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Engineering & Traffic Surveys completed in 2008  
 requiring a change in speed limits but not implemented  
 2009 information is the same except for recommendations

Community	Street/location of survey	Date of survey	Original Ordinance Speed Limit	Recommended Change	Recommended Change
				<b>2008</b>	<b>2009</b>
Alpaugh	Knox-McKeely	10/1/2008	35	*40	
		11/3/2009	35		35
Exeter	Firebaugh-Ave.280	10/1/2008	45	*50	
		12/1/2009	45		45
Delano	Diagonal-Road 152	10/1/2008	40	*45	
		no date	40		40
Earlimart	Wilson-Sutter Ave.	10/1/2008	35	*40	
		2009			No new survey
Earlimart	Chapparral-Wilson	10/1/2008	45	*40	
		2009			No new survey
Earlimart	Sutter-Sierra	10/1/2008	45	*40	
		2009			No new survey
Goshen	Diagonal-Camp Dr	12/10/2008	35	*40	
		7/27/2009	35		35
Ivanhoe	Road 156-Road 160	12/10/2008	40	*45	
		12/15/2009	40		40
Lindsay	Foothill-Strathmoore	10/1/2008	50	*55	
		12/16/2009	50		50
Pixley	Park Dr.(Howard/Orrland)	10/1/2008	40	*45	
		11/30/2009	40		40
Pixley	Terra Bella(Ash/Elm)	10/1/2008	40	40	
		2009			No new survey
Pixley	Main(Terra B/Court)	10/1/2008	35	*40	
		9/14/2009	35		35
Pixley	Ave95(Elm/School)	10/1/2008	50	50	
		2009			No new survey
Pixley	Ave95(Airport/Ash)	10/1/2008	50	*45	
		7/27/2009	50		50
Plainview	Rd.196(Ave192/196)	10/1/2008	50	50	Ordinance Changed 35
		6/5/2009	50		
Porterville	Springville-Doyle St.	10/1/2008	45	*40	
		2009			No new survey
Porterville	Roby(Ruth/Olive)	10/1/2008	45	45	
		2009			No new survey
Porterville	Springville(Date/Spg)	10/1/2008	45	*40	No Ordinance Change 40
		10/19/2009	45		
Porterville	Success(Leg-Spg)	10/1/2008	45	*40	
		2009			No new survey
Richgrove	Richgrove Dr.(Ames/Gr)	10/1/2008	40	*45	
		9/22/2009	40		40
Strathmore	Road-228/Meredith	10/1/2008	35	35	
		2009			No new survey
Strathmore	Orange Belt	10/1/2008	40	*45	
		12/9/2009	40		40
Sultana	Ave.416, Rd92-104	12/10/2008	55	*60	
		12/14/2009	55		55
Sultana	Ave.(Rd106-Rd124)	12/10/2008	55	*60	
		12/14/2009	55		55
Terra Bella	Road 236	10/1/2008	35	*45	
		9/22/2009	35		35
Tipton	Burnett Rd	10/1/2008	40	*45	
		2009			No new survey
Three Rivers	N.Fork Dr.	6/25/2008	40	*45	
		1/15/2010	40		40
Traver	Diagonal 39	12/10/2008	45	*40	
		2009			No new survey
Traver	Merritt Dr.	12/10/2008	35	*40	
		1/23/2010	35		35
Visalia	Ave-296	12/10/2008	50	*45	
		2009			No new survey

\* INFORMATION GIVEN HERE WAS NEVER PLACED IN THE COUNTY ORDINANCE.

## TRANSFER OF FUNDS....DID TULARE CITY COUNCIL KNOW?

### BACKGROUND

The City of Tulare (Tulare) was founded in 1872 by the Southern Pacific Railroad to serve as its San Joaquin Valley headquarters. Tulare was incorporated April 5, 1888 with a population of approximately 3,250. Tulare is a charter city, first approved September 5, 1922 and filed with the Secretary of State February 3, 1923. It is governed by a City Council elected by the citizens. The City Council hires a City Manager for day to day city administration. Tulare functions under a City Council where the Mayor is selected by the other Council Members. On January 1, 2010 the population was 58,506.

On November 20, 2006, Tulare entered into a Memorandum of Understanding (MOU) with the Tulare Motor Sports Complex, L.P., with the real property development being named Tulare Motor Sports Complex (TMSC). TMSC is a multi-million dollar project that will include a multi-sport complex which will consist of a motor sports race track stadium, drag strip, hotel and retail facilities on approximately a 400 acre site. This MOU was the initial agreement between the parties' pertaining to the TSMC development.

### REASONS FOR INVESTIGATION

The 2009-2010 Tulare County Grand Jury, on its own initiative, chose to investigate possible Ralph M. Brown Act violations by the Tulare City Council.

### PROCEDURES FOLLOWED

1. Interviewed relevant witnesses.
2. Reviewed relevant documents and audio recordings.

### FINDINGS

1. The MOU states in Section F (2), "Modifications within the scope of the instrument shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by all parties, prior to any changes being performed."
2. TMSC established an "escrow account" with a local Tulare bank. The account was established to reimburse the costs paid by the City of Tulare for the TMSC

Environmental Impact Report (EIR).

3. The monies in this account were encumbered by the following agreed upon conditions:
  - "1) Funds on deposit may not be withdrawn by TMSC from the account prior to certification of the TMSC Environmental Impact Report;
  - 2) The City of Tulare is authorized to withdraw funds from account # XXXX, based upon;
    - a. the withdraw or cancellation of the TMSC applications for entitlements for the development of the TMSC racetrack project and the failure of TMSC to pay City's demand for costs to process the TMSC project: or
    - b. a material breach by TMSC of the terms of the Agreement with the City of Tulare regarding the costs for the Environmental Report for the TMSC project.

The foregoing instructions may only be amended in writing by TMSC and the approval by the City of Tulare.”

4. The “escrow account” instructions were amended as follows on December 29, 2008:  
“TMSC shall not withdraw the funds on deposit without the prior written consent of the City of Tulare or upon agreement for payment of the EIR fees and costs with the City of Tulare.”
5. On Friday, February 6, 2009, late in the afternoon, a TMSC representative brought funds transfer documents to the Fresno airport, where they were signed by a City Councilman. The documents authorized the transfer of funds from the local Tulare bank to a bank in Fresno.
6. A fax was sent to the local Tulare bank with an electronic signature from the City Manager for the release of the funds to the bank in Fresno.
7. The “escrow account” instructions did not follow the funds transfer; therefore the funds moved from the bank in Tulare to the bank in Fresno are no longer protected. The City lost control of these funds.
8. The City of Tulare does not have a copy of the signed February 6, 2009 document.
9. The entire City Council was not fully informed or aware of the funds transfer to the Fresno bank prior to June 2009.
10. The City Council did not vote to approve the transfer of funds from the local Tulare bank to the bank in Fresno.
11. Tulare does not have an ordinance

which addresses the movement of large sums of money without full City Council approval.

## **CONCLUSIONS**

The decision to authorize the transfer of funds, which occurred at the Fresno airport late Friday afternoon, February 6, 2009, appears to be a violation of the Ralph M. Brown Act. It would have been prudent to wait until the next scheduled City Council meeting, February 17, 2009, to allow the entire City Council an opportunity to discuss and vote on the issue before making such a large ill-advised financial decision.

## **RECOMMENDATIONS**

1. Take steps to be transparent in order to avoid Brown Act violations or the appearance thereof.
2. Adopt rules or ordinances that cover the movement of large sums of money similar to Government Code sections 36935 (rulings for payment) and 36936 (requirement of vote).
3. Thoroughly evaluate all potential risks, terms and conditions prior to entering into any project of this magnitude and follow Government Code section 66000.

## **RESPONSES REQUIRED**

Tulare City Councilman David Macedo  
Tulare City Councilman Richard Ortega  
Tulare City Councilman Wayne Ross  
Tulare City Councilman Philip Vandegrift  
Tulare City Councilman Craig Vejvoda  
Tulare City Manager Darrel Pyle