

**BOA Meeting Agenda
Peculiar City Board of Aldermen
Worksession Meeting and Public Hearing
City Hall – 250 S. Main St
Monday, February 6, 2017 6:30 p.m.**

Notice is hereby given that the Board of Aldermen of the City of Peculiar's scheduled meeting on Monday, February 6, 2017 at 6:30 pm, has been cancelled. Representatives of the news media may obtain copies of this notice by contacting the City Clerk at City Hall, 250 S. Main St Peculiar, MO 64078 or by calling 816-779-2221. All proposed Ordinances and Resolutions will be available for viewing prior to the meeting in the Council Chambers.

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. City Clerk – Read the Board of Aldermen Statement
5. Centenarian Award – James Shilt
6. New Business
 - A. Bill No. 2017-02 - AN ORDINANCE OF THE CITY OF PECULIAR, MISSOURI AMENDING ORDINANCE NO. 080700 TO CLARIFY THAT THE VACATION OF SUMMERSKILL ROAD EXTENDS FROM THE WESTERN RIGHT-OF-WAY BOUNDARY OF HARR-GROVE TO THE WESTERN RIGHT-OF-WAY BOUNDARY OF MISSOURI INTERSTATE HIGHWAY I-49.
*1st & 2nd Readings
 - B. Bill No. 2017-03 - AN ORDINANCE AMENDING THE CITY CODE TO COMPLY WITH PROVISIONS OF VARIOUS ACTS OF THE MISSOURI LEGISLATURE.
*1st Reading
 - C. Bill No. 2017-04 - AN ORDINANCE AMENDING THE CITY CODE TO COMPLY WITH PROVISIONS OF §89.110 RSMo.
*1st Reading
 - D. Resolution 2017-02 - A RESOLUTION OF THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI SELECTING CORNING CONSORTIUM AS THE FIRM TO ASSIST IN IMPLEMENTING BROADBAND IN THE CITY OF PECULIAR AND DIRECTING STAFF TO BEGIN NEGOTIATIONS.
7. Aldermen Directives
8. Executive Session
The City Administrator has requested an Executive Session per RSMo 610.021(2).
9. Adjournment



Centenarian Award

*Be it declared by the City of Peculiar that the
19th day of February, 2017*

Shall be recognized as

James Shilt Day

In the City of Peculiar

*In recognition of 100 years of Life, Family,
and Community*

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Peculiar to be affixed this 6th day of February, 2017.

SEAL

Mayor Holly J. Stark

City Administrator
Brad Ratliff

City Clerk
Vacant

City Engineer
Carl Brooks

Business Office
Trudy Prickett



Municipal Offices – 250 S. Main Street, Peculiar, MO 64078
Phone: (816)779-5212 Facsimile: (816)779-1004

Chief of Police
Harry Gurin

City Planner
Cliff McDonald

City Attorney
Joseph G. Lauber

Parks Director
Grant Purkey

To: Mayor & Board of Aldermen
From: Nick Jacobs
Date: February 2, 2017
Re: Ordinance Vacating Summerskill ROW.

GENERAL INFORMATION

Applicant: City Staff
Requested Actions: Approval of 1st Reading
Purpose: Correct a former Ordinance vacating the ROW of Summerskill under I-49.
Property Location: City wide

PROPOSAL

When the original Ordinance was passed in 2000, the language stated that the Row of Summerskill will be vacated from Harr-Grove Road to Summerskill. The problem is Summerskill and Harr-Grove intersected so it effectively vacated nothing. This is causing an issue for the surveying company who is writing a legal description for the old City Hall property. The original ordinance should have vacated the ROW of Summerskill from the western most ROW line of I-49 East to Harr-Grove Road ROW. This allows for Summerskill ROW to continue to I-49 making an entrance for a potential business a possibility.

The proposed ordinance will do this. This will allow the surveying company to finish the legal description of the property.

PREVIOUS ACTIONS

In 2000 the ROW was not properly vacated. This is causing boundary issues for the old City Hall property and the property to the North.

KEY ISSUES

Getting a proper legal description for Old City Hall.

STAFF RECOMMENDATION

Staff recommends approval of the Resolution to begin negotiations with Corning Consortium.

ATTACHMENTS

BILL NO. 2017-02

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PECULIAR, MISSOURI AMENDING ORDINANCE NO. 080700 TO CLARIFY THAT THE VACATION OF SUMMERSKILL ROAD EXTENDS FROM THE WESTERN RIGHT-OF-WAY BOUNDARY OF HARR-GROVE TO THE WESTERN RIGHT-OF-WAY BOUNDARY OF MISSOURI INTERSTATE HIGHWAY I-49.

WHEREAS, on May 18, 2000, a petition for street vacation was filed by Mike Bauer, and

WHEREAS, notice of the proposed street vacation was posted in three (3) public places, and

WHEREAS, on August 7, 2000 the Board of Aldermen held a public hearing regarding the street vacation petition and no protests or objections were made to said petition; and

WHEREAS, at the conclusion of the public hearing, the Board found and determined that the street right-of-way “for the road which formerly extended from Harr-Grove Road directly west to Summerskill Road should be vacated and closed”; and

WHEREAS, a portion of Harr-Grove Road runs east and west and Summerskill Road runs east and west, and

WHEREAS, the description of the street vacation should have been more clearly described as that portion of Summerskill Road from the western right-of-way boundary of Harr-Grove Road to the western right-of-way boundary of Missouri Interstate Highway I-49; and

WHEREAS, the City wishes to clarify the description of that portion of Summerskill Road which was vacated by Ordinance No. 080700.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI AS FOLLOWS:

SECTION I: That Ordinance No. 080700 is hereby amended as to the description of the street vacation which is that portion of Summerskill Road from the western right-of-way boundary of Harr-Grove to the western right-of-way boundary of Missouri Interstate Highway I-49 as shown on the map attached hereto as Exhibit A and incorporated herein by reference.

SECTION II: That all other provisions in Ordinance No. 080700 not herein modified by this clarification shall remain in full force and effect.

SECTION III: This ordinance shall be effectively immediately upon passage and approval.

First Reading: _____

Second Reading: _____

BE IT REMEMBERED THE PRECEDING ORDINANCE WAS ADOPTED ON ITS SECOND READING THIS 17th DAY OF JANUARY, 2017, BY THE FOLLOWING VOTE:

Alderman Dunsworth _____

Alderman Ray _____

Alderman Hammack _____

Alderman Roberts _____

Alderman Harlan _____

Alderman Ford _____

APPROVED:

ATTEST:

Holly J. Stark, Mayor

Nick Jacobs, Acting City Clerk

EXHIBIT A



Please find the enclosed ordinance to make the necessary changes to the City Code as required by the legislative changes listed in the Code Watch report.

The changes include: 1) allowance for the municipal court to hear requests for expungement per new statute; 2) changes made to the offense of Unlawful Use of Weapons; 3) changes made to possession of a controlled substance – which modifies penalties based on changes to the felony/misdemeanor schedule and adds a new first for a tiny bit of marijuana offense; and 4) Adds a provision about the placement of local liquor licenses within establishments.

Most of the statute changes did not directly affect ordinances or code sections that the City has on the books. There were some changed state requirements that did not require ordinances changes that departs should be made aware of; for instance, if the City were to change the fluoridation level of the water, they would have to notify customers, DNR, and Health and Senior Services pursuant to changes in 640.136 RSMo, or that additional definitions have been added regarding mobile recording devices under the Sunshine Law.

There are things that the City could do in theory now that they couldn't before, like grant liquor licenses for self-service beer taps under 311.205 RSMo. Ultimately those are legislative decisions to be made in the future and not required changes to bring the existing code into compliance.



LAUBER MUNICIPAL LAW, LLC
Serving those who serve the public

Peter F. Rottgers
Lauber Municipal Law, LLC
250 NE Tudor Road
Lee's Summit, Missouri 64086

BILL NO. 2017-03

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CITY CODE TO COMPLY WITH PROVISIONS OF VARIOUS ACTS OF THE MISSOURI LEGISLATURE.

WHEREAS, the Missouri State Legislature has made amendments, additions, deletions, and other such changes to the statutes of this state, and

WHEREAS, provisions of the aforesaid changes impact sections of the City Code such that the City Code and the statutes of the State of Missouri are in disharmony, and

WHEREAS, provisions of the City Code of Peculiar, Missouri must be amended to comply with state law, and

WHEREAS, pursuant to §79.110, RSMo., the Mayor and Board of Aldermen of the City “shall have the power to enact and ordain any and all ordinances not repugnant to the constitution and laws of the his state, and such as they shall deem expedient for the good government of the city, the preservation of peace and good order, the benefit of trade and commerce and the health of the inhabitants thereof, and such other ordinances, rules and regulations as may be deemed necessary to carry such powers into effect, and to alter, modify or repeal the same,” and

WHEREAS, it is in the interest of public health, safety and welfare that the City Code of Peculiar, Missouri be consistent with Missouri law.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI THAT THE FOLLOWING CHAPTERS OF THE CITY CODE BE AMENDED AS FOLLOWS:

SECTION I. Chapter 130 is amended by the addition of the following Section 130.330:

Section 130.330. Expungements. Any person may file a petition for expungement consistent with Section 610.140 RSMo, and such petition shall be heard by the Municipal Judge.

SECTION II. Section 210.260 is amended such that it is removed in its entirety and replaced with the following language:

Section 210.260. Unlawful Use of Weapons- Exceptions

A. A person commits the offense of unlawful use of weapons, except as otherwise provided by Sections 571.101 to 571.121 RSMo, if he or she knowingly:

1. Carries concealed upon or about his or her person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use into any area where firearms are restricted under Section 571.107; or
2. Sets a spring gun; or
3. Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft, or motor vehicle as defined in Section 302.010 RSMo, or any building or structure used for the assembling of people; or
4. Exhibits, in the presence of one or more persons, any weapon readily capable of lethal use in an angry or threatening manner; or
5. Has a firearm or projectile weapon readily capable of lethal use on his or her person, while he or she is intoxicated, and handles or otherwise uses such firearm or projectile weapon in either a negligent or unlawful manner or discharges such firearm or projectile weapon unless acting in self-defense; or
6. Discharges a firearm within one hundred yards of any occupied schoolhouse, courthouse, or church building; or
7. Discharges or shoots a firearm at a mark, at any object, or at random, on, along or across a public highway or discharges or shoots a firearm into any outbuilding; or
8. Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any election precinct on any election day, or into any building owned or occupied by any agency of the federal government, state government, or political subdivision thereof; or
9. Discharges or shoots a firearm at or from a motor vehicle, as defined in Section 301.010 RSMo, discharges or shoots a firearm at any person, or at any other motor vehicle, or at any building or habitable structure, unless the person was lawfully acting in self-defense; or
10. Carries a firearm, whether loaded or unloaded, or any other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board; or
11. Possesses a firearm while also knowingly in possession of a controlled substance that is sufficient for a felony violation of Section 579.015 RSMo.

B. Subdivisions (1), (8), and (10) of Subsection A of this section shall not apply to the persons described in this subsection, regardless of whether such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties except as otherwise provided in this subsection. Subdivisions (3), (4), (6), (7), and (9) of Subsection A of this section shall not apply to or affect any of the following persons, when such uses are reasonably associated with or

are necessary to the fulfillment of such person's official duties, except as otherwise provided in this subsection:

1. All state, county and municipal peace officers who have completed the training required by the police officer standards and training commission pursuant to Sections 590.030 to 590.050 RSMo and who possess the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, whether such officers are on or off duty, and whether such officers are within or outside of the law enforcement agency's jurisdiction, or all qualified retired peace officers, as defined in subsection 12 of this section, and who carry the identification defined in subsection 13 of this section, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
2. Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;
3. Members of the Armed Forces or National Guard while performing their official duty;
4. Those persons vested by Article V, Section 1 of the Constitution of Missouri with the judicial power of the state and those persons vested by Article III of the Constitution of the United States with the judicial power of the United States, the members of the federal judiciary;
5. Any person whose bona fide duty is to execute process, civil or criminal;
6. Any federal probation officer or federal flight deck officer as defined under the federal flight deck officer program, 49 U.S.C. Section 44921, regardless of whether such officers are on duty, or within the law enforcement agency's jurisdiction;
7. Any state probation or parole officer, including supervisors and members of the board of probation and parole;
8. Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the department of public safety under Section 590.750 RSMo;
9. Any coroner, deputy coroner, medical examiner, or assistant medical examiner;
10. Any municipal or county prosecuting attorney or assistant prosecuting attorney; circuit attorney or assistant circuit attorney; municipal, associate, or circuit judge; or any person appointed by a court to be a special prosecutor who has completed the firearms safety training course required under subsection 2 of Section 571.111 RSMo;
11. Any member of a fire department or fire protection district who is employed on a full-time basis as a fire investigator and who has a valid concealed carry endorsement issued

prior to August 28, 2013, or a valid concealed carry permit under Section 571.111 RSMo when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties; and

12. Upon the written approval of the governing body of a fire department or fire protection district, any paid fire department or fire protection district member who is employed on a full-time basis and who has a valid concealed carry endorsement issued prior to August 28, 2013, or a valid concealed carry permit, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties.

C. Subdivisions (1), (5), (8), and (10) of Subsection A of this section do not apply when the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subdivision (1) of Subsection A of this section does not apply to any person nineteen years of age or older or eighteen years of age or older and a member of the United States Armed Forces, or honorably discharged from the United States Armed Forces, transporting a concealable firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his or her dwelling unit or upon premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this state. Subdivision (10) of Subsection A of this section does not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes of transporting a student to or from school, or possessed by an adult for the purposes of facilitation of a school-sanctioned firearm-related event or club event.

D. Subdivisions (1), (8), and (10) of Subsection A of this section shall not apply to any person who has a valid concealed carry permit issued pursuant to Sections 571.101 to 571.121 RSMo, a valid concealed carry endorsement issued before August 28, 2013, or a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state.

E. Subdivisions (3), (4), (5), (6), (7), (8), (9), and (10) of Subsection A of this section shall not apply to persons who are engaged in a lawful act of defense pursuant to Section 563.031 RSMo.

F. Notwithstanding any provision of this Section to the contrary, the state shall not prohibit any state employee from having a firearm in the employee's vehicle on the state's property provided that the vehicle is locked and the firearm is not visible. This subsection shall only apply to the state as an employer when the state employee's vehicle is on property owned or leased by the state and the state employee is conducting activities within the scope of his or her employment. For the purposes of this Subsection, "state employee" means an employee of the executive, legislative, or judicial branch of the government of the state of Missouri.

G. Nothing in this Section shall make it unlawful for a student to actually participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored or club-sponsored firearm-related events, provided the student does not carry a firearm or other

weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any other function or activity sponsored or sanctioned by school officials or the district school board.

H. A person who commits the crime of unlawful use of weapons under:

1. Subdivision (2), (3), (4), or (11) of Subsection A of this section shall be guilty of a class E felony;
2. Subdivision (1), (6), (7), or (8) of Subsection A of this section shall be guilty of a class B misdemeanor, except when a concealed weapon is carried onto any private property whose owner has posted the premises as being off-limits to concealed firearms by means of one or more signs displayed in a conspicuous place of a minimum size of eleven inches by fourteen inches with the writing thereon in letters of not less than one inch, in which case the penalties of Subsection 2 of Section 571.107 RSMo shall apply;
3. Subdivision (5) or (10) of Subsection A of this section shall be guilty of a class A misdemeanor if the firearm is unloaded and a class E felony if the firearm is loaded;
4. Subdivision (9) of Subsection A of this Section shall be guilty of a class B felony, except that if the violation of subdivision (9) of subsection 1 of this section results in injury or death to another person, it is a class A felony.

I. Violations of Subdivision (9) of Subsection A of this Section shall be punished as follows:

1. For the first violation a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony;
2. For any violation by a prior offender as defined in Section 558.016 RSMo, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation or conditional release for a term of ten years;
3. For any violation by a persistent offender as defined in section 558.016 RSMo, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation, or conditional release;
4. For any violation which results in injury or death to another person, a person shall be sentenced to an authorized disposition for a class A felony.

J. Any person knowingly aiding or abetting any other person in the violation of Subdivision (9) of Subsection A of this Section shall be subject to the same penalty as that prescribed by this section for violations by other persons.

K. Notwithstanding any other provision of law, no person who pleads guilty to or is found guilty of a felony violation of Subsection A of this Section shall receive a suspended imposition of

sentence if such person has previously received a suspended imposition of sentence for any other firearms- or weapons-related felony offense.

L. As used in this section "qualified retired peace officer" means an individual who:

1. Retired in good standing from service with a public agency as a peace officer, other than for reasons of mental instability;
2. Before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;
3. Before such retirement, was regularly employed as a peace officer for an aggregate of fifteen years or more, or retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;
4. Has a nonforfeitable right to benefits under the retirement plan of the agency if such a plan is available;
5. During the most recent twelve-month period, has met, at the expense of the individual, the standards for training and qualification for active peace officers to carry firearms;
6. Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
7. Is not prohibited by federal law from receiving a firearm.

M. The identification required by Subdivision (1) of Subsection B of this section is:

1. A photographic identification issued by the agency from which the individual retired from service as a peace officer that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm; or
2. A photographic identification issued by the agency from which the individual retired from service as a peace officer; and
3. A certification issued by the state in which the individual resides that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the state to meet the standards established by the state for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm.

SECTION III: Section 210.400 is amended such that it is removed in its entirety and replaced with the following language:

Section 210.400. Possession or control of a controlled substance- penalty

A. A person commits the offense of possession of a controlled substance if he or she knowingly possesses a controlled substance, except as authorized by this Section or Chapter 195 RSMo.

B. The offense of possession of any controlled substance except thirty-five grams or less of marijuana or any synthetic cannabinoid is a class D felony.

C. The offense of possession of more than ten grams but thirty-five grams or less of marijuana or any synthetic cannabinoid is a class A misdemeanor.

D. The offense of possession of not more than ten grams of marijuana or any synthetic cannabinoid is a class D misdemeanor. If the defendant has previously been found guilty of any provisions of this Code relating to controlled substances or found guilty of any offense of the laws related to controlled substances of this state, or of the United States, or any state, territory, or district, the offense is a class A misdemeanor. Prior findings of guilt shall be pleaded and proven in the same manner as required by Section 558.021RSMo.

E. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of this Section, it shall not be necessary to include any exception, excuse, proviso, or exemption contained in this Section or Chapter 195 RSMo, and the burden of proof of any such exception, excuse, proviso or exemption shall be upon the defendant.

SECTION IV: Section 600.030 is amended such that it is removed in its entirety and replaced with the following language:

Section 600.030- License Required It shall be unlawful for any person to manufacture, brew, distill, sell or distribute alcoholic beverages without first having a license authorizing such manufacture, brewing, sale or exposing for sale, or distribution in compliance with the terms of this Chapter. Such license shall be exhibited in a conspicuous location on the premises and in plain view of patrons.

SECTION V. That the provisions of this ordinance are severable and if any provision hereof is declared invalid, unconstitutional or unenforceable, such determination shall not affect the validity of the remainder.

SECTION VI. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION VII. This ordinance shall be effectively immediately upon passage and approval.

BE IT REMEMBERED THE PRECEDING ORDINANCE WAS ADOPTED ON ITS SECOND READING THIS ____ DAY OF _____, 2017, BY THE FOLLOWING VOTE:

Alderman Hammack	_____	Alderman Ray	_____
Alderman Ford	_____	Alderman Roberts	_____
Alderman Dunsworth	_____	Alderman Harlan	_____

APPROVED:

ATTEST:

Holly Stark, Mayor

Nick Jacobs, Acting City Clerk

Please find the enclosed ordinance to change the process whereby a citizen can appeal a Board of Adjustment decision. Previously, SECTION 400.2310 of the City Code directed those aggrieved by a decision of the Board of Adjustment to appeal to the City's municipal court. However, Section 89.110 RSMo gives the county circuit courts jurisdiction over these appeals. The enclosed ordinance changes the City Code to comply with 89.110.

Best,



LAUBER MUNICIPAL LAW, LLC
Serving those who serve the public

Peter F. Rottgers
Lauber Municipal Law, LLC
250 NE Tudor Road
Lee's Summit, Missouri 64086

BILL NO. 2017-04

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CITY CODE TO COMPLY WITH PROVISIONS OF §89.110 RSMo.

WHEREAS, from time to time, provisions of the City Code of Peculiar, Missouri must be amended to comply with state law, and

WHEREAS, pursuant to §79.110, RSMo., the Mayor and Board of Aldermen of the City “shall have the power to enact and ordain any and all ordinances not repugnant to the constitution and laws of the his state, and such as they shall deem expedient for the good government of the city, the preservation of peace and good order, the benefit of trade and commerce and the health of the inhabitants thereof, and such other ordinances, rules and regulations as may be deemed necessary to carry such powers into effect, and to alter, modify or repeal the same,” and

WHEREAS, it is in the interest of public health, safety and welfare that the City Code of Peculiar, Missouri be consistent with Missouri law.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI THAT SECTION 400.2310 OF THE CITY CODE BE AMENDED AS FOLLOWS:

SECTION I. Section 400.2310 is amended such that it is removed in its entirety and replaced with the following language:

Section 400.2310 Appeal to the Circuit Court

Any person or persons jointly or severally aggrieved by a decision of the Board of Adjustment, or any City entity performing a substantially similar quasi-judicial function from which no further administrative appeal is available, may present to the Circuit Court of Cass County a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the Board of Adjustment or the appropriate counterpart if a different agency, and such petition and accompanying proceedings shall be governed by §89.110 RSMo.

SECTION II. This ordinance shall be effectively immediately upon passage and approval.

BE IT REMEMBERED THE PRECEDING ORDINANCE WAS ADOPTED ON ITS SECOND READING THIS ____ DAY OF _____, 2017, BY THE FOLLOWING VOTE:

Alderman Hammack	_____	Alderman Ray	_____
Alderman Ford	_____	Alderman Roberts	_____
Alderman Dunsworth	_____	Alderman Harlan	_____

APPROVED:

ATTEST:

Holly Stark, Mayor

Nick Jacobs, Acting City Clerk

Summary of Solicitation for Qualifications

FTTH Developer

Proposed Fiber to the Home (FTTH) Project

Peculiar, Missouri

February 3, 2017

Purpose:

The purpose of this solicitation was to find a developer that could assist the City in the design, construction and operation of a high speed broadband network to serve the City of Peculiar, Mo. This solicitation was approved by the board of alderman.

The objective of this effort was to discover a firm or team of firms that that were experienced, innovative and had the financial strength to assist the City in this effort. The firm or team of firms selected would serve as the lead developer of the project under the administrative review and in partnership with the City.

Project Constraints:

All firms expressing an interest in the project were alerted to the following constraints applied to this endeavor by the City:

- The City desires an “open access” network allowing multiple private vendors to offer competing services (voice, video and internet) to the businesses and residents of the City. ***The City does not intend to compete with private businesses for the provision of these services; only to provide the conduit for such services to be offered.***
- The City is willing to partner with the selected developer to assist in financing, to offer rights-of-way, provide central office space and assist in marketing of the initial subscribers. ***It was made clear that the City desires to minimize the financial risk of this deployment to the tax payers of the City.***
- In addition, to providing services to the businesses and residents of the City it is desirous to optimize service to the City’s water, sewer, administrative and public safety enterprises.

- The project must offer “future-proofing”; that is to say that the project infrastructure shall anticipate the future demands on such a fiber network and be flexible to accommodate such changes.

Process:

The following process was followed in the solicitation of qualification statements:

1. A detailed request for qualifications (RFQ) was developed and approved by City Staff.
2. A city staff selection committee composed of Gary Mallory, Economic Development Director and Philip Costanzo, IT Director was formed. This committee would be responsible for scoring the various submittals and forming the recommendation of a selected firm or team of firms for consideration by the board of alderman.
3. The RFQ was advertised in accordance with City procurement policy beginning on October 16th, 2016. (An affidavit of publication is available for review).
4. In addition to the formal advertisement, invitations were sent to those firms that had previously expressed an interest in the project. Also, notices were sent to several national fiber network industry associations for distribution to their members.
5. A formal informational meeting was held on November 10th to review the RFQ and answer any questions that potential proposers might have.
6. Written responses were due on January 20th, 2017. The City received three responses:
 - a. FairPoint Communications
 - b. Corning Optical Communications Inc. Consortium
 - c. Entry Point Networks, LLC
7. All submittals were independently scored by the staff selection committee and the results were as follows:

Summary of Scores

Proposer	Total Score	Average Score	Ranking
Entry Point	50	25	3
FairPoint Communications	120	60	2
Corning Optical Communications	144	72	1

8. The selection committee investigated each proposer's references.
9. All three firms were interviewed by the selection committee and a recommendation formulated.

Recommendation:

It is the recommendation of the selection committee that the board of alderman approve entering into negotiations with the Corning Optical Communications Consortium. This recommendation was in part determined by the following attributes of the consortium's qualifications:

- The innovative concepts outlined for deployment of the system.
- Their willingness to create an "open access" network
- Their experience deploying a similar network at Baldwin, Kansas
- The fact that Corning and their equipment supplier, Graybar, are both GSA scheduled vendors allowing for "piggy backing" of procurement.
- Their potential and willingness to consider purchase of lease securities in the financing of the project through annual appropriation based municipal lease formats.

It was also recognized that the remaining two firms offer unique and value added elements in their qualifications.

- FairPoint Communications – As the incumbent communications provider they have a valuable knowledge of the community but more importantly they have some existing fiber assets throughout the proposed service area. The committee intends to sponsor a meeting between FairPoint and Corning during the Corning negotiations to encourage and fully explore the manner in which FairPoint could participate in the project.
- Entry Point – This firm did not qualify as a developer but did exhibit a very innovative and interesting software application that could significantly enhance the development of an "open access" network. For this reason, the committee will request during negotiations that Corning consider this software for possible incorporation into this project.

Prepared By:

Gary M. Lee PE

RESOLUTION 2017-02

A RESOLUTION OF THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI SELECTING CORNING CONSORTIUM AS THE FIRM TO ASSIST IN IMPLEMENTING BROADBAND IN THE CITY OF PECULIAR AND DIRECTING STAFF TO BEGIN NEGOTIATIONS.

WHEREAS, the City of Peculiar put out an Request For Qualifications seeking qualified firms to assist the City in implementing a fiber network throughout the City., and;

WHEREAS, three firms submitted qualifications. And;

WHEREAS, City staff reviewed the credentials of the three submittals and came to consensus on a recommendation for the Board of Aldermen.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI

Section 1. The Board of Aldermen of the City of Peculiar, Missouri select Corning Consortium as the firm best suited to implement a fiber network in the City of Peculiar.

Section 2. Staff is hereby directed to begin negotiations with Corning Consortium for a future contract.

Section 2. *Effective Date.* The effective date of this Resolution shall be the ____ day of _____, 2017.

Upon a roll call, said Resolution was adopted by the following vote:

Alderman Ford	_____	Alderman Ray	_____
Alderman Hammack	_____	Alderman Roberts	_____
Alderman Harlan	_____	Alderman Dunsworth	_____

APPROVED:

ATTEST:

Holly Stark, Mayor

Nick Jacobs, Acting City Clerk