



GARDINER CITY COUNCIL
AGENDA ITEM INFORMATION SHEET



Meeting Date	01/22/2020	Department	Police
Agenda Item	4.5 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 \$1,170.50 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 \$1,170.50, 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 _____

AARON M. FREY
ATTORNEY GENERAL



STATE OF MAINE
OFFICE OF THE ATTORNEY GENERAL
6 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0006

December 4, 2019

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84 HARLOW ST. 2ND FLOOR
BANGOR, MAINE 04401
TEL: (207) 941-3070
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415 CONGRESS ST., STE. 301
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14 ACCESS HIGHWAY, STE. 1
CARIBOU, MAINE 04736
TEL: (207) 496-3792
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TTY USERS CALL MAINE RELAY 711

Chief James Toman
Gardiner Police Department
6 Church Street
Gardiner, ME 04345

RE: State of Maine vs. Kevin Soto
Kennebec County Unified Criminal Court Doc. No. CR-19-1472
Criminal Forfeiture
Required Vote of Municipal Officers/Approval of Transfer of Forfeiture Assets

Dear Chief Toman:

Enclosed please find a draft Approval form for submission to the municipal officers.

Please inform the municipal officers 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 municipal legislative body 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 municipal 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 municipal 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 approval in anticipation of the final order of forfeiture. However, final forfeiture is not guaranteed and both the municipal 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 municipal 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 municipal 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 the municipality. 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,

A handwritten signature in black ink, appearing to be 'KS' or similar, written in a cursive style.

Katie Sibley
Assistant Attorney General
CRIMINAL DIVISION

Enclosure

STATE OF MAINE
Kennebec, ss

UNIFIED CRIMINAL COURT
Docket No. CR-19-1472

State of Maine	}	
	}	Municipality of Gardiner
v.	}	Approval of Transfer
	}	15 M.R.S.A. §5824(3) & §5822(4)(A)
Kevin Soto,	}	
Defendants;	}	
	}	
And	}	
	}	
\$2,215.00 U.S. Currency,	}	
Defendant(s) In Rem	}	

NOW COMES the municipality of Gardiner, Maine, by and through its municipal officers, and does hereby grant approval pursuant to 15 M.R.S.A. § 5824(3) & §5826(6) to the transfer of the above captioned Defendant(s) in Rem (\$1,170.50 U.S. Currency), or any portion thereof, 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 municipality of Gardiner, Maine does hereby approve of the transfer of the Defendant(s) in Rem, or any portion thereof, pursuant to 15 M.R.S.A. § 5824(3) & §5826(6) by vote of the Gardiner municipal legislative body on or about

_____.

Dated: _____

Municipal Officer
Gardiner, Maine

(Impress municipal legislative body seal here)