



Agenda

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**ARCHAEOLOGICAL REVIEW COMMITTEE HEARING
THURSDAY, June 8, 2017 at 4:30 PM
CITY COUNCILOR'S 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 4, 2017

E. MATTERS FROM THE FLOOR

F. ACTION ITEMS

1. Case #AR-20-2017. Arbolitos at Las Estrellas. Suburban Archaeological Review District. Ron Winters, agent for Arete Homes of Santa Fe/Robert and Sons LLC, owners, requests approval for an Archaeological Inventory for 16 acres of proposed development.
2. Case #AR-21-2017. Acequia de las Joyas. River and Trails Archaeological Review District. Stephen Post, agent for Artemio and Ileana Franco, owners, requests approval for an Acequia and Historic Structure Study for 1.475 acres for a proposed lot split.

G. DISCUSSION ITEMS

1. External Policy for recording known acequia segments.

H. MATTERS FROM THE COMMITTEE

I. ADMINISTRATIVE MATTERS AND COMMUNICATIONS

J. ADJOURNMENT

Persons with disabilities in need of accommodations, contact the City Clerk's office at 955-6520 five (5) working days prior to date.

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ARCHAEOLOGICAL REVIEW COMMITTEE
June 8, 2017

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**MINUTES OF THE
CITY OF SANTA FE
ARCHAEOLOGICAL REVIEW COMMITTEE HEARING
City Councilors Conference Room
June 8, 2017**

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 8, 2017, in the City Councilors 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
Cortney Anne Wands

Others Present

Nicole Ramirez-Thomas, Historic Preservation Division – Committee Liaison
Melessia Helberg, Stenographer

There was a quorum of the membership in attendance for the conducting of official business.

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 4, 2017

The following corrections were made to the minutes:

Page 12, paragraph 3, correct as follows: "...agricultural uses there."

MOTION: Jake Ivey moved, seconded by Derek Pierce, to approve the minutes of the meeting of May 4, 2017, 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-20-17. ARBOLITOS AT LAS ESTRELLAS, SUBURBAN ARCHAEOLOGICAL REVIEW DISTRICT. RON WINTERS, AGENT FOR ARETE HOMES OF SANTA FE/ROBERT AND SONS, LLC, OWNERS, REQUESTS APPROVAL FOR AN ARCHAEOLOGICAL INVENTORY FOR 16 ACRES OF PROPOSED DEVELOPMENT.**

BACKGROUND & SUMMARY:

Mr. Winters performed an archaeological survey and inventory for 16.00 acres in advance of development of the Arbolitos at Las Estrellas Subdivision. Two previously unrecorded sites were recorded and two previously recorded sites were updated. The two newly recorded sites consisted of a historic refuse scatter and a small lithic scatter. The archaeologist recommends that neither of these sites be considered significant. The two formerly recorded sites are also recommended as not significant, as one was cleared through data recovery and the other has eroded away. In addition to the sites, several IOs and 23 rock alignments reported as Civilian Conservation Corp check dams were recorded. No LA forms or HCPI forms were used to record these features.

STAFF RECOMMENDATION:

Staff recommends approval of the report and recommendations as they comply with 14-3.13(B)(3) Applicability for the Suburban Archaeological Review District and 14-3.13(5)(a) Procedures for Suburban Area Reconnaissance. Staff defers to the Committee regarding a discussion of the linear rock feature and how to treat such features.

Chair Eck noted the Staff Report in the packet. He thanked Ms. Ramirez-Thomas and asked if she has anything to add.

Ms. Ramirez-Thomas said in her recommendation she said staff defers to the Committee regarding a discussion of linear rock features and how to treat them. She said she has seen in other reports that check dams are not recorded on any kind of forms. She doesn't know if that is standard. The only time she has recorded these has been in other states. She would like discussion and guidance in this regard.

Mr. Winters said as with many projects conducted in the area, there was evidence of lithics throughout the project area. He said in the survey, that was mostly in the form of lithic IO's, although there

was lithic scatter documented. There are numerous CCC era check dams recorded, and historic trash scatters recorded appear to be from this era. In conducting a [inaudible] check he found no previous and recorded sites in the area. He knew this was not the case, and [inaudible] showed two sites on the eastern edge of project area protected by preservation easements. In researching the sites, he found issues with the original documentation of the sites which he explained in the report. He knew what Mr. Post had recorded, he paid particular attention to the arroyos and any evidence of thermal features which he did not find. He did go back and do a complete site update on both sites, and changed one of them slightly to better reflect the current status of that site.

Tess Monahan

Ms. Monahan thanked Mr. Winters for his thoroughness of his report.

Derek Pierce

Mr. Pierce said, referring the two sites which were mis-plotted, Mr. Winters did a good job of explaining it in the report itself. He said he needs to bear in mind that the staff at ARMS doesn't read the reports, so it is always good to mention that in body of text of the site form itself.

Mr. Winters said he didn't change the status of those, based on the original recommendation, noting one had been excavated.

Mr. Post said he visited the excavated site.

Mr. Pierce said the important point is that one of the sites was thoroughly excavated and it is no longer significant which was Mr. Winter's recommendation.

Mr. Pierce said there are dots on the project area map to indicate exactly where the site is, and Mr. Winters said he thought he included Mr. Post's map.

Mr. Pierce said he did, but it is the project boundary, not the site location.

Mr. Pierce said with the question about recording check dams as IO's versus sites. He said they are too numerous to record every scatter of rock. He recalls a case off Old Santa Fe, north of Amelia White where there were substantial CCC dams with masonry, mortar which were recorded as actual sites.

Mr. Winters said in the past people were recording those as sites because they thought they were pre-historic. He said he has worked a lot in that area and this is the way he has been treating them, and Mr. Pierce said that makes sense to him.

Cortney Anne Wands

Ms. Wands, referring to packet page 47, said in paragraph 1, the site number is incorrect and should be LA187485, and that is the same on packet page 48 in the last paragraph

Mr. Winters said he will correct that.

Jake Ivey

Mr. Ivey said he has no comment.

Chair Eck

Chair Eck said he has two comments, but no changes. He said in the discussion of sites that were there, the map check should be discussed among the Findings and not in the Summary and Conclusions. Secondly, he would suggest that describing the condition of a check dam as a "run around," should say "circumvented," or "bypassed," and Mr. Post said the term "run around" has been used for 25 years.

Chair Eck said so long as it is consistent he is happy with the report.

MOTION: Derek Pierce moved, seconded by Tess Monahan, with respect to Case #AR-20-17, to approve the Archaeological Inventory for 16 acres of proposed development, with the one minor correction, as requested by Ron Winters for Arete Homes of Santa Fe, as they comply with 14-3.13(B)(3) Applicability for the Suburban Archaeological Review District and 14-3.13(5)(a) Procedures for Suburban Area Reconnaissance.

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

**2) CASE #AR-21-17. ACEQUIAS DE LAS JOYAS. RIVER AND TRAILS
ARCHAEOLOGICAL REVIEW DISTRICT. STEPHEN POST, AGENT FOR ARTEMIO
AND ILEANA FRANCO, OWNERS, REQUESTS APPROVAL FOR AN ACEQUIA AND
HISTORIC DISTRICT STRUCTURE STUDY FOR 1.475 ACRES FOR A PROPOSED
LOT SPLIT.**

An eMail Memorandum dated June 3, 2017, from Phillip J. Bové, to Steven Post, regarding field meeting to discuss the Acequia de las Joyas acequia easement and cultural preservation easement, is incorporated herewith to these minutes as Exhibit "1."

BACKGROUND AND SUMMARY:

Mr. Post was contacted to record an existing 140 meter long acequia segment in advance of a lot split. The acequia is located perpendicular to the main access point for the property and was marked on a 1975 plat as an acequia. The Current Planning Division of the Land Use Department inquired as to how to handle this resource prior to taking the lot split to the Board of Adjustment. It will be necessary to place a culvert through the acequia.

STAFF RECOMMENDATION:

Staff defers to the Committee for discussion regarding acequia segments, which are classified as a known resource, and which exist on properties but are below the minimum thresholds for archaeological investigation within one of the three districts. Staff recommends that recording the feature be considered a

method of compliance under 14-3.13(4)(d) and 14-3.13(5)(d), which would constitute as Treatment for some acequias found on private property in the Archaeological Review Districts. Staff also recommends that the HCPI form serve as the means for mitigating the impacts of development and recommends no further treatment of the feature.

Chair Eck noted the Staff Report in the packet. He thanked Ms. Ramirez-Thomas and asked if she has anything to add.

Ms. Ramirez-Thomas said she is looking for direction from the Committee as to how to treat acequia alignments where there is no threshold, but there is a known resource. She said, additionally, there is a proposal to do both an acequia easement and a cultural property easement. She asked if the Committee wants to do both, or one or the other, and would like discussion on the intent of the easement independently.

Stephen Post, Consulting Archaeologist, said he understands that because acequias are identified as significant property by the ARC, it has been decided that all acequias should be protected or at least documented in some manner. In discussions with the Committee and he and staff, they came up with a loose internal process. He thanked the ARC and Ms. Thomas-Ramirez for working on this and providing guidance to him so he could get the landowner get through a new process where we are recording cultural properties on lot split projects that do not meet threshold requirements for Archaeological Review Districts. Mr. Post introduced Artemio Franco, the landowner, and James Muir, Southwest Mountain Service.

Mr. Post said following guidance, he conducted a field reconnaissance, and the acequia alignment as requested by this Committee and staff. He documented an abandoned cinder block structure on the property as well, and reported both as HCPI properties, and provided the Committee with a detailed Acequia Inventory Form as well, for the acequia itself. He said difficult aspects of this project are that the acequia is buried and the alignment has been lost. He said there was an alignment of wolfberry bushes which we've all used in the field to surmise past disturbance and certainly linear distribution of wolfberry bushes may be an indication of a linear feature. He said he used the distribution of wolfberry bushes to come up with a new estimated center line for Acequias de las Joyas. He flagged it. He said James Muir of Southwest Mountain surveyed the center line and has created an acequia easement, there also is a cultural properties easement on the preliminary plat for the lot split. He also suggested an alignment for Acequia de los [inaudible].

[Mr. Post's remarks are inaudible here.]

Mr. Post demonstrated the various locations on the plat which was not entered for the record. He said the meets and bounds are on the plat, typical preservation easements. He said at the time the draft of the plat was produced, he had not had input from Phil Bové, Acequia Madre Commissioner, who has worked consistently over the years with the ARC to try to resolve issues surrounding acequias on different projects.

Mr. Post attended a talk by Mr. Bové, Journeys Santa Fe, at Collective Works, and spoke him after his talk. He said this project was showed in his talk. He provided a summary of their discussion [Exhibit

"2"] regarding agreements reached regarding the acequia.

Mr. Post said projects such as this one, are small, but can get complicated. He said after he documented and replotted the acequia easement, a sewer contractor for the landowner completed an unauthorized blading access from Agua Fria into the property along the east boundary of the property and crossed the diagonal portion of the easement. He said the damage was "unfortunate but fortuitous," because he was able to observe the cut 6-10 inches below the service, 12 feet wide, and didn't see an alignment. Mr. Post said he discussed the blading with Mr. Bové and he thought no harm was done because there was no ditch alignment for the acequia in the first place.

Mr. Post said subsequent to submitting the Historic Cultural Property Inventory Form for 43014, Mr. Muir observed that the length of the alignment that would be disturbed by the culvert is 27 feet, but he had presented it as 20 feet in his forms, and that has been corrected in a more current version of the form as well as documenting the unauthorized blading in the form and provided photographs.

Mr. Post said in conversations with Mr. Bové and Mr. Muir, they would like to propose that Mr. Franco be allowed to place a culvert along the center line of the ditch alignment as proposed and plotted and shown on the place, to ensure that should the Acequia de las Joyas be revitalized, and water rights held within that acequia and by adjacent land owners become active again. And once the acequia is running and there is the ability to run water under the existing driveway into the acequia, that would be redone. He said Mr. Bové was okay with the culvert. Mr. Franco is okay with it as long as he has access to his property. He recommended this segment of the acequia isn't eligible because there no longer are any character defining features present. However, the City recognizes it as a significant feature and Mr. Bové and the Acequia Madre Association consider the alignment to continue to be active and legally present, so there were a few conflicts.

Mr. Post continued, saying regarding the abandoned cinder block structure of relatively unknown age, believed to have been built after 1951, he re-recorded it, and recommended it as not eligible. He said since he submitted the forms, he learned there was a sand & gravel operation on the property and the structure was the former office of that operation. He said based on the plats, he is pretty sure it was one of the Montano operations. He added the new information to a new draft of the HCPI form for that property.

Tess Monahan

Ms. Monahan said she appreciates Mr. Franco's willingness to attend the meeting and his interest in preserving these kinds of things. She thanked him for trying to provide a venue for this to be properly documented. She said the Acequia de las Joyas has been a recurring question before this Committee for years. She thanked Mr. Post for his thoroughness in this process. Ms. Monahan noted a typo on packet page 10, partially misspelled in the second paragraph.

Derek Pierce

Mr. Pierce said his comment relates to the dual effort of an acequia easement and a cultural preservation easement. He said according to Mr. Post's recommendation, it is not eligible or significant,

and it would seem contrary to put a cultural easement on it. He said the recommendation should be, not sure, because maybe there is still something buried underground. Or if it is not eligible, then no easement is needed.

Ms. Ramirez-Thomas said the idea to have a record and whether or not Mr. Bové wanted an acequia easement, noting that was remedied with the culvert, and Mr. Pierce said he doesn't see enough to recommend it as significant.

Mr. Post said there is the possibility that some day cross sections or the revitalization of the Acequia de las Joyas may in fact expose a channel that has character defining features, so he thinks this is a good way to go about it.

Mr. Pierce said there is no harm if there already is an acequia easement and cultural preservation easement. He would have to give more thought if there only was a cultural preservation easement.

Responding to a question from Mr. Post, Ms. Ramirez-Thomas said it was determined that it was a known feature.

Mr. Post said he thought he saw the word significant attached to it, and Ms. Ramirez-Thomas said, "I don't think so, but I could look and see." She said she can't assign significance at this point..

Cortney Anne Wands

Ms. Wands said on packet page 3, under Location it says the property is located on Acequias de las "Joyasm," which should be Joyas.

Jake Ivey

Mr. Ivey said it sounds as if he is saying that the entire acequia should be disallowed or not considered significant, or just this section, and Mr. Post said just this section.

Mr. Ivey asked how you can claim significance for lots of the acequia, except for this one piece that we can't see. He asked if you don't have to assume the presence of some trace of it. He said in the sense of the cultural usage, the pathway, the set of circumstances that allowed the water to flow there, is still there.

Mr. Muir said it is upstream, and there are things that would require extreme invasion into what is currently existing to bring access to that.

Mr. Ivey said then he is going by how much difficulty it would be to return it to use.

Mr. Post said we can't judge that, but the City or ARC may want to recommend to the City that acequias are significant, and in a sense we are recording all elements of a significant resource.

Mr. Ivey said he is thinking in terms of the Old Santa Fe Trail which is eventually erasing large sections of the trail, and it is not a result we want.

Ms. Monahan said the Old Santa Fe Trail is part of the Ordinance, identified specifically, but acequias are not.

Mr. Ivey said in the photographs you easily can see little traces of where the acequia used to go, and Mr. Post said you can see it in 1936 and in 1951.

Mr. Ivey said, to be clear, he is not debating the conclusions but he is asking questions about the standing.

Mr. Post said he didn't consider the third option which is "not sure," which leaves it open for further study along the lines Mr. Pierce was describing.

Ms. Ramirez-Thomas said she asked the reason we put acequia easements in place, and how they protect an acequia and what does that mean. She said it is the same with cultural property easements. She asked which offers better and more protection – is it redundant. She said acequias aren't addressed clearly in the Ordinance. [inaudible here] She said it makes it easier to explain the process and reason to people.

Chair Eck

Chair Eck said, given what we have heard, it seems we have arrived at a way to handle this particular case. He is going to change the recommendation on "significant," to "not sure," and go with the recommended easements as presented this evening, and Mr. Post said that is correct as well as to change the language on the plat to reflect the City's specified language.

Chair Eck said then it is a matter of deciding whether or not to approve the request.

Ms. Ramirez-Thomas said, for clarification, there will be an acequia easement and a cultural property easement placed on this property, and Chair Eck said that is correct.

Mr. Ramirez-Thomas said once the language is on the plat, she will sign it.

Mr. Post asked if this action results in a permit.

Chair Eck said it would normally, but asked if we have a mechanism to issue a permit from this Committee in this situation.

Ms. Ramirez-Thomas said we no longer have triplicate forms and Chair Eck can sign this, so a permit will be issued.

Chair Eck said explicit in our approvals is if there is a permit, that is the next step.

MOTION: Derek Pierce moved, seconded by Tess Monahan, with respect to Case #AR-2017, to approve the Acequia and Historic Structure Study for 1.475 acres for a lot split, and accept the recommended cultural preservation easements, with the minor changes, as requested by Stephen Post for Artemio and Ileana Franco.

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

G. DISCUSSION ITEMS

1. EXTERNAL POLICY FOR RECORDING KNOWN ACEQUIA SEGMENTS.

Ms. Ramirez-Thomas said she intended to draft a policy, but they would prefer that we put things into the Ordinance. She said she thought also it would be good to discuss how to handle acequias, because they present so many unique scenarios in regard to the acequias in the 1 ½ years she has been with the City and it is had to know how to deal with them.

Chair Eck said in instances where there are no easements or recognized archaeological features, he is at a loss for this Committee to proceed, because it's really isn't our purview. If there is an easement for an acequia in the conceptual sense, such as the one that is now under this house, that is not our easement and we aren't involved in that either.

Ms. Ramirez-Thomas said in this case it came into our realm is because it was on a previous plat and the property manager brought it up. She said with regard to the vacated easement, it was vacated. What our office needs to establish is better communications with the Acequia Association. She said that is what came from this discussion. She nobody was angry. She said one of the ways they intend to remedy that is to have all Acequia Madre addresses flagged in the permit system. What that means is when anyone goes to do permitted work, they are sent to "us," automatically and then we have a discussion about what will happen with the project.

Ms. Wands asked if she is speaking of the Historic Preservation Office or the Archaeological Review Committee, and Ms. Ramirez-Thomas said she is speaking of her office.

Ms. Wands asked the reason it isn't an H-Board question, and Ms. Ramirez-Thomas said she thinks it is purely archaeological.

Mr. Post said he thinks it is because they are cultural properties, and for ARC. He said they aren't looking at above ground cultural property. He presumes a built environment is tied to a feature that has elevation, and acequias are at ground level or below.

Chair Eck said it is analogous situation to split estate ownership. They both occupy the same real estate, with a different existence in legal space and their boundaries coincide so there is no way to actually separate the two.

Ms. Ramirez-Thomas said the H-Board deals with changes in architecture which is a big distinction

between the H-Board and the ARC.

Chair Eck said they don't deal with engineered things that are not architectural.

Mr. Post said it's not a strict cultural property definition, but it is the built environment.

Mr. Pierce said if a decision is made that all acequias come before this Committee, that is fine. We will need to get to the point where it is clear who has oversight of these things, because we're talking about an acequia easement and a cultural preservation easement on the same property.

Chair Eck said we had a physical manifestation of a ditch, a recognizable archaeological feature on one place on a certain property and an acequia easement approved by the Ditch Association and Phil Bové and whoever else, that was at a different place on the same lot. One had a physical representation, and the other had a line on a plat. There was no active ditch in either place. So, they can be the same, or different, and both can exist, which is a management nightmare.

Mr. Post recalls in 1991 when he completed a project for the Cienegitas del Camino Real for Agua Fria, and the Acequias de los Pinos, the Acequia Madre essentially, runs through that property, and we had to deal with preserving the ditch as an open ditch and water runs through it now. The cultural prohibition of disturbing the ditch, versus the ditch maintenance where you are reforming the channel. He recalls they combined the two in that case and became compatible. That easement has been in place for 26 years, and is a perfect example of what you're talking about.

Chair Eck said this Committee actually can't determine where the acequia easement is, and if it is an easement in concept and not in physical, old ditch remnant fact, they still have a property right, but we have nothing to do with placing that easement. That is entirely Mr. Bové and *[inaudible]*.

Mr. Post said he looked to Mr. Bové for guidance on this, and it seemed this Committee was doing this.

Mr. Pierce said it might be good for the resource, but doesn't think there is anything in the City Code. He said it would be nice if we could treat acequias, particularly the ones that are visible, and not buried underground, as we do the Santa Fe Trail, where it doesn't matter how big the lot is if it is a known segment of this resource. There is nothing in the Code that allows us to do that currently.

Mr. Muir said from a surveying perspective, they deal with all kinds of easements, and if it moves to the point of a legal standpoint of one property owner vs. another, he would said distinguishing the difference between those two easements would be significant. It is one thing to say "a common access road," and another to say a "right-of-way," and they'll be treated differently in the Court system. He said to be able to define the type of easement, surveyors take a great amount of significance in ditches, noting ditches are huge in his world because that is definitive of peoples water rights, how they get their water now and in the future. He said he would look at it like an acequia easement which he thinks is far more significant than a cultural property easement because it is on someone's personal property. He said as long as one owner has right over the acequia easement and they're downstream, then everybody

upstream is subject to that person's ability downstream to get water. He said he would think it being a cultural property would cloud that in a sense, because it creates an overlap between the society versus the personal property owner.

Mr. Pierce said that is an excellent point. He said a cultural property easement has nothing to do with water rights before this Committee. He said water rights extend beyond the property, and this Committee looks only at the parcel in question. He said a cultural property easement on a parcel is voluntary by the landowner as a means to get clearance for the parcel. As opposed to, say, having to excavate a site, you can put an easement over the top of it and it is not to be disturbed which you swear not to disturb and get clearance.

[Mr. Muir's remarks here are inaudible] In this case they are overlapping, and as long as he can build his driveway that is fine. But if it is adjudicated 10-20 years from now, you can no longer build over an acequia easement, but you can build over a cultural property easement or vice versa, then situations like this could become future problems for future property owners.

Chair Eck said back to his example where there was an agreement between the landowner and the ditch association to establish an easement on alignment A, and a recognition of an archaeological feature in a different location by this group, alignment B. There is an acequia easement on A and cultural properties easement on B, there is a mechanism to be able to do something that would disturb B, and it comes back to this Committee, A is not our business. He said except in rare instances where they are in exactly the same place, he sees no potential for clouding issues. And even in that situation, the acequia easement has to take precedence. They have property rights, we don't. The cultural property easement if it has a ghost of a property right with it, has to live with the City, not us. We're just agreeing as to whether or not is an acceptable solution to the situation at hand. A smart lawyer will come up with a reason to make it a big deal, but right now he doesn't see why it should be *[inaudible]*.

Mr. Muir said he foresees the City adopting an Ordinance in the future providing you cannot build over a cultural property easement, period. Or you can, as long as you go through the process. He said for other people down the road it could be a cloud issue. He agrees that the acequia easement by far rules.

Mr. Pierce said to get to the narrow question, it is on the plat, showing them separate and distinct, even though in the same place. He said we don't want to be caught up the whole acequia easement question, commenting, "That is way above our pay grade here."

Mr. Pierce continued, saying he wants to go back to the question of whether we should be asking for a recordation of an acequia on a parcel that doesn't meet the threshold. He said it is wonderful if somebody is willing to do that, but we have no standing to force them to do that. That is the reason he suggested some sort of compensation for somebody who is willing to go the extra step and voluntarily record it. He said there is a cost to this, and Mr. Post agreed saying we can't underestimate the cost.

Chair Eck said there are lots of cautionary tales for the City to consider as to whether or not it going to put something in an Ordinance that talks about this, and how it talks about it. If it were our Ordinance, we would sit next week and write something, but it's not our Ordinance.

Mr. Pierce said if the City were to rewrite its Ordinance to include something about acequias being recorded, regardless of acreage, in this case all we have is a line on an old Plat from 1951 and the possible alignment. There is no specific evidence that the acequia is there.

[Too many people talking at the same time here]

Mr. Post asked, if the City hypothetically is rewriting the Ordinance, from his experience on this project, it would be good to know how much information is enough on an acequia. He feels he did an okay job on this, but he didn't exhaust services to try and track down the history of the acequia because he didn't think it was appropriate. He also was unsure what was required for submittal.

Mr. Pierce said that is the reason nobody suggested a full blown inventory with a report and archive because it would be an unreasonable burden on the landowner. He asked Mr. Franco if he had the impression that he was required to do this, and Mr. Franco said, "Not at all."

Mr. Pierce said that makes him breathe a little easier.

Mr. Muir said he was under the impression that he didn't have to do it, but that it was coincident with the fact that he didn't have to split his land. He believed in order to split the land, it was more something the City was requiring us to do. He was given a list of the requirements from Land Use that stated that we had to take this to this Committee to process the easement. He said they stated that there is a 10 foot easement and we had to take this to the H-Board for consideration. He was very much of the impression this is required.

Ms. Ramirez-Thomas said for clarification, the Property Manager was the one who said that, and Mr. Muir said that is who he is speaking of.

Ms. Ramirez-Thomas said this is how this came into the language. We get this information from Land Use that there is an acequia easement and it does have to be dealt with in terms of the Acequia Association. However, whether or not it needs a cultural property easement was the other question. She said, "The path we ended up walking was that this needed to be recorded, and an acequia easement had to be done at least." She said there were a lot of components with this. She said her Division deliberates enforcing anything outside the Code. There is no know resource, and recording it for that reason *[inaudible]*.

Ms. Ramirez-Thomas continued, saying staff can write a specific ordinance, but the Committee has the authority to approve things that she can't do. So the question is do we want to come up with a protocol for managing acequias in any way, or do we want to abandon that idea entirely. She said this is where the Committee has more experience than she does.

Ms. Monahan said apart from it being a written part of the Ordinance, we have no authority and we can't develop a protocol. We can't say what people should or shouldn't do.

Ms. Ramirez-Thomas said she isn't asking the Committee to develop a protocol. She is asking

should one be developed or not in the Committee's opinion. She is looking for consensus.

Mr. Pierce said the reason this is before this Committee as a case was Ms. Ramirez-Thomas felt it was a known historic resource under the Code that has to be addressed, asking if this her interpretation of the Code.

Ms. Ramirez-Thomas said yes, in the same sense that the Old Santa Fe ruts are handled. He understanding in talking to David Rasch, is that is a procedure that has occurred in other cases. So that is one element.

Ms. Ramirez-Thomas said at the last hearing, she asked if the Committee would like to hear this as an action item or if just bring it for discussion, and the Committee decided to bring it for action to evaluate this process, and potentially create the process of managing known resources.

Mr. Pierce said if we accept this needs to be addressed because it was a known resource, there is the question of what is the threshold – how theoretical can it be before it is not known. He said if it just shows up on one plat, and that's all you have, he wouldn't call that known. He said in this case there are photos to back it which is a stronger argument.

Ms. Ramirez-Thomas said in this case, it was the Property Manager in Current Planning that was driving this recording.

Ms. Monahan said it ultimately is challenging, and as much as we love Phil Bové, just because he has articulate this process and established his process doesn't mean it's been adopted, and she sees no City policy where it has been adopted.

Ms. Ramirez-Thomas said that brings up another point, that Mr. Bové has said to David Rasch that it has been adopted and all acequias in the City are significant resources, but not litigated. She hasn't been able to establish this as a fact, which is another unknown.

Mr. Pierce said before we entertain any change to the Code, and another case is presented where the owner might get the impression they are required to do so, we need to know that.

Ms. Ramirez-Thomas said he gets the packet and was informed of the policy.

Mr. Post said even though we don't have the acequia itself, we have delineations, the history and stories associate with that acequia and validating it as an cultural property. Secondly if the project had been more than 2 acres and triggered the process for an archaeological review, he probably would have recorded the acequia alignment shown on the 1975 Plat and the historic photos as best he could anyway.

Mr. Pierce said he established by archive research in a sense, by aerial photographs, that there was an acequia segment there that was not readily visible on the service. By the time he did that, he already was under contract and being paid. If it is not visible, why should the landowner been required to contract at all, and Mr. Post said he agrees.

Ms. Ramirez-Thomas said the question then is what is the value of the Plat, having a previously recorded acequia easement on it.

Ms. Monahan pointed out they are conflicting plats, and we have dealt with this before, where the County Surveyor arbitrarily drew an acequia segment on the Plat that did not exist, and this also was on the Acequia de las Joyas. We had to go into the field to get it resolved. This Committee should never be asked to go into the field to make an evaluation that the contractor should be able to make.

Mr. Pierce said acequias are not analogous to the Santa Fe Trail ruts. The Santa Fe Trail ruts are recorded and anything recorded has to be dealt with, regardless of the parcel acreage. And anything not recorded doesn't, unless it meets the threshold. He said, "Undoubtedly, somewhere there is a section of Santa Fe Trail ruts that was not recorded by Pittel and Tigges and is on a parcel of less than 2 acres. It doesn't matter, we have no authority to require it to be recorded. He doesn't think we can do so with the acequia, noting there is no standard reference of all the known acequia segments in Santa Fe."

Ms. Ramirez-Thomas said there is a City-wide Plat with all of the acequia land recorded on it, we rely on it, and it is standard practice to consult the acequia map to determine there is an acequia alignment or easement that needs to be placed on a property. They are operating under that paradigm.

Mr. Pierce said Pittel and Tigges have cited that in the Code, but that map is not, so that's probably where we need to look, if we're doing something with the acequias.

Mr. Muir said he got the impression it was required because staff told him there was evidence that there was a lot lining of some sort. He didn't find it, and Mr. Pierce said all he can say is that he was not required to do so under the Archaeological Ordinance.

Ms. Monahan asked if there is a way for the Applicant to apply for funding from the Archaeological Fund.

Mr. Pierce said yes. He said the landowner in this case would need to come to us with a written request which would serve as an application.

Ms. Ramirez-Thomas said that is correct, and she would have to figure out how it works once the Committee had approved, and Mr. Pierce noted there are thresholds – below a certain amount....

Mr. Post said he will put together a request for reimbursement on behalf of Mr. Franco.

Chair Eck said the reason that might be offered for the application, is that it arose from City staff relaying information that led to this, that was not a requirement of this Committee that it be done. So, we would in effect be "bailing out another arm of the City."

Ms. Ramirez-Thomas noted it is private property, and do we consider the acequia to be of City-wide importance.

Ms. Monahan said she believes we should decide those issues when we have a request before this Committee.

Mr. Pierce said this something we would entertain doing once, but we don't want to do it every time Land Use tells landowners and surveyors this is required, and Ms. Ramirez-Thomas said she will talk to them.

Mr. Pierce suggested what is submitted for reimbursement, should include only the archaeological costs, and not the surveying.

Chair Eck asked Ms. Ramirez-Thomas if she feels we have discussed sufficiently to see a way forward .

Ms. Ramirez-Thomas yes, and she will discuss those with Mr. Shandler.

[Mr. Muir's remarks here are inaudible.]

H. MATTERS FROM THE COMMITTEE

There were no matters from the Committee.

I. ADMINISTRATIVE MATTERS AND COMMUNICATIONS


There were no administrative matters and communications.

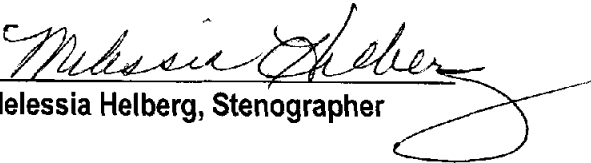
J. ADJOURNMENT

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 6:10 p.m.

 13 July 2017
David Eck, Chair


Melessia Helberg, Stenographer

RAMIREZ-THOMAS, NICOLE A.

From: Phillip J. Bové <pjbove@aol.com>
Sent: Saturday, June 03, 2017 9:44 AM
To: sspost@q.com
Cc: RAMIREZ-THOMAS, NICOLE A.; james@swmountainsurveys.com
Subject: Re: Field Meeting to discuss the Acequia de las Joyas acequia easement and cultural preservation easement

Stephen & All,

I have initialed my OK of each item listed below.

Phillip J. Bové
Commissioner
Acequia Madre de Santa Fe
922 Acequia Madre
Santa Fe, New Mexico 87505
(505) 983-3546
Fax (505) 986-0877
pjbove@aol.com

-----Original Message-----

From: Stephen Post <sspost@q.com>
To: pjbove <pjbove@aol.com>
Cc: NICOLE A. RAMIREZ-THOMAS <naramirez-thomas@ci.santa-fe.nm.us>; james <james@swmountainsurveys.com>; sspost <sspost@q.com>
Sent: Fri, Jun 2, 2017 5:07 pm
Subject: Field Meeting to discuss the Acequia de las Joyas acequia easement and cultural preservation easement

Hi Phil,

Here is a summary of our meeting this afternoon. Please respond to all with your concurrence and any additional information you would like to include.

Summary of the meeting between Phil Bove, Commissioner, Acequia Madre de Santa Fe and Stephen Post, Consulting Archaeologist at the Franco Property along Acequia de las Joyas on June 1, 2017

We met at the subject Franco property along Acequia de los Joyas south of Agua Fria Street at 1 pm on June 1, 2017. The reason for our meeting was to confer on the proposed location of the Acequia de las Joyas alignment along the south boundary of Lot 2A and Lot 2B and crossing the eastern portion of Lot 2B to the east property line. At our meeting, I presented you with a copy of the Preliminary Draft Plat for the Lot Split Survey for Artemio Franco of Lot 2.

1. We both agreed that on the previous plats the Acequia de las Joyas centerline was depicted as offset from the south boundary of Lot 2B and straddling the south boundary of Lot 2A. PJB
2. My relocation of the centerline of the Acequia de las Joyas to the north of the property line allowing for the easement to be contained completely within the Lots 2A and 2B was acceptable because the previous centerline

had not been subject to legal platting with metes and bounds and that the relocation was an acceptable approximation of the historic alignment, which has been buried and is no longer visible on the surface. PJB

3. You concurred with the creation of the 5 ft-wide easement on either side of the centerline for a total easement width of 10 ft, as sufficient for the acequia and cultural preservation easement as depicted and described on the preliminary draft plat of the subject property. PJB

4. You concurred that it would be permissible for a 20 ft-wide driveway to be constructed within the utility easement shown along the east property boundary as long as a culvert located along the platted centerline of the Acequia de las Joyas was installed beneath the driveway at the time of its construction. PJB

5. We agreed that the easement should be titled as shown on the preliminary draft as "Acequia Easement and Cultural Preservation Easement." This essentially acknowledges that the two easements overlay one another. You did not request language specific to the acequia easement to be shown on the preliminary draft plat. PJB

6. I informed you that the sewer contractor had bladed a 12 ft-wide unauthorized access along the east property line crossing the acequia alignment. I explained that I had examined the bladed swath and did not observe any evidence of the Acequia de las Joyas ditch in the profile and plan views. PJB

I present this is an accurate summary of our conversation and of your concurrences of the proposed Acequia de las Joyas alignment, easement, platting, description, and treatment at the time of the proposed driveway construction. If you concur, please respond to this e-mail by replying to all, so that Nicole Ramirez-Thomas, City Historic Preservation Division and James Muir, SW Mountain Surveys, have a record of our conversation and deliberations.

Thank you for your time and attention to this matter,

Sincerely,

Stephen Post
Consulting Archaeologist