



**GARDINER CITY COUNCIL
AGENDA ITEM INFORMATION SHEET**



Meeting Date	08/05/2020	Department	Police
Agenda Item	4.I Acceptance of Criminal Forfeiture Funds from District Attorney, In Rem		
Est. Cost	n/a		

Background Information

The Office of the District Attorney asks that the City Council be informed of criminal forfeiture funds that may be available, in rem, to the city. Currently the City Council is being asked to approve the acceptance of \$1,054.00, and a Springfield XD .45 semi-auto pistol with a thirteen (13) round capacity magazine, or such amount ordered by the court.

See the attached form.

Requested Action	'I move to accept criminal forfeiture funds pursuant to 15 M.R.S.A. § 5824(3) and § 5826(6) in the amount of \$1,054.00 and weapon, or such amount ordered by the court, in rem, on the grounds that the Gardiner Police Department did make a substantial contribution to the investigation of this or a related criminal case.'
City Manager and/or Finance Review	The City Manager recommends the above action.
Council Vote/ Action Taken	
Departmental Follow-Up	

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

STATE OF MAINE
KENNEBEC, ss

DISTRICT COURT
DOCKET NO: AUGDC-JV-20-11

STATE OF MAINE

V.

CITY OF GARDINER
APPROVAL OF TRANSFER
15 M.R.S.A. §5824(3) & 5822(4)(A)

JAMIQUE MITCHELL
\$1,054.00 IN U.S. CURRENCY
Springfield XD .45 semi-auto pistol

NOW COMES the City of Gardiner, Maine, by and through its legislative body, the Gardiner City Council, and does hereby grant approval pursuant to 15 M.R.S.A. §5824(3) & §5826(6) to the transfer of the \$1,054.00 and the Springfield XD .45 semi-auto pistol with a 13 round capacity magazine, or such amount ordered by the Court of the above-captioned Defendant *In Rem*, on the grounds that the Gardiner Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the Gardiner, Maine, City Council, do hereby approve of the transfer of the Defendant(s) *In Rem*, namely the \$1,054.00 and the Springfield XD .45 semi-auto pistol with a 13 round capacity magazine, or such amount ordered by the Court, pursuant to 15 M.R.S.A. §5824(3) & §5826(6) by vote of the Gardiner Town Council.

DATED:

Chairperson/Mayor/Councilman/Clerk
Gardiner City Council
Gardiner, Maine
(impress Legislative Body Seal Here)

Maeghan Maloney
District Attorney

Frayla Tarpinian
Deputy District Attorney



KENNEBEC COUNTY COURTHOUSE
95 State Street, Augusta, ME 04330
623-1156
Fax: 622-5839

SOMERSET COUNTY COURTHOUSE
41 Court Street, Skowhegan, ME 04976
474-2423
Fax: 474-7407

STATE OF MAINE
OFFICE OF THE DISTRICT ATTORNEY
PROSECUTORIAL DISTRICT IV

July 27, 2019

Christine Landes, City Manager
Gardiner City Hall
6 Church Street
Gardiner, Maine 04345

Re: State of Maine v. Jamique Mitchell
Kennebec County Superior Court Docket No. AUGDC-JV-20-11
Criminal Forfeiture
Required Vote of City/Town Approval of Transfer of Forfeiture Assets

Dear City Manager Landes:

Enclosed please find a draft City of Gardiner Approval Form for submission to the City Council.

Please inform the City Council that:

- A. 15 M.R.S.A. §5824(3) requires that, before any forfeitable item may be transferred to a State Agency, County or Municipality, the legislative body of that entity must publicly vote to accept the item(s) **if subsequently ordered forfeited by the Court;**
- B. Under Rules issued by the Department of the Attorney General, a public vote must be made on each forfeiture "approval" and a "continuing resolution" of approval cannot be accepted;
- C. As with all forfeitures, an approval of a transfer by the legislative body does not guarantee either that the Defendant(s) *In Rem* will in fact be forfeited or, if forfeited, that the Court will order the item(s) transferred to the approving Department, Agency, County or Municipality. The legislative body's

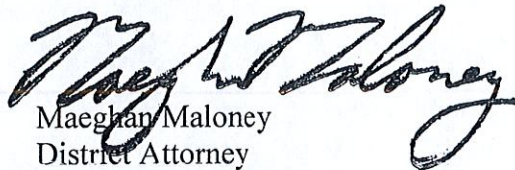
approval only signifies that, if the Defendant(s) *In Rem* are in fact ordered forfeited and, if the Attorney General and the Court agree to a transfer of all or part of the Defendant(s) *In Rem* to a Department, Agency, County or Municipality based upon the “*substantial contribution*” of that Department, Agency, County or Municipality, then that entity is in fact, willing to accept the Defendant(s) *In Rem* or portions thereof. In order to streamline what is otherwise a cumbersome forfeiture process, it is our practice to seek State, County or Municipal legislative approval in anticipation of the final order of forfeiture. However, final forfeiture is not guaranteed and both the legislative body and the law enforcement agency involved are cautioned that they **should not encumber** funds or property until a Final Order granting them lawful title to the property is delivered to them;

- D. Under the provisions of the Forfeiture Statute, if the legislative body fails to approve a transfer in a timely manner, any forfeited items shall be transferred to the State of Maine General Fund.

Assuming your legislative body does grant its approval, kindly see to it that the accompanying form is signed by the appropriate person and is “embossed” with the seal of that legislative body. Then, please return the **original** to me for filing and retain a copy for your records.

My sincere thanks for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely yours,


Maeghan Maloney
District Attorney

MM|smf
Enclosure