



# Agenda

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## ARCHAEOLOGICAL REVIEW COMMITTEE HEARING

THURSDAY, FEBRUARY 16, 2012 – 4:30 P.M.

CITY COUNCILORS' CONFERENCE ROOM

CITY HALL, 200 LINCOLN AVENUE, SANTA FE

- A. CALL TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. APPROVAL OF MINUTES:

January 5, 2012

### E. ACTIONS ITEMS

1. Case#AR-01-12. Consideration of Richard Montoya to be included on the City of Santa Fe list of approved archaeologists for the Historic Downtown Archaeological Review District.
2. Case#AR-02-12. Approval of reconnaissance report prepared for the Public Works Department of the City of Santa Fe for the development of a 0.52-acre park in the Cielo Vista Subdivision, located within the Rivers and Trails Archaeological Review District. This request was made by Tamara Jager Stewart, Cultural Resource Management Services, for the City of Santa Fe.
3. Case#AR-03-12. Approval of a monitoring report prepared for the Public Service Company of New Mexico (PNM) for the installation of electrical lines within City of Santa Fe right-of-way along portions of Montezuma Avenue and Sandoval Street, located within the Historic Downtown Archaeological Review District. This request was made by Kenneth Brown, TRC, for PNM.
4. Case#AR-04-12. Approval of request to disturb archaeological ("conservation") easement protecting a Santa Fe Trail segment (LA 38648) for construction of a residential deck at 919 Old Santa Fe Trail, located within the Rivers and Trails Archaeological Review District. This request was made by Ron Winter for Mary Anne Stickler, property owner.

### F. ADMINISTRATIVE MATTERS

La Tierra Trails-Trails Master Plan

- G. COMMUNICATIONS
- H. MATTERS FROM THE COMMITTEE
- I. BUSINESS FROM THE FLOOR
- J. ADJOURNMENT

For more information regarding cases on this agenda, please call the Planning Division at 955-6605. Interpreters for the hearing impaired are available through the City Clerk's office at 966-6520, upon five (5) days notice.

SUMMARY INDEX  
ARCHAEOLOGICAL REVIEW COMMITTEE  
February 16, 2012

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
CALL TO ORDER & ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved [amended]	1
APPROVAL OF MINUTES: JANUARY 5, 2012	Approved [amended]	2
<u>ACTION ITEMS</u>		
<u>CASE #AR-01-12.</u> CONSIDERATION OF RICHARD MONTOYA TO BE INCLUDED ON THE CITY OF SANTA FE LIST OF APPROVED ARCHAEOLOGISTS FOR THE HISTORIC DOWNTOWN ARCHAEOLOGICAL REVIEW DISTRICT	Postponed pending documentation	2-4
<u>CASE #AR-02-12.</u> APPROVAL OF RECONNAISSANCE REPORT PREPARED FOR THE PUBLIC WORKS DEPARTMENT OF THE CITY OF SANTA FE FOR THE DEVELOPMENT OF A 0.52 <u>1.288</u> ACRE PARK IN THE CIELO VISTA SUBDIVISION, LOCATED WITHIN THE RIVERS AND TRAILS ARCHAEOLOGICAL REVIEW DISTRICT. THIS REQUEST WAS MADE BY TAMARA JAGER STEWART, CULTURAL RESOURCE MANAGEMENT SERVICES, FOR THE CITY OF SANTA FE	Recommended approval w/corrections	4-6
<u>CASE #AR-03-12.</u> APPROVAL OF A MONITORING REPORT PREPARED FOR THE PUBLIC SERVICE COMPANY OF NEW MEXICO (PNM) FOR THE INSTALLATION OF ELECTRICAL LINES WITHIN CITY OF SANTA FE RIGHT-OF-WAY ALONG PORTIONS OF MONTEZUMA AVENUE AND SANDOVAL STREET, LOCATED WITHIN THE HISTORIC DOWNTOWN ARCHAEOLOGICAL REVIEW DISTRICT. THIS REQUEST WAS MADE BY KENNETH BROWN, TRC, FOR PNM	Approved w/corrections	7-9

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
CASE #AR-04-12. APPROVAL OF REQUEST TO DISTURB ARCHAEOLOGICAL ('CONSERVATION") EASEMENT PROTECTING A SANTA FE TRAIL SEGMENT (LA 38648) FOR CONSTRUCTION OF A RESIDENTIAL DECK AT 919 OLD SANTA FE TRAIL, LOCATED WITHIN THE RIVERS AND TRAILS ARCHAEOLOGICAL REVIEW DISTRICT. THIS REQUEST WAS MADE BY RON WINTER FOR MARY ANNE STICKLER, PROPERTY OWNER	Contingent approval	9-22
ADMINISTRATIVE MATTERS		
LA TIERRA TRAILS – TRAILS MASTER PLAN	Information/discussion	22-26
COMMUNICATIONS	Information/discussion	26
MATTERS FROM THE COMMITTEE	Information/discussion	26
BUSINESS FROM THE FLOOR	None	27
ADJOURNMENT		27

**MINUTES OF THE  
CITY OF SANTA FE  
ARCHAEOLOGICAL REVIEW COMMITTEE  
City Councilors Conference Room  
February 16, 2012**

**A. CALL TO ORDER**

A meeting of the Archaeological Review Committee was called to order by Jeremy Kulisheck, Chair, at approximately 4:30 p.m., on February 16, 2012, in the City Councilors Conference Room, City Hall, Santa Fe, New Mexico.

**B. ROLL CALL**

**Members Present**

Jeremy Kulisheck, Chair  
Tess Monahan, Vice-Chair  
Gary Funkhouser  
James Edward Ivey  
David Eck

**Members Excused**

**Others Present**

John Murphey, Land Use Department  
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 Historic Division.

**C. APPROVAL OF AGENDA**

Chair Kulisheck asked if there is any business from the floor this evening, and Mr. Murphey said he knows of none.

Mr. Murphey said there is one typographical error in the caption of Item #2, line under Action Items, as follows: "... a 0-52 1.288 acre...", which he will fix.

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

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

**D. APPROVAL OF MINUTES: JANUARY 5, 2012**

The following corrections were made to the minutes:

Global chance of "Franz Schols" to "France Scholes"

Page 3, line 2 under Staff Recommendation, correct as follows: "... ~~commends~~ recommends forwarding this recommendation to the New ...."

Page 3, Paragraph 2, line 1, correct as follows: "... ~~areas~~ errors..."

Page 5, Paragraph 2, line 5, correct as follows: "...at [~~Gesua?~~] Giusewa..."

Page 11, Paragraph 1, line 4, correct as follows: "...found ~~our~~ out..."

**MOTION:** Tess Monahan moved, seconded by Gary Funkhouser, to approve the minutes of the meeting of January 5, 2012, as amended.

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

**E. ACTION ITEMS**

1. **CASE #AR-01-12. CONSIDERATION OF RICHARD MONTOYA TO BE INCLUDED ON THE CITY OF SANTA FE LIST OF APPROVED ARCHAEOLOGISTS FOR THE HISTORIC DOWNTOWN ARCHAEOLOGICAL REVIEW DISTRICT.**

Mr. Murphey said he has no staff report for this case.

**STAFF RECOMMENDATION:** Staff defers to Committee as to whether the applicant meets criteria of External Policy 12 and 15, to be approved to work in the Historic Downtown Archaeological Review District.

Mr. Montoya said he has no additional comments.

Tess Monahan

Ms. Monahan said she understood the criteria required a Master's degree, and one year supervising a project. She said she doesn't have the expertise to be able to determine this from his listing of experience.

Gary Funkhouser

Mr. Funkhouser asked Mr. Montoya to give a brief narrative of the work he has done.

Mr. Montoya said, "Starting with the Santa Fe Railyard Project that was done 5-6 years ago, the railroad structures, features during that time. Also work on the Plaza for the construction of the gazebo. Also did exhibitions for the Palace of the Governors for the construction of the history museum. Work for the construction of the Convention Center that Arius also did. Several different monitoring projects for the

City around downtown around the Plaza, and also around and just outside the building here, a couple of monitoring projects also. And just recently Drury, the hotel and did some testing solutions for that. So, quite a wide range from archaic time period all the way to territorial and in between. I have also done several hundred hours of ceramics analysis relative to the projects also."

#### David Eck

Mr. Eck said he would like to focus on Mr. Montoya's writing experience, noting repetitive instances of descriptive writing for a number of different projects. He asked Mr. Montoya if his name appears on those reports as an author.

Mr. Montoya said some of them, and some of the ones for ceramic analysis, the co-author would be [inaudible].

Mr. Eck asked Mr. Montoya to list any and all instances where he appears as an author.

#### Jake Ivey

Mr. Ivey said he has no additional remarks.

#### Chair Kulisheck

Chair Kulisheck said he has 3 particular concerns, one of which is ministerial, and two which he considers significant. The first is that one of the requirements is a Master's, noting this requirement can be waived if there is equivalent training and field experience. He said to demonstrate that sufficiency, he would like to see a demonstration that Mr. Montoya has done writing which is equivalent to the writing that would be done at a Master's level — that he has authored a report of sufficient complexity, a testing or data recovery report or a survey report of moderate complexity, or that he has done a series of contributions to reports which collectively would total in complexity as something which would reflect a Master's Thesis.

Chair Kulisheck said, in looking at the level of experience, Mr. Montoya has received extensive training in ceramic analysis, but he needs to demonstrate written communication equivalent to what would be required in the Master's Program. He would like to see that in order to consider waiving the requirement for a Master's.

Chair Kulisheck said he would like Mr. Montoya to provide a listing or demonstration of his activity as a project director. He said the second requirement is that Mr. Montoya must have at least two experiences directing archaeology projects. He can all he can see, from the structure of the application, is supervisory experience as a crew chief. He would like to see a listing of the projects where Mr. Montoya has acted as the project director as a supervising archaeologist, so we can see that there is an accumulation of two years experience to meet this criteria.

Chair Kulisheck said thirdly, the ministerial correction, is that Mr. Montoya needs to be listed on the New Mexico Historic Preservation Division's SHPO Directory of Supervisory Archaeologist, and he presumes he already is listed, and Mr. Montoya said this is correct. Chair Kulisheck said that listing needs to be attached to the application.

Chair Kulisheck said he doesn't vote, unless there is a tie vote, but if he could, he would want Mr. Montoya to demonstrate these 3 things before he could vote to approve this application.

**MOTION:** Tess Monahan moved, seconded by Jake Ivey, with respect to Case #AR-01-12, to postpone consideration of this request until such time as the Committee receives the requested documentation.

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

Chair Kulisheck told Mr. Montoya he can ask Mr. Murphey to assist him.

**2. CASE #AR-02-12. APPROVAL OF RECONNAISSANCE REPORT PREPARED FOR THE PUBLIC WORKS DEPARTMENT OF THE CITY OF SANTA FE FOR THE DEVELOPMENT OF A 0.52 1.288 ACRE PARK IN THE CIELO VISTA SUBDIVISION, LOCATED WITHIN THE RIVERS AND TRAILS ARCHAEOLOGICAL REVIEW DISTRICT. THIS REQUEST WAS MADE BY TAMARA JAGER STEWART, CULTURAL RESOURCE MANAGEMENT SERVICES, FOR THE CITY OF SANTA FE.**

John Murphey presented information of the case. He said staff recommends approval with the caveat that this actually is under the threshold, so this is a courtesy review.

Chair Kulisheck said then it is not required by the Ordinance, but it still is required by the State, so this is a State undertaking, and this Committee will make a recommendation to the State.

**BACKGROUND AND SUMMARY:** At the request of the Public Works Department, City of Santa Fe, Tamara Jager Stewart conducted a cultural resources survey of approximately 0.5 acres at the future site of Cielo Vista Park, located within the Rivers and Trails Archaeological Review District. The surveyed area consists of an irregularly-shaped, flat, undeveloped lot surrounded by residences of the Cielo Vista Subdivision. The historic alignment of the Acequia Madre lies to the south, outside of the project area. The survey conducted on January 13, 2012, identified two isolated occurrences, with the consultant recommending no further investigation. These findings are presented in the accompanying report, "Cultural Resource Survey for Cielo Vista Park, City of Santa Fe, New Mexico, Jager Stewart, Tamara, February 2012." This report satisfies a stipulation in the ordinance that requires a permit for City of Santa Fe funded park projects over one acre in size in the Rivers and Trails Archaeological Review District [14-3.13(B)(2)(c)].

**STAFF RECOMMENDATION:** Staff recommends approval of the reconnaissance report, as it meets the intent of the City of Santa Fe Archaeological Review District Ordinance (14-5.3), the requirements of Archaeological Clearance Permits [14-3.13(B)(2)(c)] and the requirements of performing Reconnaissance [14-3.13(C)(2)(a) and (b)].

Ms. Stewart's comments here are inaudible.

Gary Funkhouser

Mr. Funkhouser said where it says 0.5 acres, it is actually hectares. He said, in terms of kilometers, it is .05 miles in the abstract, and on page 5 on the map it is 0.6 kilometers (0.4 miles), then it is back on page 6 under Section 1.4 as 0.8 kilometers (0.5 miles). He said the NIAF confuses both of them, and he believes this is just a typographical error.

Responding to the Chair, Mr. Eck said, "It's 500 meters, unless you find nothing, then you must expand your search to 1 kilometer."

Mr. Funkhouser said on the NIAF, it is .52 hectares and in parenthesis 1.3 acres.

Chair Kulisheck said this is approximately correct, because it is 1.288 acres and there is no error on the NIAF.

Chair Kulisheck asked Ms. Stewart which is correct, and she said it is the ½ mile on page 5.

Chair Kulisheck said then the correction would take place on page 5.

Mr. Funkhouser said beginning in the abstract it says January 2012, and he would like a specific date or range of days, noting the date of January 13, 2012, is specified in the NIAF.

Mr. Funkhouser said, "As a matter of calling out figures and tables, the standard procedure is in the first column, would be Figure X, Table Y or whatever, and then subsequent callouts would be see or refer to. But in this case, you start out referring to Figure 1." He said for consistency, the standard is the first callout itself would be the table itself "and the second be just to refer to the page."

David Eck

Mr. Eck said in the Abstract page iii, line 5, paragraph 1, refers to Section 38, which is consistent throughout, and that's not possible. There are also references on page 1 in the first two paragraphs, and it is the same in the NIAF summary.

Ms. Stewart said it should be Section 33.

Mr. Eck asked Ms. Stewart if she could expand on an observation in the report about furrows still being visible.



Ms. Stewart said there were indications of recent cultivation. She could see vague outlines on the ground, outlines of cultivation marks. She said the series of historic photos showed that it had been cultivated in the early days.

Mr. Eck asked if the indications are so vague that they really aren't "mappable."

Ms. Stewart said yes.

Jake Ivey

Mr. Ivey said the only change is a typo on page 17, 4<sup>th</sup> paragraph, line 2, change date from "1742" to "1842". He said this was good reading.

Tess Monahan

Ms. Monahan said she appreciated the narrative and the integration of the stories about the acequias.

Chair Kulisheck

Chair Kulisheck said on page 3, Figure 2, it appears that access to the park will be via the passageway from Calle Carmelita, and the other passage which runs between the houses fronting on Carmelita, and the large lot that fronts Maclovía, says Orchard and that dead ends, and there will be a wall there and there will be no access point.

Ms. Stewart said this is correct, and it is entirely fenced, but there is no access there.

Chair Kulisheck asked if it will remain a cul de sac, with no access, and Ms. Stewart said this is correct.

Chair Kulisheck said he has no further comment, other than, like Ms. Monahan, he particularly appreciated the narrative on people and the acequias. He recalls she came before this Committee last year about another park in this same neighborhood and the same acequia.

**MOTION:** Tess Monahan moved, seconded by Gary Funkhouser, with respect to Case #AR-01-12, that the Archaeological Review Committee recommend to the State Archaeologist, at the State Historic Preservation Division, the acceptance of the proposed Reconnaissance Report prepared for the Public Works Department of the City of Santa Fe for the development of a 1.288 acre park in the Cielo Vista Subdivision, located within the Rivers and Trails Archaeological Review District, requested by Tamara Jager Stewart, Cultural Resource Management Services, for the City of Santa Fe, with the aforementioned corrections.

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

3. **CASE #AR-03-12. APPROVAL OF A MONITORING REPORT PREPARED FOR THE PUBLIC SERVICE COMPANY OF NEW MEXICO (PNM) FOR THE INSTALLATION OF ELECTRICAL LINES WITHIN CITY OF SANTA FE RIGHT-OF-WAY ALONG PORTIONS OF MONTEZUMA AVENUE AND SANDOVAL STREET, LOCATED WITHIN THE HISTORIC DOWNTOWN ARCHAEOLOGICAL REVIEW DISTRICT. THIS REQUEST WAS MADE BY KENNETH BROWN, TRC, FOR PNM.**

The staff report was presented by John Murphey.

**BACKGROUND AND SUMMARY:** At the request of PNM, TRC conducted archaeological monitoring for two mechanically trenched utility mains within the Historic Downtown Archaeological Review District: 1) 428.8 ft., totaling 989.8 sq. ft. on the north side of Montezuma Avenue; and 2) 544.5 ft., totaling 816.8 sq. ft. on the east side of Sandoval Street. No archaeological features were found during the monitoring, however, the work helped delineate the boundary between LA 156207 and LA 167408. These findings are presented in the accompanying "Monitoring along Montezuma Avenue and Sandoval Street for PNM Mainline Upgrades, City of Santa Fe, Santa Fe County, New Mexico," Brown, Kenneth L., et al, January 2012. As a project subject to Archaeological Clearance Permits, the City of Santa Fe is requesting approval of the report.

**STAFF RECOMMENDATION:** Staff recommends approval of the report, as it meets the intent of the City of Santa Fe Archaeological Review District Ordinance [14-5.3] and the criteria of Archaeological Clearance Permits [14-3.13(B)(4)(a)].

Mr. Brown said hopefully the administrative summary in the report summarized everything sufficiently. He said he learned a few things on the project. He noted he came across Feature 1, the colored concrete, and was unaware the utility companies dyed its concrete, and apparently red was for electricity. He said he spoke with the foreman for the electrical contractor who said it was fairly common to do that. He said perhaps blue was used for water and yellow for gas.

Mr. Brown said from their findings, they concur with what OAS had done in the same vicinity with all their backhoe trenching. He said the 2 feet of deposits is fill and severely disturbed, noting everyone puts their utility lines the edges of the street to stay out of traffic, so this probably is the most disturbed area anywhere along the streets.

Mr. Brown referenced Figure 5.1 on page 23, saying David Snow followed the contour lines, noting the topography goes up the street, and Mr. Snow's contention is that before these streets became formal thoroughfares with paving, the topography is such that very likely there were acequias on both sides of the streets. He said in the future, you might want to look for preserved elements of those acequias which have been covered over by paving and such.

David Eck

Mr. Eck said he has no comment other than Mr. Brown did a fine job. He said there is tremendous detail on the acequias in Mr. Snow's section of the report, but it is lost on him because he can't read "a single darned thing," and maybe this is the reason he has no comment.

Chair Kulisheck asked if this is a consequence of the reproduction.

Mr. Eck said yes, it is a copy of a copy of a copy, and the end generation becomes illegible.

Chair Kulisheck clarified that it is not a comment on the Report, but on the quality of the reproduction.

Gary Funkhouser

Mr. Funkhouser had no comment.

Tess Monahan

Ms. Monahan had no comment.

Jake Ivey

Mr. Ivey said his only comment is that he would like a copy of the Report when it is final, noting a lot of the data is of interest to him.

Chair Kulisheck

Chair Kulisheck said it is an excellent report. He said, with respect to the recommendations regarding Sites LA 156207 and LA 167408, in discussing the eligibility of this, because it is a State undertaking, he would like for Mr. Brown to discuss the significance and eligibility of the site relative to the State Register of Cultural Properties, rather than the National Register of Historic Places, and also discuss the significance of the site relative to the City Ordinance, rather than using NHRP language which is the one law which is not applicable in this particular case.

Chair Kulisheck said there is an extended conversation by David Snow regarding the Montezuma Avenue acequia alignment and whether it is an acequia or a drainage ditch and so forth. He asked Mr. Brown if he found it.

Mr. Brown said, "No, we did not."

Responding to the Chair, Mr. Brown said Trench 2 comes up the north side of Montezuma, so you would cross onto Trench 1 coming around onto Sandoval."

Chair Kulisheck said then that would suggest that if the acequia is there it is on the south side of the road.

Mr. Brown said there is a large storm drain near that intersection, and if there was anything there, it is "long gone."

**MOTION:** Gary Funkhouser moved, seconded by Tess Monahan, to approve Case #AR-04-12, request for approval of a monitoring report prepared for the Public Service Company of New Mexico (PNM) for the installation of electrical lines within City of Santa Fe right-of-way along portions of Montezuma Avenue and Sandoval Street, located within the Historic Downtown Archaeological Review District requested by Kenneth Brown, TRC, for PNM, with the recommended changes regarding Sites LA 156207 and LA 167408.

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

**4. CASE #AR-04-12. APPROVAL OF REQUEST TO DISTURB ARCHAEOLOGICAL ('CONSERVATION') EASEMENT PROTECTING A SANTA FE TRAIL SEGMENT (LA 38648) FOR CONSTRUCTION OF A RESIDENTIAL DECK AT 919 OLD SANTA FE TRAIL, LOCATED WITHIN THE RIVERS AND TRAILS ARCHAEOLOGICAL REVIEW DISTRICT. THIS REQUEST WAS MADE BY RON WINTER FOR MARY ANNE STICKLER, PROPERTY OWNER.**

A copy of *919 Old Santa Fe Trail Residential Model*, prepared by Duty and Germanus, entered for the record by Mr. McMillan, at the request of Chair Kulisheck, is incorporated herewith to these minutes as Exhibit "1."

The staff report was presented by John Murphey. Mr. Murphey said he spoke with Steve Post about this particular case, and cases in the past. He said Mr. Post told him that easements have been disturbed only by mistake, and in that case any damage to cultural resources received data recovery.

**BACKGROUND AND SUMMARY:** At the direction of the property owner, Ron Winter is requesting permission to disturb an approximately 408 sq. ft. portion of an 0.19 acre "conservation easement" protecting a segment of the historic Santa Fe Trail. This request is made for the construction of a deck. Mr. Winter came before the Committee on September 16, 2010, with a similar request. The Committee approved his report and a recommendation from Mr. Winter to create an "archaeological easement" covering the ruts (see attachments). Mr. Winter provided the Cultural Properties Preservation Easement language to the surveyors, but it was inadvertently titled a "conservation easement" on the plat and the usual proscriptive language not recorded. The easement is also potentially in error in that it did not adhere to External Policy 11, which requires the applicant to provide a copy of the final plat to ARC for review. Despite these discrepancies, the intent of the archaeologist and the Committee was to place an easement on the site to protect the ruts. Therefore, the question is whether the Committee will permit work in the easement, which is implicitly protected by a "no activity which disturbs ground surface" clause. In the past, the Committee has permitted disturbance within an easement, but required data recovery if cultural resources were damaged.

**STAFF RECOMMENDATION:** Staff defers to the Committee.

Ron Winter said he cited an earlier version of the District Handbook, which should be cited as 14-3.13(C)(6)(c), under Procedures, noting the verbiage is the same, but the Code citation has changed.

Mr. Winter said there are minor changes to the map the Committee has. He said when he mentioned the alignment to the fence, it's not going to change.

Mr. McMillan said it is barbed wire and some of it is patched together,

Mr. Winter said the fence will be realigned and refurbished, and a wall won't be made. He said in the photos, you can see the trail no longer exists on the west end, but it does on the north side. He said this was the reason to not build a wall to break that line of the trail segment that goes beyond that. He said a small portion of trail segment also exists in the northeast corner.

Mr. Winter said, "Those color photos I provided, starting at the west end where the fence is actually in fairly good shape, you can see that the northwest section is in disrepair."

Mr. Winter continued, "Then I wanted to note this existing wall which is actually shown on the plat. This southern portion of the trail has already been disturbed prior to the owner's purchase of the property. And I think they did this so when they backed out of the driveway, they didn't back into the acequia, so that actually drops off quite a bit. So you have a segment 'up here' that I listed as the existing low wall disturbance, 160 square feet that is already disturbed."

Mr. Winter continued, "The area of the fencing has changed a little bit, because there are various easements on the property. This 20 foot easement 'here,' and then the utility easement, but the fence... are we requiring them to move the fence to the edge of the easement. Is that correct."

Mr. Murphey said, "This is correct."

Mr. Winter said with the fencing being "here" it would cross 'here,' so "this changes slightly, the disturbance of that fenced area."

Mr. Winter said the disturbance of the deck area is not different – 260 square feet in "here." He said one of the things he wants to note is that there is a buffer on the trail segment, and the area to be disturbed is quite minor. He said he stated in his letter that "...the archaeologist will be present," commenting he knows how these things can get away. He said he will be on site during construction activity, putting in the footings for the deck.

Mr. Winter said, lastly, Marissa provided the particular language required on protective easements, archaeology easements, but apparently it didn't make it onto the plat. He said the correct verbiage needs to be placed on the official Plat as follows: "Cultural properties preservation easement," as opposed to a "conservation easement."

Mr. Winter introduced Ed McMillan of Duty & Germanus, who has worked on the plat.

*Tess Monahan departed the meeting at this time*

Mr. McMillan said he is a licensed architect in New Mexico and Colorado. He said what we, as architects, are trying to address is the section of recommendations which state that the owner will provide drawings to the City and Archaeology Review Committee when she applies for a building permit, noting they are ready to do that. He said on this piece of property, "this fence exists and we want to repair everything. Over on this end, this fence also exists."

Ms. Helberg asked that Mr. McMillan be specific, rather than saying "this."

Mr. McMillan said, "This fence already exists on the western edge where it crosses the property and we wish to repair that along with the rest. And this northern portion of the property, this fence already exists as well, and actually goes to this corner, but it is in disarray and in need of repairing. This easement here, is a deed restriction to gain access to these properties on the north side of the property from Old Santa Fe Trail here. Mary Ann Stickler has no desire to fence across here or put a gate, so to keep this open, she would prefer to put the fence along this easement line and keep this access easement open on the eastern edge. Also, I would like to point out that in this report, Ron stated that he included in this easement a 5 foot buffer on both edges, and our deck as drawn here, from the survey line is 5 feet 5 ½ inches, so in reality, as far as the tracks are concerned, we are encroaching about 5½ inches. So, I just wanted to make sure that those things were clear."

Mr. McMillan continued, "Obviously we are allowed, and I guess this is the discrepancy in how much we're allowed, but 10% of this property is 861.71 sq. ft., and we've already, with this existing low wall, that's 160 sq. ft., and so in reality, we're talking about a disturbance of 328 sq. ft., which totals to 488. It's just a few facts I need you to look at."

Jake Ivey

Mr. Ivey asked if they are requesting to change the dedication of the easement.

Mr. Winter said no. He said the request is to disturb 488 sq. ft. of the easement.

Mr. Ivey said, then this is a request to be allowed to make a disturbance within the boundary of the easement, and Mr. Winter said yes.

Mr. Ivey said then it isn't a change to the easement, and Mr. Winter said no.

Mr. Winter said he believes this should be done because it was never designated properly and that would be part of this.

Mr. Ivey said this is part of his confusion, because he couldn't sort out which is the proper language for the designation.

Mr. Winter said the handbook is confusing, because in one place they say to protect it, and there is no provision to protect it unless you do an easement. It says the trail ruts can't be disturbed unless they've been documented and it's less than 10% in one part of the handbook. In another part, it talks about easements and says those can't be disturbed.

Mr. Ivey said, "What I need to say is that this is outside my area of certainty, or even vagueness and that I should defer to other members on this one."

Mr. Ivey said he has no other comment other than his uncertainty, commenting that his first reaction is "if we start chipping away at our rules and regulations, then what good are they. But, I suspect that I'm misunderstanding part of the problem, so what I would prefer to do is to wait and hear more complete discussion."

#### David Eck

Mr. Eck, referring to packet page 2, line 3 in the letter from Ron Winter, says, "The homeowner is proposing the construction of a deck and fence alignment on the south side of the current residence." He asked if this is a typo, saying it's actually on the north side.

Chair Kulisheck said it is on the south side of the easement and the north side of the current structure.

Mr. Eck said, "Following that, I wonder what we actually approved back in 2010, because we would have had to approve disturbance of an easement at that time, if this map is accurate. So what did we approve in 2010."

Mr. Murphey said the Committee approved the Report and Mr. Winter's recommendation to create a footing for an archaeological easement. He said the next step usually is that the Applicant comes back with a map of the final plat, showing the easement and boundaries, for approval. However, that did not happen.

Mr. Eck said then one component is for those drawings to come back for approval, and they alluded to the fact that they are going to change the verbiage so it says what it is supposed to say and file an amended plat.

Mr. Winter said that is correct. He said this was never done officially, so it needs to have the ARC approved verbiage.

Mr. Eck said then "this" plat has never been filed.

Mr. Murphey said it was filed, but with the term "conservation easement."

Mr. Eck said then they will be filing an amended plat to fix the previous filing and Mr. Murphey said yes.

Mr. Eck asked the difference between any of the maps in the 2010 report and in this report, if any.

Mr. Winter said, "The one you're going to find in there is my hand-drawn map."

Mr. Eck said Mr. Winter has given us a copy of that map in this Report, and Mr. Winter said yes.

Mr. Eck said, "What I'm trying to get at is, we considered a report and the construction of something in a place that I think we understood where it was, but now I'm not sure if we understand where it is."

Mr. Winter said it is in the same place. He said the request was for the construction of the deck on the north side of the house.

Mr. Eck said wouldn't we have been trying to avoid the trail ruts and the easement in question.

Mr. Winter said there was no easement at that time. He said, "The whole point was to preserve as much of the ruts as possible. They were already disturbed by the low wall on that same side, the south side of the trail west. I recommended this, and the Committee agreed, to the homeowner. The other alternative was to not have any protection at all and let them do whatever they wanted."

Mr. Eck said, "Your story of seeing equipment and materials staged in the Trail makes me wonder about this particular situation. It's going to be difficult to get equipment and materials anywhere near the proposed deck without being in the easement."

Mr. Winter said, "The footings would have to be dug by hand. You can't get the heavy equipment back there. The only accessible edge would be on the extreme northwest corner of the existing structure, that's why I would monitor that construction. That's why I put that in there, for that very reason, and the protective fencing to guard from any wandering..... you know, construction workers don't know that arroyo, that swale running through there is the Trail run."

Mr. Eck said, "Then we're basically talking about one, four, six footings that are going to be inside something."

Mr. Winter said it will be within the buffer zone of the easement.

Mr. McMillan said, "Really, what we're looking at is a turn-down slab, so you won't have the wide footing, just turning it down and trying to disturb as little as possible, and as Ron said he will be there."

Mr. Eck said then it will be a linear footing.

Mr. Eck said when he heard deck and footing, he thought of "footing, post, hold up deck."

Mr. McMillan said it is a deck, but it will be a concrete surface, so it will have a continuous edge to it – "a turn down is what we call it."



### Gary Funkhouser

Mr. Funkhouser said in terms of 10%, he thinks we should also include whatever access that will be involved in doing the deck.

Mr. McMillan doesn't believe it is an issue in this case.

Mr. Funkhouser said it should be considered as a part of the total, potential disturbance.

Mr. Winter said that indicates the need for this fencing to keep everybody beyond that. He said, "In fact, because of the swale, you couldn't get equipment back there anyway. And I don't know if I mentioned this, but prior to the approval of the actual construction plans, the permit, a detailed drawing of the deck will be presented to the City. This wouldn't be done without them seeing the actual footing plans."

Mr. Funkhouser said the heart of his confusion has to do with the terminology on the easement.

Mr. Winter said, "That isn't what it is. It was improperly named, and that should be corrected no matter what. It's a Catch-22." Mr. Winter said, "You approved the report, the building of the deck and protecting the ruts, but what John was up against was, well here it says you can destroy the ruts up to 10%, and we did that on a prior project on Cross Court, where we created a protective easement for the project, but also allowed some disturbance for the owner to access the property where he did a driveway."

Mr. Murphey said he couldn't find an established easement for that property.

Mr. Winter said it was there, because he flagged it, but it's up to the owner to get a surveyor out there and make it official.

Mr. McMillan said this construction area is totally accessible without going through the easement, and it can be built disturbing only 488 sq. ft. of it, noting it is only 266 sq. ft for the deck.

Mr. Eck said he thinks we should speak about that figure. He said, "The other disturbance which is the existing wall, is already there and immaterial. So, we're talking about new disturbance of 266 sq. ft. of an easement, which Ron has said includes a 5 foot buffer, and I thought at one point, you were going toward a statement that we were going to be disturbing only the buffer and not the actual trail, but then I heard 5 ½ inches."

Mr. McMillan said, "I can pull it back 5½ inches. It's no big deal."

Mr. Eck said this would be one thing to consider.

### Chair Kulisheck

Chair Kulisheck said, "I remember this particular case quite vividly. What I remember in particular when I commented on it was, and you may remember this as well Ron, that this particular easement

establishes quite an encumbrance on this particular property, rendering essentially about 1/3 of the property to be unbuildable. And, because of that situation, and the potential for that situation, I believe the Ordinance gives us pretty clear guidance that we should be trying to achieve a balance between the preservation of the trail segment, and allowing a property owner to develop their property in an appropriate manner."

Chair Kulisheck continued, "In terms of the relationship in the easement and this question of data recovery, my understanding of the Ordinance is such that, as you said in your conversation with Steve Post, a disturbance of the easement triggers data recovery, and that treatment is spelled out in this. One of the things though I think is clear from the procedures in the River and Trails area, is that there are alternate procedures that are given for the Santa Fe Trail as opposed to any other type of property, with the suggestion that you follow these procedures, instead of the other procedures that are given. And, in many ways the alternate procedures for the Santa Fe Trail are stricter than what the procedures would be for another type of property, because you can't dig your way to development through this, you can only develop 10%. You aren't required to do data recovery, but the assumption is you probably won't find very much if you do data recovery."

Chair Kulisheck continued, "And so my feeling is that this proposal is consistent with the Ordinance and I think the only issue that needs to be resolved is that we need to get the correct type of easement on this particular property, and once that's in place, then this seems like something that is extremely straightforward and follows the letter of the law."

Chair Kulisheck said, "I guess the only question I would have, and this is for you John, is do you read that any differently. Do you see any other barriers. If we get the easement corrected and get the correct type of easement on the property, are we being consistent with the Ordinance in your opinion."

Mr. Murphey said, "I attempted to broach this question with the City Attorney who represents the Historic Preservation Division, and she had a few concerns about the titling and what it means to do disturbance within the easement, but I do not have a concrete answer from her."

Chair Kulisheck said, "It's my reading of the.... the Ordinance reads that disturbance is allowed within the Santa Fe Trail. And, the Ordinance also directs that the trail be protected, and we assume the instrument that would be used for protection would be an easement, with the caveat that up to 10% of the trail could be disturbed. Now, the only thing I think... if there is a legal issue, does that mean that the area to be disturbed would be left outside the easement. I don't know if that's the legal pirouette that we need to do to ensure that there is no conflict between easement and disturbance. The Ordinance doesn't give us any guidance relative to the easement, it give us guidance relative to the trail, the property itself. And so, in my perception, let's do what we need to do to let Mary Ann Stickler build her deck and let's do what we need to do to get the balance of the trail into a protective easement. I think we can accomplish that, and my understanding is that's what the Ordinance is instructing us to do."

Mr. Murphey said, "I have a little bit different interpretation, but my recommendation would be to go through the proper easement process, and allow the applicant to do their work with more information provided and with conditions on how the work would be done, and you may be saying the same thing."

Chair Kulisheck said, "I think, yes. I think I'm just being more blunt about it. I'm not absolving us of the process. I want us to go through the process. But I think, in terms of the outcome, I think what is being proposed, that's the outcome where we need to arrive, because that outcome is consistent with the Ordinance. The Ordinance stating preserve the ruts, but allow up to 10% disturbance, and that's what the proponent is proposing, and so, let us track the process so that outcome is achieved. That is what I would like to see happen. And I guess what I'm asking you John, you don't see any barrier to that, let's just go through it."

Mr. Murphey said, "I don't. I went to the County Assessor's Office and I researched whether this is an actual conservation easement, because there would be some very strict ramifications if it was, and it's not. The papers have not been filed as a conservation easement. I assume this is a mis-titling, so I think we're beyond that. So, I again recommend that we just go through the typical process that the ARC has done in putting this proscriptive language on the plat, having it come back to the ARC for approval. But, in the meantime, essentially working out a process so the applicant can do the work with some conditions as to how that work is performed. And I didn't know this was a linear footing, so I'm a little bit concerned, myself, as to what this is actually going to look like."

Mr. Winter said before any work is done, or any building permit is approved, you would have a copy of the official plat with the easement on it, and architectural drawings of that, and that's something you would have to approve, not necessarily the Committee, but the City would have to approve before...."

Mr. Murphey said, "But Step 1 is to go through ARC to make the H-Board comfortable that this adheres to the Ordinance."

Chair Kulisheck said then Mr. Murphey's problem with the linear footing isn't in regard to the disturbance of the trail property, but rather a separate H-Board issue.

Mr. Murphey said, "No. It's the former."

Chair Kulisheck said, "Then your concern is about the disturbance of the trail."

Mr. Murphey said, "Right. And that the Committee has a better understanding about the actual quotable footage of this project."

Chair Kulisheck said, "And let me understand what your specific, potential concern would be, given a linear footing, not being someone who is in the construction trades or in the business of architecture. What is your particular concern."

Mr. Murphey said, "I'm not sure this can be done by hand. You're going to have to move equipment in there."

Mr. McMillan said, "I can build this project and disturb what is underneath the construction area, 266 sq. ft.. And I can bring materials in and out off of this access easement from Old Santa Fe Trail back to the other properties, and this is the footprint right here, if you haven't seen it. I'd also like to point out

that Mary Ann Stickler, she is the one that instigated this easement. She wants this easement, and it doesn't matter to her whether it's a conservation easement or a cultural properties easement, or what you want to call it. She simply wants to follow the City Code and disturb less than 10%. That's why we're here."

Chair Kulisheck asked Mr. Murphey if this addresses his concern, and he said it does.

Chair Kulisheck asked if we will make a motion on this, or rather we would defer a motion awaiting a final plat. He asked if there is anything additional which this Committee needs to approve before this work can go forward, or if this is simply an administrative approval by HPD.

Mr. Murphey said typically, the Committee sees and approves the final plat, as to the language of the easement, so the Committee could put the responsibility on staff to move this forward.

Mr. Funkhouser observed that the City has to approve the building plan, and Mr. Murphey said this is correct.

Chair Kulisheck polled the Committee with regard to whether they want to: defer to staff for the approval of the plat, or if the Committee wants to see the plat itself,

Mr. Ivey said he would prefer to have it run past the Committee again, commenting he wants to see the final plans in terms of the easement structure and the language and the architectural drawings. He wants to see the impact on the ground.

Mr. McMillan said, "That's right here."

Mr. Ivey said, "I thought you said that wasn't final."

Mr. McMillan said, "Well this is final. If you approve it, it's final."

Mr. Winter asked Mr. Ivey if he is speaking of elevation.

Chair Kulisheck said he would like the document to which Mr. McMillan is referring, to be entered for the record. [See Exhibit "1" to these minutes.]

Mr. McMillan reviewed Exhibit "1" with the Committee. He said, "This is the footing and this is the easement along here, so this area right here is what we'll be disturbing in the construction. And again, I can gain access this way and we can dig this by hand and it's not an issue."

Mr. Eck noted Ron Winter proposes to be at the site to monitor. He asked if it would be fair to request at the least, sample screening of the hand excavated material, as part of the monitoring, commenting there isn't a high probability of finding artifacts in the Santa Fe Trail, but on the other hand, a few sample screenings might be useful."

Mr. Winter said it is okay as long as it is a stipulation, noting he plans on being there anyway.

Mr. Ivey said then Mr. Eck is asking for a screening of the material that comes out of that ditch.

Mr. Ivey asked if the whole circle within the curve is going to be cast concrete, and Mr. McMillan said yes.

Mr. Ivey asked if it going to be cut into the ground, or laid on fill on the surface.

Mr. McMillan said it has to go beneath the frost line. He said, "But the grade from this point to this point is probably a change in 18 inches, and in order to make this new surface the same level as the existing house, this edge will be in the air a little bit."

Mr. Ivey said then you're talking about fill.

Mr. Winter said, "You see the house. This is the area we're talking about."

Mr. Ivey said he has those pictures, but he's trying to clarify the process.

Mr. Eck said the footer on that alignment will go below frost line and everything else will be fill and additive, and filled with concrete.

Mr. McMillan said what they dig up to make the footing will be used to do the fill, so it will be the same soil.

Mr. Ivey said he would defer to the others with regard to a review.

Mr. Eck said he would like to see the "final, for real, actual drawings, so we can say those look good."

Mr. Funkhouser said, "Anything that eases Jake's angst is fine with me." He said he has no problem with doing some screening of the soil, and he doesn't believe a monitoring plan is needed, because Mr. Winter is going to see the soil as it comes out anyway.

Mr. Eck said he suggested this as a possibility.

Mr. Ivey said his original concerns don't apply, and he is happy with the way this is sorting itself out, so just another "run it by us for a final look kind of thing, and I wouldn't even insist on that."

Chair Kulisheck said it is his preference to defer to staff to make the approval, noting he has confidence that staff would make the correct decision, but he it sounds as if the Committee prefers to see it, and he is comfortable with that as well.

Chair Kulisheck said what would seem appropriate, is accompanying the final plat, there should be a letter report spelling out... similar to Mr. Winter's letter... what he will be doing, what will be done to ensure the integrity of the easement during construction and monitoring. He said he would also like to stipulate that a short monitoring report be produced. A simple report saying that Mr. Winter accomplished the monitoring task and that the objectives of the monitoring were accomplished in terms of protecting the easement, "or not as the case may be, which we hope won't be the case, but just ensuring that the stipulations were carried out." He said the monitoring report doesn't need to be complex, and perhaps a letter report would be appropriate.

Chair Kulisheck said, regarding the screening of fill, he is assuming that data recovery was not stipulated in this is because there is a reasonable expectation that there will be no significant subsurface deposits. He said, given Stephen Post's lack of success in retrieving any significant subsurface deposits from the Camino de los Carros and different instances we've reviewed recently, he does not feel it is worth the additional effort and cost for Ms. Stickler to have Mr. Winter do any sort of recovery, other than what he will be doing when he is out there anyway, which is visually inspecting the interior of the trench and keeping watch for any artifacts that would come out of the fill. He said he assumes, if anything comes up, Mr. Winter will modify actions appropriately, and if he finds something significant, would stop construction, and provide documentation in a letter report as he's done in the past on other projects.

Chair Kulisheck said he believes this is all we could expect and that the Ordinance contemplates, reiterating he does not believe any other systematic efforts, testing or screening are warranted in this particular case.

Mr. Winter said in the final Monitoring Report he could include the amended plat and the architectural drawings.

Chair Kulisheck said the amended plat will come with the letter report which will come before this Committee, which says what you are going to do. The Committee will then approve it, and they will do the work and then Mr. Winter will provide a letter monitoring report which says you did the monitoring, everything went well and we're done.

Chair Kulisheck said we are deferring this decision pending the final plat with the correct language on it, and the accompanying letter report specifying the treatment and mitigations that allow the disturbance of less than 10% area, and the Committee will consider the report at that time.

Chair Kulisheck asked if there is anything other than the stipulation for a monitoring report, that these gentlemen will be bringing to us. He asked if there needs to be any changes to the Report. He asked if the name on the easement is correct, and Mr. Winter said no. Chair Kulisheck said then that is the only thing that needs to be changed – the name of the easement.

Mr. McMillan asked if there could be approval contingent on the correcting of the easement language on the plat.

Chair Kulisheck said it is up to this Committee as to whether they want to see the final amended plat. He said he is hearing from the other Committee members, Mr. Ivey, Mr. Eck and Mr. Funkhouser, that they would like to see it prior to approval.

Mr. Ivey said, "What you are talking about is this identical piece of paper, with the only change being that title right there."

Chair Kulisheck said that's what he's hearing.

Mr. Murphey said we need a finalized plat with the correct titling and proscriptive language, and the monitoring plan.

Chair Kulisheck said, "They will provide an architectural plan, which is this, they will provide an amended official plat and they will provide a letter report spelling out the archaeological activities that will take place, and the monitoring to ensure the protection of the easement and the property. Anything else."

Mr. Murphey said, "The question still is, if that was submitted to the office, would staff approve that before it goes to ARC, or is ARC waiting for it to return an official..."

Chair Kulisheck said, "The consensus of the majority of the Committee right now, is saying the Committee would prefer to approve it. Is there a change of opinion now, or is it the same. And Jake, you look like perhaps you are going to change your opinion, or do you want to stay with your opinion."

Mr. Ivey said, "If there's no significant change to the actual information given us about the construction itself, or about the official plat, [and] if the only change is going to be the title of the easement, then I see no purpose in wasting their time or ours in going to the trouble of running it back through. That does not sound like a significant enough difference that it requires anything else from us. I think we could waste staff time."

Chair Kulisheck said, "In this particular case, if we are going to have staff approve, is what we're going to do is to issue a motion and approve this contingent upon receiving these changes. And I assume if there are ministerial problems with the motion they will be corrected."

Ms. Helberg said, "Absolutely, and if I have a problem, I'll contact John."

*Ms. Helberg departed the meeting but left the recorder to tape the rest of the meeting*

Mr. Eck said he doesn't have to see this again, and Mr. Funkhouser said if Jake is happy, he doesn't need to see it again.

Responding to Mr. Funkhouser, Chair Kulisheck said, "That is an issue for the Committee to decide, whether we think we made clear enough what the content of that letter is, and if we find staff to have clear enough guidance to approve it. Do we feel we have issued staff clear enough guidance to approve that letter."

Mr. Ivey said he believes it is a good idea, and can think of very few situations where that would be a bad idea.

Mr. Funkhouser said, to him, it is sufficient that Mr. Winter is going to be there.

Mr. Murphey asked if the Committee wanted to stipulate that there will be no staging in the trail ruts, or machinery moving through it, or just trust Mr. Winter to monitor.

Chair Kulisheck said the language of the letter is similar to the language which is in Mr. Winter's initial recommendation, which says, "The archaeologist would stipulate that prior to construction, the area beyond the proposed disturbance be cordoned off with orange construction fencing. This, in order to protect the Santa Fe Trail remnants from any additional disturbance. Additionally, the archaeologist would monitor the construction activity when the deck footings are being set to ensure there is no additional disturbance."

Chair Kulisheck asked if staff is comfortable in taking on this responsibility.

Mr. Murphey said, "I think so, in that we have a retitled plat, and I understand this is your final plan, because we're giving that tonight, and there will be no modifications. And if something is discovered in the field, then you will come back to us if that is the case."

Chair Kulisheck said, "Then you're comfortable," and Mr. Murphey said yes.

**MOTION:** Jake Ivey moved, seconded by Gary Funkhouser, to approve Case #AR-04-12, a request to disturb archaeological ("conservation") easement protecting a Santa Fe Trail segment (LA 38648) for construction of a residential deck at 919 Old Santa Fe Trail, located within the Rivers and Trails Archaeological Review District, requested by Ron Winter for Mary Ann Stickler, contingent on staff approval of the submitted revised proposed plat, the architectural or site plan and the letter report detailing the proposed monitoring activities.

**EXPLANATION OF THE MOTION/ACTION:** Chair said basically we are transferring the responsibility for final approval to staff John Murphey. He said, "We are saying we've seen enough right now that is similar enough to what Mr. Winter is going to propose, as long as he doesn't give us something completely different, in which case, you would reject the proposal. But if what we see here is what you get, then you will sign off on it and he is done. He will go out and do a monitoring report, he'll send it back to us and we'll review that."

**VOTE:** The motion was approved on a voice vote, with David Eck, Jake Ivey and Gary Funkhouser voting in favor of the motion, no one voting against and Tess Monahan absent for the vote.

Mr. Winter thanked the Committee and staff for working with them to get this done.



Chair Kulisheck said this case is a good lesson that it's important to get everything right the first time, commenting we could have avoided some of the complications and heartache if the plat had been approved in the appropriate manner. He said he holds no one in this room to blame, including Mr. Murphey who wasn't here then, commenting that we had no staff at the time.

Mr. Winter said when trail segments are encountered, he goes out when the surveyor is on site and does a line of pin flags to be sure they are in his points and the required buffer, and provide the official language which he did, but which wasn't included. He didn't see the plat after the fact, nor did the City.

## **F. ADMINISTRATIVE MATTERS**

### **1. LA TIERRA TRAILS – TRAILS MASTER PLAN**

Mr. Murphey said at the May 19, 2011, ARC meeting, Leroy Pacheco from Public Works and Claudia Horn, Landscape Architect for Design Office, made an informal presentation to the Committee. He said the Committee members said many times they would like to see these projects come under the Ordinance, and Mr. Pacheco said at the time that would happen.

Mr. Murphey said, in the meantime, he got a Mylar set for a project which was not going to come to ARC for review because there is an exemption in the Ordinance which provides if it goes through federal review it can be approved through staff. He said the project is the BMX trail and parking lot which had a 404 Section 106, and he had to sign off on it.

Mr. Murphey said he met with Mr. Pacheco and the design team on February 1, 2012, and they provided this document for Committee review. He said at the meeting, Mr. Pacheco said that all projects to be implemented, whether new trail construction or rehab of existing trails, will get archaeological review according to City Ordinance. He said they discussed what this actually means, and he called the consultant Gerry Raymond with Criterion. He said Mr. Raymond explained that large disturbances on a large parcel are 100% pedestrian surveyed in a 10 meter transect, and rehabilitation of existing trails are pedestrian surveyed, 20 feet on either side of the center line. He said it is Mr. Pacheco's expectation that we will be seeing a lot of these very soon.

Mr. Murphey said if the Committee has concerns after reading this document, especially pages 34 and 35, they can transmit them to him and he will give them to Mr. Pacheco.

***Mr. Funkhouser said he has to recuse himself from this discussion, disclosing that when he worked with Sierra he attended meetings with the City about it, and subsequently assisted Gerry Raymond in the surveying.***

Chair Kulisheck asked Mr. Funkhouser to leave the room while they are having this discussion.

Chair Kulisheck said he does have concerns. The first is the conversation we had with Gerry Raymond and the people from Public Works regarding this particular project. He said there were two discussions, but the most productive was the one where Mr. Raymond was present, noting David Rasch also was in attendance. He said what we said is that the Master Plan constitutes the undertaking and this is what needed a clearance, but this doesn't seem to be the approach that is being taken.

Chair Kulisheck said we also told them that we would allow phased inventory associated with that, but an initial document needed to be produced spelling out how they were going to do all of this stuff. He said this is the step that has been missed. It is the Master Plan that needs to have a clearance, with approval by this Committee. He said we gave Mr. Raymond very explicit instructions on how to structure this, so they wouldn't have to survey the entire 1,500 acres, and they could do the inventory immediately prior to when the work was scheduled, so they didn't have inventory a lot of stuff that they didn't know whether or not would happen. However, they need the initial document spelling this out.

Chair Kulisheck said his concern is that hasn't happened, and they aren't following the spirit of the guidance they received from this Committee.

Chair Kulisheck said his second concern is in regard to the issue of doing clearances with federal funding, and that is another question he has. He said, "At what scale does this project require a federal clearance. In terms of the federal clearance report, what did it cover. What aspect of this project did it cover."

Mr. Murphey said he provided a copy to the Committee, and it was only for the BMX parking lot, specifically called the ATV BMX Trail.

Chair Kulisheck said he sees the ATV BMX Park in the southwest corner on page 35 of the Plan. He sees the potential for a patchwork of federal and State undertakings, depending on the necessity for 404 permits, or trails money which has passed through the Federal Highway Administration, and so forth. He wants to prevent that from happening.

Chair Kulisheck said, "Section 106 of the National Historic Preservation Act, gives municipalities involved in federal undertakings, the opportunity to become consulting parties regarding a federal undertaking. One of the things I'd like you to send up the ladder is what is the mechanism within this City for becoming a consulting party on a federal undertaking. My assumption is that is something that is requested by the Mayor. The question I would have is who initiates a request. Can this Committee make a request from the Mayor that the City become a consulting party on federal undertakings."

Chair Kulisheck said, "The other thing I would say is that if the Army Corps of Engineers did not afford the City the opportunity, if they did not scope the City regarding this undertaking, they didn't do their job on this, and that will also be the case for the Federal Highway Administration or anybody else who triggers Section 106 with this. Section 106 requires that scoping take place and that the City be scoped, and part of that scoping should be a request as to whether the City wants to be a consulting party on the 106. And so I would like to see that that take place, and that we be afforded the opportunity to comment on federal undertakings, that the City be afforded that opportunity, and in particular the Historic

Preservation Division, whether that opportunity to comment would come through the ARC, whether by staff, regardless. It doesn't matter. If they didn't scope you guys, they didn't do their jobs right. You shouldn't have just gotten a report stuck under your nose saying sign this. What should have happened is you should have been afforded an opportunity to comment on that 106 process. That's my opinion and I would encourage you, as staff to follow up on it."

Chair Kulisheck said, "What I don't understand right now is what is the role of this Committee. What is the role of HPD in commenting on federal undertakings and requesting consulting party status. And if you could figure that out, I would be grateful. I don't know. Jake, you're the longest standing Committee member. Have we commented on federal undertakings before."

Mr. Ivey said, from his viewpoint as a federal employee before retirement, he doesn't recall that they ever were involved directly with the City. He said the City went through SHPO and SHPO came to them. He said the City took part as one of the people involved, an interested party. He said he dealt with parks almost entirely, so all he knows is what he heard people talking about in the committee meetings, which isn't a good enough basis to call this.

Mr. Ivey said, "I can say one thing. If this is supposed to be a Master Plan, there is no provision for any archaeological consulting of any sort. Wouldn't you expect that to be in a Master Plan"

Chair Kulisheck said the only place ARC is mentioned is in Agency and Stakeholder meetings, and this isn't sufficient to meet their requirements under the Ordinance.

Mr. Ivey said he would have expected two pages specifying who needs to go who to carry out a set of defined activities associated with cultural resources, and there is nothing there, which is a gap in the document.

Chair Kulisheck said he wants to emphasize that this is a worthy project and can be accomplished within the stipulations of the Ordinance, and in such a way which minimizes the cost and burden to the City and for project implementation. He said he has expressed this to the Committee. He said he thought we worked hard to reach a compromise that would do that, rather than saying, go out and survey 1,500 acres and come back and talk to us. He recalled that it was the Committee opinion that they didn't need to do that.

Chair Kulisheck said he doesn't want the misperception that the Committee has an inherent problem with this undertaking, which will benefit the citizens.

Mr. Ivey said if you read the minutes of the meeting, we detailed a complete construct to these people about how to go about this, and the people physically here seemed to understand that discussion at the time.

Mr. Murphey said he was told only about the May 11, 2011 meeting, and didn't know another meeting occurred. He said the minutes of that meeting don't mention Gerry Raymond being in attendance.

Chair Kulisheck said then that isn't the meeting he was thinking about, because Gerry Raymond was in attendance, and asked staff to try to identify the meeting.

Mr. Ivey said it was a long discussion.

Mr. Murphey asked what he communicates directly to Mr. Pacheco.

Chair Kulisheck said, "We had a deal, and we'd like them to follow through on it. We made a deal that they were going to provide a clearance report for this undertaking, and that the undertaking would not proceed until the clearance was approved."

Mr. Murphey said, "Then the piecemeal approach that Gerry communicated to me last week, which I just mumbled to you, about clearing individual parcels and doing trail segment survey is not what you are recommending."

Chair Kulisheck said, "What we are asking for is a document that spells out how they will do the piecemeal approach. The Ordinance requires that the undertaking can be cleared, and if we are granting a waiver or a variance to that, we need to approve that. That wasn't accomplished verbally. What we requested was a formal document that would spell out how that would occur, and that document has not come before the Committee." He said once we see and approve the document, then the process of case-by-case clearances can go forward.

Mr. Ivey said the Committee was fine with that and specified the points necessary to accomplish that.

Chair Kulisheck said a step has been missed here.

Mr. Ivey said there was a perception of opposition at the beginning in the first meeting, but we worked out a whole structure to do this to minimize time and expenditure of funds.

Chair Kulisheck wants to make sure that if we do this piecemeal that we have a procedure to do so, and that we have a document spelling out how that will take place, which provides an overview for the whole area.

Chair Kulisheck said another concern is that we don't get a "piecemeal, half federal, half State-municipal undertaking, and that pieces don't fall through the cracks because they are federal." He said one piece has gone through that way, and the reason he wants a place at the table as a consulting party to comment is to be sure that anything federal is consistent with any master document/plan for doing individual clearances approved by this Committee. He doesn't believe any federal agency would have an issue, and believes they actually would prefer to have it done that way.

Chair Kulisheck said he hopes the City is disclosing to the Army Corps of Engineers that this project needs approval as part of a larger master plan project, but he doesn't know.

Chair Kulisheck said we came up with a simple solution and believes we should use it.

Mr. Eck agreed, saying when you get out of sequence, then a problem is created.

Chair Kulisheck said if they don't want to do it, then they need to survey the entire 1,500 acres before doing anything as required by Ordinance, noting this was the opinion Mr. Rasch gave at the meeting. He said we didn't want to require that because it was out of scale with the undertaking, and they felt that way as well. We told them if they wanted an exception they needed to come before the Committee with alternatives, and that is what we haven't received.

Chair Kulisheck recommended the Committee talk with David Rasch about this, because he attended that meeting. He believes Gerry Raymond understood what we were telling him, and that he should contact staff and/or the Committee for additional information or clarification.

Mr. Ivey said they left the meeting with the core language already in hand as to how to go about doing this which would meet the requirements.

Mr. Murphey asked what to do if he receives one of the core documents without the cover document.

Chair Kulisheck said he needs to inform Public Works that you will not approve it. He said they may say we approved a segment before that, but that was before we knew there was a Master Plan.

## **G. COMMUNICATIONS**

Mr. Murphey said he got a letter from the Mayor saying Tess Monahan's reappointment has been approved, and asked if everyone submitted their letter.

Chair Kulisheck said he does need to submit a letter, and he has not done that.

Mr. Ivey said he will submit a letter, and will contact Mr. Murphey about what it should say.

Chair Kulisheck asked Mr. Murphey to email them the boilerplate letter requesting reappointment, and Mr. Murphey said he will do so.

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

Chair Kulisheck said he will be absent for the March 1<sup>st</sup> meeting, and Tess Monahan will be the acting Chair. He may also be absent for the April 19<sup>th</sup> meeting, but his plans aren't final.

**I. BUSINESS FROM THE FLOOR**

None.

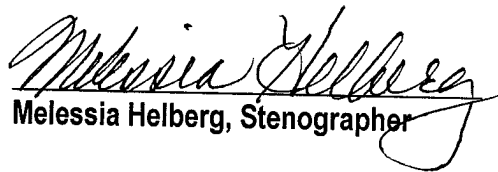
**J. ADJOURNMENT**

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

**VOTE:** The motion was approved on a voice vote, with David Eck, Jake Ivey and Gary Funkhouser voting in favor of the motion, no one voting against and Tess Monahan absent for the vote and the meeting was adjourned at approximately 6:45 p.m.

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Jeremy Kulisheck, Chair

  
Melessia Helberg, Stenographer