



## IGNACIO TOWN BOARD MEETING AGENDA

Monday, June 17, 2019 – 6:30 PM

Abel F. Atencio Community Room

570 Goddard Avenue, Ignacio, CO 81137

**I. CALL REGULAR MEETING TO ORDER:** Mayor Cox called the meeting to order at 6:42 PM by leading in the pledge of allegiance.

### II. ROLL CALL

Present: Mayor Stella Cox, Mayor Pro Tem Alison deKay, Trustee Tom Atencio (arrived at 7:17PM), Trustee Dixie Melton

Absent: Trustee Edward Box III, Trustee Sharon Craig, Trustee Sandra Maez

Guests: Brandon Sandberg, Max Scott, Katherine Yocom, Samantha Johnson, Shannon Mullane, Ron Dunavant, Chad Atkinson

### III. PUBLIC COMMENTS

None

### IV. NEW BUSINESS

Mayor Cox moved on to New Business, A – Audit Report by Hinton Burdick, as this did not require a quorum to be present.

#### A. Audit Report by Hinton Burdick (Chad Atkinson)

Mr. Atkinson expressed appreciation for the Town Staff cooperation in exchanging information to be able to perform the audit, stating that his staff feels that the audit always runs smoothly and is easy to do due to that cooperation. He stated that the firm gave a clean opinion on the financial statements; the report on internal controls and this was clean as well. The report on compliance showed that there were two funds that were over budget, and there was no notice given to the public regarding the supplemental budget review. He reviewed the audit in detail, covering each of the major funds. We are in a good place financially with about six months resources in store in the general fund. He welcomed questions. Mayor Pro Tem deKay asked about making the water and sewer funds look better in the budget by removing staff salaries out of those funds and putting the salaries in the general fund only. Mr. Atkinson stated the importance in reflecting what the expenses actually are, including staff salaries. The audit has to be filed with the State by July 31; it will be on the agenda for approval at the July meeting.

After the Audit Report, Mayor Cox requested that Chief Phillips check on Trustee Atencio to make sure he was alright. Then she moved on in the agenda to the Public Hearing on the Family Dollar FMB Off-Premises License Application.

#### B. Public Hearing for Family Dollar Fermented Malt Beverage Off-Premises License Application

Brandon Sandberg, attorney registration number 42507, with Dill, Dill, Carr, Stonebreaker & Hutchins, introduced himself as representing Family Dollar, the applicant for the FMB Off-Premises License. Also present were Max Scott from Oedipus, the surveying firm; Samantha Johnson, the local Family Dollar Store Manager for Store #31666; and Kathy Yocom, the Family Dollar District Manager. Mr. Sandberg requested that Mr. Scott give a report to the Board. Mr.

Scott introduced himself as the owner of Oedipus, a surveying firm, which has done almost 6,000 surveys throughout the State of Colorado. (Mr. Atencio arrived at this point, 7:17 PM. He apologized for having forgotten about the meeting.) Mr. Scott continued his report by stating the method of survey and the survey results, which showed an overall result of 75% of the parties in interest in favor of the Board approving the license application. Mr. Sandberg requested that the Report, Summary of the Survey Results, and the CV from Mr. Scott be admitted as evidence in the record of this proceeding. Mayor Cox agreed to this request; these items are attached to these minutes as part of the permanent record.

Mr. Sandberg requested that Ms. Yocom report to the Board. She introduced herself, stated that she goes by Kathy, and reviewed her job description as District Manager and her employment history with the company. She described the company policies regarding the sale of age-restricted products, the training the employees receive, and the consequences of not abiding by the policies; she further described the Family Dollar Store here in Ignacio, and provided a map of the Store indicating where the FMB will be stored in coolers and at ambient temperature. Mr. Sandberg requested that this map be admitted as evidence in the record of this proceeding. Mayor Cox agreed to this request; this item is attached to these minutes as part of the permanent record.

Mr. Sandberg called on Samantha Johnson and requested that she introduce herself to the Board. Ms. Johnson complied and stated that she is the Store Manager in Ignacio; she has been here for 2 months, and was Store Manager in Dolores for a year. Prior to that, she was manager at Papa John's for 8 years. She described her role with the Store and the Point of Sale system that ensures that age-restricted products are not sold to underage individuals.

Mr. Sandberg presented his closing comments. Mr. Atencio asked Chief Phillips if he had any concerns. Chief stated that his only two concerns were hours of service and training of employees, and both of these questions were answered in the presentation; he stated that he has no concerns.

Mayor Cox asked if there was any public comment; there was none. Mayor Cox closed the public hearing and called for a motion.

**Action:** Trustee Melton moved to approve the Family Dollar FMB Off-Premises License Application; Mayor Pro Tem deKay seconded. Mayor Cox requested a roll call vote; the motion passed unanimously.

The Board expressed appreciation for how thorough the presentation was; Mr. Sandberg expressed appreciation to each Board Member and the Clerk for their time and assistance in the application process and approval.

Mayor Cox stated that the Board would now return to the order of the agenda and moved to the Consent Agenda.

## **V. CONSENT AGENDA**

- A. Regular Town Board Meeting Minutes of May 20, 2019
- B. Financial Records – Check Register for May 2019

**Action:** Mayor Pro Tem deKay moved to approve the consent agenda; Trustee Melton seconded. The motion passed unanimously by voice vote.

## **VI. UNFINISHED BUSINESS**

- A. ISD 11JT Annexation – Continued from May Meeting

Mr. Garcia stated that we should have a draft annexation agreement at the July meeting; this will be approved at the August meeting.

## VII. NEW BUSINESS

### A. Audit Report by Hinton Burdick (Chad Atkinson)

Mayor Cox stated that this had happened earlier in the meeting.

### B. Public Hearing for Family Dollar Fermented Malt Beverage Off-Premises License Application

Mayor Cox stated that this was approved.

### C. Resolution 03-2019 – Cedar Street Property Acquisition

Mr. Garcia gave a background to this Resolution. The Board had directed staff at the May meeting to research property acquisition on this property; staff retained a realtor and made an offer of \$90,000, which was accepted. This Resolution would allow the Mayor to sign closing documents on the property. This is an unbudgeted line item, so the budget will need to be amended for this item. Utility taps would need to be added to this property. This property would be used for Town purposes, possibly a future Town Hall. Mr. Garcia stated that land acquisitions have been done by ordinances in the past; a resolution does not require a 30-day passage and will take effect immediately.

**Action:** Mayor Pro Tem deKay moved to accept Resolution 03-2019, authorizing the acquisition of real property with legal description of lot 2B, Roy Ross subdivision.

Mr. Atencio stated that he feels this does not need to be passed as quickly as is being attempted; he believes the public should be noticed that the Town is purchasing this property. Mayor Pro Tem deKay disagreed, stating that this property could also be used if the Town proceeds with its own wastewater treatment facility. Mayor Cox concurred with Mayor Pro Tem deKay and stated that this decision has not been made in haste. She pointed out all the reasons why a new Town Hall is needed (privacy, professionalism, modernization, etc.) Trustee Atencio stated that he still believes the public needs to be noticed. Mayor Pro Tem deKay stated that the agenda was posted and people could see that this was an item that was going to be voted on; no one was present to state their objection or blessing. Trustee Melton stated that there was no hearing for the purchase of the Slaughterhouse Property, and that purchasing this property without publishing a notice is consistent with past practice.

Mayor Cox stated that there is a motion on the floor and called for a second; Trustee Melton seconded the motion. Mayor Cox requested a roll call vote. The motion passed as follows: Trustee Melton – yes, Trustee Atencio – no, Mayor Pro Tem deKay – yes, Mayor Cox – yes.

### D. Resolution 04-2019 – Herrera Annexation

Mr. Garcia gave a background on this Resolution which initiates the annexation process for this property on County Road 320/Romero Avenue between the Pennell and Ford properties. It is a two-acre parcel that will be subdivided, and is consistent with our annexation plan; we will not charge an annexation fee and the applicant will cover all the costs of platting. This will include a Public Hearing on July 22, which will be noticed according to Statute.

**Action:** Mayor Pro Tem deKay moved to accept Resolution 04-2019, authorizing initiation of annexation proceedings for the Herrera Property located on Romero Avenue and County Road 320; Trustee Atencio seconded the motion. Trustee Melton asked if we know the intended use

of this property; Mr. Garcia stated that the Herrera Family plans to put three residences on this plot. Mayor Cox called for a vote; the motion passed unanimously by voice vote.

E. Resolution 05-2019 – Walker Annexation

Mr. Garcia stated this is similar to the Herrera Annexation. This property is contiguous to the Young Annexation; this meets with our desires to bring these properties into Town limits. There will be a detailed annexation agreement with Mr. Walker due to the nature of the proposed development.

**Action:** Trustee Melton moved to approve Resolution 05-2019 authorizing initiation of the annexation proceedings for the Walker Property located on 320A and 320B; Mayor Pro Tem deKay seconded. The motion passed unanimously by voice vote.

Mr. Garcia stated that both of these properties have concurrent subdivision process. Mr. Walker's subdivision would entail six lots; the current municipal code states there is a limit of 5 lots to qualify as a minor subdivision. The Planning Commission has stated they are willing to make an exception to allow him to make this a minor subdivision so that the process is easier for him. Mr. Garcia asked if the Board is okay with Mr. Walker doing this as a minor subdivision. Mayor Pro Tem deKay asked if there would be conditions (such as removing the mobile home that is up there even though it does not match the zoning). Mr. Garcia stated that items such as this can be included in the annexation agreement as conditions. There may also need to be reminders of nuisances such as parked cars. Mr. Garcia stated that he will address these issues with Mr. Walker. The Board concurred that this could be processed as one minor subdivision.

F. Wastewater Treatment Feasibility Report

Mr. Garcia stated this project is coming in at a much higher cost than anticipated; he suggested scheduling a work session to deal with this. He handed out a report on the projected costs. Trustee Melton stated she would appreciate a work session. Mr. Garcia appreciated the length and detail of the report; however, the cost that is being proposed is disappointing (48% more than originally projected). No action is needed at this time; Mr. Garcia will look at potential dates for a work session on this. This item will be continued to the next meeting.

**VIII. STAFF REPORTS**

A. Police Department

Active Shooter Drill in August at the school district with the Tribal Rangers and Fire Department. Shannon Mullane, reporter from the Durango Herald, has been invited to attend, as well as each of the Town Board Members.

Pine River currently at 866 CFS; last week it was at 2200CFS. It has come down quite a bit; last week it was only about one foot from coming over the berm into the mobile home park.

Have had issues with illegal dumps at the burn pile; will work with Mr. Howlett on a new gate and security cameras. Mayor Pro Tem deKay requested a reminder in the newsletter regarding what is legal to dump and what is not. Mr. Garcia stated that will be in the next newsletter.

B. Public Works

New gate in place at the burn pile; it will be locked after hours. Mr. Howlett is open to the burn pile begin open on the weekend. Suggestions were made regarding manning it; it may not be necessary with the security cameras in place.

Gas leak at Unit 53 of the mobile home park; fixed a loose fitting and no incident to report.

Water main behind shop was hit by Ramco during construction; able to clamp that line until new line is brought on. Ramco is on track with the timeline of the construction project.

Irrigation: start-up for pump house was set at 50 psi; it was too high of pressure. Lowered to 35 psi while the start-up was in process and still blew several lines. Mr. Howlett stated that we may need to lower it to 25 psi, which is the lowest this particular pump can go. We may need to replace the pipe infrastructure on Maple, Arboles and up on Candeleria Heights. This is 8' deep under the roads. Sink holes were created where the leaks happened. Mr. Howlett is working on these leaks and looking at options for infrastructure. There were also two leaks on Tranquilo Court. The age of the current pipes makes it difficult to find proper fittings (they are not commonly manufactured now). Mr. Garcia stated he has isolated raw water from the pond up on the hill and from the river at the bottom of the hill. All residences have irrigation except for two on Tranquilo. Mr. Garcia stated that we will be monitoring usage of potable water on the residences up on the hill. Mr. Howlett stated that the pump is currently off to prevent further damage; the Board concurred that it should be left off for the summer, at least until the pressure issue is resolved.

Mr. Garcia offered a tour of the new pond and pump house if the Board Members are interested. He stated that all the grants are expended now; still waiting on one more payment.

Streets – will be making crosswalks up on the hill. Mayor stated that citizens are expressing appreciation for the crosswalk signs.

C. Treasurer

Mr. Garcia asked if there were any questions on this report. There were none.

D. Clerk

Three new businesses opened in the past month. Trustee Craig will be accepting awards of excellence from CIRSA on behalf of the town. Two grants, totaling \$1,500.00, were given by CIRSA and CML for scholarships to Clerk's Institute. Ms. Dunton reminded that Board that the July meeting is postponed until July 22.

E. Town Manager

Chris LeMay from Bayfield has proposed sharing a building inspector; all potential contractors were requesting a fulltime position and partnering with Bayfield should be able to provide full-time work. We have two prospects on this and conversations will continue with Bayfield. This person would do building permitting, building inspection, and code enforcement for our Town.

Traffic study is under CDOT review. The school will participate in the expense of this project.

Audit – any questions, call Mr. Garcia. Have accomplished a lot since 2015: \$586,000 fund balance growth, retired \$372,000 in debt, \$120,000 in land acquisitions, have brought in \$1,266,000 in grant funds. Staff is doing an excellent job to make all this happen.

Staff changes: Diana Briar has submitted her resignation. Typically in a community our size there is a Clerk/Treasurer with a Deputy Clerk/Treasurer to support the Clerk/Treasurer. Tuggy and Morgan are willing to work with this plan. They do not have all the skill set yet; training will take place. Tuggy will do utility billing; Morgan is doing payroll and AP. Reporting, budgeting, and a couple other items still need to be covered. We will advertise for a part-time administrative assistant to assist with the front desk, assist the person who is on duty on each

Friday, etc. Mr. Garcia stated that he needs a formal motion and vote to remove Diana Briar from the accounts and adding Tuggy Dunton and Morgan Allred to the various accounts.

**Action:** Mayor Pro Tem deKay moved to remove Diana Briar and add Tuggy Dunton and Morgan Allred to financial accounts as needed; Trustee Melton seconded. Motion passed unanimously by voice vote.

F. Attorney

No report. Mr. Garcia stated that he will have Mr. Liberman review the annexation agreements; everything else is pretty standard.

**IX. TRUSTEE REPORTS**

Trustee Melton stated that she would like to tour the Southern Ute Utility Facilities. Mayor Pro Tem deKay stated she would like that as well; Mayor Cox concurred. Fridays seem to work best.

Mayor Pro Tem deKay stated that we need to think about water, sewer and gas rates on our end; maybe have a study session on this. Mr. Garcia suggested a work session in August; the Board concurred.

Mayor Cox stated that the Board needs to determine if they will participate in the San Ignatius Parade. Ms. Melton will be gone; Mayor Pro Tem deKay and Trustee Atencio will participate.

Mayor Cox read a thank-you note from space camp trip participants. 11 students attended, 2 from Bloomfield and 9 from Ignacio.

**X. MISCELLANEOUS**

None

**XI. EXECUTIVE SESSION: C.R.S. 24-6-402-(4)(e)(I) – Determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations and/or instructing negotiators**

Mr. Garcia stated this is not necessary this evening; it was only on the agenda in case the Board decided they wanted to discuss the report. It was decided earlier in the meeting that there will be a work session scheduled instead.

**XII. ADJOURNMENT**

**Action:** Being no further business before the Board, Mayor Cox adjourned the meeting at 9:12 PM. The next regularly scheduled meeting will be on Monday, July 22, 2019, at 6:30 PM in the Abel F. Atencio Community Room at 570 Goddard Avenue.

\_\_\_\_\_  
Stella Cox, Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attest: Tuggy Dunton, Town Clerk

*Oedipus*,<sup>TM</sup> *Inc.*  
*Empirical Data Services*

***Family Dollar***  
**#31666**

1001 Goddard Avenue  
Ignacio, CO 81137

**Fermented Malt Beverage  
Off Premises License**

17 June 2019

Local Licensing Authority  
Ignacio, Colorado

Re: Petition/Opinion Poll to Determine Needs and Desires  
of the Defined Neighborhood in the Application of:

**Family Dollar Stores of Colorado, LLC, dba  
Family Dollar #31666  
1001 Goddard Avenue, Ignacio, CO 81137  
Fermented Malt Beverage Off Premises License**

- PETITION & TELEPHONE SURVEYS
  - Liquor & 3.2 Beer Licensing
  - Rezoning
  - Opinion Poll
  - Venue
  - Special Tax Districts
- LIQUOR LICENSE SITE & ECONOMIC ANALYSIS

## PETITION/OPINION POLL PROCEDURE

1. Under the direction and control of Oedipus, Inc. management, the Oedipus, Inc. employees were briefed on the application.
2. The employees carried a clipboard with the following:
  - A. A map of the area denoting the proposed location of the license and the boundaries of the defined neighborhood;
  - B. Petitions allowing individuals contacted to indicate their opinion with instructions and qualifications for signing;
  - C. A stat sheet to record the opinion of those not signing and not-at-homes.
3. Business and residential petitioning was conducted on 16, 17, 18, and 19 May 2019 within the neighborhood defined as the Town Limits of Ignacio, Colorado.
4. Individuals were contacted on a random sampling basis, were screened to identify them as parties in interest, and were asked their opinion after they had been informed of the applicant, site location, and type of license being applied for. Their opinion was either recorded on the petition format or on the stat sheet.
5. Three (3) petition packets (one packet representing businesses and two packets representing residences), together with a Summary Letter, this Report and an Affidavit of Posting with photographs were prefiled via Federal Express with the office of Ms. Tuggy Dunton, Town Clerk for the Town of Ignacio, to comply with her pre-filing deadline.



**PETITION/OPINION POLL RESULTS**

1. <u>Total Doorknocks:</u>		
Not-at-Homes and/or Business Owners/Managers Not Available		140
Not Qualified to Sign		5
Preferred to Not Participate		45
Parties in Interest that Participated		169
Deleted Signatures		<u>2</u>
<b>Total Base Figure</b>		<b>361</b>

2. Qualified Contacts:

A. Signatures

Signatures Favoring Issuance		123
Businesses	12	
Residences	111	
Signatures Opposing Issuance		46
Businesses	8	
Residences	38	
<b>Total Contacts</b>		<b>169</b>

B. Breakdown of Reasons of Signatures in Opposition:

No Need	40
Abhorrence of Alcohol	2
Religious Objections	0
Usage Objections	2
Miscellaneous Reasons	2
No Reason Given	<u>0</u>
<b>Total Signatures</b>	<b>46</b>

C. Breakdown of Signatures Favoring and Opposing:

Favoring Issuance (Based on Needs/Desires)	123	=	72.78%
Opposing Issuance (Based on Needs/Desires)	40	=	23.68%
Abhorrence of Alcohol	2	=	1.18%
Religious Objections	0	=	0.00%
Usage Objections (Commercial, Traffic, Parking, Crime)	2	=	1.18%
Other Miscellaneous Reasons	2	=	1.18%
No Reason Given	<u>0</u>	=	<u>0.00%</u>
<b>Total Base Figure</b>	<b>169</b>	=	<b>100.00%</b>

3. Needs and Desires Signatures:

Signatures Favoring Issuance (Based on Needs/Desires)	123	=	75.46%
Signatures Opposing Issuance (Based on Needs/Desires)	<u>40</u>	=	<u>24.54%</u>
<b>Total Base Figure</b>	<b>163</b>	=	<b>100.00%</b>

The petition packets are presented as follows: Petitions and affidavit.

#1	/	Ana Mainetti	/	Residences
#2 & #3	/	Joseph Smith	/	Businesses & Residences

## CATEGORIES OF SIGNATURES IN OPPOSITION

**NN NEEDS & DESIRES CRITERIA:**

Individuals opposed to the license application based on needs and desires criteria per the Colorado Liquor/Beer Codes (currently existing licensed establishments of a same or similar type of license now located within the defined neighborhood are meeting the reasonable requirements of the adult inhabitants of the defined neighborhood at this time).

**NON NON-USAGE OF ALCOHOL / ABHORRENCE OF ALCOHOL:**

Individuals opposed to the license application because they do not drink alcohol beverages, do not approve of alcohol consumption, and/or abhor alcohol.

**RO RELIGIOUS OBJECTIONS:**

Individuals opposed to the license application based on religious beliefs/reasons.

**OBJ USAGE OBJECTIONS:**

Individuals opposed to the license application because of their fear or concern for the potential of parking problems, traffic problems, crime, noise, littering, undesirable people drawn to the area, loss of property value; or individuals who opposed this type of business or applicant, any type of commercial usage in the neighborhood, any new growth in the neighborhood; or, individuals who think this type of business (if issued a liquor/beer license) should not be located near a residential neighborhood, church, or school, etc.; or, individuals who opposed because they are against any alcohol service at this type of facility, location, or atmosphere; or, individuals who favor the service of beer and wine but oppose the service of distilled spirits (on H&R applications).

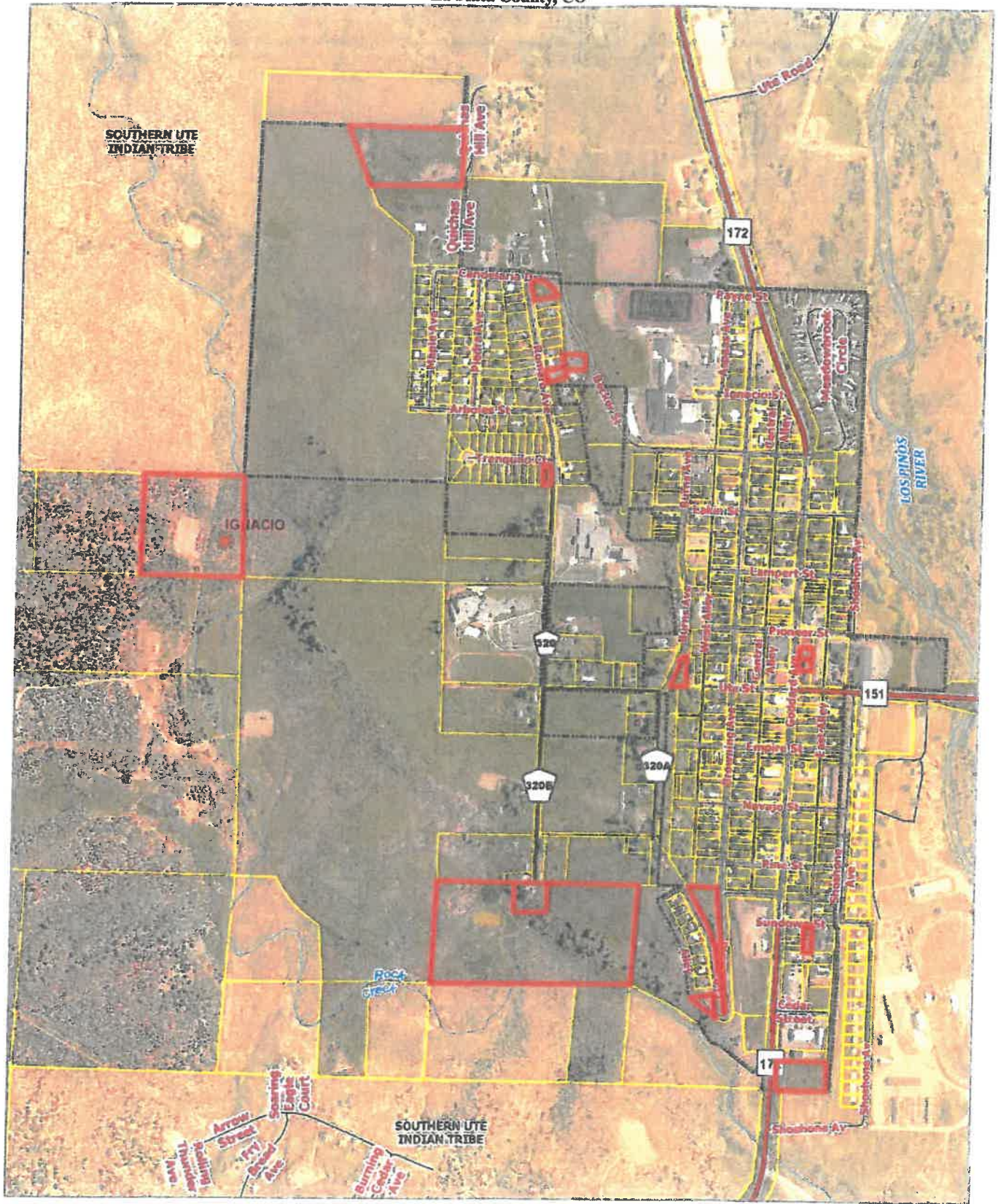
**MS MISCELLANEOUS OBJECTIONS:**

Individuals opposed to the license application for other miscellaneous reasons to include: fear or concern for the possibility of drunk drivers in the area, fear or concern of resulting behavioral problems, individuals who would purchase alcohol beverages then drink and drive, sales to minors/underaged drinking, the location becoming a teen hang-out and the problems that can arise from this, and the effect it could have on family values or their family in general because they have young children or teens; or, individuals who opposed because competition is not desired or how said business may affect the livelihood of existing businesses; or, individuals who compared the "needs and desires" criteria to existing licensed outlets other than the type of license applied for.

**NR NO REASON GIVEN:**

Individuals who preferred to not state a reason for opposing.

La Plata County, CO



- 1 254 CR 320B IGNACIO CO 81137  
IGNACIO, TOWN OF
- 2 IGNACIO, TOWN OF
- 3 IGNACIO, TOWN OF
- 4 570 GODDARD AVE IGNACIO CO 81137  
IGNACIO, TOWN OF

- 6 IGNACIO, TOWN OF
- 7 IGNACIO, TOWN OF
- 8 IGNACIO, TOWN OF
- 9 IGNACIO, TOWN OF



# Oedipus, Inc.

Empirical Data Services

P.O. BOX 1012  
LAFAYETTE, CO 80026  
303 661 0638  
303 604 2862 FAX

7 June 2019

Ms. Tuggy Dunton, Town Clerk  
Town Clerk's Office, Ignacio  
540 Goddard Avenue, Ignacio, CO 81137

**Family Dollar Stores of Colorado, LLC, dba  
Family Dollar #31666  
1001 Goddard Avenue, Ignacio, CO 81137  
Fermented Malt Beverage Off Premises License**

- PETITION & TELEPHONE SURVEYS
  - Liquor & 3.2 Beer Licensing
  - Rezoning
  - Opinion Poll
  - Venue
  - Special Tax Districts
- LIQUOR LICENSE SITE & ECONOMIC ANALYSIS

Dear Ms. Dunton,

Find enclosed three (3) petition packets circulated by Oedipus, Inc. (businesses & residences), together with our Report and an Affidavit of Posting with photographs. Generally, our results are:

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#### Fermented Malt Beverage Off Premises License

123	Signatures Favoring Issuance Businesses: 12; Residences: 111	/ 1 Deleted
46	Signatures Opposing Issuance Businesses: 8; Residences: 38	/ 1 Deleted
<b>169</b>	<b>Total Signatures</b>	<b>/ 2 Deleted</b>

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Max Scott will be attending the upcoming Public Hearing scheduled for the 17<sup>th</sup> of June 2019 at 6:30 p.m. to testify on the survey methodology and results. Should have any questions in the meantime, please call.

Respectfully,

  
Tina L. Scott  
Oedipus, Inc.

Encl: Three (3) Petition Packets  
Original Report, Affidavit of Posting with Photographs

cc: Brandon Sandberg, Esq., Dill Dill Carr Stonbraker & Hutchings, PC

Via: Federal Express: 8146 8679 0074

# *Oedipus, Inc.*

*Empirical Data Services*

## **Services**

### **Petition Surveys:**

- Retail Alcohol Licensing
- Marijuana Licensing
- Private or Charter Schools

**Alcohol (Responsible Vendor) Training**  
**Distance Restriction Measurements**

## **Max J. Scott Curriculum Vitae**

Max Scott incorporated *Oedipus, Inc.*, in 1974. The primary business of the corporation is to perform petition surveys and other services on numerous types of applications to include:

- Retail alcohol licenses: Needs and desires surveys on alcohol beverage applications for a new license, modification of a license, change of location or license renewal and adjunct licenses such as cabaret applications.
- Marijuana License applications.
- Measurement of restricted distances on retail applications.
- Alcohol server training, certified as Responsible Vendors per CRS 12-47 Part Nine & Regulation 47-605.
- Rezoning, modification of zoning & PUD applications.
- Commercial site or product usage.
- Special tax districts.
- Charter & private schools, new applications or existing schools.

### **Expert Testimony: Liquor and Fermented Malt Beverage Needs & Desires Surveys and Measurements of Restricted distances**

*Oedipus, Inc.* has performed several thousand alcohol license application and public opinion poll surveys throughout the State of Colorado and other states. Mr. Scott has testified in public hearings as an *expert* several thousand times as to survey results and has also testified in Colorado County and District Court cases on Liquor Licensing. Our clients are small business, not-for-profit businesses, major corporations, municipal governments in the Restaurant, Micro Brewery, Gaming, Liquor Store, Grocery and Department Store, C-store and QSR industry and marijuana license applicants. Examples of our clients<sup>1</sup>, past and present, are:

- Amazon
- 3 Margaritas
- AMC Theaters
- Applebee's
- Argonaut W&L
- Bad Daddy's
- Brinker International (Chili's, On the Border, Johnny Carino's & Romano's Macaroni Grill)
- Conoco Oil Company, n.k.a, Conoco Phillips (C-stores and QSRs)
- Costco Wholesale
- Cub Food Stores & Sure Fine Foods
- Darden Restaurants (Olive Garden, Red Lobster, and Bahama Breeze)

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<sup>1</sup> This list is not inclusive.

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*Oedipus, Inc.*

P.O. Box 1012, Lafayette, CO 80026 (303) 661-0638

September 2018©

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- Kroger Grocery & C-stores (King Soopers, City Market, Mini Mart, Lucky's and Loaf 'n Jug)
- Melt
- Modern Cafe
- Mod Pizza
- Noodles & CO
- PepsiCo (Pizza Hut)
- Pester Petroleum, dba. Alta C-stores
- Phillips Petroleum, n.k.a. Conoco Phillips (C-stores and QSRs)
- Safeway Stores & Safeway gas islands
- Southland Corporation (7-Eleven)
- Smash Burger
- Target Corporation
- Texaco (C-stores and QSRs)
- Texas Land & Cattle Steak House
- University of Colorado (CU), Boulder & Douglas County facilities
- Vail & Associates
- Valero, f.k.a., Diamond Shamrock
- Wal\*Mart (Wal\*Mart Superstores, Wal\*Markets, Wal\*Mart gas islands & Sam's Club)
- Whole Foods

Distance Measurements: Max Scott has been professionally trained and certified in the accurate three dimensional measurements of distance and to-scale diagramming and performs distance measurements per the Colorado Liquor Code & Regulations and local jurisdiction codes.

### **Rule 106 Liquor and Fermented Malt Beverage License Application Appeals**

The survey procedures, petition formats, and survey reports of *Oedipus, Inc.* have been reviewed in Civil Rule 106 actions with Colorado State District Courts, three Colorado Court of Appeals decisions two of which were published and that was not published. Generally, the Rule 106 decisions stated that the survey procedures, survey documents, and the survey reports were found to be legally on-point, and scientifically accurate. The two published cases cite numerous other Supreme Court cases refining the definition of the reasonable requirements of the neighborhoods and the desire of the adult inhabitants, or the Supreme Court phrase "needs and desires". These cases are:

*Southland Corporation v. the City of Westminster City Council*, 746 P.2d 1353 (Colorado Court of Appeals 1987). In this case, *Oedipus, Inc.* performed the work per a survey contract with the Local Liquor Licensing Authority of the City of Westminster.

*Brass Monkey, Inc., v. Louisville City Council*, 870 P.2d 636 (Colorado Court of Appeals 1994). *Oedipus, Inc.* performed work per a survey contract as the surveyor for the applicant, Brass Monkey, a retail liquor store applicant.

### **Continuing Legal Education (CLE)**

Max Scott has taught three CLE seminars utilizing his educational materials and survey procedures which have been reviewed by the Office of Continuing Legal and Judicial Education of the Colorado Supreme Court.

### **Colorado Liquor Licensing Publication**

Max Scott and Larry L. Bohning co-authored "Colorado Liquor and Beer Licensing", which was published in the February 1980 publication of The Colorado Lawyer.

## Local Government Survey Contracts

*Oedipus, Inc.* has been retained by the following jurisdictions to conduct surveys on liquor license applications, the TABOR Amendment, special tax districts, and on other public opinion poll issues. Surveys have been performed for:

- Adams County School District, Charter School, Adams County, Colorado
- City of Arvada, Colorado
- City of Boulder, Colorado
- RE/2 Schools, Boulder, Colorado
- Colorado State University (CSU), Ft. Collins
- University of Colorado, Boulder & Colorado Springs campuses
- City & County of Broomfield, Colorado
- Commerce City, Colorado
- City of Englewood, Colorado
- City of Glendale, Colorado
- City of Grand Junction, Colorado
- City of Littleton, Colorado
- City of Longmont, Colorado
- City of Northglenn, Colorado
- City of Parker, Colorado
- City of Westminster, Colorado
- City of Wheat Ridge, Colorado
- Kansas City, Missouri

*Note:* Under the contract with Kansas City, the survey results of *Oedipus, Inc.* were published in Everything You Always Wanted to Know About Regulating Sex Businesses xxx, by Eric Damian Kelly and Connie Cooper, American Planning Association, December 2000.

### Retail Site Analysis

Max. Scott has been retained on numerous occasions to evaluate site locations for fermented malt beverage (FMB) and retail liquor stores (RLS) clients. This includes determination of liquor dollars spent in a neighborhood for on- and off-premise consumption, determination of the size of the outlet per the needs of the local neighborhood, patron habits, and competition from other existing outlets. These site location analyses have been used in loan applications with financial institutions to include SBA loans.

### Venue Surveys & Expert Testimony, Colorado Court Cases

Max Scott has designed and conducted 24 venue surveys on civil and criminal court cases in the Colorado courts and U.S. District court in Colorado. Mr. Scott testified as an expert witness in some of the cases.

### Responsible Vendor (Alcohol) Dispensing Training in English & Spanish

Oedipus, Inc., is certified with Colorado Liquor Enforcement, Colorado Department of Revenue, as a Responsible Vendor to provide liquor licensees with liquor server training in English and Spanish. The Training includes all classes of CRS 12-46 3.2% FMB licenses, all classes of CRS 12-47 licenses to include retail liquor store and liquor licensed drug store tastings and CRS12-48 Special Event Licenses. Training is performed on-site on a date and time convenient to the licensee.



