but let's say we don't have enough for 2-3 shade structures, and those are on parcels of less than one acre, if we brought those forward at a different time, let's say, individually, as funding is available, how do you think the Committee would look at those. And I don't know if you have an answer to that."

Chair Eck said, "I think it is to rephrase what he just said. It's all part of the same project. If you do it now, or you do it in 2050, it's the same project, you're doing the same thing, in a park of the same plan, it's part of the same thing for which you drew pictures that produced plats of where you are going to put these things. It's approval of this plan, this plat, that we are dealing with, whether you do it this week or 50 years from now, is irrelevant. It's part of the same project."

Ms. Martinez said, "I guess I'm looking at it in the context of, there were severance tax funds approved by the State Legislature for these projects. Having dealt with capital outlay for 20 years at the State, I know how they defined project, and it was based on what was done at that particular point in time. But if you had to come back later on for supplemental funding, that was considered a separate project."

Chair Eck said, "The Legislature does specialize in making sausage."

Mr. Funkhouser said, "That is covered in this process, that you can have segmented funding parsed out over time from separate sources and still be part of the project. The project need not be simultaneous in time or contiguous in space to be part of a project."

Mr. Pierce said, "It does occur to me that the City could request a staged approval for all the parks that are not considered in here, and proceed with the other 29."

Chair Eck said, "And then the next one comes along as part whatever of the staged project. We can consider such things, and if brought to us, we will happily discuss it. Earlier someone asked a general question about how best to proceed, and I'll make a general answer. As soon as you can find available money, do surveys of every square inch of every park, get them cleared, do it now, then you don't have to worry ever again."

Mr. Kluck said, "We have had discussions with the Parks and Recreation Director about doing just that, and I don't know anything about the funding, but that discussion definitely is happening and it would make a lot of sense."

Mr. Funkhouser said the City has a Historic Preservation Division, and is a stakeholder in many of the City's projects. It might not be a bad idea to let them know ahead of time and you could possibly circumvent some of these, or get ideas of where potential problems may arise before we get it here."

Mr. Kluck said, "We are actually under contract with Ron to tell us what the status is on all the other parks in town, so we know whether they're clear or not. That's actually already happening, so we can hopefully know very soon what is cleared and what isn't."

Mr. Funkhouser said, "It's better financially in the long run to do it all at once because you parse it, and then you start a cost of the project, and things are getting more expensive every time to do so."

Mr. Pierce asked, "Did the original table contain a large number."

*Too many people talking here at the same time to transcribe*

Ms. Monahan said the majority of them are already cleared.

Mr. Pierce said we're talking about 11 parks.

Chair Eck said, "Yes, which would make one swift project, and it may not be a deal breaker and somebody could survey them all, write one report and we're out of here."

Ms. Roach asked for a point of clarification on that, and Chair Eck said yes.

Ms. Roach asked, "If the Parks and Recreation Department were to go about obtaining clearance on all parks, would that include all parks under an acre as well."

Chair Eck said, "It seems to me the responsible thing to do is to clear everything you're ever going to do anything with. It's very cost effective to add one acre to something that is already 20 acres in size, than to come back later and have to rethink it, and in fact, I truly believe City staff has spent more money considering this than it would take to actually go do the survey of those 5 one-acre parks. You've probably

spent more money than it's going to cost Ron to monitor all of these things. To put it in perspective."

Mr. Funkhouser said you can do 30-40 acres in a day, so we're really not talking about much at all.

Chair Eck agreed saying, "Very little, in fact. And having done so, the City could run the flag up the pole and say, hey, we are 100% complaint for parks."

Mr. Shandler said, "I would say that this group here is trying to rewrite the Code. It's hard, and that's one of the reasons it hasn't been rewritten in decades. And one of the hard things is that, for general jurisdiction in laymen's term is, when someone pokes a hole in the ground, it disturbs the ground and it turns out the City has an arm of the City that does a lot of that stuff. So, negotiating that relationship, which is two arms of the City, is one of the reasons why this is hard, and why this Code hasn't been rewritten for a long time. But this group is actually undertaking that, so if you have some suggestions on cleanup language to make it better, then the iron is hot, and this would be time to do that"

Chair Eck said, "This is the time. We do want to remove all the muddiness from this thing that we can. And the fact that this statement about what the City is required to do under this Ordinance is buried under a bunch of language that seems to make it apply only to development plans and other things is really bad writing. It just needs to be someplace else. And we'll just cut and paste and put it someplace else."

Chair Eck asked the Committee if it is ready for a motion.

Ms. Monahan asked if we could consider staged presentation.

Chair Eck said, "I need to see it on paper, and it needs to be an item we can consider. Talking about it in the theoretical isn't going to get us anywhere."

Ms. Monahan said then that would mean a delay of another two months before we could have something in writing.

Mr. Winters said if it was staged, and part of it had to put off down the road, and your understanding is that monitoring is acceptable for this project, what happens if there is a different committee then, and they decide oh no, that doesn't work.

Chair Eck said, "As far as I can tell, if we decide and it's in the documentation, this is what is going to happen, that is what is going to happen, I don't think anybody would have any business opening things up and changing a previous commitment, just because. Now Zack can tell me whether I'm all wet. But as far as I know, this Committee as currently populated has never opened anything anybody else did and changed it."

Mr. Kluck said, "I think I can answer that. Lisa, I appreciate your concern putting that up, but I think it may be irrelevant to this case. Since the beginning, we've basically had the understanding with PARC and the Legislator involved, that we're going to address as many parks as we can with the money

we have, and there won't be a continuation of the project. If there is, it will be a different project which will have to come for you to consider in the future when more severance tax bond money becomes available. So we're going to do as many parks as we can. And whatever else happens in the future will be a new project that will come before you, depending on how the Code is written. That's my take on it. So yes, we may be 26 and we may be 37, and some of them may be 13 acres, and some 1 acre, we don't know. We have to look at the logistics once we get the bid back for how much the contractor wants to charge for each installation. That will be a big determining factor on how much we can do."

Mr. Ivey asked if you are ready to put this to bed.

Chair Eck said yes, unless the Committee wants to raise other matters for discussion.

Mr. Ivey said we have no revision.

Chair Eck said, "Then we would make a motion to reconsider the case and then take a vote, yea or nay. Correct. Any guidance there Zack."

Mr. Pierce said it seems to him there are two motions: either to reconsider the case, or not to. It would make sense to reconsider and let that vote play the way it will.

Mr. Shandler said, "That is one possibility. Another possibility would be for someone to make a motion to reconsider and send it to the Council. He said it depends on how you want to move forward."

Chair Eck said, "Then if we don't do anything, nothing is changed. We just spent 45 minutes talking about it. If we take a motion and take a vote to do something, then we'll have a new item in the record."

Mr. Shandler said yes.

Ms. Roach asked if they can move to retain the conditions that they placed on the approval last time.

Mr. Shandler said, "Under Mr. Pierce's idea of a two prong motion. The first would be a motion to reconsider, all those in favor yes, so it's back off the table at that point. So you could make a motion to reinstate conditions from the vote at the July 15, 2015 meeting. That's one approach. Or you could just take no action for lack of a motion."

Mr. Funkhouser said he doesn't think we need a motion for an action that is already an action item, and then another motion to deal with it. He said we haven't made motions for other action items.

Chair Eck said, "Since it's on the agenda as an action item, I sort of feel like the interpretation of it being reopened for reconsideration has already been made because it's an action item. So it seems to me that virtually any motion, and the yeas and nays will make it clear what happened."

Chair Eck said, "Hearing no motion, Case #AR-22-15 dies right there."

Ms. Martinez thanked the Chair and the members of the Committee.

Chair Eck thanked Ms. Martinez for coming to the meeting, and said he hopes the Committee can come up with a solution on the Ordinance side of it so we don't have these kinds of issues.

Ms. Martinez said, "Yes. We will come up with solution in the rewrite so it is clear to everybody."

Ms. Monahan said that's what we want to do, commenting that this language is confusing and "it is a mess. And we're trying to fix it."

2) **CASE #AR-23-15. SUBURBAN ARCHAEOLOGICAL REVIEW DISTRICT, ARCHAEOLOGICAL RECONNAISSANCE REPORT FOR A PLANNED EXTENSION OF THE ~~ARROYO CHAMISO~~ TIERRA CONTENTA TRAIL. GERRY RAYMOND FOR THE CITY OF SANTA FE. (LISA ROACH)**

**BACKGROUND & SUMMARY:**

At the request of Santa Fe Engineering Consultants, LLC, on behalf of the City of Santa Fe, the consulting archaeologist conducted archaeological reconnaissance within a project area covering 24 acres. The City of Santa Fe plans to extend the Tierra Contenta Trail from its current terminus approximately 400 ft. west of Buffalo Grass Road, meandering 2,080 linear feet to a point on South Meadows Road. No cultural resources were observed during the visual survey of the property, which consists of lands owned by private parties, on which easements will be acquired by the City of Santa Fe for the trail extension. The archaeologist noted heavy erosion and modern disturbances, which could have obscured any cultural features that may have existed previously. No further archaeological investigation is recommended.

**STAFF RECOMMENDATION:**

Staff recommends approval of the reconnaissance report as it meets the intent of the City of Santa Fe Archaeological Review District Ordinance (14-5.3), the requirements of Archaeological Clearance Permits (14-3.13(B)(3) and the requirements of performing reconnaissance (14-3.13(C)(5).

Chair Eck noted the Staff Report in the Committee packet.

Gerry Raymond said he really has nothing to add. He said you are familiar with the area out there, so you know what we handled there. It had been surveyed as part of another water line previously, but it was more than 10 years old. This is the reason it was resurveyed and they found the same thing as they found previously.

Chair Eck asked, "Point of clarification. We you asked about that and provided an opinion and they followed your opinion, or was it determined before you ever came along."

Mr. Raymond said they relied on his opinion of what should be done. He said he doesn't know if the City has the 10 year standard, noting that is HPD's standard.

Chair Eck said the City is subject to all the rules of the State and the 10 year thing was a wise and prudent stipulation to consider prior to an action. He said you are always free to consult with the City's archaeological expert on such matters, so it doesn't have to be him alone making the call.

Mr. Raymond said if the conditions had changed from the prior survey it would be a good argument, especially if it is still close to 10 years. He said if there has been a lot of erosion has occurred or the conditions changed substantially, you certainly need to do another survey. And in this case, where this is located in the arroyo, a lot can happen. He said as a point of procedure in the future, if he thinks a call needs to be made by someone in a review capacity, then he contacts that agency. He asked if Ms. Roach would like for us to do that, determine that survey doesn't have to be done even if it's 12 years old, because he looked at and conditions haven't changed, there's no more erosion. He said the only problem with that is sometimes the report doesn't adequately describe the conditions at the time. He said these are all things that can be worked out easily if you are conscientious about it.

Mr. Winters said you also could be opening a whole can of worms – what about surveys that were done by someone that didn't do an adequate job.

Chair Eck said, "In every case, just because it's brown on the ARS map does not make me say, oh we don't need to do a survey. I would look to see who did it, who did, when they did it, how they did it and if anything doesn't pass the smell test, we do it again."

Ms. Roach said that's a tough one for her to deal with. She said if the Code doesn't specifically say if a survey is 10 years old, it has to be redone, then she can't require that to happen.

*[Too many people talking at the same time to transcribe]*

Mr. Raymond said it's a guideline by HPD. He said he understands what she is saying. He said, "And don't take this the wrong way, but as a reviewer, unless you want to go out and make a full inspection, that report stands as a survey. We all may know, as a practical matter, that the quality of that survey may vary with the performing institution. But if you have no reason, or knowledge at that time that it was not done to standards, it is hard to challenge a survey. It has to be accepted at face value."

Ms. Roach said, in theory, for most clearance permits issued by the City, we say are good in perpetuity, and the lot is cleared unless there are special conditions attached with the clearance.

Mr. Raymond that is the issue with the word Ms. Roach used in her advice to the City, "You're cleared forever."

Chair Eck said that is true under the City Ordinance.

Mr. Ivey said, "My feeling here is that you are dangerously close to stepping on your own tongue when you said that we would never reconsider a previous ARC decision."

Chair Eck said he isn't going to undo anything he did and make somebody go back and do something they did in good faith under that decision. He said from this day forward, we can decide whatever we're going to decide, it's our baby, but "last year's baby is a done deal."

Mr. Ivey said, "Okay, except unless you didn't like the way the survey was done 10 years ago."

Chair Eck said, "If it doesn't meet current standards, is the way the regulations read. If the thing offered does not meet current standards, it needs to be redone, that's essentially what it says in a convoluted way."

Mr. Raymond said, as a word of warning, your clearance wouldn't get by HPD at a 15 year survey.

Chair Eck said he knows that, and the Committee is fully aware of it. He said we need to talk to HPD a whole bunch in doing this.

The Committee and Mr. Raymond continued to debate under what circumstances a survey would have to be redone.

**Tess Monahan**

Ms. Monahan said she has no further remarks or questions.

**Gary Funkhouser**

Mr. Funkhouser had no remarks.

**Derek Pierce**

Mr. Pierce noted one minor correction on page 5, paragraph 1, line 4, change "consist" to "consistent."

**Jake Ivey**

Mr. Ivey said he has no comments.

**Chair Eck**

Chair Eck said he has no comment.



**MOTION:** Tess Monahan moved, seconded by Gary Funkhouser, with respect to Case #AR-23-15, to approve the Archaeological Reconnaissance Report for a planned extension of the Tierra Contenta Trail, as requested by Gerry Raymond, with the aforementioned correction, as it meets the intent of the City of Santa Fe Archaeological Review District Ordinance (14-5.3), the requirements of Archaeological Clearance Permits (14-3.13(B)(3) and the requirements of performing reconnaissance (14-3.13(C)(5).

**VOTE:** The motion was approved unanimously on a voice vote.

3) **CASE #AR-08-15. HISTORIC DOWNTOWN ARCHAEOLOGICAL REVIEW DISTRICTS. ARCHAEOLOGICAL MONITORING REPORT FOR THE CENTURYLINK PROJECT AT GRIFFIN STREET AND PASEO DE PERALTA. RON WINTERS FOR CENTURYLINK. (LISA ROACH)**

**BACKGROUND & SUMMARY:**

At the request of Rochelle Abeyta of CenturyLink, Ron Winters conducted archaeological monitoring of 120 linear feet of trench excavated along Griffin Street and 60 linear feet of trench excavated along Paseo de Peralta for the purpose of installing new fiber optic facilities. At the intersection of Griffin Street and Paseo de Peralta and at 400 Griffin Street, handholes were placed. The project involved horizontal boring beneath Paseo de Peralta for a total length of 165 linear feet. The archaeological consultant examined the fill and trench walls as the trenches were excavated and documented any cultural resources that are exposed. During the course of monitoring, one site (LA 182722) was recorded in the trench and included a lens of 48 artifacts identified as an historic trash scatter/refuse pit dating between 1880 and 1950 AD. No further investigation is recommended.

**STAFF RECOMMENDATION:**

Staff recommends approval of this monitoring report, as an alternative method of compliance with Section 14-3.13(C). The report will require final approval from the State Historic Preservation Office, as the project area falls within the City right-of-way requiring 4.10.17 NMAC Standards for monitoring to be met.

Chair Eck thanked Ms. Roach for the Staff Report in the packet and asked if she has anything to add to her report, and Ms. Roach said no.

Mr. Winters said there varying degrees of sand and coarse sand. He said they are paralleling the sewer line there, noting at the corner of Griffin and Paseo there was fill, which definitely was disturbed.

Mr. Winters said the bore was longer than originally proposed due to a concrete storm drain, and they had to be able to directional bore underneath. He said very few artifacts were found along Griffin Street which he thinks is because of the trench from the sewer line that paralleled it.

Mr. Winters said he did mark a site because of the age of the artifacts, and thinks it's important that we know where these deposits are downtown. He said it wasn't like what you would see in other projects, but the variation and the artifact classification were the reason.

Chair Eck said this is the only tool we have to make sure it gets into some record somewhere, and Mr. Winters agreed.

**Tess Monahan**

Ms. Monahan said she has two pieces of errata she will give him. She asked if it is lens or lense, noting Mr. Winters used it both ways.

Chair Eck said it depends on which dictionary is used, but it probably isn't in Webster's Collegiate.

Ms. Monahan said she has no further comment.

**Gary Funkhouser**

Mr. Funkhouser had no comment.

**Derek Pierce**

Mr. Pierce said he has one semantic issue to raise. He said in the Abstract, page 2, paragraph 4, he says, "The site was found to be noncontributing and ineligible for the National Register of Historic Places." He said the only person who can find a site to be ineligible for the Register is the keeper of the Register. Everyone else recommends.

**Jake Ivey**

Mr. Ivey had no comment.

**Chair Eck**

Chair Eck had no comment.

**MOTION:** Gary Funkhouser moved, seconded by , with respect to Case #AR-08-15, to approve the Archaeological Monitoring Report for the CenturyLink Project at Griffin Street and Paseo de Peralta, with the aforementioned change, as requested by Ron Winters, as an alternative method of compliance with Section 14-3.13(C); the report will require final approval from the State Historic Preservation Office, as the project area falls within the City right-of-way requiring 4.10.17 NMAC Standards for monitoring to be met; and to forward a copy of the report and notice of this approval to the New Mexico Historic Preservation Division, as per NMAC 4.10.7.

**VOTE:** The motion was approved unanimously on a voice vote.

## **G. DISCUSSION ITEMS**

Chair Eck recognized Gerry Raymond.

Mr. Raymond said he has a general question of Ms. Roach and the Committee. He said, "When you review these in terms of the Code, do you even consider whether it's also compliant with the State regulations."

Ms. Monahan said we have no jurisdiction with the State, period.

Chair Eck said, "In a beautifully structured universe, the City would have some role to play and do some consultation with the SHPO on such matters, but we, being a volunteer arm, have a limited number of things we're supposed to do."

Mr. Raymond said there is transect spacing which is a big difference, and "the age is the killer, 75 years versus 50." He said the reason he is asking is whether the Committee wants to see language that says how we resolve those conflicts, or do you not worry about that.

Mr. Pierce said if you are cognizant that the report will also go to SHPO, then you better include it. He said, "My interpretation is that this Committee is here to interpret the application of this Code, even when we don't necessarily like all of it."

Mr. Funkhouser said it would be in everyone's "most convenient interest," if our report and stuff did follow the HP guidelines, so you wouldn't have to worry about that. He said it would be better for everyone if it was the same.

Chair Eck said this already has come up several times in the Subcommittee discussions, and one "solution to a lot of strangeness is to just to put, early, a clear statement in the Ordinance that says all the State Rules and Regulations apply." He said we don't want to have an 80 page Ordinance.

Chair Eck said they have removed some of the language, and it is a little smaller, and they are working on the Ordinance in pieces. He doesn't know what it will be at the end of the day. He said it appears to him that we're "chopping some redundancy out of it, making it simpler, and taking out all the detailed citations to sections and subsections, and making general citation back to the body of the document and/or the body of the Statute, instead of getting lost in the weeds, because that's an editorial nightmare when there are changes. And if you don't do it, it's there."

*Mr. Winters' remarks here are inaudible for the most part because of noise overlay*

Mr. Winters said with regard to the first case, Ms. Roach has the revised table with those 5 added parks if you would like that for your records.

Ms. Roach said it was included in the packet.

**H. MATTERS FROM THE COMMITTEE**

There were no matters from the Committee.

**I. ADMINISTRATIVE MATTERS AND COMMUNICATIONS**


There were no matters from the Committee.

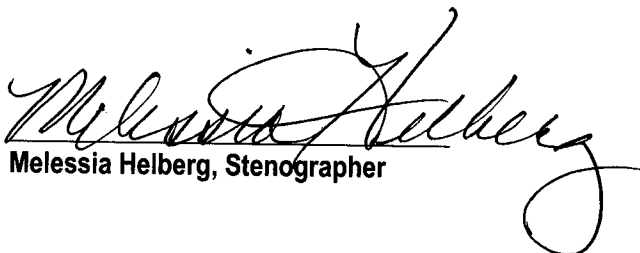
**I. ADJOURNMENT**

There was no further business to come before the Committee.

**MOTION:** Jake Ivey moved, seconded by Gary Funkhouser, to adjourn the meeting.

**VOTE:** The motion was approved unanimously on a voice vote, and the Committee was adjourned at approximately 5:45 p.m.

  
David Eck, Chair 9/3/2015

  
Melessia Helberg, Stenographer