



# Agenda

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## ARCHAEOLOGICAL REVIEW COMMITTEE HEARING

THURSDAY, August 18, 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:
- 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
- J. ADJOURNMENT

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**SUMMARY INDEX  
ARCHAEOLOGICAL REVIEW COMMITTEE HEARING  
Thursday, August 18, 2016**

<b><u>ITEM</u></b>	<b><u>ACTION</u></b>	<b><u>PAGE</u></b>
<b>CALL TO ORDER &amp; ROLL CALL</b>	<b>Quorum</b>	<b>1</b>
<b>APPROVAL OF AGENDA</b>	<b>Approved</b>	<b>2</b>
<b>APPROVAL OF MINUTES</b>	<b>None</b>	<b>2</b>
<b>MATTERS FROM THE FLOOR</b>	<b>None</b>	<b>2</b>
<b>ACTION ITEMS</b>	<b>None</b>	<b>2</b>
<b><u>DISCUSSION ITEMS</u></b>		
<b>DISCUSSION OF THE SANTA FE ARCHAEOLOGICAL REVIEW DISTRICTS OVERLAY ZONING ORDINANCE DRAFT (Section 14-3.13)</b>	<b>Information/discussion</b>	<b>2-18</b>
<b>MATTERS FROM THE COMMITTEE</b>	<b>None</b>	<b>18</b>
<b>ADMINISTRATIVE MATTERS AND COMMUNICATIONS</b>	<b>Information</b>	<b>18</b>
<b>ADJOURNMENT</b>		<b>18</b>

**MINUTES OF THE  
CITY OF SANTA FE  
ARCHAEOLOGICAL REVIEW COMMITTEE HEARING  
City Councilors Conference Room  
August 18, 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 August 18, 2016, in the City Councilor's Conference Room, City Hall, Santa Fe, New Mexico.

**B. ROLL CALL**

**Members Present**

David Eck, Chair  
James Edward Ivey  
Derek Pierce

**Members Excused**

Tess Monahan, Vice-Chair

**Members Resigned**

Gary Funkhouser

**Others Present**

Nicole 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 Derek Pierce, to approve the Agenda as presented.

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

**D. APPROVAL OF MINUTES:**

There were no minutes.

**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).**

A copy of *Cultural Properties Preservation Easement/Establishment of City of Santa Fe Cultural Properties Preservation Easement*, submitted for the record by Nicole Ramirez-Thomas, is incorporated herewith to these minutes as Exhibit "1."

Zachary Shandler, Assistant City Attorney, said on packet page 2, there is a punch list of changes from draft 7.0 to draft 8.0 which he wants reviewed by the Committee. Mr. Shandler reviewed and the Committee discussed the information packet page 2 as follows.

**MAJOR ITEMS**

**Creating Pre-App research where staff research whether segment/some segment to be monitored in 14-3.13B3 and 14-3(D)(1)**

Mr. Shandler, referring to packet page 13, Applicability, line 25, said the new language is, *"An Applicant who needs to request Archaeological Clearance Permit for ground disturbance involving a utility project shall request a pre-application conference with Historic Preservation staff in order for staff to research ~~where~~ whether the project intersects a known site, a significant site for the City, or site whose significance is unknown. Staff, based on this research, will inform the applicant at the pre-application conference held under Subsection 14-3.13(D)(1) whether the project shall require monitoring and what portion of the segment shall require monitoring within and fifty (50) feet either side of any cultural resource."*

Mr. Shandler said this is one big concept from the last meeting when we were talking about monitoring. He said, "Just to review for the record, we spent a lot of time talking about this magical 550 number. And the Committee said, you know what, let's just do what we want to do and need to do. Let's figure out if this needs something like monitoring. So the purpose of the added language was to require, up front, staff to do research and to determine whether monitoring is needed, and if so, a specific portion. It could be a small part, a large part, and whether there needs to be 50 feet on either side, which I guess is an accepted standard. So here's the language, what do you think about it."

Chair Eck says he loves the language, and can't think what word Mr. Shandler thinks may be missing because he can read the last clause and it tracks. He suggested, on packet page 14, line 7, to place a comma after "within," which he thinks will make it read better.

### **Eliminating the 550 foot requirement**

Mr. Shandler said we are eliminating the 550 foot requirement, noting currently it is required for both the Rivers & Trails and Suburban Districts.

### **Creating template "Monitoring Plan" and Deleting ARC approval of each "Monitoring Plan"**

Mr. Shandler said, in lieu of, as part of requiring staff to look at what really needs to be done, if something needs to be done, we are collapsing the steps and creating a template monitoring plan. He said, for example, staff has told the applicant they need a monitoring plan, so beginning on line 13, it provides, *"(b) The archaeologist shall fill out the template "Monitoring Plan" document, as developed by staff and approved by the Committee and the State Historic Preservation Office. The template "Monitoring Plan" may allow utility boring on a case-by-case basis, but utility boring should be minimized."*

Mr. Shandler said staff is going to have to develop the plan to be approved by ARC and SHPO before it can be used, commenting hopefully we can do that in the next two months. He said lines 18-19 are from a previous version, and you felt that was a important sentence, so he wanted to keep that language. He said when staff is creating a template, you need to include something about utility boring and how it should be minimized.

Chair Eck said he could envision a place in a template where staff would make the call to bore under the Interstate, for example, because you don't want to dig a trench across it, and you need to very narrowly define what can be bored.

Ms. Ramirez-Thomas asked if she should do something such a guide to a monitoring plan and standards, or do a template – a fill-out.

Chair Eck said if it is a document that conveys everything that needs to be included in a monitoring plan we would expect somebody else to write, that would minimize the effort, everyone would be more clear up front on what is expected to be included, there would be less room for equivocation on the part of a reluctant utility installer, and things would be more consistent. However, staff would be faced with the realities of every day, so he would hope she would like if it did all that.

Ms. Ramirez-Thomas said that is what she is envisioning as well. She said she will draft something and bring it to ARC for discussion.

Chair Eck said it could contain things that can be included, or not, on a contingency basis.

Mr. Pierce said he would reserve comment until we have gone through the entire list.

Mr. Ivey said he thinks, with careful construction of a standardized monitoring "blank," or a standardized set of instructions on how to do one, that it is appropriate to cut out the monitoring plan committee. He said that is obviously the appropriate step, considering the kind of thing staff will be doing. He said he believes this one of the main purposes. He said, "My comment is that's a really good idea. I approve."

#### **Creating "Field Monitor Personnel" position to relieve monitoring costs in 14-2.7(E)(5)**

Mr. Shandler, referring to packet page 8, said Ms. Ramirez-Thomas has brought, based on her credentials, a fresh look at things from the academic side, but also thinks she is very pragmatic. He said the next things we're going to be talking about are where the rubber has hit the road and

maybe we should face those and see how they play out. He said the reality is there is monitoring happening which is a tedious job, and for the people who do it, and they charge their standard rate. He said we have heard that some of the monitoring people get an associate to stand out there, and then they go by the site periodically or are called when something important happens. He said that may be how things really work out there. He said he wanted to throw out the idea of creating a new position called Field Monitor Personnel, who has to have certain qualifications as listed on packet page 8, but can't do everything that a full archaeologist could do. He asked if the Committee thinks that is a good concept, or whether it is a terrible concept, or something else.

Ms. Ramirez-Thomas said where we have heard of it occurring, is in monitoring, but recently she has read data recovery plans that have other personnel doing the work, which is of concern. We want to make sure we have some sense of who is doing the work overall, which may mean everyone working on the project has to submit a resume.

Mr. Shandler said on packet page 8, lines 10-11, the language said these personnel shall only work under the regular supervision of a City Certified Archaeologist. He asked the Committee's thought in this regard.

Mr. Ivey asked what is meant by regular supervision. He said he doesn't think a City person is required to stand by watching the monitoring person monitor.

Mr. Shandler said an associate would stand there, and every 2 hours or a regular time period, the archaeologist would come by and supervise the associate.

Mr. Ivey asked Mr. Shandler if he thinks that can be defined in the guide book and/or the form.

Ms. Ramirez-Thomas said it could be.

Mr. Ivey said clearly it has to be defined.

Ms. Ramirez-Thomas said the form could provide that the contract has to provide that the Field Monitor is to be checked on by the approved City personnel twice a day. She doesn't know how often that should occur. She said sometimes the supervising archaeologist would check everything that is being dug up, but they leave the Field Personnel to do the recording. Or, only at important points that have been identified at the monitoring site, the supervising archaeologist would check them. She said there are different ways to do it.

Mr. Pierce said his experience, with an associates degree in Anthropology/Archaeology, that the monitoring people usually have a Bachelor's or no degree, or have many years of experience. He said that is pretty common outside of Santa Fe. He said his biggest concern is with a less trained monitor making decisions relating to the artifacts.

Ms. Ramirez-Thomas said there is the cost of having people on the approved list to do the monitoring. The Field Personnel wouldn't be on the approved list, but they have experience. She said there is also *[inaudible]*.

Mr. Pierce said he is not opposed to the idea in general, but thinks we would want to bump-up the minimum qualifications to a B.A., or a minimum of 6 months previous monitoring experience.

Chair Eck said this monitoring is being done on land primarily under the jurisdiction of the State. He said we may say "we are cool with this," but it ends up going to SHPO anyway. He asked, "If we create something with a different level of qualification than the State, are we being different. Yes. Are we being better. No. Is it allowable for somebody, by ordinance, to legislate a lower degree of required compliance just because we can."

Mr. Pierce said we would have re-examine the minimum qualifications of the State, commenting it doesn't make sense to go below that, because then there is endless confusion about, "I can work on this part of the trench, but I can't work on that end because that's in the right of way."

Chair Eck said out in the big world, it definitely is a reality, as Mr. Pierce was saying, that there are people out there with *beaucoup* experience and no degrees, but are far better at seeing what is in the trench and what is coming out of it, than people with Ph.D.'s that are standing 8 feet away. He said the point being – ability does not equal qualification – and since we can't legislate ability, perhaps we legislate qualification, commenting that's what they had to do at the State level. He said under the State language, direct supervision means they are physically present. He said regular supervision sounds like an institutionalized way of legitimizing the actions of at least one company.

Mrs. Ramirez-Thomas said she would "speak Andrew and Michelle Ensey, so we can get on the same page."

Mr. Pierce said he thinks it makes sense to dovetail whatever they put in their qualifications. He said we know there are people out there who almost have become monitoring specialists, because they can't qualify to supervise a survey, so they do nothing but monitoring. He said it is



common practice, but he would like to know what the actual State requirements are, so there will be a level playing field across the City. He said he appreciates the intent. He said you don't need somebody every time that has a Masters or Ph.D., which costs the client \$75 an hour.

Ms. Ramirez-Thomas said the bigger picture is there is more than one individual doing this, noting there are quite a few and it's regular practice for them, and they just try to not say anything about it, and keep it under the radar. She said that is another issue we need to deal with once we decide how to move forward.

Mr. Pierce said he thinks creating new role is a good idea, but we need to fine tune this particular thing.

## **MEDIUM ITEMS**

### **Clarified qualifications of ARC members (don't need to be on State List)**

Mr. Shandler, referring to packet page 6, said the Code currently provides for 5 members on the Committee: An Historian, 3 Archaeologists and 1 member from the Real Estate Community. He said the qualifications for ARC members are on packet page 6, line 14, which provides, ...*"All archaeologists, historical archaeologists and historians appointed as ARC members shall meet the qualifications set forth in this section.*

Mr. Shandler, referring to packet page 7, line 11, said there is a new (d) regarding the State Burial Permit. He said when Ms. Ramirez-Thomas looked at it, she asked about (c) on line 5, packet page 7, which provides that you have to be on the State list. He said the members would have to meet qualifications (a) through (d), which are similar for an Historian.

Mr. Shandler, referring to packet page 6, lines 16-17, said he added language that provides that the archaeologists and historians on ARC shall meet the qualifications, which are the academic degrees, the experience, but didn't require ARC members to be on the State list or have a State Burial Permit.

Ms. Ramirez-Thomas said she agrees and doesn't think the ARC members need a State Burial Permit.

Mr. Shandler said they don't need to be on the State list, and this is the reason for the language on packet page 6, lines 16-17, commenting he believes the existing Committee members would be grandfathered-in, but future members would have to be on the State list.

Ms. Ramirez-Thomas said she is torn about the reason they have to be on the State list, but said that requirement could further limit an already limited pool of people.

Mr. Pierce said his concern with that is that the list expires and it is necessary to renew all the time, commenting there is a lot of paperwork to renewal. He said he agrees that members do not need a burial permit.

Chair Eck agreed, saying people who need burial permits are those out there "with their hands in the dirt dealing with human remains." He said he doesn't believe it is necessary. He said there is some attraction to have people serving on such committees to be listed as State qualified personnel, but that would apply only to 4 out of 5 members, which seems to be somehow unbalanced. He asked if we can make the requirements for certain members to be more than someone else, or are we already doing that.

Mr. Pierce said the membership requirements indicate that all archaeologists, historical archaeologists and historians appointed to the Committee are subject to the qualifications under the specified Code sections.

Chair Eck said it strikes him, deep down, that someone who is passing some level or judgment on sites, its eligibility, the effect of a project on those sites, coming from a position of education and experience, should be able to demonstrate that they meet the criteria for being on the list. He said the simplest way to demonstrate that is to be on the list. Otherwise, we can ask people if they can demonstrate their qualifications to be on the list, review their applications and "cut it off at that point, but that means we have to do it, as opposed to if it's already done and they are listed, so there is no question." He thinks they should be on the list, but understands "there might be a reason not to make them be on the list, but we still need to provide somehow that qualification is at the same level."

Ms. Ramirez-Thomas suggested including language that says in the same way that you must hold, "... a *graduate degree in archaeology, anthropology or a closely related field with a specialization in archaeology or have equivalent training or field experience, the sufficiency of which is determined by the ARC.*"

Chair Eck said that seems like a workable situation to cover a non-listed individual. He said the bottom line is in reference to the bigger standard which is at the national level, and whether or not someone meets the standards of the Secretary of the Interior. He said the State is moving toward adopting that language, so if they can demonstrate that they meet the standards, they don't have to be listed formally, and "I think everyone would be happy."

Mr. Shandler said, "So Nicole, we should also note that on big page 7, lines 9 and 10, that these are the qualifications for the state list, but this requirement should not apply to 'dot dot dot' archaeologists appointed as members of the Committee. So, if we change the language, we want to make sure we strike or modify that language."

**Double checking consistency with 50 years vs. 75 years throughout document**

Mr. Shandler, referring to packet page 32, line 24, said the current language talks about the 75 years, and he thought that we changed it to 50 years.

Chair Eck said Item (1) on line 13, packet page 32, provides for 50 years.

Mr. Shandler said the dichotomy there is one says 50 years and one says 75 years. He said perhaps cultural remains more than 50 years old are different from human remains, and perhaps that difference is important.

Ms. Ramirez-Thomas said in one of the first meetings on the Code in which she participated, we talked about changing it to 50 years, and Mr. Pierce said let's put that in there, and if we get major pushback then we'll go to 75 years. She said 50 years is standard.

Chair Eck said 50 years is what most everybody uses.

Mr. Pierce said it make sense, because if you aren't quite certain if your project has State involvement, at least you are still making the standard. You don't have to find out after the fact, which could be a rude awakening. He said he would change cultural remains to 50 years, but he wouldn't put an age criteria for human remains. He said it doesn't matter how old they are, if you see bones, you stop.

**Deleting \$3,000 cap in certain districts because it has not been followed in 14-3.13(C)(2)(g)**

Mr. Shandler, referring to packet page 23, said early in the process when he was working with the subcommittee, he advised them not to change or raise any monetary figures for fear that would detract from the substantive work they were going to do. He said, "However, in talking with Nicole, this is the maximum funding limit in Rivers & Trails, with \$3,000 for Rivers and \$4,000 for Suburban. She said when the rubber hits the road, often it does go over that. So, it's not consistent where the rubber meets the road. I thought I would throw it out there, maybe it should be deleted."

Ms. Ramirez-Thomas said one comment from Mr. Rasch she received, was to either remove it or reevaluate it, because she didn't consider it being connected with the Archaeology Fund, and how those funds are used for the project. [inaudible]

Chair Eck said that has occasionally happened, but not in most cases. He said then by striking the hard dollar figures and leaving the 1% evaluation of the property as a limit, we're talking about the property and not the valuation of whatever it is they are planning to do.

Ms. Ramirez-Thomas said it is not the development, just the property.

Chair Eck said then if someone is proposing to put a \$100,000 studio on the back of their property, the valuation is \$1.5 million because that is the value of the property, without the studio being present.

Ms. Ramirez-Thomas said, for example on a \$60,000 property the archaeology funds would kick in at \$600, which is a very low amount.

Chair Eck said on the other extreme with certain properties, it would be hard to spend that much money.

Mr. Pierce said he would like to see a copy of the building permit, asking how they will determine the difference between an empty parcel and a parcel that has a house on it – the difference between \$50,000 and \$750,000.

Chair Eck asked what goes into the valuation, and if the valuation is shown on the building permit. He asked if it is the lot – is it the lot and all improvements or is it the lot and all the existing improvements, plus the proposed improvements. Is that the valuation. He commented he doesn't know.

Ms. Ramirez-Thomas said she will bring a building permit to the next meeting.

Mr. Pierce said we're now debating whether the 1% is the appropriate proportion. He said, "But to get back to where we started, I think striking everything after that does make sense. It might be worthwhile to mention the Archaeology Fund by reference here, so the people reading in this part know it's there. Because there are many people who could use it and do not use it, and I wonder if there isn't a lot of public knowledge that it exists."

Chair Eck said on the other hand, that might be a good thing.

Mr. Pierce said if it is advertised too much, it might go down to zero in a hurry, but this is what the fund is for. He said when you exceed the 1%, the work still needs to be done and that's where the fund kicks-in.

Chair Eck said the idea was that the fund kicked in to finish important things that have been started under the cap to address aspects of what is there that couldn't be addressed under the cap, whether it has started already or not. It was not intended to cover the cost of basic documentation of what is there. He said in fact, it seems at one time, the only reference he could find to the fund was in the context of data recovery. He said the whole idea of the cost of identification is the whole thing in the process of doing excavations to salvage what is there, and that was another thing, and that was mentioned as, *'in no case shall it be more 1% of this valuation.'* He said, "But, what it costs to identify what is there, is what it costs to identify what is there. That's how I remember seeing it, but that may not be true. It's just what my brain is holding onto. For the treatment of an archaeological site, yes. The language is right there for the treatment. Identification is not treatment. Excavation and data recovery is treatment."

Ms. Ramirez-Thomas asked, "What about monitoring, because that's also... I know where monitoring has been considered treatment. And so, what about monitoring. That seems not the same as data recovery. It's not as intensive, if that makes sense."

Chair Eck said if he had access to real monetary information, as in actual accounting, he might be in a position to answer that. He said the only case he recalls when accounting of such things was mentioned, and thinks the numbers thrown out had absolutely no bearing on the audit. He doesn't think he has sufficient information to even formulate an opinion. He said if you want to apply a certain limit across the board, it would be attractive to some folks.

Mr. Pierce asked if the 1% cap applies to utility projects. He said monitoring is almost always for utility projects.

Ms. Ramirez-Thomas said another question is whether it applies to City projects.

Chair Eck said this is in the procedures for all projects except utility projects. The 1% is specifically not for utility projects.

Mr. Pierce said, "I'm all for giving John Q. Public a break, but I'm less concerned about PNM or Comcast."

## **MINOR ITEMS WORD CHANGES**

### **Add private sector in 14-3.13(B)(1)**

Mr. Shandler said on packet page 13, on line 13, he inserted the words "private sector." And on line 21, it talks about the City as the contractor.

### **Add demolition in 14-3.13(B)(1)**

Mr. Shandler said on packet page 13, line 18, he wanted to call out demolition permits. He said there are exceptions currently on demolition permits, so Ms. Ramirez-Thomas wanted to call that out.

## **GENERAL DISCUSSION**

Mr. Shandler said he has concluded his list. He said he has been trying to get the Code to the finish line, consistent with the newly adopted Code. He said Ms. Ramirez-Thomas has pointed out that this is a once in a generational moment to rewrite the Code. And there may be some more good ideas that need to be added.

Mr. Shandler said one of the things Ms. Ramirez-Thomas has worked on is a reworking of the cultural property easement issue, which is something the subcommittee discussed – is when you find something important is how you call it out on the plat. He said Lisa Roach worked on some language with regard to enforcement, saying perhaps the Trust for Public Lands can enforce it. He said Ms. Ramirez-Thomas has alternative language on packet page 21.

Mr. Shandler said he is now going to pass the baton to Ms. Ramirez-Thomas, because she may have additional changes. He asked if the Committee would like to reconvene the subcommittee for one meeting to go through things, so you can go through Ms. Ramirez-Thomas's language instead of in one of these regular meetings. Or do you want to proceed according to an email sent to you by Ms. Ramirez-Thomas, about giving two weeks notice for a public hearing. He said, "Two parts to it. Specifically Nicole has language about packet page 21, and then, too, she is going to talk about reconvening the subcommittee."

Ms. Ramirez-Thomas distributed proposed language regarding the cultural properties preservation easement [Exhibit "1"].

Ms. Ramirez-Thomas said in a way, to some degree, she thinks we have two ways to create these easements. One is it belongs to the City and another is that it belongs to the State.

Chair Eck said then she is proposing to add all of this language to what is currently shown on packet page 21.

Ms. Ramirez-Thomas said she thinks there are a couple of issues. She said on lines 11 and 12, it talks about a protective open space designation. She said the current definition of open space in the Code is, *"An outdoor area that permanently provides light and air and that satisfies in full or in part, the community's visual, psychological and recreational needs."* She said she doesn't think we can satisfy that definition of open space on private property, commenting it may or may not be important.

Ms. Ramirez-Thomas said, beginning on line 14, the Ordinance provides, *"The designation should be done in accordance with the New Mexico Cultural Properties Preservation Easement Act (NMSA 1978, Section 47-12A-3), where a Cultural Properties Preservation Easement is dedicated to the City or a non-profit organization and recorded on a scaled plat of survey...."* She said again, we have an issue with private property ownership which is the City can't manage resources in the same way that the State and federal government manages resources. She said, "By putting it on a plat for undeveloped land and calling it out and requiring that it be mitigated prior to any development, I think the best way you can protect it... I don't think that to ask people to have a non-profit sponsor that easement to make sure that it is maintained, according to what the State needs, I think it's too much. And I talked to Michelle about this, and she said it is okay. The County has a similar process to this, but they're calling it out on a plat, and it doesn't need to be tied to the State Cultural Act."

Chair Eck said, "So, in effect, it doesn't need to be an easement in the sense we were thinking of it, an easement held by someone. It's just a restriction placed on the plat that says that nothing happens here without mitigation."

Ms. Ramirez-Thomas said that is correct, and it's not like an easement that is maintained by anybody other than the property owner.

Chair Eck said the reason for the mention of a non-profit to enforce these easements is because we essentially have no enforcement of the easements that we have theoretically.

Ms. Ramirez Thomas said, "For example. We had, off Alameda, across from Patrick Smith Park, family property and it's been split and it was split again just recently. We heard one of the cases that mitigated the acequia portion that was on one part of the land. The other part of the land, the surveyor and the homeowner had decided that they would just realign, move the acequia.

And so that was caught at the site where the lot split was going forward before it went to the Planning Commission. And we did have it realigned and correctly noted and signed on the formal legal plat. So we did impose some protection on that segment of the easement and were able to catch it. I think that putting it on the plat is going to be a good mechanism for protecting acequias, trails and other resources."

Mr. Pierce said he likes the proposed language, but the reference to non-profits makes no sense at all, commenting no one is going to that on.

Mr. Pierce said in the proposed replacement language, he would propose deleting the LA Number.

Ms. Ramirez-Thomas said that is now an external policy.

Chair Eck said using that terminology is limiting, and there could be even more kinds of documentation created in the future.

Ms. Ramirez Thomas asked if "we should we come up with something generic such as a Research Number," and Mr. Pierce said yes.

Chair Eck suggested a change in the second sentence of the proposed language [Exhibit"1"], beginning with, *"The location and extent of the easement shall be "proposed" by the archaeologist and presented to the Archaeological Review Committee as a recommendation."* He said determinations are rather final and we have to unhitch Field Archaeologist and determination because they almost always misuse the term. He said, "We, however, are supposed to determine whether it is significant, and then it's appropriate for us to then determine the adequacy of protection. That's what we're supposed to do. But the guy in the field does not make a determination."

Chair Eck said he thinks Ms. Ramirez-Thomas has captured everything.

Mr. Ivey suggested a change in the 3<sup>rd</sup> line from the bottom – change "approval" to "approve."

Ms. Ramirez-Thomas said she has no more major comments, and thinks it would be nice for the subcommittee to meet and groom out any inconsistencies or things that don't follow.

Mr. Pierce said he thinks that is a good idea.



Mr. Shandler said Ms. Ramirez-Thomas will coordinate that meeting of the Subcommittee, commenting if there is a quorum anticipated, then it will be a public meeting and public notice will be needed.

Mr. Pierce said he would like to revisit the second Major item, which is to eliminate the 500 foot requirement, and asked what we are talking about there – just the River and Trails and Suburban.

Ms. Ramirez-Thomas said yes, that we eliminated a linear foot threshold for downtown period, it just requires monitoring. She said in the River & Trails and Suburban Districts, we are doing the pre-field check, or pre-application meeting.

Mr. Pierce asked, for example, if someone comes forward and requests a permit for a 700 foot utility line in Rivers & Trails, what is the threshold there.

Ms. Ramirez-Thomas said they already have met the 550 feet under the current threshold. If the threshold is removed, the idea is that they already have had a pre-application meeting to identify sensitive resources or actual resources that they might go through and made a determination of what kind of monitoring activity has to occur.

Mr. Pierce said that kind of presupposes that the area already has been surveyed, and asked what if it is ground that nobody has looked at.

Ms. Ramirez-Thomas said she wasn't thinking about it that way.

Mr. Pierce said we are confusing monitoring for mitigation with the monitoring for identification again.

Ms. Ramirez-Thomas said, "Right, and so when does monitoring for identification happen. Does that happen all the time, because right now, that's at 550 feet. So if it is 400 feet, I don't even know if it's happening."

Mr. Pierce said it wouldn't happen under the current Code. He said, "I guess what I thought from the last time was that in the Rivers & Trails District, if the proposed utility line was more than 550 feet, it would be monitored. If it were less than 550 feet, but went through a known site, some portion of it would be monitored, so there is some buffer of that site. The rest would not have to be."

Ms. Ramirez-Thomas said, "So, it is 1,000 linear feet, and a parcel has been cleared for archaeology. So then they can monitor on one side of the parcel and the other side of the parcel, but not through the parcel."

Chair Eck said that would have some attractiveness. He asked if it is also true that most of this monitoring wouldn't be happening in parcels that have been cleared, because those parcels are private property. Monitoring in the street next to a parcel that has been "cleared," it's not new ground, it's not the parcel that has been cleared.

Mr. Pierce spoke about a recent case before the ARC where there was 2½ miles of monitoring, but only 300 feet was in downtown, but in that case, the tougher standard applied to the whole thing. He said, for example, if it was 300 feet, it was all in Rivers and Trails, then that would be 10,000 feet of trench with a single monitor. He said he doesn't want that. He understood that if it was over 550 it is monitored. If it is less than 550 feet, if there are no known sites, it gets a free pass. If there are known sites, you have to monitor within some buffer of that site only, not the whole thing.

Chair Eck said they were willing to take a limited risk, but not a 1,000 foot risk.

Mr. Pierce said, "Yes. I think the trade we agreed to, was to do the template monitoring plan so they don't have to come here."

Ms. Ramirez-Thomas said, then do you want to keep the threshold at 550 feet, or do you want to change it.

Mr. Pierce said we have gotten comfortable with 550 feet.

Chair Eck commented that new numbers will generate new questions, commenting that 660 feet has a certain attraction for him.

Chair Eck asked how many places in this draft ordinance, does it mention burial permits, and asked if both are mentioned on packet page 7, or if there are other places.

Ms. Ramirez-Thomas said yes, on packet page 30, line 21.

Mr. Shandler said it also is referenced on packet page 31, lines 3-6.

Chair Eck, referencing packet page 30, line 23, asked if the 75 years comes out of our own paper, or from something in the statute relating to the Office of the Medical Investigator. He said if "somebody else says something in Statute or State Regulation about the age of stuff, that would be

important to know." He said otherwise, as we said earlier, it should be 50 years.

Ms. Ramirez-Thomas said earlier we were talking about any human remains, and decided to drop the age.

Chair Eck said then the question is, regarding the OMI, if there is some statutory regulatory trigger of the age of the remains that kicks in their involvement. He said we want to make sure we don't conflict with another piece of legislation.

Mr. Pierce said it seems to him we could drop the 75 years here too, or just say the Office of Medical Investigator will determine jurisdiction.

Chair Eck said then that kicks the determination into the realm of someone who isn't qualified to make the determination, because how are they going to know whether they are prehistoric or not.

Chair Eck, referring to packet page 31, said the statement on line 3 is appropriate and they have to have that permit. He said it provides, *'The Treatment Plan and all treatment activities shall be performed by an archaeologist with a State of New Mexico Permit to Excavate Unmarked Human Burials....'*

Chair Eck, referring to packet page 7, said there are two mentions of State Burial Permits. One is for archaeologists and one for historical archaeologist. He said, "There is something about the way it is phrased that bothers me. That language provides, *'....for any location where human remains of historic age are found.'*" He said they wouldn't know if human remains are likely to be found and so it will be a big surprise.

Mr. Ramirez-Thomas said this section is about qualifications for the ARC members.

Chair Eck said it is also the qualifications for archaeologists in (e). He said he can think of instances where a person who did not hold a burial permit encountered human remains.

Ms. Ramirez-Thomas said she had suggested in one version, or in a comment, that the Archaeological Review Committee qualifications should be separate from that of archaeologists instead of lumped-in with them, because they don't need a Burial Permit to serve on ARC.

Mr. Shandler said, "What happened was..... on big page 7, lines 24-25, is existing language... several years ago there was a big Code rewrite of Chapter 14, and a follow-up rewrite of it, and within the last 5 years, somehow this page 7, lines 24-25 were put in there. I couldn't figure out why on the amendment. So Lisa said if it is there for Historical Archaeologists, I should

put it in for Archaeologists too. So we basically just cut and pasted language. And then subsequently in the subcommittee, we added this parenthetical 'when required by State,' because why should you, as an archaeologist always have to have an active permit. And I think your question is that the original language is pretty inartful and maybe the subcommittee should rewrite that. And then you would debate whether that should be a requirement. But first, tackle the inartful language."

Chair Eck agreed, saying the Subcommittee can work on the language until we have something that seems to make sense.

*Mr. Shandler departed for another City Committee*

#### **H. MATTERS FROM THE COMMITTEE**

There were no matters from the Committee.

#### **I. ADMINISTRATIVE MATTERS AND COMMUNICATIONS**

Ms. Ramirez-Thomas said there are three potential members, so hopefully something will be submitted soon with resume[s].

Ms. Ramirez-Thomas said at a future meeting we can have a discussion about boring, because there is another large fiberoptic project being proposed.

Ms. Ramirez-Thomas said there will be 6 cases on the agenda for the next meeting.

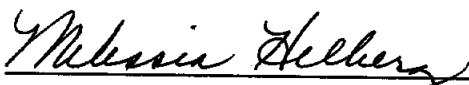
#### **J. ADJOURNMENT**

There was no further business to come before the Committee.

**MOTION:** Jake Ivey moved, seconded by Derek Pierce, 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.

 96 October 2016  
David Eck, Chair

  
Melessia Helberg, Stenographer

**Cultural Properties Preservation Easement/ Establishment of City of Santa Fe Cultural Properties Preservation Easement**

A Cultural Properties Preservation Easement protecting a *significant* archaeological site from unmitigated harm can be placed on a site as an alternative to treatment as described in (i). The location and extent of the easement shall be determined by the archaeologist and presented to the Archaeological Review Committee as a recommendation. The Archaeological Review Committee will determine the adequacy of protection proposed by the archaeologist and alter the recommendation as appropriate. Conditions for the protection of the resource shall include a delineation of the boundary of the resource, described in metes and bounds by a licensed New Mexico surveyor, on a plat recorded with City of Santa Fe signatures to include that of Historic Preservation Division staff. The language on the plat shall read "City of Santa Fe Cultural Properties Easement, No Activity Which Disturbs Ground Surface Shall Occur within the Boundaries of the Cultural Properties Easement Reflected on the Plat, LA# \_\_\_\_\_, Archaeological Review Committee Case# \_\_\_\_\_." A final copy of the plat will be required for inclusion in the Archaeological Review Committee case.

Should a request be made for an easement to be removed, the resource must be treated as described in (i). Removal of the easement will be done via action by the Archaeological Review Committee to approval the removal. A plat showing the removal of the easement must include City of Santa Fe signatures to include that of Historic Preservation Division staff. A final copy of the plat will be required for inclusion in the Archaeological Review Committee case.

*Exhibit "1"*