



**GARDINER CITY COUNCIL  
AGENDA ITEM INFORMATION SHEET**



<b>Meeting Date</b>	12/09/2020	<b>Department</b>	Buildings & Grounds
<b>Agenda Item</b>	4.f Consideration of Surplus Items Being Sent to Bid: 1960 (?) Onan Generator		
<b>Est. Cost</b>	n/a		

**Background Information**

There is a generator located at the South Gardiner Fire Station that has not been used for many years. The generator is estimated to be early 60's. This unit does not have up to date safety features that a generator of today would include.

McFarland Electric noted that the generator should be valued somewhere around \$500-\$1,000.

The policy on disposition of other city property is attached. Please see Section 7 sub sections B and C.

<b>Requested Action</b>	'I move to send the Onan Generator out to bid in the most economical manner and in the best interest of the city.'
<b>City Manager and/or Finance Review</b>	The City Manager recommends the above action.
<b>Council Vote/ Action Taken</b>	
<b>Departmental Follow-Up</b>	

<b>City Clerk Use Only</b>	1 <sup>st</sup> Reading _____	Advertised _____	EFFECTIVE DATE _____
	2 <sup>nd</sup> Reading _____	Advertised _____ w/in 15 Days	
	Final to Dept _____	Updated Book _____	Online _____



**City of Gardiner, Maine**

**POLICY ON DISPOSITION OF TAX ACQUIRED PROPERTY (TAP)  
& OTHER CITY PROPERTY**

**Date of Original Approval:** December 21, 2016

**Effective Date:** December 22, 2016

**Date of Amendment(s):** January 22, 2020

**Level:** \_\_\_ Divisional  
\_\_\_ Departmental  
 X  City-Wide

**Policy Statement**

The purpose of this policy is to establish procedures for the efficient and fair management, administration, and disposition of real property acquired under the tax lien procedures set forth in Title 36 M.R.S.A. §941 et. seq, as amended, and sewer lien procedures. Nothing in this policy shall be interpreted to (1) give additional substantive or procedural rights to owners or former owners of property forfeited for non-payment of taxes; (2) to limit the right of the City Council to waive these guidelines if the City Council deems it to be in the City's best interest to do so; or (3) to limit any and all rights and remedies available to the City in law and equity.

**References**

36 M.R.S.A. §941 et. seq

**Policy Definitions**

None.

**Policy Description**

**Section 1. Actions Concerning Tax Acquired Property Pending Final Disposition**

1.1 The Tax Collector/Deputy Treasurer, Code Enforcement Officer, and other City department heads as necessary, shall review and inspect (if possible) each property prior to the last Council meeting before foreclosure, so that they may be identified on the Tax-Acquired Properties List and a determination may be made as to whether the foreclosure is in the best interest of the City, based on the following criteria:

- A. The potential liabilities (environmental, structural safety, health or other hazards associated with the property) that the City might assume by taking possession or by

operating the property and whether the City's interests in light of such potential liabilities would be best served by immediately disposing of the property or retaining it;

- B. The level of insurance required to protect the City's interest in the property and to protect the City from liability in the event that the property is retained;
  - C. Whether the property is currently occupied and the likelihood of requiring legal assistance (and estimated costs of the same) to require the occupants to quit the premises; and
  - D. Any other relevant information regarding a subject property.
- 1.2 Unless otherwise directed by law, following the foreclosure of any tax lien mortgage, the Tax Collector/Deputy Treasurer shall by certified mail, return receipt requested, notify the last known owner of record that his, her, or their right to redeem the property has expired. The notification shall also state that the property will be disposed of in accordance with this policy, a copy of which shall be included with the notification. The same shall be sent via US Mail, First Class with Certificate of Mailing.
- 1.3 Each year the Tax Collector/Deputy Treasurer shall prepare a list of properties whose liens for non-payment of property taxes and sewer charges are due to mature into an automatic foreclosure and provide this list (the "Tax Acquired Properties List") to the City Council in advance of the last Council meeting before the foreclosure date.
- 1.4 In the event that a tax-acquired property remains or becomes vacant for sixty (60) consecutive days following the date of foreclosure of the tax liens under which the City becomes the owner of a property, the City shall obtain liability coverage for the property.

## **Section 2. Review and Disposition of Tax-Acquired Properties**

- 2.1 The City may offer arrangements to the previous owner to secure just and prompt payment of outstanding and current taxes, related interest and costs to be paid within 30 days of foreclosure. Terms and conditions of said arrangements include without limitation:
- A. The City may present the taxpayer with a written notice for payment of all past due and currently due taxes, interest, costs under the tax lien process, and all outstanding sewer charges, assessments and other lawful charges as are due and owing to the City and the Sewer Department.
  - B. The City's costs shall include all costs incurred or to be incurred by the City in addition to those incurred in the tax lien process and shall include, but not be limited to, insurance costs, registry filings and mailing costs, advertisement costs, and attorney's fees.
  - C. Failure of an owner to respond within thirty (30) days of a written notice will result in a forfeiture of the property being either retained by the City or sold under the other provisions of this policy.

2.2 In the event any previous owner fails to agree and forfeits a property, the City will summarize the results of its Section 1.1 review of each property and make one of the following recommendations:

- A. Retain the property for a particular public purpose. The City Manager, in consultation with the City Solicitor shall review and pursue, if appropriate or required, judicial confirmation of the City's right, title or interests in the subject property under 14 M.R.S.A. §6651 et seq, and any other applicable laws.
- B. Sell the property with or without conditions.
- C. Take no action other than to set a date for further consideration by the City Council, which shall occur at least annually.

The City Manager shall forward his or her reviews, recommendations, and determinations regarding each property to the City Council. The City Council may override a particular recommendation of the City Manager to retain a property but shall otherwise direct that the property be processed in conformance with the terms of this policy.

### **Section 3. Property to be retained**

- 3.1 If the City Council deems it to be in the City's best interest, it may retain the acquired property for a specified purpose. By way of example, but not limitation, the City Council may deem it to be in the City's best interest to retain the property where:
  - A. The property has or will have recreational value or economic value to the City, or
  - B. The property has or will have potential for a public facility or additions to public facilities.
- 3.2 If the property is retained, the City Council may pursue an action for equitable relief in accordance with the provisions of Title 36 M.R.S.A. §946, if desirable, and any other applicable laws.
- 3.3 The City Manager shall cause the tax-acquired property retained to be managed and insured as it would any other municipal property.
- 3.4 If retained, the City shall pay any outstanding lawful charges.

### **Section 4. Property to be Sold If the City Deems it to be in the City's Best Interest**

- 4.1 The City Council shall determine the method of sale for properties acquired for non-payment of taxes. Methods may include but not be limited to brokerage sale, negotiated sale, or public bid process.
- 4.2 If the public bid process is utilized, the City shall cause to be published a notice of the sale of the tax-acquired property in a local newspaper. The notice shall be posted in a conspicuous place within City Hall. The notice shall be sent to the person from whom the property was acquired

and the property owners whose property immediately abuts the property to be sold. The notice shall specify the time and date bids are due and the general terms of the bid. It also shall contain information useful to prospective bidders and the terms of the sale as determined by the City.

- 4.3 All bids shall be submitted on forms prescribed by the City in an envelope clearly marked "Tax-Acquired Property Bids" and accompanied by a cashier's or certified check equal to the bid deposit. Bids shall be publicly opened and read on the date and at the time specified. The City Council shall determine the successful bidder.
- 4.4 The City of Gardiner reserves the right to accept or reject any or all bids, and waive any of the requirements of this policy should the City Council, in its sole determination, judge such actions to be in the best interest of the City. Instances where this right may be invoked include, but are not limited to:
  - A. The City Council may wish to sell the property to an abutting property owner rather than the highest bidder.
  - B. The City Council may determine a use other than the use proposed by the highest bidder is in the best interest of the City.
- 4.5 Should the City Council reject all bids, the property may again be offered for sale.
- 4.6 Should the bidder fail to close, the City shall retain the bid deposit. The City Council may offer the property to the next highest or any other bidder, if it determines that it is in the best interest of the City.
- 4.7 Title to tax-acquired property shall be transferred only by means of a Municipal Quit-Claim Deed. This shall be noted in any sale/bid documents so prospective buyers are aware that they may have difficulty obtaining bank financing and that the previous owner still has rights under law to attempt to reacquire the property.
- 4.8 Unless the property is vacant at the time of sale, the successful bidder shall be responsible for the removal of occupants and contents in a manner according to law.
- 4.9 The proceeds of the sale shall be distributed in the following manner: (1) all taxes, interest and costs under the tax lien process shall be paid, (2) all outstanding sewer rates, assessments, or other lawful charges shall be paid, and (3) any balance shall be placed in the General Fund as TAP revenue for use in future fiscal year budgets, unless otherwise appropriated by City Council.

#### **Section 5. Waiver of Foreclosure**

- 5.1 In those situations where it has been determined that it would not be in the best interest of the City to acquire the property, the City Council may authorize the Tax Collector/Deputy Treasurer to record a waiver of foreclosure in the Registry pursuant to 36 M.R.S.A. §944, provided that this determination is made before the right of redemption expires.
- 5.2

### **Section 6. Taking Possession of Property**

- 6.1 At such time as it considers the proper disposition of a parcel of tax acquired property, or at such earlier time as may be recommended by the City Manager, the City Council shall consider whether it would be desirable for the City to take immediate possession of the property in order to preserve the value of the property or otherwise protect the interests of the City.
- 6.2 In making the determination under Section 6.1, the City Council shall consider the condition of the property, the occupancy status, any potential risks to the value of the property, the status of insurance, any obstacles to exercising possession, the possible need for court assistance, and any other factors that the City Council deems appropriate.

### **Section 7. Sale of City Property (non-Tax Acquired)**

- 7.1 Equipment or material that is obsolete or surplus is to be reported to the City Manager for disposition.
- A. Sales that have an estimated dollar value over \$5,000 shall be sold at a public auction or through formal competitive bids. The City Council shall award such bids.
  - B. Sales from \$1,000 to \$5,000 shall be supported by price quotations from preferably three (3) competitive sources or adequate explanation from the City Manager justifying the absence of such competition. The City Manager shall award such sales.
  - C. Sales estimated at less than \$1,000 shall be conducted in the most economical manner and in the best interest of the City. The City Manager shall award such sales.
  - D. While nothing shall prohibit employees from purchasing these types of items from the City, they must do so on their own personal time. In addition, no employee shall be permitted to use or come to possess any such item, unless properly purchased under this policy.
  - E. The City Manager shall have the final say on the estimated dollar value of such property, however, all equipment or materials disposed under this policy shall be advertised in the most economically feasible way for the city. i.e. social media, website, bulletin board, etc.