



Agenda

ARCHAEOLOGICAL REVIEW COMMITTEE HEARING

THURSDAY, June 16, 2016 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: May 5, 2016 and June 2, 2016
- E. MATTERS FROM THE FLOOR
- F. ACTION ITEMS
- G. DISCUSSION ITEMS
 - 1. Discussion of the Santa Fe Archaeological Review Districts Overlay Zoning Ordinance Draft (Section 14-3.13).
- H. MATTERS FROM THE COMMITTEE
- I. ADMINISTRATIVE MATTERS AND COMMUNICATIONS
 - 1. Reminder to submit a letter of interest to renew term.
 - 2. Review Geodatabase
- J. ADJOURNMENT

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ARCHAEOLOGICAL REVIEW COMMITTEE HEARING
Thursday, June 16, 2016

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
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APPROVAL OF AGENDA	Approved	1
APPROVAL OF MINUTES:		
MAY 5, 2016	Approved	2
JUNE 2, 2016	Approved	2
MATTERS FROM THE FLOOR	None	2
ACTION ITEMS	None	2
<u>DISCUSSION ITEMS</u>		
DISCUSSION OF THE SANTA FE ARCHAEOLOGICAL REVIEW DISTRICTS OVERLAY ZONING ORDINANCE DRAFT (SECTION 14-3.13)	Information/discussion/direction	2-18
DISCUSSION OF SHIFT TO ONE MEETING PER MONTH	Information/discussion	19
MATTERS FROM THE COMMITTEE	Information/discussion	19
<u>ADMINISTRATIVE MATTERS AND COMMUNICATIONS</u>		
Reminder to submit a letter of interest to renew term	Done	20
Review Geodatabase	Do individually by appointment	20
ADJOURNMENT		20

**MINUTES OF THE
CITY OF SANTA FE
ARCHAEOLOGICAL REVIEW COMMITTEE HEARING
City Councilors Conference Room
June 16, 2016**

A. CALL TO ORDER

The Archaeological Review Committee Hearing was called to order by David Eck, Chair, at approximately 4:30 p.m., on June 16, 2016, in the City Councilor's 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

Nicole Ramirez-Thomas, 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

MOTION: Jake Ivey moved, seconded by Tess Monahan, to approve the Agenda as presented.

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

D. APPROVAL OF MINUTES: MAY 5, 2016 AND JUNE 2, 2016

MOTION: Jake Ivey moved, seconded by Gary Funkhouser, to approve the minutes of the meetings of May 5, 2016 and June 2, 2016, as presented.

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

There were no action items.

G. DISCUSSION ITEMS

**1. DISCUSSION OF THE SANTA FE ARCHAEOLOGICAL REVIEW DISTRICTS
OVERLAY ZONING ORDINANCE DRAFT (SECTION 14-3.13).**

Ms. Ramirez-Thomas said she put together a draft of some things she and Mr. Shandler put into the draft. She said the Committee also needs to discuss the format for presenting the draft to the public.

Zachary Shandler, Assistant City Attorney, said he would refer the Committee to packet page 13 on the lower right-hand side. He said page 13 is a continuation of the applicability section. He said, regarding utilities, for downtown, it is now going to be any ground disturbance, and for River and Trails it will stay at 500 feet. He said Ms. Ramirez-Thomas added language on lines 14-22.

Mr. Shandler gave examples of recent cases, and the related issues.

Mr. Shandler asked Ms. Ramirez-Thomas to explain lines 14-22.

Ms. Ramirez-Thomas said her thought on this was concerning the issue where there is a section of 110 feet just outside the downtown area, but there is still a fair amount of resources within the immediate region. She said the linear feet doesn't address that and she doesn't think there is the political will to extend the boundaries of the downtown area. She said this is one suggestion "to be more archaeological in approaching this area."

Mr. Shandler said lines 14-15 are the specific approach for more than 500 feet, which is "to get the ruler out, that's simple." He said, "For the intellectual approach, we have to have a further discussion where there is anything located within 50 feet of any direction and how that can be confirmed."

Ms. Ramirez-Thomas said there are several ways it can be confirmed. She staff can do that, even if there is not in an archaeologist in the position of Senior Planner, commenting staff easily could confirm or deny the location of existing resources. She said in NMCRIS there are actual boundaries, rather than the general location. She said another way to do that would be for the municipality to qualify an individual to be able to look at the research information, which would be a quick check on the map. There has been discussion of an on-call archaeologist for the City. She said the Water Division has something like an on-call archaeologist and doesn't believe it is onerous in terms of cost.

Mr. Shandler said, to play-act on how it really works, "Say Nicole, it turns out that mine is 500 feet, but now that I read this proposed language, it's 500 feet, but I think there is a resource located within 50 feet. The background research shall determine the location and proximity of the archaeological site for the project area. Either Nicole could do that through her super computer, or maybe I have to do some additional research before I put my application in. And then let's say I do that additional research. And should the resources exist within 50 feet of the proposed project or projects, monitoring the work within the vicinity of the resource is required. So Nicole, my section is only 500 feet, but it turns out that I have a resource within 50 feet so, oh now I've got to do monitoring. And you're going to say yeah, that's how it reads, right,"

Ms. Ramirez-Thomas said yes but not for the entire segment necessarily.

Mr. Shandler asked how that works.

Ms. Ramirez-Thomas said if you have an archaeological site that is less than the 50 feet of the prescribed area, the boundaries of the site, the buffer would need to be monitored, but not necessarily several days of monitoring the trench. She said another thing to consider in including this language is that it exists currently that pre-application conferences are an important part of complying with the Archaeological Ordinance, but that doesn't happen. She said this also might aid in helping people to plan before their project begins.

Mr. Shandler said, "To continue to play act in this for another minute, I say oh Nicole, it doesn't say anything about... monitoring the work doesn't say some of the segment, so I'm confused, and you're saying now that I only have to do some of it."

Ms. Ramirez-Thomas said she would say that she would hope we can work that out here, and be more specific with the language.

Mr. Shandler said he wrote the last sentence for people to "shoot down or accept as they like." He said what happens in the fact pattern, if they have two different projects, one you said I think was 410 and another was something, but if you combined them all together it is greater than 550 feet, you have to look at them separately. So the language he suggested is, *"Each segment will be analyzed on its own measurements and it does not matter if the segment is an individual project or part of a larger project."* He said each segment will be analyzed on its own measurement, and it does not matter if the section is an individual project or part of the larger project. He said that might be language that the Water Division likes, "each snowflake is different, and you don't have to put them together." He said, "It doesn't matter if it was bid out by the archaeologist, it doesn't matter if it is part of the same bid package, you just take out a little more for each one. And if each one is less than 550 feet, it doesn't matter."

Ms. Ramirez-Thomas said approaching it by looking at the resources with an area gives the opportunity for allowing consideration of a certain number of feet of the project area, and it also gives the opportunity for any resources to be protected, even if the segment is under 550 feet.

Mr. Shandler said he has 3 threshold questions: 1. Do you like the 550 or the resources. 2. If you do like that for resources as known, what process are you comfortable with the archaeologist going through. 3. The final sentence, do you want to view each snowflake separately, knowing that the Water Division might like that approach.

Ms. Monahan said, "I think the language is onerous, it is prohibitive and absolutely will slow the process and one of the things that keeps the Ordinance from being adopted." The reason she is worried about this language is that is for the last year, we haven't had a staff person. She said, "Then what happens is it's dead in the water and nothing can be done. I like the last sentence, and I like 550 period. That's my opinion."

Mr. Funkhouser said his concern is if there is a 3 year plan on PNM, and all are just under 500 feet, then we would end up with miles of trenches not having been looked at it all, in terms of what might or might not be there. He said if it is going to be left open, there has to be some kind of protection against that, otherwise there is nothing to stop somebody who is coming in under the threshold constantly. Then there would be no knowledge by this Committee of what is happening out there.

Mr. Pierce said he doesn't like any of it as written. He said the 550 feet is from the previous version and thinks we need to keep that. He appreciates the intent of the 50 foot buffer, but has serious reservations about whether it is practical and how it would work.

Mr. Pierce asked, for clarification, if a proposed project goes through a known site, as opposed to 50 feet away from it, if they already are required to monitor it.

Ms. Ramirez-Thomas said not if it is less than 550 feet, then we don't know, and nobody has done investigation.

Mr. Pierce said that is a terrible omission on our part.

Ms. Monahan said it's the way it is anyway. She said we have to rely on people being honest in their execution of the work. She said we're not going to be out there. It is all based on confidence and trust, and if we try to impose another level of trust, it is going to be very difficult to get this passed, and we will have people who will be scofflawing the law because they can't comply.

Mr. Pierce talked about a worst case scenario where they want to do a 1,000 utility trench that goes right through the middle of a known site, but in the middle of the 1,000 is a road and they're not going to trench that road. They then claim it's 500 feet on one side and 500 feet on the other side, and they don't monitor at all and they are destroying a site we've already documented. He said, "If we're not monitoring known sites then what are we doing here, why are we recording it in the first place."

Ms. Ramirez-Thomas said with the 550 feet there is no mechanism to evaluate or check that because often, as stated earlier, it is already part of the Ordinance at the pre-application meeting, noting people aren't coming in for that. She said when she isn't in this position, or the position is vacant, David is there, or somebody is in the office.

Mr. Pierce said if Ms. Ramirez-Thomas is telling him there is no requirement in the City Code to monitor known site sites, he sees nothing that prevents, for example LA 1051 from being hacked to death by trenches less than 550 feet by numerous projects, none of which meet the threshold.

Ms. Ramirez-Thomas said to many people the 550 feet is onerous anyway. It doesn't matter what the threshold is going to be, that's going to be their sentiment about it.

Mr. Pierce said LA 1051 is actually downtown, but the point is the same. He said he understands "the 50 foot thing."

Ms. Ramirez-Thomas said it doesn't have to be 50 feet.

Mr. Pierce said that's presumably because documented boundaries on the surface don't always agree with what is subsurface, and you would create some buffer. He said given the number of sites in Santa Fe he thinks that could be problematic.

Ms. Ramirez-Thomas said it could be 10 feet or 5 feet.

Mr. Pierce said maybe it's just within the known boundaries of the site, and maybe we should address that. He said rather than what is near a site, we ought to be worried about what goes through the site. He said you still have the same thing – who is going to check and when.

Ms. Ramirez-Thomas said she doesn't hear about the projects that are under the threshold, they just happen.

Mr. Pierce said it is important to keep in mind that so many of the boundaries of Santa Fe are these sub-scene circles. So when we are talking about in or through the boundary of a known site, we don't mean the GIS boundary. We need the actual boundary that applies on somebody's site map. He said you would have to go to the records, not to the data base, because the data base is just too inaccurate. He said he gets the intent, but he doesn't see a workable solution for it yet. He asked if other Committee members have an alternative.

Mr. Ivey said unfortunately, his attitude toward this whole thing has always been that any intrusion into the dirt requires monitoring, anywhere, anything even vaguely having to do with the historic footprint of Santa Fe. So, playing games with 550 as opposed to 549, what site we know about – all of that stuff is meaningless to him. He said it is not good that anytime we do any kind of dirt work we run the risk of destroying something without having done the slightest mitigation. He said this City has a huge, long record of destroying its past. He said, "Essentially, I've been avoiding being involved in this because the philosophy behind the structure of it is contrary to what I believe is the way to do it. And, therefore, don't ask me my opinion about this."

Ms. Ramirez-Thomas said previously she mentioned she looked at other municipal ordinances, and many of them don't directly, or at all, address the utility and don't address monitoring for utility line. However, they do have mechanisms that require that preliminary research is conducted. She said many of them don't have archaeological review committees. She said the preliminary research is conducted, it is brought to a body for review to determine the next steps for a project. She said while different and more restrictive to some, this actually could be a very freeing element in some ways, but it doesn't address 'the every time that you dig into the dirt somebody is looking at it either.'

Mr. Funkhouser said it would be excellent if the City had someone who could do this. He said the way the DOT deals with this is that any utility project on any State or Federal Highway right-of-way in the State has to be vetted first. He said he does that for all of them.

Ms. Ramirez-Thomas said she is hoping, and does think it is a possibility, to have an on-call archaeologist to do preliminary reviews. She said that would be much less costly for every division in the City, because then the division will know what they're getting into. She said in large part some of the challenge with people complying is that there is not a link that allows them to get a handle on what their project actually entails. So at the point where they are already in it, and funds are budgeted for everything, and they hear they have to do something in addition, it then becomes a problem. She thinks an on-call archaeologist definitely is something the Committee should discuss with the Land Use Director, or other divisions.

Mr. Shandler said he is curious, when she talks about vetting, if that means you will do research but also "you put on a hard hat and monitor everything."

Mr. Funkhouser said no. He said does background research for every utility project for the DOT, which is about 100 per month on State Highways state-wide. He said the regulations require those companies to do a blanket survey, but they don't have the people to do it. He said, "We make up for it by doing it ourselves, and they make a decision as to whether they have to monitor or do a survey." He said only a small percentage actually requires him to do research.

Mr. Shandler said, "To be deliberately provocative, let's say we adopt member Ivey's approach about any ground disturbance anywhere. If this is the case, what would be the process. Does the Water Division call Ron Winters to do preliminary research, or what."

Ms. Ramirez-Thomas said as it stands now, since there is no on-call archaeologist, they would have to call. She said the Water Division has extended contracts similar to an on-call archaeologist. So they would call Mr. Winters, and tell him they're getting ready with this project, and to please investigate what sites are located in the area of each of these segments. She said Mr. Winters could do that and send it to City staff and not present it formally to the ARC, but staff could present it to the ARC and then there is a discussion about what are the next steps for monitoring this project.

Ms. Monahan said it is too cumbersome.

Chair Eck said it certainly will be perceived that way.

Ms. Ramirez-Thomas said she thinks it is easier but does think it would be perceived that way as well, so we have to approach it differently.

Chair Eck said, "It is easier, but we can't get along with each other across the street, let alone across the ocean, so it ain't really likely going to happen in a peaceful way here in the City Different."

Chair Eck said he would echo what Mr. Funkhouser said, that the last sentence institutionalizes a violation of federal law at the State and local level. It allows people to segment projects, commenting he doesn't like the sentence. He does like the concept of nearness to the archaeological sites as a trigger for heightened concern, and that ought to be the automatic heightened concern of any responsible contractor to let them know what they're facing. He said ultimately, it sets up a situation where, if there is an on-call person providing information to City staff that may provide some coverage, but City staff would be vetting the work of another. But if it falls into an automatic so and so said, therefore, we haven't gained anything by having an on-call person, because "so and so can say any cotton-picking thing he wants."

Ms. Ramirez-Thomas said there could be several mechanisms for presenting the preliminary information – a short letter report to the ARC for all members, or to be given to staff to be put in the ARC meeting packet for discussion. In other words, how that information could be provided in a clean manner.

Ms. Monahan said then currently there is a mechanism in place to do a pre-contract review which is not being utilized. She said if that is true, why don't we put it there, "not there." She said we have this data base that we have designed specifically to address utility lines, so why is this necessary.

Ms. Ramirez-Thomas said in regard to the data base, the problem is that, in its current state, it is not complete on any level.

Mr. Pierce said it is in the Historic Downtown section.

Ms. Ramirez-Thomas said no, noting there are 3 different levels of completion and none are done to 100%. She said the data base eventually can function if you want to continue to make payment. However, the challenge is in getting the money, having the time and the staff to input the past data to get it to the point where it is reliable and complete. She said right now she can check it and it may or may not be there. So then there is still the checking of the files. She has spoken with Mr. Rasch about getting an intern to help complete the scanning. She said it's not impossible, however it isn't complete so it can't be used.

Ms. Monahan said there is a mechanism in place that isn't being utilized for this plan function. She said to "back-door" it this way and try to breathe life into a mechanism that has withered is duplicitous. She said we need to make the Ordinance straightforward, and easily understood by anybody. She said people are doing work who have different missions than preserving archaeology, so we want to make it possible for them to do that so they don't ignore it completely. She thinks it should be discussed "in whatever place that is."

Mr. Pierce said he has no answer, but he can suggest a slight tweaking of when does it get monitored. He said the biggest shortcoming with this is if they are in or near a known site. He said as it reads now, that would trigger them to monitor the entire length of the project, even if it is 5,000 feet, and we don't want that obviously. He said perhaps we could insert language that provides that when a project intersects a known site which has been determined to be significant or the significance is unknown, that you must monitor all activity within 50 feet of that known resource. At least that reduces the "monitor the whole trench problem," and following other standards, if it isn't a significant site, you don't have to monitor it.

Ms. Monahan said if it's not in the data base then no archaeologist can find it unless they just happen to know.

Ms. Ramirez-Thomas said there is also the question of what is considered significant. She asked if we're talking significant in regard to NRHP, or are we talking about significance to the City of Santa Fe. She said we need to discuss that in the Ordinance, because it isn't clear.

Mr. Pierce said every recordation of a site in Santa Fe is supposed to make a recommendation for significance or not. However, he doesn't know if that is done.

Ms. Ramirez-Thomas said people make recommendations based on what is in the LA form and don't address significance to the City. She said we need to ask people to do that.

Ms. Monahan said making this a requirement is not going to help.

Mr. Pierce said if all we're doing is identifying sites and not preserving them, then why bother.

Ms. Ramirez-Thomas said she has been asked lots of time why we care about another piece of blue glass being dug up in a trench, and why we care about another piece of pottery that is out of context. She said one of the things we can do with the future CLG grant, and we should consider doing, is the archaeological context for the City of Santa Fe that evaluates all the work that has been done in the City so far. We can then develop research questions going forward so the work done has relevance, impact and opportunity to reach out into the community and garner

She said one of the biggest challenges is people don't understand why archaeology is interesting and pertinent and is important.

Mr. Pierce said the best way to address Ms. Monahan's concern and not make this onerous, is to set the bar for a significant site pretty high, because most sites are just a scatter of 100 pieces of historic glass, all in reburied context or disturbed context. And we end up agreeing with the recommendation that it is insignificant, despite a fairly high number of artifacts. He said we don't want to require this for every piece of a broken bottle, but we do for large sites with intact deposits.

Ms. Ramirez-Thomas said the question is does the linear feet serve people and the concerns of ARC.

Chair Eck said it doesn't serve our concerns, but it is, unfortunately, the mode of design as a means to get attention, without requiring attention every day, all day. He is curious about the 550 feet because it is an odd number.

Mr. Funkhouser said perhaps we could use depth instead of length.

Chair Eck said depth has a lot to do with everything. And if you're just scratching the surface with shallowly-laid fiberoptic line, as opposed to one being located 6 feet below the ground, he has no idea how to institutionalize that.

Mr. Funkhouser said we just have to trust the system, which we do all the time anyway.

Mr. Pierce said, for example, a project of 500 feet gets an exception under the Ordinance, and there is a known site in the middle, and they plow through it. He said if they are following the Ordinance, they have to stop the project, hire a monitor, do mitigation and such, but we don't see that.

Chair Eck said we never will, because you can't see anything through the dusty window of a backhoe while you're digging a trench.

Mr. Pierce said his point is by failing to require them to identify the existence of known sites, and not treat them, we are encouraging them to violate the Ordinance.

Ms. Monahan said this language still doesn't accomplish that.

Chair Eck agreed.

Mr. Pierce said the old language would encourage them to violate another piece of the same Ordinance.

Ms. Monahan asked, "What makes you think that having a known site near it is going to change everything, because it's not."

Mr. Pierce said he is talking about only going through the site somebody has recommended as significant.

Ms. Ramirez-Thomas said nobody knows it is in the project site.

Mr. Pierce said nobody has even looked to see if the project intersects a site, but the proponent and other people in the Land Office won't know. Therefore, the contractor is faced with either an unintentional discovery where they have to stop work, hire a monitor and who knows when they can show up, or ignore it and violate the Code. He said that seems like a worse alternative than dealing with the site in the first place.

Ms. Ramirez-Thomas said people from other divisions call and ask to talk to us about projects, so it's not like it never happened. She thinks we can work to encourage it to happen more frequently, commenting she is optimistic it can be done.

Ms. Monahan said the reason it is being done is because of the work of this Committee with City staff, and inviting them to be part of this discussion. She said educating them about it is important. She said there have been so many struggles with the language in this Ordinance. She said her grandchildren go to parks throughout the City, and where they have placed the bases for the shade structure, they come to her and say, "We're going to have shade." She said if this issue is brought before the City Council in that way, we have a problem. We have to engage the City staff more. She said we're talking about utilities not parks, but it is more than that. She said the utility companies have archaeologists on staff and know where they are going.

Ms. Monahan continued saying, "Jessica Badner brings things to this Committee over and over again, where she has had to step in and complete the work because no one paid attention and they didn't finish, and she has been cleaning that up." She said we need to make it doable, commenting that she doesn't know how to do that, but she can see it as being a problem.

Ms. Ramirez-Thomas said we need to address the challenge which has been 550 feet as it exists, for consideration and/or modification. She doesn't think we should back away from discussion.

Ms. Monahan suggested 550 feet length with a depth of at least 4 feet. She doesn't know if that is an appropriate depth, but asked if it could be added as a specification.

Mr. Pierce said it would preserve intact portions of the site, but in some areas it wouldn't be deep enough, commenting he is unsure that a random depth requirement makes sense.

Chair Eck said if the Ordinance stays the same, more or less, it won't attract a lot of negative attention. However, he thinks Mr. Pierce has raised a very important question – there is archaeology out there, and if you already know it's out there, we have to do something to protect it.

Mr. Pierce agreed, commenting without the protection level ordinance it's "toothless."

Ms. Ramirez-Thomas said this is the opportunity to address this issue.

Mr. Funkhouser said we can only deal with the ones we know about.

Ms. Ramirez-Thomas said we should focus on allowing our conscience to guide us in regard to writing the ordinance, and our Legal Counsel to guide us in what is appropriate and what is not appropriate. And if we get pushback on the Ordinance in the approval process, we can work through it then. She said, "I don't think we should raise the alarm from the get go."

Too many people talking at the same time here

Mr. Pierce said he thinks the best way to make this the least onerous is for the City to do it during the application for permit, before it is approved.

Ms. Ramirez-Thomas said she thinks the pre-application process is totally doable for staff and it's not that not much different from what happens for H-Board applications. There is a pre-project discussion, staff go to people's houses to see what is to be done and work with the applicant on whatever needs to happen to make their case good and honor the Ordinance. She doesn't think this is challenging and it is a matter of informing people of the action that needs to happen.

Responding to Ms. Monahan, Chair Eck said before we start talking about Districts, we have just two items of applicability at this point. He said perhaps inserting a new #3 just before it starts talking about Districts, to make blanket statements about this pre-permit conference to do the records check then. He said perhaps it would be even better to do that before that meeting so it can be presented and discussed in that meeting so they know at that point with what they are faced, instead of having to come to the ARC to see what it thinks.

Mr. Pierce agreed, saying it would avoid a month delay, at a minimum.

Chair Eck said the idea is to avoid something being planted without anybody talking to anybody.

Ms. Ramirez-Thomas said as it stands now, she doesn't know about projects until a monitoring proposal lands on her desk.

Mr. Funkhouser asked if the City doesn't know at all, commenting there's a risk involved especially in terms of knowing where utility lines are.

Chair Eck said they can call One-Call and have things marked, dig it in the morning, fill it by the afternoon, and who is going to know.

Ms. Ramirez-Thomas said the position she fills is vacant frequently. She met with Mr. Pierce and other members of HPD to discuss report submittal. She said right now, the Parks Division just sends their stuff to SHPO on its own instead of submitting it to Historic Preservation and then having it submitted by Historic Preservation. She said this puts staff in a position of not knowing what has and hasn't been submitted. She said hopefully people in other divisions will find that easier and a little more direct.

Mr. Pierce said, with regard to her position being vacant at times, the State regulations determine who has access to NMCRIIS. He said he has latitude as a registrar to extend it to City planners and others interested in historic preservation. He would interpret that to mean anybody in HPD does not have to be an archaeologist or a lead planner – anybody could do that kind of basic research which would mean a quick turnaround of 1-2 days.

Ms. Ramirez-Thomas said then we can establish the specific protocol if that event occurred in the event that other people have to do it.

Mr. Pierce said we can do a check list.

Ms. Monahan said Lisa Roach did a great flow chart in brochure form to hand to people about this process, which is already in the office. She said Ms. Ramirez-Thomas needs to make sure it's still accurate and we can give it to people so they know what to do without having to read the law.

Chair Eck said, in summary, "Staff thinks they can draft a section that fits in the lead-in portion of applicability before we get into the nitty gritty details of districts. The section will handle how the record checking works, when that information is discussed, and if there is a known site in the footprint of the projects, "congratulations, you're monitoring," and would make clear it isn't the entire length.

Mr. Funkhouser said this will give them the option to move their work before the project starts.

Chair Eck continued in summary, "...And within 50 feet of either side."

Mr. Pierce said that is typical protocol.

Chair Eck said this is the quickest way to do the record check to determine if there is something of concern that would kick-in the requirement for monitoring. He said the simplest descriptor is "monitoring within and 50 feet either side of any cultural resource."

Ms. Monahan asked if the defined boundary would have to be flagged.

Mr. Funkhouser said yes, because from that point it will be monitored to see if a significant resource comes up.

Mr. Pierce said the easiest thing would be to show it on the map the utility company itself provides for each project.

Ms. Ramirez-Thomas said with a master map, people have been able to produce them with no problem, "so hopefully that won't be a regular issue."

Mr. Shandler said, "For example, say I'm an archaeologist for the City or PNM, and I call and say I have a segment that is 600 feet in the Rivers and Trails, I guess I need to set up a pre-application meeting with you, but it looks like I'm going to have to do monitoring, right, at the minimum, it's over 515. Then I call back the next day, and this one is 400 ft., but I have a sinking suspicion there might be something nearby it. Then you would probably say, well we've got to have our meeting. And I said okay, let's do it in a few days. And Nicole, and my expectation is you're going to be able to come to that meeting prepared to tell me if there is a significant or a site that's not [inaudible]."

Mr. Shandler continued, "And so we have the meeting and it turns out there is a site of significance or a site that is not insignificant. And you're going to tell me, you know what Zack, or Ron or what have you, the good news is you're not going to have to monitor everything, but you are going to have to monitor this type of segment, and it might be 50 feet within that known significant area. So okay, that's not going to bust my budget I'm happy. Thanks a lot."

Mr. Shandler continued, "So I think that encapsulates a plan, what the process would be. And Nicole and I will try to put that language clear and up front."

Mr. Funkhouser said it doesn't have to be done in person.

Ms. Ramirez-Thomas said it can be done by telephone or email to them, as long as they have maps and a project description. She said one of the issues she has had in reading project descriptions for things that have been submitted is they're not very specific. "So maybe this would allow that project description to become more specific. And when I've spoken to, for example, the Water Division Engineer, and what we give the contractor is what we present to counsel, because counsel doesn't want to know all of the details. But if we're going to be clearing segments or keeping tracking of them of what has been monitored and what hasn't been monitored, we need really specific language."

Mr. Pierce said as much as he likes where this discussion is going, a serious problem with it just occurred to him in Mr. Shandler's first scenario where the trench is 600 feet long and they have to do monitoring, they are required to come before this Committee with a monitoring plan. He asked, in the second scenario where it is 400 feet, and there is a known site, if we then would force them to come to us with a monitoring plan, because we have introduced the 30 day delay.

Mr. Funkhouser said why don't we leave it with the site review and not worry about the linear feet.

Ms. Monahan said we are back to who they meet with.

Ms. Ramirez-Thomas with "an HPD steward with the preservation staff."

Ms. Monahan asked what if they can't get through to Historic Preservation, commenting she has called the office and couldn't get through and left a message, and no one calls her back. She said if she is someone in a construction made and can't get a response, "I'm going to ignore it."

Ms. Ramirez-Thomas said, "I will say on our behalf, that we have just had many compliments from Councilors and the Land Use Director about answering phones and getting back to people now better than in other times." She said however, there may be times that doesn't happen.

Mr. Shandler said, "I think the answer is yes, this is an expansion. This is another group of people that may have to do a monitoring plan and report. I think you've already answered the question of, okay there's a site, we promise to do something about that. So I take down my easy sell to the other arms of the City, yes, this is the time and we probably should do it. I think the other sell to the City, is there is focus on the project time and project budget. If we're going to do more stuff up front, and the City staff is going to pledge to do more stuff up front, I think that's an easy sell to other City staff – the known or known earlier."

Chair Eck said that way, the unknown doesn't derail things halfway through the project when the budget is mostly already spent.

Mr. Pierce said the point was that in exchange for the additional requirement of having to monitor projects less than 550 feet where there is a known site, we could do away with the 30 day or more delay to get a monitoring plan in place by just adopting a standard monitoring plan which they must follow. The City publishes it, these are the minimum guidelines, and then you don't need to submit a plan to this Committee. He said this way, when they get their *[inaudible]* back from HPD, they're ready to go the next day.

Ms. Ramirez-Thomas they also can append it, or they can put into the Appendix of the Final Report so there is some accountability to comply with the rules that we plan to develop for monitoring.

Too many people talking at the same time here to transcribe

Mr. Shandler said, "So, just to be clear for the record, it sounds like what you are offering is an elimination of a step in the current process of having to come to this Committee with a monitoring plan."

Mr. Pierce said, "With the caveat that the City has prepared a template and minimum standards that this Committee has approved."

Chair Eck added that the State Historic Preservation Office also needs to review and approve the template and minimum standards.

Mr. Pierce said that might help to sell the expansion of one requirement by eliminating a fairly onerous requirement – our give for the take we're about to request.

Too many people talking at the same time here to transcribe

Mr. Shandler said, "You've given us some excellent guidance. I think this is a major issue that was worth the time which hasn't been resolved outside your policy for the last 20 years which we've tried to incorporate. I appreciate the hour and ten minutes, and I will come back with some new language the next time we look at this."

Mr. Pierce asked if it is a reasonable step and if we actually can write guidelines that will force people to follow acceptable standards.

Chair Eck said that will be the first wonderful assignment for the City to have someone to do this on a small contract – write us a template for a monitoring plan to be used for all projects.

Mr. Funkhouser said we have the beginning of a template.

Ms. Ramirez-Thomas asked if it is okay for her to write it.

Chair Eck said that would be great, assuming she has the time to do that.

Ms. Ramirez-Thomas said she is very busy, but she will make the time to do that.

Mr. Pierce said the mechanics of doing monitoring and how you measure and do trenches is easy enough to do. However, it is the background research and the cultural resource summaries that takes the most time and asked are we willing to do without that.

Chair Eck said all of that has to be in the monitoring report. He said, "I see no reason reading about it after the fact would be any worse than reading about it before the fact."

Ms. Monahan noted she found a missing word in the text, and Chair Eck said he has a few things marked as well.

Mr. Shandler asked them to leave the markups and corrections for him and he will correct them in the next/final draft of the Ordinance.

Chair Eck asked Mr. Shandler if he has another section for discussion today.

Mr. Shandler said, "I think we're probably done enough lifting today. I think Nicole and I probably have to meet, and we've got a couple more things here, but I think we're pretty close to a final draft. Mindful, there is one member that may be leaving and I would like to get close to the finish line at that time."

Mr. Funkhouser said he believes we are at the finish line, commenting this is his last meeting.

Mr. Shandler said the next time we meet the draft will be final, and we'll be getting ready for public hearing.

Ms. Monahan asked how we will circulate the proposed draft Ordinance to interested parties. She asked if we should take it on ourselves to provide it to our colleagues, City registered archaeologists, and involved parties such as utilities.

Mr. Shandler said his expectation is that when we are ready for a public hearing, probably during the August time period, we can mass blast it to everyone on the City's list.

Ms. Monahan said she has contact with the Realtors, builders and contractors.

Chair Eck said it is worth it to take every step possible to let as many people know about it as possible, and the official communication will follow whatever "the rules say we have to do."

Ms. Monahan asked if the Committee should meet with the Councilor sponsoring the Ordinance before that happens – to review what we've done, show our tentative guideline pamphlet.

Mr. Shandler said, "My two cents is to have the public hearing first. Let's say the public hearing goes really well, then that would be a great meeting to have with the Councilor. So I would like to take it to the public first and then we can tell her with the public opinion is."

Ms. Monahan asked if we should involve the Land Use Director.

Mr. Shandler said we are getting close. He said, "Nicole and I should meet with David [Rasch] and David should take it up his chain of command in his regular meetings with the Director."

Ms. Ramirez-Thomas said, "And he has been doing that through the process. He has a meeting with her every week and they talk about it."

2. SHIFT FROM TWO MEETINGS A MONTH TO ONE MEETING PER MONTH

Ms. Ramirez-Thomas asked the Committee how the members feel about this proposed change. She said staff has been overwhelmed by two HDRB meetings and two ARC meetings per month. She thinks this is the reason David Rasch proposed having ARC meet once a month.

Chair Eck said it is fine when there are only two cases, but the first time we have 8 cases and we're here until 9:00 p.m., there are going to be a whole bunch of unhappy people.

Ms. Monahan said that is true, especially if they're been waiting for 6 weeks for approval.

Ms. Ramirez-Thomas said at the first meeting in July there will be 6-7 cases on the agenda. She realizes that is a lot for this Committee to consider in one meeting.

Chair Eck said we've had that many before and it wasn't onerous, but any one of the above could be a "derail," and it all depends on the case.

Mr. Pierce said his personal point of view is once a month is great, but he is unsure if it is the best thing for the proponents.

Ms. Monahan said she believes the applicants want two meetings.

Ms. Ramirez-Thomas said eliminating the review of the monitoring plans might lower the case load.

Chair Eck agreed saying it will cut the case load by one-fourth, maybe more.

H. MATTERS FROM THE COMMITTEE

Mr. Funkhouser said this is his last meeting as a member of the Committee, and thanked everyone for his 7 years of service on the Committee.

Ms. Ramirez-Thomas thanked Mr. Funkhouser for service on the Archaeological Review Committee, and presented him the name plate he has used during his service on this Committee.

Chair Eck, on behalf of the Committee, thanked Mr. Funkhouser for his service and said he will be missed.

I. ADMINISTRATIVE MATTERS AND COMMUNICATIONS

1. Reminder to submit a letter of interest to renew term.

Ms. Monahan noted there is an item on the Agenda reminding members to submit letters of interest, and asked Ms. Ramirez-Thomas if she has received those.

Ms. Ramirez-Thomas said she has all of those, and "we are all good." She said she sent out a Press Release about the vacancy on the ARC, which she also will send to the list of approved archaeologists.

2. Review Geodatabase

Ms. Ramirez-Thomas asked if the members would like to review the Geodatabase on an individual basis, commenting this might be more beneficial to her in looking at updates and additions.

It was the consensus among the Committee to review the Geodatabase on an individual basis with Ms. Ramirez-Thomas.

Chair Eck said Committee members can schedule an appointment with Ms. Ramirez-Thomas, commenting it would need to be absent of a quorum.


Ms. Ramirez-Thomas said she will look at her schedule and advise the members via email what would be the best day[s] to do this.

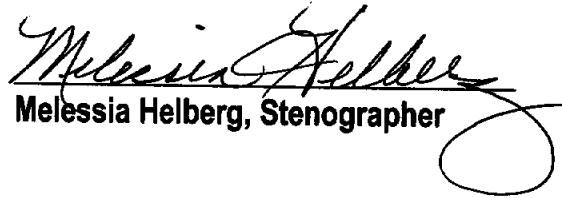
J. ADJOURNMENT

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 6:00 p.m.

 29 Sept 2016
David Eck, Chair


Melessia Helberg, Stenographer