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Pottawatomie County Clerk  
Pottawatomie County Office Building  
Westmoreland, Kansas 66549

March 25, 2021

Re: Petition for Incorporation of City

Dear Dawn:

You have asked me to advise you regarding the sufficiency of a Petition for Incorporation of a City, to be named "Green Valley". The Petition contains a cover page, twelve (12) separate signature pages (Exhibit "A"), and Exhibits "B", "C", "D", "E", "F", "G", "H", and "I".

I have examined the Petition and Exhibits, and it is my opinion that the Petition is insufficient for the following reasons:

1. K.S.A. 15-116 requires that there be attached to the Petition a map showing the location of the proposed city within the County, and a metes and bounds description of the proposed city. In signing the Petition, the Petitioners are required to attest that "I read the description of the metes and bounds of said territory or saw the map of the territory attached as an exhibit to the petition." The circulator(s) of the Petition clearly indicated as part of the Petition that the map and the metes and bounds description do not match each other. As a result, it is not possible to conclude that the signers of the Petition viewed the same area to be incorporated. In the event the circulator(s) of the Petition desire to correct this problem, it is my opinion that the map and the metes and bounds description must match up, and that new signatures must be obtained so that signers of the Petition be able to view a map and metes and bounds description that match.

2. The map of the area to be incorporated must show the "more built-up area or areas". The map must also designate in general the platted and unplatted areas. The maps attached to the Petition do not differentiate between the "more built up area" and the less built up areas. The maps further do not differentiate between platted and unplatted areas. The maps should make such differentiation by color coding or some other means to show such separate areas.

3. K.S.A. 15-116 requires that an affidavit be attached to the Petition from the County Engineer stating the number of platted lots served by water and sewer lines owned by a nonprofit corporation. The letter from the County Engineer (Exhibit E) is not in the form of an affidavit.

4. K.S.A. 15-116 requires that the Petition state the “quantity of land embraced, platted and unplatted”. The Petition fails to comply with this requirement.

5. K.S.A. 15-116 requires that the County Clerk or County Assessor certify the assessed valuation of the platted real property and improvements and the unplatted real property and improvement. It appears to me that the letter from the County Clerk (Exhibit I) does not break down the assessed valuations between platted and unplatted real estate.

6. I note that the Petition contains reference to interlocal agreements between the proposed City and the County and makes reference to roads and development processes. These references are not part of the statutory incorporation process. The Petition cannot be contingent upon any such agreements being considered or implemented.

K.S.A. 15-117 requires the County Clerk to examine the Petition and determine if it is in proper form. If you agree with the assessment outlined above, you should notify the circulator(s) of the Petition, and you should report your determination regarding the sufficiency of the Petition to the Board of County Commissioners at their next regular meeting. No further action should be taken by you regarding the setting of any hearing or hearings thereon. A copy of this letter should be provided to the Board of County Commissioners and to the County Administrator.

Sincerely,



John D. Watt  
County Counselor

cc. County Administrator  
Board of County Commissioners  
Department of Planning & Zoning