

CITY OF EL PASO DE ROBLES

"The Pass of the Oaks"

CITY COUNCIL MINUTES

Tuesday, October 16, 2007 7:30 PM

MEETING LOCATION: PASO ROBLES LIBRARY/CITY HALL CONFERENCE CENTER, 1000 SPRING STREET

PLEASE SUBMIT ALL CORRESPONDENCE FOR CITY COUNCIL PRIOR TO THE MEETING WITH A COPY TO THE CITY CLERK

7:30 PM - CONVENE REGULAR MEETING

CALL TO ORDER - Downstairs Conference Center

PLEDGE OF ALLEGIANCE

INVOCATION – Reverend Patrick Sheean

ROLL CALL Councilmembers John Hamon Gary Nemeth, Duane Picanco, Fred Strong, and

Frank Mecham

PUBLIC COMMENTS

- Jesse Arnold presented information on genetically engineered produce (attached)
- Dale Gustin expressed appreciation for the City's continued support of Pioneer Day festivities
- Jessica Haverlandt, regarding after school programs (consent Item No. 5 proclamation)
- Councilmember Nemeth congratulated William Hix on achieving Eagle Scout, and Troop 60 for their contributions, through Eagle Scout projects, to the City

AGENDA ITEMS TO BE DEFERRED (IF ANY) - None

PRESENTATIONS

1. 2007 Paderewski Youth Piano Competition Finalists

Frank Mecham, Mayor

On Friday, September 21, 2007 in conjunction with Cuesta College and the 2007 Paderewski Reprise, 16 young pianists participated in the first annual Youth Piano Competition. The City Council presented City Medals to the top three performers in the Junior and Senior Groups:

Junior (Ages 9-14)

Max Eisendrath, 1st Place Evan Lin, 2nd Place Joshua Lehrer, 3rd Place (accepted by Gary Lehrer)

Senior (Ages 15-18)

Matthew Fauria, 1st, Place Tyrone Crockett, 2nd, Place Cooper Stimson, 3rd, Place

PUBLIC HEARINGS – None

CONSENT CALENDAR

Mayor Mecham called for public comments on Consent Calendar items. At the request of the public Item 6 was pulled for discussion. Item Nos. 8 and 9 were pulled for discussion at the request of Councilmember Strong. There were no other comments from the public, either written or oral, and the public discussion was closed.

- **2.** Approve City Council minutes of October 2, 2007
- 3. Approve Warrant Register: Nos. 72827—73006 (09/28/07) and 73007—73146 (10/05/07)
- Receive and file Advisory Body Committee minutes as follows: Citizens Airport Advisory Committee meeting of August 23, 2007 Senior Citizen Advisory Committee meeting of September 10, 2007 Youth Commission meeting of September 5, 2007
- **5.** Proclamation designating October 18, 2007 as "Lights on Afterschool! Day", in Paso Robles.
- **6.** (Pulled for discussion) Read, by title only, and adopt Ordinance No. 939 N.S. repealing Ordinance 935, N.S., which increased water usage rates to fund the Nacimiento Water Project. 1ST READING OCTOBER 2, 2007
- **7.** Adopt Resolution No. 07-210 authorizing a contract, and accepting funds from First 5 the Children and Families Commission of San Luis Obispo, for School Readiness activities at the Library Study Center.
- **8.** (Pulled for discussion) Adopt Resolution No. 07-XXX rescinding acceptance of Parcel Map PR 06-0012 for Recordation (Resolution No. 07-186), as the City has not received the \$15,000 bond to satisfy the conditions of approval for the map. (Stoll)
- **(Pulled for discussion)** Adopt Resolution 07-XXX accepting Irrevocable and Perpetual Offer of Dedication for road purposes related to the development of the northeast corner of 4th and Spring Streets, PD 03-020. The additional right-of-way accommodates the new curbs and sidewalks recently placed at the intersection. (Saunders)
- Adopt Resolution No. 07-211 approving and consenting to a sublease agreement between Avlite Aviation, Inc., an airport lease holder, and Applied Technologies Flight, Inc. for the sublease of space within an existing hangar facility on Parcel 15 (3150 Propellor Drive) at the airport. The proposed use of the subleased portion of the facility is storage of a corporate jet aircraft.

Consent Calendar Items Nos. 2, 3, 4, 5, 7 and 10 were approved on a single motion by Councilmember Nemeth, seconded by Councilmember Hamon, with Councilmember Hamon abstaining on Warrant Register Items Nos. 072898 and 073063; Councilmember Picanco abstaining on Warrant Register Items Nos. 073970, 073983 and 072985; Councilmember Strong abstaining on Warrant Register Items Nos. 073079; and Mayor Mecham abstaining on Warrant Register Items No. 072975.

Motion passed by the following unanimous roll call vote:

AYES: Hamon, Nemeth, Picanco, Strong, and Mecham

NOES: ABSTAIN: ABSENT:

DISCUSSION

11. Golden Hill Road, Rezone - 2nd Reading Ordinance No. 938, N.S.

R. Whisenand, Community Development Director

The City Council considered factual information on compliance with the California Environmental Quality Act (CEQA). The Ordinance changes the land use designation from Residential Single Family to Residential Multiple Family, 12 units per acre at property located at 1450 Golden Hill Road. The project site is a 13.4 acre parcel, and proposes to construct a multi-level, 125-unit senior retirement community and a 6,330 s.f. expansion to the existing 4,340 s.f. church/pre-school. (1ST READING SEPTEMBER 18, 2007)

Mayor Mecham opened the public hearing. Speaking from the public was Michael Jencks (letter attached); Joe Horne, Dale Gustin, Art Trinidade. There were no further comments from the public, either written or oral, and the public discussion was closed.

Councilmember Nemeth, seconded by Councilmember Picanco, moved to refer the item back to staff for further review of the items raised in Mr. Jencks letters of October 1, 2, and 16, and to continue the item to a date uncertain.

Motion passed by the following unanimous roll call vote:

AYES: Hamon, Nemeth, Picanco, Strong, and Mecham

NOES: ABSTAIN: ABSENT:

12. Card Room License Transfer - Central Coast Casino

J. Sorenson, Interim Director of Administrative Services

The City Council considered approval of a request from Central Coast Casino to transfer a card room license to a new location at 1124 Black Oak Drive.

Mayor Mecham opened the public hearing. Speaking from the public was Kathy Barnett, and David Stearns, the applicant. There were no further comments from the public, either written or oral, and the public discussion was closed.

Councilmember Strong, seconded by Councilmember Hamon, moved to approve transfer of the card room license, and ordered that a business license be issued for the new location upon payment of the annual fee, and any additional fees that might be required, in accordance with the Paso Robles Municipal Code §5.08.030;

Motion passed by the following unanimous roll call vote:

AYES: Hamon, Nemeth, Picanco, Strong, and Mecham

NOES: ABSTAIN: ABSENT:

3

13. Sewer System Management Plan

D. Monn, Director of Public Works

The City Council considered approving a Sewer System Management Plan ("SSMP") to comply with State Water Resources Control Board General Waste Discharge Requirements for all publicly-owned sanitary sewer collection systems in California. Katie DiSimone, Utilities Manager, presented the staff report.

Mayor Mecham opened the public hearing. Speaking from the public was Tom Hardwick. There were no further comments from the public, either written or oral, and the public discussion was closed.

Councilmember Nemeth, seconded by Councilmember Strong, moved to adopt Resolution No. 07-212 approving the SSMP Development Plan and Schedule.

Motion passed by the following unanimous roll call vote:

AYES: Hamon, Nemeth, Picanco, Strong, and Mecham

NOES: ABSTAIN: ABSENT:

14. Data Connection to City Water and Wastewater Facilities

D. Monn, Director of Public Works

The City Council considered establishing a data connection between City Hall and the City's Water and Wastewater facilities to access shared network resources. The costs total \$21,000 for equipment and \$7,000 for service through the end of the adopted 2007-2009 Fiscal Year budget. Funding can be appropriated from the Water and Wastewater Operations Funds. Katie DiSimone, Utilities Manager, presented the staff report.

Mayor Mecham opened the public hearing. There were no comments from the public, either written or oral, and the public discussion was closed.

Councilmember Hamon, seconded by Councilmember Nemeth, moved to authorize \$28,000 to complete the upgrade of the City's Water and Wastewater Facilities to establish connection to the City Hall network.

Motion passed by the following unanimous roll call vote:

AYES: Hamon, Nemeth, Picanco, Strong, and Mecham

NOES: ABSTAIN: ABSENT:

ITEMS PULLED FOR DISCUSSION

6. Repeal of Ordinance 935 N.S. - Water Usage Rates

Mayor Mecham opened the public hearing. Speaking from the public was David Athey, Tom Hardwick, and Kathy Barnett. There were no further comments from the public, either written or oral, and the public discussion was closed.

Councilmember Strong, seconded by Councilmember Nemeth, moved to read, by title only, and adopt Ordinance No. 939 N.S.

Motion passed by the following unanimous roll call vote:

AYES: Hamon, Nemeth, Picanco, Strong, and Mecham

NOES: ABSTAIN: ABSENT:

8. Rescind Approval of Parcel Map PR 06-0012 (Stoll)

Mayor Mecham opened the public hearing. There were no comments from the public, either written or oral, and the public discussion was closed.

9. Acceptance of Offer of Dedication PD-03-020 (Saunders)

Mayor Mecham opened the public hearing. There were no comments from the public, either written or oral, and the public discussion was closed.

In a single motion, Councilmember Hamon, seconded by Councilmember Strong, moved to adopt Resolution No. 07-213 rescinding acceptance of Parcel Map PR 06-0012 for Recordation (Resolution No. 07-186), and to adopt Resolution No. 07-214 accepting Irrevocable and Perpetual Offer of Dedication for road purposes related to the development of the northeast corner of 4th and Spring Streets, PD 03-020.

Motion passed by the following unanimous voice vote:

AYES: Hamon, Nemeth, Picanco, Strong, and Mecham

NOES: ABSTAIN: ABSENT:

CITY MANAGER - None

CORRESPONDENCE - None

ADVISORY BODY COMMUNICATION - - None

AD HOC COMMITTEE COMMUNICATION - None

COUNCIL COMMENTS (Including oral reports on conferences attended)

Councilmember Hamon reminded the public of a Main Street Mixer to be held at the new Children's Museum, on Thursday, October 18th; and Councilmember Picanco expressed his regrets at not being able to attend the Pioneer Museum meeting on October 10, 2007.

By unanimous voice vote, Council moved to adjourn from regular session at 9:05 PM.

ADJOURNMENT TO:

- The Joint Planning Commission/City Council Breakfast Meeting, Friday, October 19, 2007 at 7:00 AM at Touch of Paso Restaurant, Paso Robles
- The Combined Nacimiento Water Project Commission and Nacimiento Water Project Groundbreaking Ceremony, Thursday, October 25, 2007, at 3:00 PM, North Shore Spillway, Lake Nacimiento
- Pacific Coast Cutting Horse Futurity Cutting & Gelding Stakes, October 21 through November 3, 2007, at the Paso Robles Events Center, Paso Robles
- The Regular Meeting on Tuesday, November 6, 2007 at 7:30 PM, at the Library/City Hall Conference Center, 1000 Spring Street

Submitted:	
Deborah D. Robinson, Deputy City Clerk Approved:	

THESE MINUTES ARE NOT OFFICIAL OR A PERMANENT PART OF THE RECORDS UNTIL APPROVED BY THE CITY COUNCIL AT A FUTURE REGULAR MEETING.



MICHAEL R. JENCKS

ATTORNEYS AND COUNSELORS AT LAW
4349 OLD SANTA FE ROAD, BOX 5
SAN LUIS OBISPO, CALIFORNIA 93401
TELEPHONE 805.548.0600 FACSIMILE 805.548.0601

October 16, 2007

By Facsimile and Hand Delivery

Hon. Frank Mecham, Mayor

Hon. Gary Nemeth, Mayor Pro Tem

Hon. John Hamon, Council Member

Hon. Duane Picano, Council Member

Hon, Fred Strong, Council Member

CITY OF EL PASO DE ROBLES

1000 Spring Street

Paso Robles, CA 93446

Re.: 1450 Golden Hitl Road (Ordinance No. 938 N.S.)

City Council Regular Meeting 10.16.07

Agenda Item Number Bleven (11)

Proposed Zoning Change of 1450 Golden Hill Rd. from R1, B3 to R3, PD

Honorable Mayor and Council Members:

This office is again appearing on behalf of Steven Lopate. Mr. Lopate owns and resides in property at 2904 Gilead Lane, adjacent to the site for the proposed new Covenant Church Sanctuary building and Golden Hills Retirement Project.

This letter supplements Mr. Lopate's prior written and oral testimony in opposition to the CUP, MND, and Rezone and this office's October 2 letter to your Council in opposition to the proposed zone change and environmental determination and reflects new information garnered from our belated opportunity to review the City file and responds to issues raised in Mr. Whisenand's supplemental staff report addressing certain alleged procedural defects in the prosecution of the proposed rezoning.

Procedural and Process Issues

The hearing and approval process for the Project's CUP, for the MND, and for the zone change, has been seriously flawed, ranging from procedural errors in public review time and circulation of the environmental document, to denials of due process and even Brown Act violations, which if corroborated could vitiate any approval of the zone change as well as possibly result in setting aside the prior CUP and MND approvals. Examples of specific procedural omissions, defects, and anomalies include, without limitation:

Mayor Mecham and Council Members Golden Hills Retirement Project Rezone 10/16/07 Agenda Item #11 Page 2 of 5

- The NOI was published and circulated on July 24, 2007. The notice language states "The proposed MND may be reviewed at the Community Development Department....." To date, no MND has ever been prepared as required by CEQA Guideline 15070 in the form required by 15071. City staff states that for purposes of the NOI they intended to treat the Initial Study as the proposed MND.
- In terms of the mandated time for public review, the purported MND was not made available to Mr. Lopate until August 13 (please see attached declaration, ¶¶ 3,4); it is noteworthy that Mr. Whisenand does not deny this and never affirmatively states that a MND was available for review by the public for the mandated 20 day review period.
- CEQA requires a NOD be filed within 5 days after approval of a project. The project was approved on Sept. 18. The NOD was not filed until Oct. 5. The NOD states that the MND, together with all comments and responses, is available for review at the Community Development Department. No MND has been prepared. City staff has explained and represented that for purposes of the NOD they intended that the adopted resolution serve as the functional equivalent and in stead and lieu of an adopted MND.
- The record and NOI are entirely silent as to whether the applicant had ever formally agreed to accept and abide by the mitigation measures proposed by staff.
- Numerous mitigation measures are in place relating to San Joaquin Kit Fox habitat. The record does not indicate that the Initial Study was ever circulated to the DFG or FWS. Neither the NOI nor NOD was ever circulated to the State Clearinghouse.
- It does not appear from any of the resolutions that a mitigation monitoring plan was adopted as required by Guideline 15097.
- The City's response to the allegation of a probable Brown Act violation in the Planning Commission's consideration of this rezone is curious since obviously no investigation was undertaken although facts raising the probability of such a violation appear on the face of the Planning Commission proceedings and are alleged and reported to involve the attendance of a majority of the commission members at an out of county facility developed by the applicant. (See attached declaration @ ¶5).

Mayor Mecham and Council Members Golden Hills Retirement Project Rezone 10/16/07 Agenda Item #11 Page 3 of 5

Constitutional/Takings.

The deprivation of existing uses, rights, and privileges of the RSF-2 homes by the rezoning, and the effects of the loss of privacy, will result in a dramatic loss of property value and may well be found to constitute partial or, in the case of some of the most impacted homes, complete takings. Mr. Whisenand simply says there is no factual information to support any loss of value. That is incorrect. Several residents presented written and/or oral testimony in these proceedings specifically claiming losses in value sufficient to support a takings claim. Mr. Lopate has also made that claim and reiterates it in the attached declaration (¶ 6-7). The important point though is not the takings claim itself, which can be anticipated to be among the last resorts of property owners, especially along Gilead, should they not be successful in setting aside the project, environmental, and rezoning approvals: it is instead that standard, off-the-shelf mitigations in use in Paso and around the County for church land uses likely could have avoided much of the loss in value.

Environmental/Mitigations.

The Project, as proposed and conditioned, including the zone change before the Council tonight and the Mitigated Negative Declaration, will, unless modified, have a destructive effect on the quality and quiet enjoyment of the surrounding single family residential neighborhood and impose an unnecessary and disproportionate burden on Mr. Lopate's and his neighbors' similarly situated parcels immediately adjacent to the Project parcel, and on their property rights, privacy, and safety. The Mitigated Negative Declaration, as it pertains to and evaluates the impacts of the zone change, is incomplete and we submit deficient as a matter of law.

Land Use and Planning

- o The proposed land use and zooming designations do not fundamentally change the underlying residential land use designation.... Less than significant impact.
 - o Response: The current land use designation is residential single family, with a maximum of 2 units per acre for a 13.4-acre site, for a total possible of 26 residential units. The requested rezoning is for residential multiple family, 12 units per acre, so that a 125-unit residential care facility can be built. Increasing the density from 26 homes, and the traffic that the change would create, to 125 "homes" and the traffic and noise that would create, not just for the residents but visitors and the army of staff to take care of them and maintain the building, is a <u>huge</u> change. This on top of increasing the size and capacity of the existing church by nearly 50%.

Mayor Mecham and Council Members Golden Hills Retirement Project Rezone 10/16/07 Agenda Item #11 Page 4 of 5

o The focus of environmental review was almost entirely on the impacts presented by the senior retirement community. Very little attention was given to the construction of the large new church sanctuary and the dramatic expansion of the size, mass, and coverage of the existing church facilities.

o Water

- The project applicant will be required to develop and implement a Storm Water Pollution Prevention Plan to reduce potential erosion and subsequent sedimentation of storm water runoff.
- o This was not among the listed mitigation measures.
- o No evidence that the Initial Study was circulated to the RWQCB.
- o The Initial Study did not address water usage attributable to the increased density or whether there is sufficient water to meet the needs of the community in the future.

Transportation/Circulation

- o An insufficient analysis was made as to the effect the expansion of the size of the church by 50% would have on traffic. The traffic study noted that trips would increase from 51 to 125 after construction, but only on Sundays, the lowest volume day of the week. The study did not take into account that the church operates a preschool, and it is not specified whether that operates through the week or only during church services. The traffic study also failed to properly account for the impact of the significant number of staff residences which would have much higher trip frequencies than the retired residents and visitors.
- o The failure to provide ways for disabled persons to negotiate ingress and egress of the parcel and to link with existing infrastructure is especially curious given the ADA implications.

o Biological Resources

- o No evidence that the Initial Study was circulated to the DFG or the FWS.
- o Noise

Mayor Mecham and Council Members Golden Hills Retirement Project Rezone 10/16/07 Agenda Item #11 Page 5 of 5

- o Increases in existing noise levels are a less than significant impact.
- O The project was reviewed by the Fire Chief, including the impacts to Emergency Services as a result of emergency related calls to the retirement facility. The noise impacts of the increased number of sirens from emergency vehicles was not analyzed, nor were sounds from increased traffic in general, both to the residential care facility or to the enlarged church.
- o The Initial Study states that [t]he proposed expansion to the existing church would be approximately 12-feet from the Gilead properties. With only 12 feet separating the church grounds from the neighboring homes, a noise study should be conducted to determine the increased levels to those homes in particular and increases in off-site noise generally.

We request that the proposed rezoning be <u>denied</u>.

Very truly yours,

MICHAEL R. JENCKS

Cc: Ms. Deborah Robinson, Deputy City Clerk

BEFORE THE CITY COUNCIL OF THE CITY OF PASO ROBLES

IN RE:

GENERAL PLAN AMENDMENT)
07-002, REZONE 06-004, PD 06-024)
CUP 06-011, PR 06-272 FOR PROPERTY) DECLARATION OF STEVEN
LOCATED AT 1450 GOLDEN HILL) LOPATE
ROAD)
	Public Hearing Date: Oct. 16, 2007
APPLICANT: GOLDEN HILL) Time: 7:30 p.m.
DEVELOPMENT) Agenda Item No.: 11
)
Applicant.	j

- I, Steven Lopate, declare and state:
- 1. I am a resident of the City of Paso Robles. My address is 2904 Gilead

 Lane. My house is located directly north of the proposed development of the Golden

 Hills Scnior Retirement Community and Covenant Presbyterian Church (the "Project"). I

 also own a home located at 25983 High Terrace Lane, Salinas, California.
- 2. During the first week of August, while visiting my Salinas property, I found in my mail a copy of the Notice of Public Hearing and Notice of Intent to Adopt a Mitigated Negative Declaration and General Plan Amendment for the Project, which had been sent to me there by the City of Paso Robles. I did not receive a copy of the Notice of Intent at my home in Paso Robles.
- 3. On or about August 9, 2007, after I returned to Paso Robles from Salinas, I went to the Community Development Department of the City to review the materials described in the Notice of Public Hearing, including the proposed Mitigated Negative

Declaration. All I was shown was a series of blueprints and architectural drawings. I was told by community development department staff that those were the only items available to see. The staff person suggested I attempt to obtain more information from the City's web site.

- 4. I was unable to find any further information on the City's web site, so on August 10, 2007, I sent an e-mail to the City informing them that I was having difficulty accessing information on the Project and asking to see any reports, drawings, or other documents in connection with the Project. On August 13, I received a response from Lonnie Dolan of the City, saying that the "report" was too large to e-mail and telling me I could pick up a copy of the report for a fee, which I did. I received the information on the Project for my review, including the Initial Study and mitigation measures, on August 13, one day before the scheduled hearing before the Planning Commission. This was the first opportunity I had to review it.
- 5. On August 14, 2007, I attended the Planning Commission hearing during which the Project was discussed and approved. During that hearing three or four of the Planning Commissioners represented on the record that they had been to visit a similar facility that had been built by the applicant. The Commissioners represented that they had been impressed with the operations of the facility and that, as part of visiting and viewing the facility, had enjoyed a meal there or nearby. I was unable to determine from their comments whether the Commissioners had traveled together for this tour of the applicant's property or if they had gone separately, but at least three of the Commissioners stated they had seen it.

10/15/07 MON 15:27 FAX 1 805 548 0601

MICHAEL R. JENCKS

- 6. I purchased my property in 2003, and have lived there continuously since that time. My property is zoned R-1, B-3. It has always been my intention since I purchased the property to build a second unit behind my home. I have met with planning staff in approximately 2006 to discuss what rules would apply to the construction of a second unit. I was informed by City staff that there is a required setback of 35 feet from my house to the second unit and from the second unit to any structure on the neighboring property. Accordingly, if the new facility for the Covenant Presbyterian Church is built as proposed, there will not be enough space for me to construct a second unit on my property.
- 7. I am familiar with property values in the area where I live. I also have friends who are brokers in this area. I am informed and believe that should the rezoning be approved and the Project be constructed as proposed, the value of my property will decrease in excess of 25%, due to the proximity of a multi-family facility, the attendant loss of view and visual and auditory privacy, and the loss of the ability to construct my second unit.

I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct and that this declaration was executed on October 15.

2007, in Rose Rules. California.

STEVEN LOPATE

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CITIZENS' PETITION IN OPPOSITION TO PROPOSED ORDINANCE NO. 938, N.S. REZONING 13.4 ACRE PARCEL AT 1450 GOLDEN HILL ROAD FROM SINGLE FAMILY RESIDENTIAL 2 UNITS PER ACRE TO RESIDENTIAL MULTIPLE FAMILY 12 UNITS PER ACRE

We, the undersigned, are residents, home owners, and/or voters of the City of Paso Robles, and are **OPPOSED** to the adoption by the City Council of Proposed Ordinance No. 938, N.S. because, as proposed, it fails a) to mitigate traffic impacts, b) to address the impact of increased numbers of emergency vehicles, c) to provide for safe access and egress by disabled persons, d) to shield or buffer visual and noise impacts on surrounding single family residential neighborhoods, e) to protect the privacy and quiet enjoyment of surrounding homes, and f) to preserve existing property rights of adjacent properties. We hereby request the City Council to **REJECT** the ordinance and to refer it back to the Planning Commission with directions to address conditioning the Project so as to reduce or buffer the incompatibility of the new, more-intensive land use designation with the existing neighborhood and to adequately and sufficiently address the foregoing concerns. Address Signature

Name (Print)

Richard M. Harris 2904 Gilead P. &
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Margie Shepard 2900 & lead lane \$ P. L. Margin Shept of
Olmen shefard 2900 Gilead lane P.R. Churlos Styles
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CAKORGE / SUSAN TURNER 2911 CHREAD LN PASO FOBLES SOS
Welen Benningfield 2911 GileAd Vaso
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Petition No.

Susan Helberg	29026Head PR 7907 Gilead PR 2904 Gilead Dr	Supplies When
DAMA CEALDMAN	2904 Gilead Dr	Dina Whather

Petition No. ____