

IN THE DISTRICT COURT OF GARFIELD COUNTY
STATE OF OKLAHOMA

FILED
GARFIELD COUNTY, OKLA

IN RE: PETITION TO RECALL WARD THREE]
CITY COMMISSIONER BEN EZZELL]
SUBMITTED TO THE CITY OF ENID ON]
AUGUST 4, 2020,]

AUG 17 2020

JANELLE M. SHARP
COURT CLERK
BY
DEPUTY COURT CLERK

BEN EZZELL,

Plaintiff,

vs.

ALISSA LACK, CITY CLERK,
CITY OF ENID, OKLAHOMA, and

GEORGE PANKONIN, MAYOR,
CITY OF ENID, OKLAHOMA;

Defendants.]

Case No. CV-2020- 105

ORDER FOR HEARING ON SUFFICIENCY OF RECALL PETITION

Alissa Lack, City Clerk
George Pankonin, Mayor
City of Enid, Oklahoma
401 W Owen K Garriott Rd.
Enid, OK 73701

Taylor Venus, Counsel for Proponents of
the Petition to Recall Ben Ezzell
122 W. Broadway
Enid, OK 73701

NOTICE IS HEREBY GIVEN to the interested parties, specifically including, but not limited to those named above, that Plaintiff, Ben Ezzell, has filed in the District Court of Garfield County, Oklahoma, his Objection and Protest to Recall Petition, and pursuant to 11 Okla. Stat. § 15-104 has requested a hearing to determine the sufficiency of said recall petition to be set not less than ten (10) days from the filing of said protest.

Said hearing will be heard before the Honorable Assigned Judge, Judge of the District Court, on the 8th day of September, 2020 at 9:00 at the Garfield County Courthouse at 114 W. Broadway in Enid, Oklahoma.

DATED this 17th day of August, 2020.


Honorable PAUL K. WOODWARD
DISTRICT JUDGE
Judge of the District Court

IN THE DISTRICT COURT OF GARFIELD COUNTY
STATE OF OKLAHOMA

IN RE: PETITION TO RECALL WARD THREE]
CITY COMMISSIONER BEN EZZELL]
SUBMITTED TO THE CITY OF ENID ON]
AUGUST 4, 2020,]

BEN EZZELL,]

Plaintiff,]

vs.]

ALISSA LACK, CITY CLERK,]
CITY OF ENID, OKLAHOMA, and]

GEORGE PANKONIN, MAYOR,]
CITY OF ENID, OKLAHOMA;]

Defendants.]

Case No. CV-2020- 105-03

FILED
GARFIELD COUNTY, OKLA

AUG 17 2020

JANELLE M. SHARP
COURT CLERK

BY
DEPUTY COURT CLERK

OBJECTION AND PROTEST TO RECALL PETITION

COMES NOW the Plaintiff, Ben Ezzell, Ward Three City Commissioner for the City of Enid (hereinafter referred to as "Ezzell"), and for his Objection and Protest to the Recall Petition and Cause of Action against the Defendants, Alissa Lack, City Clerk, City of Enid, Oklahoma and George Pankonin, Mayor, City of Enid, Oklahoma, (hereinafter referred to collectively as "COE") alleges and states that:

1. Plaintiff, Ezzell, was duly elected to represent Ward Three of the City of Enid on February 12, 2013 and ran unopposed for the same seat four years later. Ezzell is term-limited and regardless of the outcome of the Recall Petition, will be replaced by a successor no later than May 3, 2021.

2. The situs of COE is located in Garfield County, Oklahoma, and this Court has jurisdiction over the parties and subject matter of this action.

3. COE received a recall petition for Ward Three Commissioner Ben Ezzell on August 4, 2020 (hereinafter referred to as the “Recall Petition”). A copy of the Recall Petition is attached hereto as Exhibit “1”.

4. The City Clerk, Alissa Lack, issued a Notice of Sufficiency of said recall petition on August 7, 2020 (hereinafter referred to as the “Notice of Sufficiency”). A copy of the Notice of Sufficiency is attached hereto as Exhibit “2”.

5. The Recall Petition seeks to remove Ezzell¹ for the following reasons:

- Conduct unbecoming of an elected official.
- Dividing our community by threatening use of force and advocating fines against law abiding, healthy citizens.
- Disrespecting our police department and failing to heed the advice of our police chief.
- Showing disregard for the law by asking the Enid City Council to pass mandates with preconceived plans to change them once in place.
- Subverting the will of the people in favor of his own arbitrary opinion.
- Dismissive of his constituents’ views.
- Generally abusing public trust.

6. The City of Enid Charter includes language pertaining to recall of elected officials separate from the Ouster by Action process found at 51 Okla. Stat. §91. The City of Enid recall process is outlined in Section A.7.7. Recall which states:

The holder of any elective office may be removed at any time by the electors qualified to vote for a successor of such incumbent. The procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least thirty (30) per centum of the vote of those that voted in the particular ward for commissioners if the recall is for a commissioner or thirty (30) per centum of all those who voted for the office of the Mayor if the recall is for the Mayor at the last preceding general municipal election, demanding an election of a successor of the person sought to be removed shall be filed with the City Clerk, **which petition shall contain a general statement of the grounds and charges for which the removal is sought.** The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths that the statements therein made are true as he

¹ The Recall Petition consistently mis-spells Ezzell’s name as “Ezell”. Plaintiff does not presume to suggest that the obvious typo makes the Petition facially defective, but he does draw the Court’s attention to the general sloppiness of the effort and careless manner in which such a significant action, removing an elected official, has been undertaken. Elected officials at all levels are periodically faced with circumstances in which the decision that is best for the community as a whole may be unpopular among a vocal minority. The municipal recall is only available to charter cities in Oklahoma, and this specific recall effort has opened up a pandora’s box that could hamstring elected officials in our community until the City of Enid Charter has been revised to remove this mechanism (and rely on 51 Okla. Stat. §91 to oust elected officials for cause) or raise the threshold under which it can be exercised.

believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be. Within ten (10) days from the date of filing such petition the City Clerk shall examine and from the voters' register ascertain whether or not said petition is signed by the requisite number of qualified electors, and, if necessary, the Council shall allow him extra help for that purpose; and he shall attach to said petition his certificate, showing the result of said examination. If by the Clerk's certificate the petition is shown to be insufficient, it may be amended within ten (10) days from the date of said certificate. The Clerk shall, within ten (10) days after such amendment, make like examination of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be deemed to be sufficient, the Clerk shall submit the same to the Mayor and Commissioners without delay. If the petition shall be found to be sufficient, the Council shall order and fix a date for holding the said election, not less than thirty (30) days nor more than forty (40) days from the date of the Clerk's certificate to the Mayor and Commissioners that a sufficient petition is filed.

The Mayor and Commissioners shall make, or cause to be made, publication of notice and all arrangements for holding such election, and the same shall be conducted, returned and the result thereof declared, in all respects as are other city elections. The successor of an officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the Clerk shall place his name on the official ballot without nomination. In any such removal election, the candidate receiving the highest number of votes shall be declared elected. At such election if some other person than the incumbent receives the highest number of votes the incumbent shall thereupon be deemed removed from the office upon qualification of his successor. In case the party who receives the highest number of votes shall fail to qualify, within ten (10) days after receiving notification of election, the office shall be deemed vacant. If the incumbent receives the highest number of votes, he shall continue in office. The same method of removal shall be cumulative and additional to the methods heretofore provided by law.

No recall petition shall be filed against any officer until he has actually held his office for at least six (6) months.

Ord. No. 2002-51 §I, 12-17-2002 approved at referendum March 4, 2003 (emphasis added).

7. Although the City of Enid has a specific process for recall, much of the process described therein has been supplanted by state law. In *Clapsaddle v. Blevins*, 1998 OK 5, the Oklahoma Supreme Court found that 26 Okla. Stat. § 13-102 supplants the municipal charter provisions relating to timing of recall elections. In the same decision, the Court grafted the state statutes related to initiative and referendum elections onto municipal recall elections, holding that “[a]ll three measures—initiative, referendum and recall—must hence be treated as falling under the same procedural rubric” *Id* at ¶13. In doing so, the Court also went so far as to state that 11 Okla. Stat. § 15-104 is the exclusive procedure for contesting sufficiency of a recall petition. *Id* at ¶14.

8. In the absence of a specific procedure for exercising initiative and referendum powers (and through the Court's ruling in *Clapsaddle*, recall petitions) 11 Okla. Stat. § 15-102 provides that:

The procedure in municipalities which do not provide by ordinance or charter for the manner of exercising the initiative and referendum powers shall be governed by the Oklahoma Constitution and general state law, except as otherwise provided in Sections 15-101 through 15-110 of this title. The duties required of the Governor by state law shall be performed by the mayor; the duties of the Secretary of State shall be performed by the municipal clerk; and the duties of the Attorney General shall be performed by the attorney for the municipality. The procedure for initiative and referendum as to municipal legislation shall be as nearly as practicable the same as those for measures relating to the people of the state at large.

9. 34 Okla. Stat. §6.1² enumerates a specific list of reasons to exclude signatures from a petition, but it is not exhaustive. In addition, 34 Okla. Stat. §3 provides that each sheet of signatures (termed a pamphlet) shall include the word “Warning”, and underneath this in ten-point type the words “It is a felony for anyone to sign an initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once or the measures, or to sign such petition when he is not a legal voter”, and goes on to state that any signature sheet not in substantial compliance with this act shall be disqualified. In reviewing the validity of a municipal petition which lacked the mandatory language in 34 Okla. Stat. §3, the Oklahoma Supreme Court found that “[i]f a statutory provision is essential to guard against fraud, corruption or deception in the initiative and referendum process, such provision must be viewed as an indispensable requirement and failure to substantially comply therewith is fatal”. *Community Gas and Service Company Inc. v. Walbaum*, 1965 OK 118.

10. In 2003, the Oklahoma Attorney General issued Opinion No. 2003-12 which specifically looked at the requirements found 34 Okla. Stat. §6.1 and 34 Okla. Stat. §3 and advised that they are applicable to municipal petitions. A copy of the 2003 AG’s Opinion is attached hereto as Exhibit “3”.

² The Initiative Petition Reform Act of 2020 passed by the Oklahoma legislature amends the signature requirements found in 34 Okla. Stat. §§ 1 through 8 to include date of birth with the other identifying information to be collected on petitions. This act does not become effective until November 1, 2020. All election dates available to the proponents of the Recall Petition shall occur after November 1, 2020. It is unclear whether or not the Recall Petition must comply with the requirements at the time signatures are gathered or the requirements in place when the issue is to appear on a ballot.

11. The COE has identified eighty-seven signatures on the Recall Petition as belonging to registered voters in Ward Three and also being sufficiently affirmed. The necessary number of signatures based on the February 12, 2013 election is sixty-nine³. The circulators of the Recall Petition declined to check photo identification cards when collecting signatures, despite being advised to do so by the Enid City Attorney.

12. The City of Enid Charter requires circulators to affirm the truth of the statements in question. 34 Okla. Stat. §6 requires circulators to affirm that each signature was signed in their presence, that each signer has stated his or her name, mailing address, and residence correctly and that each signer is a voter of Ward 3 of the City of Enid. None of the notarized affirmations found on the Recall Petition meet all these requirements.

13. The City of Enid Charter includes language (emphasized above) which requires that the Recall Petition include a general statement of the grounds and charges for the recall of the elected official. Implicit in this requirement is that there must be some cognizable set of grounds and charges in order to recall an elected official.

14. Plaintiff herein moves this Court for an Order determining that the Recall Petition is not sufficient for the following grounds:

- A) The Recall Petition pamphlets failed to include the obligatory language provided for in 34 Okla. Stat. §3 and therefore all signatures should be excluded and the petition should be deemed insufficient.
- B) Despite the finding of the City Clerk in her Notice of Sufficiency, the circulators' failure to check photo identification cards when collecting signatures makes their written affirmations ineffective to meet the requirements of 34 Okla. Stat. §6 and should therefore be deemed insufficient.
- C) The circulator affirmations found on the Recall Petition fail to address the City of Enid Charter requirement for truthfulness of the underlying statements or the 34 Okla. Stat. §6 requirements for signer authenticity and should therefore be deemed insufficient.

³ The actual number of votes cast in the February 12, 2013 Ward Three election was 230, which is itself a sad indication of the relative inattention paid to municipal government.

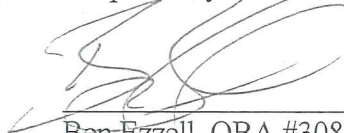
- D) The seven stated reasons to recall Ezzell are each either legally meaningless, specifically allowed under charter and/or ordinance, objectively and obviously false, or otherwise fail to describe any grounds or charges for recall, and being so specious are inadequately stated on the Recall Petition as to meet the requirement of a general statement under the City of Enid Charter, and the Recall Petition is therefore insufficient.

WHEREFORE, Plaintiff, Ezzell, prays that the Court set a hearing to determine the sufficiency of the Recall Petition not less than ten (10) days from the date of the filing of this Objection and Protest pursuant to 11 Okla. Stat. § 15-104.

That following the presentment of testimony and argument that the Court enter its Order finding that the Recall Petition is insufficient, lacks the requisite number of signatures of qualified electors, and that such an election cannot be called by the City of Enid at this time.

And such other and further relief as the Court may deem just and equitable under the circumstances.

Respectfully submitted,



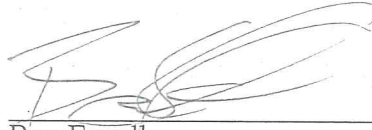
Ben Ezzell, OBA #30860
EZZELL & SHEPHERD, P.L.L.C.
P.O. Box 5189
Enid, Oklahoma 73702
(580) 233-9390
(580) 233-4502
BEzzell@EnidOKLaw.com
Plaintiff

VERIFICATION

STATE OF OKLAHOMA)
) SS:
COUNTY OF GARFIELD)

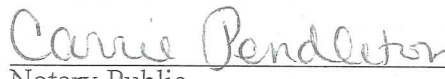
Ben Ezzell, of lawful age, being first duly sworn on oath, states: That I am the Plaintiff above named; that I have read the above and foregoing Petition, that I am familiar with the contents thereof, and that the statements and allegations therein contained are true and correct to the best of my knowledge and belief.





Ben Ezzell

Subscribed and sworn to before me this 17 day of August, 2020.



Notary Public

My Commission Expires:

04-17-2023

8:05am 5A

I Emily Hladik certify that the signatories were known to me, at their home at the time of signing, verified through the OKvoterportal. OK elections.us, or stated that they were a registered voter in End Ward 3.

Emily Hladik

State of Okla.
County of Garfield

Signed and sworn to before me on August 3 by
2020 Emily Hladik



Cleota Ostermaier
Tithe

Petition to recall Ward 3 Commissioner Ben Ezell for:

- Conduct unbecoming of an elected official.
- Dividing our community by threatening use of force and advocating fines against law abiding, healthy citizens.
- Disrespecting our police department and failing to heed the advice of our police chief.
- Showing disregard for the law by asking the Enid City Council to pass mandates with preconceived plans to change them once in place.
- Subverting the will of the people in favor of his own arbitrary opinion.
- Dismissive of his constituents' views.
- Generally abusing public trust.

Please sign your name below with your house number and street if you are entitled to vote in Ward 3 elections and wish to recall Commissioner Ben Ezell from office.

Name	House Number and Street	Signature
<i>Gaukey</i> Dakota Gaukey	[REDACTED]	[REDACTED]
Richard Wilson	[REDACTED]	Richard Wilson
Norlen Sue Wilson	[REDACTED]	Norlen Sue Wilson
Michael	[REDACTED]	[REDACTED]
Tray Keplinger	[REDACTED]	[REDACTED]
Jason Braun	[REDACTED]	[REDACTED]
<i>Lively</i> Makayla Lively	[REDACTED]	Makayla Lively
Dustin Fitzwater	[REDACTED]	[REDACTED]
Jennifer Henry	[REDACTED]	Jennifer Henry
Robert Jack	[REDACTED]	Robert Jack
Jody Schmitt	[REDACTED]	Jody Schmitt
Daphne Schmitt	[REDACTED]	Daphne Schmitt
Willie Behestoff	[REDACTED]	Willie Behestoff
Tammy Brekershoff	[REDACTED]	Tammy Brekershoff
Holly Weidner	[REDACTED]	Holly Weidner
James Moller	[REDACTED]	James Moller
Alex Redington	[REDACTED]	Alex Redington
Kelley Crapanotta	[REDACTED]	Kelley Crapanotta
Jason Crapanotta	[REDACTED]	Jason Crapanotta

I, NeAnne Clinton, certify that the signators
were known to me, at their home at the time of signing,
verified through the OKVoterportal.okelections.us, or
stated that they were a registered voter in Erid Ward 3.

NeAnne Clinton

State of Oklahoma
County of Garfield

Signed and sworn to before me on August 3, 2021 (date)
by NeAnne Clinton.



Cleota Ostermaier

Petition to recall Ward 3 Commissioner Ben Ezell for:

- Conduct unbecoming of an elected official.
- Dividing our community by threatening use of force and advocating fines against law abiding, healthy citizens.
- Disrespecting our police department and failing to heed the advice of our police chief.
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- Subverting the will of the people in favor of his own arbitrary opinion.
- Dismissive of his constituents' views.
- Generally abusing public trust.

Please sign your name below with your house number and street if you are entitled to vote in Ward 3 elections and wish to recall Commissioner Ben Ezell from office.

Name	House Number and Street	Signature
Penny Sweet	[REDACTED]	Penny Sweet
Frank Sweet	[REDACTED]	Frank Sweet
Alex Sweet	[REDACTED]	Alex Sweet
Chris [unclear]	[REDACTED]	Chris [unclear]
Jim Anderson	[REDACTED]	Jim Anderson
Dan A Smith	[REDACTED]	Dan A Smith
Petra Couch	[REDACTED]	Petra A. Couch
Autumn Ross	[REDACTED]	Autumn Ross
Richard Webster	[REDACTED]	Richard Webster
Lauren Nelson	[REDACTED]	Lauren E. Nelson
Jason M. Franklin	[REDACTED]	Jason M. Franklin
Dallas Couch	[REDACTED]	Dallas Couch
Kentley Horns	[REDACTED]	Kentley Horns
Brian Henry	[REDACTED]	Brian Henry
Lindsey Eulberg	[REDACTED]	Lindsey Eulberg
Kila Greinert	[REDACTED]	Kila Greinert
Wilson, Violet R.	[REDACTED]	Violet R. Wilson

I Penny Sweet certify that the signatures were collected from persons known to me, at their home at the time of signing, verified through the <https://okvoterportal.okelections.us>, or stated that they were a registered voter in Enid Ward 3. Penny Sweet

State of Oklahoma

County of Garfield

Signed & sworn to before me on

August 3, 2020 by Penny Sweet
(Date) (names of person(s) making statement)

Cleatus Oster

Signature of Notary
Title

Petition to recall Ward 3 Commissioner Ben Ezell for:

- Conduct unbecoming of an elected official.
- Dividing our community by threatening use of force and advocating fines against law abiding, healthy citizens.
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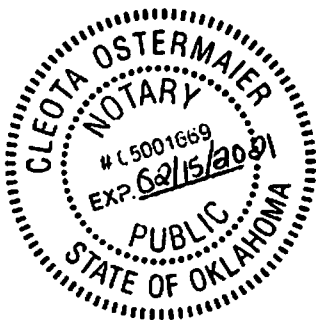
Name	House Number and Street	Signature
BARBARA Willey		Barb Willey
FLORENE RAMSEY		Florence Ramsey
JERRY Willey		Jerry Willey

I Penny Sweet certify that the signatories were collected and known to me, at the time of their signing, at their homes, verified through the <https://okvoterportal.okelections.us>, or stated that they were a registered voter in Enid Ward 3.

Penny Sweet

State of Oklahoma
County of Garfield

Signed and sworn to before me on Aug. 3rd,²⁰²⁰
(date)
by Penny Sweet
(names of person(s) making statements)



Cleota Ostermaier
Signature of Notary
Title

Petition to recall Ward 3 Commissioner Ben Ezell for:

- Conduct unbecoming of an elected official.
- Dividing our community by threatening use of force and advocating fines against law abiding, healthy citizens.
- Disrespecting our police department and failing to heed the advice of our police chief.
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- Dismissive of his constituents' views.
- Generally abusing public trust.

Please sign your name below with your house number and street if you are entitled to vote in Ward 3 elections and wish to recall Commissioner Ben Ezell from office.

Name	House Number and Street	Signature
WILLIAM HEASTERLY		William Heasterly
Rachel Bruckner		Rachel Bruckner
Christine Guitinger		Christine Guitinger
Teresa Perry Chester		Teresa Perry Chester
Rosie Layton		Rosie Layton
Rodney Layton		Rodney Layton
Dellenaghen		Dellenaghen
Brian P. Jones		Brian P. Jones
Julie Bishop		Julie Bishop
Jason Britt		Jason Britt
Shawn Delaney		Shawn Delaney
Stephen Delaney		Stephen Delaney
Roger Parson		Roger F. Parson
JONATHAN STADLER		Jonathan Stadler
Kathy Walker		Kathy Walker
Tommy Hunt		Tommy Hunt
Kris Westfall		Kris Westfall
Den Westfall		Den Westfall
Tiffany Shook		Tiffany Shook
Clifford D. Shook		Clifford D. Shook

I Melissa Crabtree certify that the signatories were collected and known to me, at their home at the time of signing, verified through the OK voter portal. OK elections.us, or stated that they were a registered voter in End Ward 3.

Melissa Crabtree

State of Oklahoma
County of Garfield

Signed and sworn to before me on August 3rd 2020 by
(date)

Melissa Crabtree
(names of person(s)
making statement)



Cleota Ostermaier
Signature of Notary
itth



Petition to recall Ward 3 Commissioner Ben Ezell for:

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- Generally abusing public trust.

Please sign your name below with your house number and street if you are entitled to vote in Ward 3 elections and wish to recall Commissioner Ben Ezell from office.

Name	House Number and Street	Signature
Gerry Kistler		Gerry Kistler
Timothy Ferris		Timothy Ferris
Michelle Mustard		Michelle Mustard
Nicole Hall		Nicole Hall
Philip McLaury		Philip McLaury
Brylyn Baker		Brylyn Baker
Tyler Adams		Tyler Adams
Darla Albright		Darla Albright
Audrey Jennings		Audrey Jennings
Donita Soles		Donita Soles
Danish Soles		Danish Soles
Destin Rectorford		Destin Rectorford
Manda Schubert		Manda Schubert
Dennis Webb		Dennis Webb

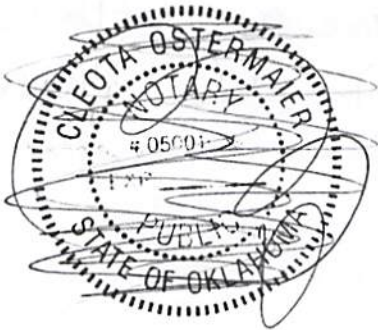
I, Jennifer Henry, certify that the signators
were known to me, at their home at the time of signing,
verified through me at okvoterportal.okelections.us,
or stated that they were a registered voter in Enid
ward 3.

Jennifer Henry

State of Oklahoma
County of Garfield

signed and sworn to before me on August 3rd, 2020

by Jennifer Henry
name(s) of person(s)
making statement



Cleota Ostermaier
Signature of Notary



Petition to recall Ward 3 Commissioner Ben Ezell for:

- Conduct unbecoming of an elected official.
- Dividing our community by threatening use of force and advocating fines against law abiding, healthy citizens.
- Disrespecting our police department and failing to heed the advice of our police chief.
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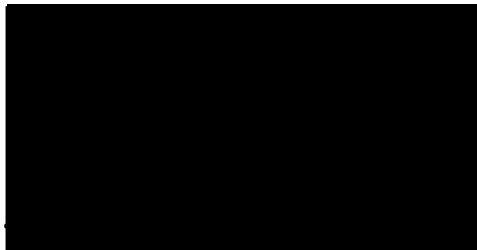
Please sign your name below with your house number and street if you are entitled to vote in Ward 3 elections and wish to recall Commissioner Ben Ezell from office.

Name

House Number and Street

Signature

• Pat Schaff
• Anthony Demos
• Jerry Stephens
• Brady Tipton



Pat Schaff
Anthony Demos
Jerry Stephens
BD Tipton



~~406~~

~~look out~~

~~101 H.H. 101~~

I, Melissa Crabtree, certify that the signators were collected and known to me at their home at the time of signing, verified through the okvoter portal. okelections.us, or stated that they were a registered voter in Enid ward 3.

Melissa Crabtree

State of Oklahoma

County of Garfield

signed and sworn to before me on Aug. 3rd, 2020
Melissa Crabtree

by Melissa Crabtree
name(s) of person(s)
making statement



Cleota Ostermaier
Signature of Notary

Petition to recall Ward 3 Commissioner Ben Ezell for:

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Please sign your name below with your house number and street if you are entitled to vote in Ward 3 elections and wish to recall Commissioner Ben Ezell from office.

Name

House Number and Street

Signature

Wendy Schaffert		Wendy Schaffert
Shelly Schaffert		Shelly Schaffert
Rick Leavenworth		Rick Leavenworth
Claire Buzzard		Claire Buzzard
Molly Buzzard		Molly Buzzard
Matthew Nelson		Matthew Nelson
Jay Silver		Jay Silver
Pattie Silver		Pattie Silver
Karen Green		Karen Green
April Lessard		April Lessard
Vicky L. Pfrechm		Vicky L. Pfrechm
Wendy Green		Wendy Green
Trenton Groch		Trenton Groch
SEAN MURRAY		SEAN MURRAY
TODD LINZA		Todd Linza
Sherla Linza		Sherla Linza
Jessica Peterman		Jessica Peterman
Calvin Bradford		Calvin Bradford
Holly Bradford		Holly Bradford
Paula Johnson		Paula Johnson

I certify that I, Melissa Crabtree collected signatures from people personally known by me, at their home at the time of signing, verified through the OK Voter Portal. ok.elections.us, or stated that they were a registered voter in Enid Ward 3.

Melissa Crabtree

State of Oklahoma
County of Garfield

Signed and sworn to before me on ~~the~~ August 3rd, 2020 by

Melissa Crabtree

name(s) of person(s)
making statement

Cleota Ostermaier
Signature of Notary



Petition to recall Ward 3 Commissioner Ben Ezell for:

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- Subverting the will of the people in favor of his own arbitrary opinion.
- Dismissive of his constituents' views.
- Generally abusing public trust.

Please sign your name below with your house number and street if you are entitled to vote in Ward 3 elections and wish to recall Commissioner Ben Ezell from office.

Name	House Number and Street	Signature
Carol Myers	[REDACTED]	Carol Myers
Emily Long	[REDACTED]	Emily Long
Ruth Shough	[REDACTED]	Ruth Shough
Mark Tharpe	[REDACTED]	Mark Tharpe
Stacy Nelson	[REDACTED]	Stacy Nelson
Hebbie Poteat	[REDACTED]	Hebbie Poteat
Lori Copenhaver	[REDACTED]	Lori Copenhaver
Bill Poteat	[REDACTED]	Bill Poteat
Kevin Copenhaver	[REDACTED]	Kevin Copenhaver
Kelly Kirkpatrick	[REDACTED]	Kelly Kirkpatrick
Sandie Hamilton	[REDACTED]	Sandie Hamilton
Larry Hamilton	[REDACTED]	LARRY HAMILTON
James Roberts	[REDACTED]	James Roberts
Delana Rakestraw	[REDACTED]	D. Rakestraw
KEITH A SIRAGUSA	[REDACTED]	Keith Siragusa
Heather White	[REDACTED]	Heather White
David Rubio	[REDACTED]	David Rubio

I, NeAnne Clinton, certify that the signators were collected and known to me, at their home at the time of signing, verified through the ok voter portal. ok elections.us, or stated that they were a registered voter in ward 3 of Enid.

NeAnne Clinton

State of Oklahoma
County of Garfield

signed and sworn to before me on August 3rd, 2020

by Neanne Clinton
name(s) of person(s)
making statement



Cleota Ostermaier
Signature of Notary



Petition to recall Ward 3 Commissioner Ben Ezell for:

- Conduct unbecoming of an elected official.
- Dividing our community by threatening use of force and advocating fines against law abiding, healthy citizens.
- Disrespecting our police department and failing to heed the advice of our police chief.
- Showing disregard for the law by asking the Enid City Council to pass mandates with preconceived plans to change them once in place.
- Subverting the will of the people in favor of his own arbitrary opinion.
- Dismissive of his constituents' views.
- Generally abusing public trust.

Please sign your name below with your house number and street if you are entitled to vote in Ward 3 elections and wish to recall Commissioner Ben Ezell from office.

Name

House Number and Street

Signature

Tina Prichard
Alisha Craddock
Richard Hughes
TC RESSLER
Donna Sanders
Ellen Willson
Thomas H. Wilson
Thomas C. Wozniak
Traci Conrady
JAKE SKAGGS

Tina Prichard
Alisha Craddock
Richard Hughes
Donna Sanders
Ellen Willson
Thomas H. Wilson
Thomas C. Wozniak
Traci Conrady
JAKE SKAGGS

I, Heather White, certify that the signators
were known to me, at their home at the time of
signing, verified through the ok voter portal. ok elections.us,
or stated that they were a registered voter in End Ward 3.

Heather White


State of Oklahoma
County of Garfield

Signed and sworn to before me on August 3rd
Date 2020
by Heather White.



Cleota Ostermaier

- Conduct unbecoming of an elected official.
- Dividing our community by threatening use of force and advocating fines against law abiding, healthy citizens.
- Disrespecting our police department and failing to heed the advice of our police chief.
- Showing disregard for the law by asking the Enid City Council to pass mandates with preconceived plans to change them once in place.
- Subverting the will of the people in favor of his own arbitrary opinion.
- Dismissive of his constituents' views.
- Generally abusing public trust.

Name	House Number and Street	Signature
Brian Taylor		Brian Taylor
Suther Heckman		Suther Heckman
Jake Cline		Jacob Cline
Eryn Smith		Eryn Smith
Rocky Gaistford		Rocky Gaistford
Cindy Gaistford		Cindy Gaistford
Michael Manley		Michael Manley
Karen Manley	Karen Manley	
Darian Reed	Darian Reed	
Richard Harter	Richard Harter	

I, KEITH A SIRAGUSA, certify that the signators were known to me, at their home at the time of signing, verified through the okvoterportal.okelections.us, or stated that they were a registered voter in Enid Ward 3.

Keith A Siragusa

State of Oklahoma

County of Garfield

Signed and sworn to before me on August 3rd
date 2020
by Keith A. Siragusa.



Cleota Ostermaier

Petition to recall Ward 3 Commissioner Ben Ezell for:

- Conduct unbecoming of an elected official.
- Dividing our community by threatening use of force and advocating fines against law abiding, healthy citizens.
- Disrespecting our police department and failing to heed the advice of our police chief.
- Showing disregard for the law by asking the Enid City Council to pass mandates with preconceived plans to change them once in place.
- Subverting the will of the people in favor of his own arbitrary opinion.
- Dismissive of his constituents' views.
- Generally abusing public trust.

Please sign your name below with your house number and street if you are entitled to vote in Ward 3 elections and wish to recall Commissioner Ben Ezell from office.

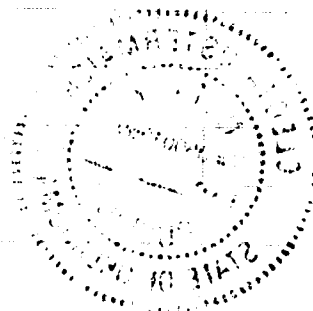
Name

House Number and Street

Signature

Desmond Ross
Angela Burk
• Terry Guina
Faron Kegin

Desmond Ross
Angela Burk
Terry Guina
Faron Kegin



I, Penny Sweet, certify that the signators were known to me, at their home at the time of signing, verified through the okvoterportal.okelections.us, or stated that they were a registered voter in Enid Ward 3.

Penny Sweet

State of Oklahoma

County of Garfield

Signed and sworn to before me on August 3rd, 2020
Date

by Penny Sweet.



Cleota Ostermaier

Petition to recall Ward 3 Commissioner Ben Ezell for:

- Conduct unbecoming of an elected official.
- Dividing our community by threatening use of force and advocating fines against law abiding, healthy citizens.
- Disrespecting our police department and failing to heed the advice of our police chief.
- Showing disregard for the law by asking the Enid City Council to pass mandates with preconceived plans to change them once in place.
- Subverting the will of the people in favor of his own arbitrary opinion.
- Dismissive of his constituents' views.
- Generally abusing public trust.

Please sign your name below with your house number and street if you are entitled to vote in Ward 3 elections and wish to recall Commissioner Ben Ezell from office.

Name	House Number and Street	Signature
JIM RITCHETT		James Ritchett
Myma K Scatter Ritchett		Myma K Scatter Ritchett
ROGER MITCHELL		Roger Mitchell
Sharon Harold		Sharon Harold
John Harold		John Harold
Lewis Blackburn		LEWIS BLACKBURN
Lonna Bea Blackburn		Lonna Blackburn
Patty Seim		Patty Seim
Willard E Long		Willard Long
Vonda Yvonne Beckstead		Yvonne Beckstead
Emilie Melsen		Emilie Melsen
George Gividen		George Gividen
Dewey Crow		Dewey Crow
Nancy Ellington		Nancy Ellington
MISTY TURNER		Misty Turner
Pamela Seaker		Pamela Seaker
Rebecca Whiting		Rebecca Whiting
Linda Wipf		Linda Wipf
PETE WIPF		Pete Wipf

I, DeAnne Clinton, certify that the signators
were known to me, at their home at the time of signing,
verified through me at okvoterportal.okelections.us,
or stated that they were a registered voter in Enid ward 3.

DeAnne Clinton

State of Oklahoma

County of Coasfield

signed and sworn to before me on August 3rd, 2020

by Deanne Clinton
name(s) of person(s)
making statement



Cleota Ostermaier
Signature of Notary

Petition to recall Ward 3 Commissioner Ben Ezell for:

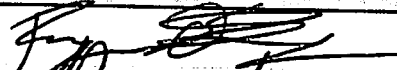

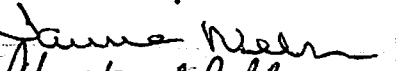


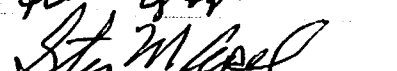

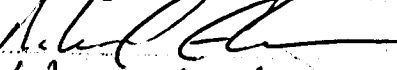
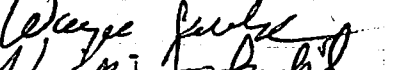
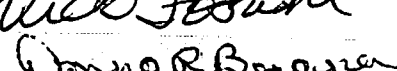



- Conduct unbecoming of an elected official.
- Dividing our community by threatening use of force and advocating fines against law abiding, healthy citizens.
- Disrespecting our police department and failing to heed the advice of our police chief.
- Showing disregard for the law by asking the Enid City Council to pass mandates with preconceived plans to change them once in place.
- Subverting the will of the people in favor of his own arbitrary opinion.
- Dismissive of his constituents' views.
- Generally abusing public trust.

Please sign your name below with your house number and street if you are entitled to vote in Ward 3 elections and wish to recall Commissioner Ben Ezell from office.

Name

House Number and Street

Signature

Ryan O'Sickly		
Ashley Cheshire		
Jammie Nelson		
Christina J Bell		
Timothy H. H. H.		
Steven Apel		
Hattie Brown		
Mike Gibson		
Wayne Buchholz		
Vicki Foskett		
Donna Bergner		
Debra Lack		
Mandy Thorne		

I Penny Sweet + Richard Webster certify
that the signators were collected and known to
me, at their home at the time of signing,
verified through <https://okvoterportal.okelections.us>
or stated that they were a registered
voter in Enid Ward 3.

Penny Sweet
Richard Webster

State of Oklahoma
County of Garfield

Signed and sworn to before me on August 3rd
(date) 2020
by Richard Webster Penny Sweet
(names of person(s) making statement)



Cleota Ostermaier
Signature of Notary
Title

- Conduct unbefitting of an elected official.
- Dividing our community by threatening use of force and advocating fines against law abiding, healthy citizens.
- Disrespecting our police department and failing to heed the advice of our police chief.
- Showing disregard for the law by asking the Enid City Council to pass mandates with preconceived plans to change them once in place.
- Subverting the will of the people in favor of his own arbitrary opinion.
- Dismissive of his constituents' views.
- Generally abusing public trust.

[illegible]

I Melissa Crabtree certify that the signatories were known to me, at their home at the time of signing, viewed through the OK voter portal. OK elections.us, and stated that they were a registered voter in Ward 3.
Enid

Melissa Crabtree

State of Oklahoma
County of Garfield

Signed and sworn to before me on August 3rd, 2020
(date)

by Melissa Crabtree
(names of person(s)
making statement)



Cleota Ostermaier
Signature of Notary
Title

Petition to recall Ward 3 Commissioner Ben Ezell for:

- Conduct unbecoming of an elected official.
- Dividing our community by threatening use of force and advocating fines against law abiding, healthy citizens.
- Disrespecting our police department and failing to heed the advice of our police chief.
- Showing disregard for the law by asking the Enid City Council to pass mandates with preconceived plans to change them once in place.
- Subverting the will of the people in favor of his own arbitrary opinion.
- Dismissive of his constituents' views.
- Generally abusing public trust.

Please sign your name below with your house number and street if you are entitled to vote in Ward 3 elections and wish to recall Commissioner Ben Ezell from office.

Name	House Number and Street	Signature
• Marquita Cisneros	[REDACTED]	Marquita Cisneros
• Angela Hannegan	[REDACTED]	Angela Hannegan
• Jeremy Everly	[REDACTED]	73701 Jeremy Everly
• Lauren Nelson	[REDACTED]	Lauren Nelson
MARIA C GARCIA	[REDACTED]	Maria C Garcia
• MARVIN Wyckoff	[REDACTED]	Marvin Wyckoff
• Jazzmyne Tullis	[REDACTED]	Jazzmyne Tullis
Richard Mc Look	[REDACTED]	Richard Mc Look
• Shelli Holliday	[REDACTED]	S. Holliday
• Julia Granados	[REDACTED]	Julia Granados
• Brenda Hannegan	[REDACTED]	Brenda Hannegan
• Francis Soucy II	[REDACTED]	Francis Soucy II
• James Stevens	[REDACTED]	James Stevens
• Jason Hughes	[REDACTED]	Jason Hughes

I Robert L. Eisele certify that the signatories were known to me, at their home at the time of signing, verified through the OK voter portal. OK elections.us, as stated that they were a registered voter in Ward 3 - Enid.

Robert L. Eisele

State of Oklahoma
County of Garfield

Signed and sworn to before me on August 3rd 2020
& date 1

by Robert L. Eisele
(names of person(s)
making statement)



Cleota Ostermaier
Signature of Notary
Title

- Conduct unbecoming of an elected official.
- Dividing our community by threatening use of force and advocating fines against law abiding, healthy citizens.
- Disrespecting our police department and failing to heed the advice of our police chief.
- Showing disregard for the law by asking the Enid City Council to pass mandates with preconceived plans to change them once in place.
- Subverting the will of the people in favor of his own arbitrary opinion.
- Dismissive of his constituents' views.
- Generally abusing public trust.

[illegible]

I Dea Tatro certify that the signers were known to me, at their home at the time of signing, verified through the okvoteportal.ok elections.us, or stated that they were a registered voter in Ward 3-East.

Dea Tatro

State of Oklahoma

County of Garfield

Signed and sworn to before me on August 3rd, 2020
(date)

by Dea Tatro
(names of person(s)
making statement)



Cleota Ostermaier
Signature of Notary
Title



I Dea R. Tatro certify that the signatories were known to me, at their home at the time of signing, verified through the ok voter portal. ok elections. us, or stated that they were a registered voter in Ward 3 - Enid.

Dea R. Tatro

State of Oklahoma
County of Garfield

Signed and sworn to before me on August 3rd, 2021
(date)

by Dea R. Tatro
(names of person(s)
making statement)



Cleota Ostermaier
Signature of Notary
Title

Petitioner ID

Sheet #	Name	Method
1	Sarah A. Roberts	At Home
1	Larry - Roberts	At Home
1	Martin Schubert	Personal
1	Dea Tatro	Personal
1	Mike Tatro	Personal

I Penny Sweet certify that the signatures listed were known to the collector or at their home at the time of signing.

Penny Sweet

I, Summer Anderson, a Notary Public, certify that Penny Sweet appeared before me on August 5th 2020 as the signer of this document.



*Summer Anderson

Petitioner ID

8

Sheet	Name	Method
2	William Bickerstaff	Personal
2	Tammy Bickerstaff	Personal
2	Holly Weidner	Personal
2	James Molle	Personal
2	Kelley Craparotta	Personal
2	Jason Craparotta	Personal

I Penny Sweet certify that the signatories listed were known to the collector or at their home at the time of signing.

Penny Sweet

I, Summer Anderson, a Notary Public, certify that Penny Sweet appeared before me on August 5th, 2020 as the signer of the above document.



* Summer Anderson

Sheet Name

3

Penny Sweet	personally
Frank Sweet	personally
Aidan Sweet	personally
Chester Martin	personally
Dan A Smith	personally
Richard Webster	personally
Lauren Nelson	personally
Jason M Franklin	personally
Brian Henry	personally
Violet L Wilson	at home

I Penny Sweet certify that the signators listed were known to the collector or at their home at the time of signing.

Penny Sweet

I, Summer Anderson, a Notary Public, certify that Penny Sweet appeared before me on August 5th, 2020 as the signer of the above document.



Summer Anderson

Sheet

4

Name

~~Barbara Willey~~

Jerry Willey at home

I Penny Sweet certify that the signaturs listed were known to the collector or at their home at the time of signing.

Penny Sweet

I, Summer Anderson, a Notary Public, certify that Penny Sweet appeared before me on August 5th, 2020 as the signer of the above document.

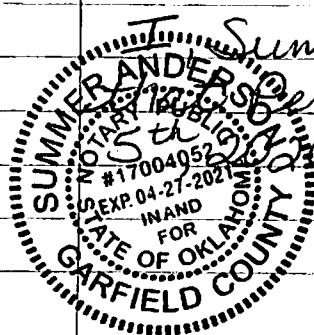


Summer Anderson

Sheet #	Name	Method
5	William H Easterly	At home
	Teresa Chester	At home
	Rosa Layton	At home
	Rodney Layton	At home
	Dallena Jones	At home
	Brian Jones	At home
	JASON Briix	At home
	Shawn Delaney	At home
	Roger Parson	At home
	Jonathan Stadler	At home
	Kathy Walker	At home
	Tommy Hunt	At home
	Kris Westfall	At home
	Lori Westfall	At home
	Tiffney Shook	At home
	Clifford Shook	At home

I Penny Sweet certify that the signatories listed were known to the collector or at their home at the time of signing.

Penny Sweet



I, Summer Anderson, a Notary Public, certify that Penny Sweet appeared before me on August 20, 2020 as the signer of the above document.

Summer Anderson

Sheet #	Name	Method
6	Gerry Kistler	At home
	Timothy Fergus	At home
	Nicole Hall	At home
	Philip McCarthy?	at home
	Brylyn Baker	at home
	Audrey Jennings	at home
	Donita Soles	at home
	Daniel Sides	at home
	Dustin Ketherford	at home
	Amanda Schubert	personally
	Dennis Webb	personally

I Penny Sweet certify that the signators listed were known to the collector or at their home at the time of signing.

Penny Sweet

I, Summer Anderson, a Notary Public, certify that Penny Sweet appeared before me on August 5th, 2020 as the signer of the above document.

* Summer Anderson



Petitioner ID

Sheet	Name	Method
7	Pat Scheffe	At Home
7	Jerry Hopkins	At Home
7	Brady Tipton	At Home

I Penny Sweet certify that the signatures listed were known to the ~~collected~~ collector or at their home at the time of signing.

Penny Sweet

I, Summer Anderson, a Notary Public, certify that Penny Sweet appeared before me on August 5th, 2020 as the signer of the above document.



* Summer Anderson

Petitioner ID

Sheet	Name	Method
8	Shelly Scheffe	Personal
8	Matthew Nelson	Personal
8	Vicky L. Pfrehm	Personal
8	Paula Johnson	

I Penny Sweet certify that the signatories listed were known to the collector or at their home at the time of signing.

Penny Sweet

I Summer Anderson, a Notary Public, certify that Penny Sweet appeared before me on August 5th, 2020 as the signer of the above document.



Summer Anderson

Sheet Name

9	Carol Myers	personally
	Emily Long	personally
	Kevin Copenhauer	personally
	Kelly Kirkpatrick	personally
	Sandie Hamilton	personally
	Larry Hamilton	personally
	Jacob Roberson	personally
	Keith A Siragusa	personally

I Penny Sweet certify that the signatories listed were known to the collector or at their home at the time of signing.

Penny Sweet

I, Summer Anderson, a Notary Public, certify that Penny Sweet appeared before me on August 5th, 2020 & is the signer of the above document.



*Summer Anderson

Sheet #
10

There are no active voters on this sheet, known to us but were collected at their homes.

I Penny Sweet certify that the signators listed were known to the collector or at their home at the ~~home~~ time of signing.

Penny Sweet

I, Summer Anderson, a Notary Public, certify that Penny Sweet appeared before me on August 5th, 2020 and is the signer of the above document.

* Summer Anderson



Petitioner IDs

Sheet	Name	Method
11	Brian Taylor	At Home
11	Suther Heckman	At Home
11	Jake Cline	At Home
11	Rocky Gaisford	At Home
11	Cindy Gaisford	At Home
11	Michael Manley	At Home
11	Karen Manley	At Home
11	Darrian Reed	At Home

I Penny Sweet certify that the signators listed were known to the collector or at their home at the time of signing.

Penny Sweet

I Summer Anderson, a Notary Public, certify that Penny Sweet appeared before me on August 5th, 2020 as the signer of this document.



Summer Anderson

Sheet Name
12 Terry Guinn personally

I Penny Sweet certify that the signators listed were known to the collector or at their home at the time signing.

Penny Sweet

* I, Summer Anderson, a Notary Public, certify that Penny Sweet appeared before me on August 5th, 2020, and is the signer of the above document.



* Summer Anderson

Sheet
13

Name	
Lewis Blackburn	personally
Lonna Blackburn	personally
Willard Long	personally
Vonda Yvonne Beckstead	personally
Emily Melson	personally
George Gividen	personally
Nancy Ellington	personally
Rebecca Whiting	personally

I Penny Sweet certify that the signatories listed were known to the collector or at their home at the time of signing.

Penny Sweet

I, Summer Anderson, a Notary Public, certify that Penny Sweet appeared before me on August 5, 2020 as the signer of this document.



* Summer Anderson

Sheet	Name	
14	Tammie Nelson	personally
	Christina Bell	personally
	Tristan Dahn	personally
	Jimmy Hyle	personally
	Wayne Buckles	per at home
	Vicki Fosk'iehl	at home
	Debra Lack	personally

I Penny Sweet certify that the signators listed were known to the collector or at their home at the time of signing.

Penny Sweet

I Summer Anderson, a Notary Public, certify that Penny Sweet appeared before me on August 5th, 2020 as the signer of this document.



Summer Anderson

Petitioner ID's

Sheet	Name	Method
15	Sandra Knox	Personal
15	Ty Atkinson	Personal

I Penny Sweet certify that the signators listed were known to the collector or at home at the time of signing.

Penny Sweet

I, Summer Anderson, ~~certify that~~ a Notary Public, certify that Penny Sweet appeared before me on August 5th, 2020, and is the signer of the above document.

* Summer Anderson



Sheet

16

Marquita Cisneros

personally

Angela Hannegan

personally

Jeremy Everly

personally

Lauren Nelson

personally

Marvin Wyokaff

personally

Jazzmyne Tullis

personally

Shelly Holliday

personally

Julia Granados

personally

Brenda Hannegan

personally

Francis Soucy II

personally

James Stevenson

personally

I Penny Sweet certify that the signators listed were known to the collector or at their home at the time of signing.

Penny Sweet

I Summer Anderson, a Notary Public, certify that Penny Sweet appeared before me on August 5th, as the signer of this document.



Summer Anderson

Petitioner ID's

Sheet
17

Name
Jackie Davis

Method
Personal

I Penny Sweet certify that the signators listed were known to the collector or at their home at the time of signing.

Penny Sweet

I, Summer Anderson, a Notary Public, certify that Penny Sweet appeared before me on August 5th, 2020 as the signer of this document.



* Summer Anderson

Petitioner 10's

Sheet
18

Name
Travis Hays

Method
Personal

I Penny Sweet certify that the signators listed were known to the collector or at their home at the time of signing.

Penny Sweet

I, Summer Anderson, ~~certify~~ a Notary Public, certify that Penny Sweet appeared before me on August 5th, 2020 as the signer of the above document.

* Summer Anderson



The City Of Enid, Oklahoma
City Clerk, Alissa Lack
Notice of Sufficiency of the Recall Petition
for Ward Three City Commissioner Ben Ezzell

The City Clerk's Office of Enid, Oklahoma received a recall petition for Ward Three Commissioner Ben Ezzell on Tuesday, August 4, 2020. Under the City Charter, the City Clerk is to determine whether the petition is sufficient and whether the requisite number of Ward Three electors have signed the petition. The petition must contain a general statement of the grounds for which removal is sought. The circulator of a particular page of the petition must affirm that the circulator knows that the signatories on that page are the persons they purport to be.

The requisite number of signatures of electors (registered voters within Ward Three of the City of Enid) needed is 30% of all the actual voters in the most recent Ward Three Commissioner election, which was held February 12, 2013. The number of actual voters was 230, so the number of verified signatures needed is 69 electors.

The petition has 204 signatures. There were nine circulators. The petition, as filed on August 4, 2020, had nine circulators who affirmed that the circulators, in collecting signatures either 1) knew the electors personally or 2) they went to the electors' homes and checked the online election site, or 3) the elector said they were a Ward Three registered voter. On August 5, 2020, a supplemental affirmation was provided by one of the circulators, Penny Sweet. Ms. Sweet provided a summary explanation for each page of the petition, identifying which electors were known to the circulator personally and which were signed in the elector's home. Of the 204 signatures contained in the petition, 110 were covered by Ms. Sweet's supplement affirmation; 59 were known to the circulator; 51 occurred in the resident's home.

The petition, on which 204 signatures appear, contains 135 names of persons who are registered voters in Ward Three. Of the 59 signatures that the circulators knew personally, there are 46 names of persons who are registered voters in Ward Three. Of the 51 signatures that the circulators obtained in the homes of the signatory, there are 41 names of persons who are registered voters in Ward Three. Of the remaining 94 signatures, there are 48 names of persons registered in Ward Three.

Under the City Charter, each circulator is required to affirm that each person who signed the petition is the person whose name it purports to be. The best method for ascertaining identity is to check an identification card with a photo, and usually a signature of the person. This is not required by the Charter. The 46 signatures of persons known to the circulators meet the Charter requirement. The 41 signatures of persons that signed in their homes meet the Charter requirement. The 48 persons who were not asked if they were the person they purport to be, but only if they were a registered voter of Ward Three, does not meet the Charter standard. The original affirmations did not include a statement that the circulators believe that the signatures are of the person they purport to be. The supplemental affirmation of Penny Sweet does not address these 94 signatures.

There remains 87 signatures that, based upon the supplemental affirmation of Penny Sweet, are sufficiently affirmed to provide the requisite number of signatures. The supplemental affirmation was made by only one circulator, who affirmed personally 19 signatures, of which 15 signatures are included in the 87 requisite signatures.

Finally, the Charter requires the circulators to affirm that the statements are true. The Charter is unclear whether the statements are the charges listed in the petition or the statements in the affirmation of the circulators. None of the circulators' written affirmations contain language that indicates that the circulator believes the statement is true. However, the affirmations have been notarized, the circulators' actions and statements are assumed to be truthful, and it is implicitly clear that the circulators believe the statements contained on the petition that provide reasons for the recall.

Therefore, the recall petition is deemed sufficient, and there are the requisite number of signatures of registered voters of Ward Three to proceed with calling an election. Pursuant to Oklahoma Law, this notice must be published in a newspaper of general circulation in Enid. Under Oklahoma law, any qualified elector (registered voter) of the City of Enid may file either a protest to the petition or an objection to the count of the Clerk. Oklahoma Law provides that the protests or objections must be filed in Garfield District Court within ten days from the publication of this notice. The District Court shall set a hearing to hear testimony and arguments for and against the sufficiency of the petition no sooner than 10 days after the filing of the protest. If a protest is timely filed and abandoned by the filer, it may be revived by another qualified elector within five days.

I, the City Clerk of the City of Enid, so state and determine on this the 7th day of August 2020.

/s/ Alissa K. Lack
Alissa Lack, City Clerk

2003 WL 1790375 (Okla.A.G.)

Office of the Attorney General

State of Oklahoma
Opinion No. 2003-12
March 26, 2003

*1 The Honorable Ray Vaughn
State Representative
District 81

¶0 This office has received your request for an official Attorney General Opinion in which you ask, in effect, the following question:

On an initiative or referendum petition, does a municipal clerk have the authority to exclude from the signature count certain signatures, which may render the petition legally insufficient for failure to possess the required number of signatures?

¶1 Municipalities may provide, by charter or ordinance, the procedure for exercising the people's initiative and referendum powers. 11 O.S. 2001, § 15-102. Because we cannot review every municipality's charter or ordinances we will assume, for purposes of this Opinion, either (i) the municipality's charter or ordinance adopts and incorporates all constitutional and statutory law relating to initiatives and referendums; or (ii) the municipality's charter or ordinance fails to provide procedures for exercise of the people's initiative and referendum powers.

¶2 If a municipality provides, by charter or ordinance, the procedure for exercising the people's initiative and referendum powers, the procedure "shall be as nearly as practicable the same as those for measures relating to the people of the state at large." *Id.* If a municipality has not promulgated, by charter or ordinance, the procedure for exercising initiative or referendum powers then the procedure is governed by the Oklahoma Constitution and general State law except as otherwise provided by 11 O.S. 2001, §§ 15-101 through 15-110. *Id.* § 15-102. However, as required by State law, the duties of the Governor shall be performed by the mayor; the duties of the Secretary of State shall be performed by the municipal clerk; and the duties of the Attorney General shall be performed by the municipal attorney. *Id.*

I.

A Municipal Clerk Shall Not Include Certain Signatures In His Or Her Physical Count Of Signatures On An Initiative Or Referendum Petition.

¶3 The Oklahoma Constitution requires an initiative or referendum petition to be signed by a number of electors equal to or greater than 25% of the total number of votes cast at the next preceding general municipal election. Okla. Const. art. 18, § 4(b); *Belisle v. Crist*, 425 P.2d 983, 984-85 (Okla. 1967). The municipal clerk "shall make a physical count of the number of signatures appearing" on a timely filed initiative or referendum petition. 11 O.S. 2001, § 15-104 (A). However, nothing in 11 O.S. 2001, §§ 15-101 through 15-110 provides direction as to what signatures should or should not be included in such physical count. We must therefore look to general State law to find such direction as required by 11 O.S. 2001, § 15-102.

¶4 State law provides:

A. The Secretary of State¹ shall make or cause to be made a physical count of the number of signatures on the petitions. *In making such count, the Secretary of State shall not include in such physical count:*

EXHIBIT 3

*2 1. All signatures on any sheet of any petition which is not verified by the person who circulated the sheet of the petition as provided in Section 6 of this title;²

2. All signatures of nonresidents;

3. All signatures on a sheet that is not attached to a copy of the petition;

4. All multiple signatures on any printed signature line;

5. All signatures not on a printed signature line;

6. Those signatures by a person who signs with any name other than his own or signs more than once; and

7. All signatures on any sheet on which a notary has failed to sign, the seal of the notary is absent, the commission of the notary has expired or the expiration date is not on the signature sheet.

34 O.S. 2001, § 6.1 (emphasis added) (footnotes added).

¶5 Consequently, to the extent certain signatures on the initiative or referendum petition fall within one of the provisions in Section 6.1(A)(1)-(7), the municipal clerk shall not include such signatures in the physical count of signatures on the initiative or referendum petition. *Id.*

¶6 The enumerated list of signatures in Section 6(A)(1)-(7), which shall not be included in a clerk's physical count of signatures, is not exhaustive. In addition to the signatures which shall not be counted pursuant to the above-quoted Section 6.1(A)(1)-(7), 34 O.S. 2001, § 3 requires that:

Each initiative petition and each referendum petition shall be duplicated for the securing of signatures, and each sheet for signatures shall be attached to a copy of the petition. Each copy of the petition and sheets for signatures is hereinafter termed a pamphlet. On the outer page of each pamphlet shall be printed the word "Warning", and underneath this in ten-point type the words, "It is a felony for anyone to sign an initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for the measure, or to sign such petition when he is not a legal voter". A simple statement of the gist of the proposition shall be printed on the top margin of each signature sheet. Not more than twenty (20) signatures on one sheet on lines provided for the signatures shall be counted. ***Any signature sheet not in substantial compliance with this act shall be disqualified by the Secretary of State.***

Id. (emphasis added) (footnote omitted).³

¶7 Section 3 cited above, provides for three additional categories of signatures which shall not be included in the clerk's physical count of signatures. These additional three categories are not included in the list set forth in 34 O.S. 2001, § 6.1 (A)(1)-(7). The additional three categories of signatures which a clerk shall not count are: (1) all signatures of persons who are not legal voters; (2) all signatures included in "pamphlets"⁴ that fail to contain on the outer page of the pamphlet the warning, "It is a felony for anyone to sign an initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for the measure, or to sign such petition when he is not a legal voter"; and (3) all signatures on a signature sheet that does not contain a simple statement of the gist of the proposition on the top margin of the signature sheet. *Id.* § 3.

*3 ¶8 If the clerk's exclusion of signatures pursuant to 34 O.S. 2001, §§ 3 and 6.1(A)(1)-(7), causes the petition to contain fewer signatures than the required 25% of the votes cast at the last general municipal election, then the municipal clerk shall notify the public of the legal insufficiency of the petition, as described below.⁵

II.

The Municipal Clerk Must Give Notice Of The Signature Count And Sufficiency Or Insufficiency Of The Petition As Required By Law.

¶9 After the municipal clerk has made a physical count of the valid signatures appearing on the initiative or referendum petition, he or she “shall then publish, in at least one (1) newspaper of general circulation in the municipality, a notice of the filing and the apparent sufficiency or insufficiency of the petition.” 11 O.S. 2001, § 15-104 (A). The notice shall also state that any qualified elector of the municipality may file within ten days after the publication, in the district court in which the situs of the municipality is located, “a protest to the petition or an objection to the count made by the clerk.” *Id.*

It is, therefore, the official Opinion of the Attorney General that:

Absent any municipal charter provisions or ordinances governing the procedure for exercising the people's initiative and referendum powers, a municipal clerk has the authority to exclude, from the physical count of signatures required to be made pursuant to 11 O.S. 2001, § 15-104, the following signatures:

- “1. All signatures on any sheet of any petition which is not verified by the person who circulated the sheet of the petition as provided in [34 O.S. 2001, § 6];
2. All signatures of nonresidents;
3. All signatures on a sheet that is not attached to a copy of the petition;
4. All multiple signatures on any printed signature line;
5. All signatures not on a printed signature line;
6. Those signatures by a person who signs with any name other than his own or signs more than once;...
7. All signatures on any sheet on which a notary has failed to sign, the seal of the notary is absent, the commission of the notary has expired or the expiration date is not on the signature sheet”; (34 O.S. 2001, § 6.1 (A))
8. All signatures of persons who are not legal voters; (*id.* § 3)
9. All signatures included in pamphlets that fail to contain on the outer page of the pamphlet the warning, “It is a felony for anyone to sign an initiative or a referendum petition with any name other than his own, or knowingly to sign his name more than once for the measure, or to sign such petition when he is not a legal voter” (*id.*); and
10. All signatures on a signature sheet that does not contain a simple statement of the gist of the proposition on the top margin of the signature sheet. *Id.*

Such exclusion of signatures from the physical count may render the initiative or referendum petition legally insufficient for failure to possess signatures equal to or greater than 25% of the votes cast at the last general municipal election as required by Article 18, Section 4(b) of the Oklahoma Constitution. If the clerk determines the initiative or referendum petition to be legally insufficient for failure to possess the required number of signatures, the clerk shall publish a notice of the filing and the apparent legal insufficiency of the petition. 11 O.S. 2001, § 15-104 (A). The notice must also state that any qualified elector of the municipality may file, within ten days after the publication in the district court where the situs of the municipality is located, a protest “to the petition or an objection to the count made by the clerk.” *Id.* § 15-104(B).

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Footnotes

- 1 As provided in 11 O.S. 2001, § 15-102, “the duties of the Secretary of State [with regard to initiative and referendum petitions] shall be performed by the municipal clerk[.]”
- 2 Title 34 O.S. 2001, § 6 provides that each signature sheet of a petition shall be verified on the back by the person who circulated said sheet by affidavit in substantially the form set forth in Section 6.
- 3 Although 11 O.S. 2001, § 15-103, dealing with municipal petitions, only expressly adopts the form requirements for State petitions set forth in 34 O.S. 2001, §§ 1 and 2, the form requirements for State petitions in 34 O.S. 2001, § 3 are made applicable to municipal petitions by 11 O.S. 2001, § 15-102, which says the procedure for exercising initiative and referendum power is governed by the Oklahoma Constitution and general State law to the extent said procedures do not conflict with 11 O.S. § 2001, §§ 15-101 through 15-110, and so long as the municipality has not promulgated such procedures by charter or ordinance.
- 4 “Each initiative petition and each referendum petition shall be duplicated for the securing of signatures, and each sheet for signatures shall be attached to a copy of the petition. Each copy of the petition and sheets for signatures is hereinafter termed a *pamphlet*.” 34 O.S. 2001, § 3 (emphasis added).
- 5 This procedure differs from the procedure for State questions. With regard to State referendum or initiative petitions, the Secretary of State makes a physical count of the signatures and certifies the count to the Oklahoma Supreme Court. The Oklahoma Supreme Court, not the Secretary of State, makes “the determination of the numerical sufficiency or insufficiency of the signatures counted by the Secretary of State.” 34 O.S. 2001, § 8 (C).

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