

**VAUGHAN FUND
JANUARY 26, 2010**

Chairman David Burke opened the meeting at 6:30pm. Trustees present included Michelle Kareckas, Jean Demetracopoulos, Gerald W. MacPherson, Sr., and David H. Webster. Town Manager John B. Schempf was also present.

APPROVAL OF MINUTES

On a motion by Mrs. Demetracopoulos, seconded by Mrs. Kareckas, it was unanimously voted to adopt the minutes of November 24, 2009 as written.

NEW BUSINESS

1. Treasurer MacPherson gave an overview of the fund balance and the amount available for grants. Current balances through December 31, 2009 are Fidelity \$281,066.23, Kennebunk Savings \$50,397.09, and Edward Jones \$50,498.40, totaling \$381,961.72.

The fund balance increased by \$48,681.56 since January 1, 2009. According to the policy, \$34,077.09 is available for grants (70% of the change in value).

Note was made that the Trustees could disburse more or less than the amount available. Mr. Burke stated that the next meeting would be held after March 1st (applications for grants are due by February 28th). He added that he would like to be conservative with grants.

Mr. Webster asked if we had received any applications yet. No.

ADJOURNMENT

On a motion by Mrs. Demetracopoulos, seconded by Mr. MacPherson, it was unanimously voted to adjourn the meeting at 6:35pm.

Attest:

Barbara Bennett, CCM
Town Clerk

VAUGHAN FUND MARCH 23, 2010

Treasurer Gerald MacPherson, Sr. opened the meeting at 8:02pm. Trustees present included Michelle Kareckas, Jean Demetracopoulos, and David H. Webster. Town Manager John B. Schempf was also present. David Burke was not in attendance.

NEW BUSINESS

The Trustees received 6 grant applications.

1. South Berwick Youth Center - \$1200 for a TV. Louise Anderson was present. Louise stated that the TV would not be used to simply watch television. It would be used to by various groups to watching training videos and also for promoting physical activity on the Wii Fit. Trustee concerns included the actual use of the TV and whether the request actually fit the criteria of winter recreation for the youth of South Berwick.

On a motion by Mrs. Kareckas, seconded by Mrs. Demetracopoulos, it was voted 3-1 (Mr. Webster opposed) to grant the South Berwick Youth Center \$1000 for the purchase of a TV.

2. South Berwick Recreation - \$4800 for a portable ice rink. Sharon Brassard the Recreation Director was present. Jeff Hoerth of the **Children's Leadership Council** is also involved. Volunteers will be responsible for its set up/take down and maintenance. The initial site under consideration for the rink is in the field near the fire station. Mrs. Demetracopoulos questioned whether there are restricted uses of the area because of the lease to Cummings Mill LLC.

On a motion by Mrs. Kareckas, seconded by Mrs. Demetracopoulos, it was unanimously voted to grant South Berwick Recreation \$4800 for the purchase of a portable ice rink.

3. South Berwick Recreation - \$1150 for winter recreation activities such as tubing, cross country skiing/snowshoeing, and the Powderhouse cardboard box sled derby. Mrs. Brassard stated that these are always popular activities and she is trying to keep the cost manageable.

On a motion by Mrs. Kareckas, seconded by Mr. Webster, it was unanimously voted to grant South Berwick Recreation \$1150 for winter recreation activities.

4. Vaughan Woods Memorial State Park - \$575 for warm-up stations. Glenn Dochtermann, Park Manager was present. He explained that the stations would provide stretch & work-out areas for people prior to walking or running the trails in the park.

On a motion by Mrs. Kareckas, seconded by Mrs. Demetracopoulos, it was unanimously voted to grant \$575 to the Vaughan Woods Memorial State Park for the purchase of materials to build warm-up stations.

5. Vaughan Woods Memorial State Park - \$1250 for maple sugaring. Mr. Dochtermann explained that the funds would be used to purchase the supplies to conduct and demonstrate the practice of tapping trees and collecting and boiling the sap. He added that he is trying to enhance programs and festivities at the Park.

On a motion by Mrs. Kareckas, seconded by Mrs. Demetracopoulos, it was voted 3-1 (Mr. Webster opposed) to grant the Vaughan Woods Memorial State Park \$750 for the maple sugaring at the Park.

6. Vaughan Woods Memorial State Park & South Berwick Recreation - \$1825 for snowshoes. Concerns were raised in regard to equipment access and prioritizing usage for South Berwick residents.

Mr. Webster made a motion to grant \$1825 to be split evenly between the Vaughan Woods State Park and South Berwick Recreation for the purchase of snowshoes and Yak-trax. Mrs. Demetracopoulos seconded the motion.

Mrs. Kareckas made a motion to amend by requiring a policy for disbursement and return of the equipment. Mrs. Demetracopoulos seconded the amendment. The amendment passed with a unanimous vote.

The original motion, as amended, was voted on and passed unanimously.

ADJOURNMENT

On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted to adjourn the meeting at 9:17pm.

Attest:

Barbara Bennett, CCM
Town Clerk

TO: Elizabeth Vaughan Fund
FROM: Sharon Brassard
DATE: October 1, 2010
RE: Recreation Department Snowshoe Policy 2010-2011

Dear Vaughan Fund Trustees,

Thank you for your support of winter recreation and the approval of funds to expand existing and the creation of new winter activities.

Project name – Snowshoes

Funds - \$1,825.

The Recreation Department and the Vaughan Woods Memorial State Park will share the usage of 24 pairs of children and adult snowshoes and 24 pairs of Yak-Trax (traction devices for shoes or boots).

The Recreation Department will keep 12 pairs of snowshoes and Yak-Trax at the Youth Center to be used for an after school program for that location or at the MGWS school for an after school program there. These programs will have an instructor and/or volunteer leaders. If we find that we need more pairs than 12 we will coordinate that with Glenn Dochtermann, Park Manager.

The hope is that once students try this equipment that they will enthusiastically encourage their parents and families to want to try out this equipment and new winter activity. Families may go to Vaughan Woods on weekends and sign out the equipment by filling out a form and leaving a picture ID at the office. The snowshoes may be used at the Vaughan Woods field or trails and returned to the office that day. South Berwick residents will be able to call the Vaughan Woods office to reserve their snowshoes as well.

If the Recreation Department plans to use some of the equipment on a weekend, for example a program to go to Harris Farm in Lyman, ME, this will be coordinated with Glenn Dochtermann. Participants will again sign out equipment and return at the end of the supervised trip.

From: Dochtermann, Glenn [mailto:Glenn.Dochtermann@maine.gov]

Sent: Friday, March 26, 2010 9:25 PM

To: Kim Perry

Cc: Roberta Orsini

Subject: Snowshoes for use at Vaughan Woods M.S.P.

Hi Sharon,

I plan the following procedure for loaning out SNOWSHOES at Vaughan Woods Park: Please share this with the Town office as requested.

One thing the snowshoes are for will be workshops on weekends at the park.

We are planning several weekend training hikes for people to try them out before they venture out to purchase their own.

The same for the yak tracks, a way to see if this is what they want to do for recreation in the winter.

We would set them up and go on a small hike with us and then back to the office. No fee necessary here.

The next big use would be at special events, some winter fun day for people to try them out in the open fields, under our supervision.

If I need more or Sharon needs more we can loan more to each other. We plan to do some of the event together, as we just did.

Next would be if a school class comes over for a field trip to help collect maple syrup, or other activities at the park, and we have snow,

Then all the more fun to learn how to use the snowshoes, and if icy then we have the yak tracks. More and more calls to visit, which is why I am

working on our volunteer program to help meet these request in the future. The nature walks have been doing well and more requests are coming in.

And then when open with park staff or volunteers, (more then weekends as we develop more activities to offer, and the Friends group grows) we

can loan out the shoes for a set time, say 3 hours, we copy their drivers license and or other positive ID (I will also have /see there car at the park) and when

they return the shoes we check them back in for the next people to use them. They would need some ID, at least one in the group and if they drove there (most always) someone has a license! The park hours posted and they need to visit us within that time, and I can't leave till they do and return the shoes.

Last but not least, is to engrave the parks name on all the shoes and also paint some bright color so we can spot them easy, and hopefully they will stay at the park!

I have two sets already, that I can keep on hand at the office for So. Berwick residents if they call in advance for that weekend etc. (can put two new ones here) for them.

If all this doesn't work or I don't have staff help (volunteers etc.) I would turn them over to Sharon for her us at the Town rec. until I can get the proper operation working!

Glenn "Doc" Dochtermann

Vaughan Woods, Fort McClary, John Paul Jones

Park Manager

**SOUTH BERWICK TOWN COUNCIL
PUBLIC HEARING
GENERAL ASSISTANCE ORDINANCE APPENDICES
NOVEMBER 9, 2010**

Chairman David Burke opened the hearing at 6:45pm. Councilors present included Jean Demetracopoulos, Gerald W. MacPherson, Sr., David H. Webster, and John C. Kareckas. Interim Town Manager Roberta L. Orsini was also in attendance.

The purpose of the hearing was to receive public comment on the annual amendments to the General Assistance Ordinance Appendices A, B, and C.

Social Services Director Vicki Desilets gave a brief overview. To be compliant with state law, the municipal officers must adopt the new appendices each year. Mrs. Desilets added that the only numbers that changed from last year were the housing maximums, which only increased by \$1.

Mr. Webster expressed his frustration by saying that the State ties our hands since we have little control and must adopt the amendments.

Mr. Burke asked what would happen if the new appendices were not adopted. Mrs. Desilets stated that the Town would be required to file a plan to come into compliance or risk losing the 50% reimbursement.

Mrs. Desilets and the Council briefly discussed whether the maximums were appropriate for South Berwick. Mr. MacPherson stated that he believed the general public was rather **generous with their 'subsidy'**. **Mrs. Desilets stated that she believes the numbers are too low for South Berwick.** She added that the cost of living in South Berwick is high and many of her clients find that after only a month or two they cannot afford to live here.

The hearing was closed at 6:53pm.

Attest:

Barbara Bennett, CCM

SOUTH BERWICK TOWN COUNCIL NOVEMBER 9, 2010

Prior to the start of the meeting the Town Clerk administered the oath of office to David Burke. John Kareckas took his oath of office on November 4, 2010.

Chairman David Burke called the meeting to order at 6:30pm. Those present included Councilors Jean Demetracopoulos, Gerald W. MacPherson, Sr., David H. Webster, and John C. Kareckas. Interim Town Manager Roberta Orsini was also in attendance.

ORGANIZATIONAL

1. Mr. Burke asked if it was possible to delay action on the organizational portion of the meeting until the next meeting to allow everyone time to consider their leadership options. Consensus was to move forward now.

On a nomination by Mrs. Demetracopoulos, seconded by Mr. MacPherson, David Burke was elected Chairman for the ensuing year. Mr. Burke abstained.

On a nomination by Mrs. Demetracopoulos, seconded by Mr. Webster, Gerald MacPherson, Sr. was elected Vice-Chairman for the ensuing year. Mr. MacPherson abstained; he added that he is willing to serve but may not be available to fill in over the next couple of months for personal reasons.

2. On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted **to adopt Robert's Rules as the rules of order for Council meetings**. Mr. Kareckas suggested that the Council suspend the rules, when needed, by unanimous consent rather than formal votes to keep meetings moving along.

On a motion by Mrs. Demetracopoulos, seconded by Mr. MacPherson, it was unanimously voted to set the regular meeting day and time to the 2nd and 4th Tuesdays of the month at 6:30pm.

3. On a motion by Mr. MacPherson, seconded by Mrs. Demetracopoulos, it was unanimously voted to **sign the policy for Treasurer's Disbursement Warrants for Employee Wages and Benefits**.

APPROVAL OF MINUTES

1. Board of Assessors 10-26-10: On a motion by Mr. Webster, seconded by Mrs. Demetracopoulos, it was unanimously voted to adopt the minutes as written. Mr. Kareckas abstained.

2. Town Council 10-26-10: On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted to adopt the minutes **after changing the word 'withdraw' to 'withdrawn' in the first paragraph on page two**. Mr. Kareckas and Mr. MacPherson abstained.

SIGNING OF TREASURER'S WARRANT – November 9, 2010

On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted to sign the warrant.

PUBLIC COMMENT

1. Ruth Boston, Emery's Bridge Rd, asked why Mr. Kareckas was not sworn in with Mr. Burke. The Clerk stated that Mr. Kareckas took his oath of office on November 4th.

2. Pat Robinson, Brattle St, thanked everyone who supported the Soup Supper supporting the fuel fund. She also made note that a resident has pledged to match 100 gallons of oil for every \$1000 donated to the fuel fund.

3. Richard Tetu, Hooper Sands Rd, asked if interviews for a new manager were required by law. He stated that tax dollars should be saved; and the Council should just appoint Roberta Orsini to the position. Mr. Burke explained that the Council felt it prudent to conduct the search to be sure the best person for the job is hired.

4. Eric Pelchat, Front St, asked if the Council held an executive session meeting on Saturday and if the meeting was posted. He also asked if the Council signed a 24 hour meeting waiver. Mr. Burke stated that the Council did meet to conduct interviews for the manager position and there was no waiver. He added that it was a conscience decision on his part to not post the meeting to help protect the confidentiality of the applicants. Mr. Burke stated that he takes full responsibility for not posting the meeting.

5. Richard Clough, Academy St, congratulated Mr. Burke on being re-elected Chairman. Mr. Clough also made note that the Council cannot suspend the rules by unanimous consent according to the charter. [Clerk's note: Suspension of Council rules is discussed in the Administrative Code, §3-17Y]

The Council meeting was recessed at 6:45pm to accommodate a scheduled public hearing.

The Council meeting reconvened at 6:53pm.

6. Ruth Boston, **Emery's Bridge Rd**, asked if the Friends of the Library had raised the \$1 million as agreed. Mr. Burke stated that he does not believe that they have as of yet.

7. Norma Tutelian, Butler St, asked how much actual cash the Friends have actually raised. Mrs. Demetracopoulos stated that they have raised about \$130,000, but was not aware how much was actual cash vs. pledges.

8. Richard Clough, Academy St, asked for the status of the Balancing Rock. Mr. Burke stated that nothing has changed at this time and is slated for discussion on a future agenda. Mr. Kareckas stated that the Land Trust is still working to obtain the 6 boundary line agreements necessary.

TOWN MANAGER'S REPORT

-Mrs. Orsini informed the Council that the Building Committee has received two proposals for the development of the Young Street lot and would like to establish an 11 member group (including the Building Committee, the Interim Manager, the Public Works Director, 1 Councilor, 1 merchant, 1 neighbor to the parcel, and 1 member that served on the Downtown Committee for the Comprehensive Plan). **She asked for Council's permission to proceed.**

-Informed the Council that the Building Committee has recommended that a tarp be professionally installed on the roof of the church building for the winter. It was felt that finishing the roof now would necessitate removing some of the new roofing to accommodate the addition later; adding to the contractor costs for having to stage the project twice. The estimated cost of the tarp installation falls below the \$4000 left in the capital account. She asked for permission to move forward.

-Informed the Council that the road work on Young Street is 75% complete. There should be no problem with completing the Brownfields Grant work prior to the deadline for transferring the ownership of the property back to the Town by the deadline in early December.

-Have received the information from Moors & Cabot for selling the bond (approved at the November 2nd election). She wanted to make sure that the Council was aware of the fees. She added that the Council will need to decide if they want to pay the fees out of the proceeds of the bond or use the undesignated fund. Mrs. Demetracopoulos stated that the fees are part of the cost of the project and should come from the proceeds of the bond. Mr. Webster and Mr. MacPherson agreed. Mr. Kareckas stated that he is agreeable as long as it falls within industry standards for the type of work.

-Made note that the Attorney is working on the Tax Increment Financing's. **The downtown TIF** boundary will need to be defined and a development plan for the CMP Corridor TIF must be adopted. The timeline for accomplishing the necessary work was discussed. It was agreed that a public hearing could be scheduled for December 14th.

-Wentworth Fund: Made note that the auditors have classified the additional \$25,000 received from the Berwick Academy payout as expendable. The auditors did recommend getting a legal opinion prior to taking any action on the funds.

NEW BUSINESS

1. On a motion by Mrs. Demetracopoulos, seconded by Mr. MacPherson, it was unanimously voted to adopt the updated 2011 appendices A, B, and C for the General Assistance Ordinance.
2. On a motion by Mrs. Demetracopoulos, seconded by Mr. Kareckas, it was unanimously voted to accept the \$1500 Pumpkinman Triathlon donation to the Recreation Department. The funds will be deposited into the Recreation Special Revenue account.
3. On a motion by Mr. MacPherson, seconded by Mr. Webster, it was unanimously voted to hold a public hearing on Tuesday, November 23rd at 6:30pm to receive comment on the proposed amendments to Chapter 60, Building Construction. The proposed amendments are being made to conform to the new Maine Building Code that becomes effective December 1st.
4. On a motion by Mrs. Demetracopoulos, seconded by Mr. MacPherson, it was unanimously voted to accept the 2010 Byrne JAG grant in the amount of \$2,613 for the purchase of a Motorola radio for the new police cruiser. Mrs. Demetracopoulos thanked the Police Department for looking for money. Note was made that there is no match required.
5. On a motion by Mr. Webster, seconded by Mr. Kareckas, it was unanimously voted to authorize the \$2200 expenditure from the Recreation Fields/Facilities Capital Account to construct a drop off area at Powderhouse Ski Hill. Mr. Webster asked if any of the Day property was being used. Mrs. Orsini stated that she was not sure.
6. On a motion by Mr. Kareckas, seconded by Mr. MacPherson, it was unanimously voted to authorize the Interim Town Manager to sign a contract with Civil Consultants and R. W. Gillespie & Associates for the engineering design to restore the failed slope along Vine Street. The funds will be expended from the Capital Road Account.

The Council discussed whether the Town's 10% match (\$2737.00) should come from the road account or the undesignated fund. General consensus was that this was a road project and should come from that account. Mrs. Demetracopoulos asked if the Town puts money into the engineering study will FEMA pay for the repairs. Mrs. Orsini explained that to be eligible for the FEMA money the Town needs to have the study done and show alternatives, then FEMA will decide what they are willing to pay. Mr. Webster expressed his concern with spending money on a dead end road.

COUNCIL MEMBER COMMENTS

The Council continued its discussion of the Building Committee request and whether to tarp the church roof.

Mr. Kareckas volunteered to represent the Council with the Building Committee to review the proposals for the development of the Young Street property.

Mr. Burke and Mr. MacPherson **both stated that they accept the Building Committee's and the PWD's recommendation that a tarp is** sufficient for the winter. Mrs. Orsini stated that they have not obtained any estimates yet, but the Committee felt \$3000 should cover it. Mrs. Orsini added that there is still \$4000 in the account. Consensus of the Council was to authorize the Interim Manager to proceed with having a tarp installed on the church roof.

1. Mrs. Demetracopoulos:

- Congratulated Mr. Burke on his re-election and welcomed Mr. Kareckas.
- Asked if a similar organizational structure like the Vaughan Fund will be necessary for the Wentworth Fund.
- Would like to hold regular workshops with the Building Committee to keep everyone on the same page.

2. Mr. Burke:

- Congratulated Mr. Kareckas for winning his seat at the election.
- Stated that he takes full responsibility for holding the meeting on Saturday without posting it.

3. Mr. Webster:

-Congratulated Mr. Burke and Mr. Kareckas. He also acknowledged Eric Pelchat for running a good campaign.

4. Mr. Kareckas:

-Questioned two items on the appropriation and control report; repairs on the Code Enforcement Officer's vehicle and Animal Control Officer training are both over budget. The Code Officer's vehicle required \$2500 worth of repairs to pass inspection and there was only \$1000 in the budget. The former ACO resigned and the back-up ACO has attended training.
-Thanked everyone for their kind words and looks forward to working with everyone.

5. Mr. MacPherson:

-Stated that the Veterans' program at the school was, again, an excellent event.

EXECUTIVE SESSION

1. On a motion by Mr. Webster, seconded by Mrs. Demetracopoulos, it was unanimously voted to enter executive session at 8:00pm pursuant to 1MRSA §405.6D to discuss the Public Works Union negotiation.

The Chairman reported the following to the Clerk:

On a motion by Mr. Webster, seconded by Mrs. Demetracopoulos, it was unanimously voted to end the executive session at 9:53pm.

ADJOURNMENT

On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted to adjourn the meeting at 9:54pm.

Attest:

Barbara Bennett, CCM

**SOUTH BERWICK TOWN COUNCIL
SPECIAL MEETING
NOVEMBER 15, 2010**

The Chair reported the following to the Clerk:

Chairman David Burke called the meeting to order at 5:00pm. Those present included Councilors Jean Demetracopoulos, Gerald W. MacPherson, Sr., David Webster, and John Kareckas.

EXECUTIVE SESSION

1. On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted to Enter executive session at 5:12pm pursuant to 1MRSA §405.6A to hold candidate interviews.

On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted at 7:10pm to recess the meeting until Tuesday, November 16 following the workshops.

The Council reconvened at 8:03pm on November 16, 2010.

On a motion by Mr. Webster, seconded by Mrs. Demetracopoulos, it was unanimously voted to end the executive session at 9:37pm.

ADJOURNMENT

On a motion by Mr. MacPherson, seconded by Mrs. Demetracopoulos, it was unanimously voted to adjourn the meeting at 9:37pm.

Attest:

Barbara Bennett, CCM

TOWN OF SO. BERWICK
CHECK REGISTER

Check Number	Account	Date Paid	Amount
00052946	134400 MAINE MUNICIPAL ASSOCIATION	11/23/2010	-87.00
00052988	210555 JEFF UPTON	11/23/2010	505.83
00052989	132500 SECRETARY OF STATE M/V	11/23/2010	13,210.67
00052990	140532 NCO FINANCIAL SYSTEMS INC	11/23/2010	17.48
00052991	140532 NCO FINANCIAL SYSTEMS INC	11/23/2010	13.98
00052992	132500 SECRETARY OF STATE M/V	11/23/2010	8,729.28
00052993	010336 AGGREGATE RECYCLING CORP	11/23/2010	2,974.83
00052994	011495 ATLANTIC RECYCLING EQUIP LLC	11/23/2010	580.00
00052995	020220 CATALINA BAKAS	11/23/2010	8.50
00052996	020225 BAKER & TAYLOR	11/23/2010	301.68
00052997	021300 BERNSTEIN SHUR	11/23/2010	4,181.67
00052998	021510 TOWN OF BERWICK	11/23/2010	4,146.47
00052999	021580 BIT O'GREEN LANDSCAPING LLC	11/23/2010	2,460.00
00053000	021615 BLACK DOG CARWASH	11/23/2010	187.50
00053001	021800 BOB'S TROPHIES & AWARDS	11/23/2010	124.50
00053002	022150 BOSTON CO.	11/23/2010	3.00
00053003	022503 SHARON BRASSARD	11/23/2010	5.68
00053004	030510 CENTRAL MAINE POWER	11/23/2010	3,766.72
00053005	031430 COMCAST	11/23/2010	95.00
00053006	032002 ONE COMMUNICATIONS	11/23/2010	1,107.20
00053008	040550 DIRIGO WASTE OIL LLC	11/23/2010	596.45
00053009	041100 DOWLING CORPORATION	11/23/2010	220.00
00053010	050816 EMPORIUM FRAMING & GALLERY INC	11/23/2010	90.00
00053011	060100 HOWARD P FAIRFIELD INC	11/23/2010	884.13
00053012	141000 FAIR POINT COMM	11/23/2010	137.91
00053013	060260 FASTENAL COMPANY	11/23/2010	618.17
00053014	060300 FAVORITE FOODS INC	11/23/2010	400.22
00053015	010525 G&K SERVICES	11/23/2010	1,182.00
00053016	070200 P GAGNON & SON INC	11/23/2010	904.38
00053017	071086 GREAT WORKS FAMILY PRACTICE	11/23/2010	50.00
00053018	071050 GREAT FALLS CLEANERS	11/23/2010	250.10
00053019	191330 HANNAFORD'S	11/23/2010	403.84
00053020	080248 HANSCOM'S TRUCK STOP INC	11/23/2010	7,178.86
00053021	081055 FERN HOULIARES	11/23/2010	135.91
00053022	081305 HSE GOULD	11/23/2010	854.94
00053023	081398 PAUL HUSSEY CORP INC	11/23/2010	4,095.00
00053024	090330 INTERNATIONAL CODE COUNCIL	11/23/2010	100.00
00053025	090450 INTERSTATE ALL BATTERY CENTER	11/23/2010	356.45
00053026	090580 IRVING OIL	11/23/2010	74.07
00053027	100150 JANETOS MARKET	11/23/2010	131.54
00053028	141367 KONE INC	11/23/2010	183.77
00053029	120527 LAW ENFORCEMENT SUPPLY INC	11/23/2010	72.43
00053030	120510 LAWSON PRODUCTS INC.	11/23/2010	722.84
00053031	121100 LIBRARY JOURNAL	11/23/2010	129.99
00053032	132400 MAINE SAD #35	11/23/2010	308.50
00053033	132404 MAINE SAD#60	11/23/2010	161.00
00053034	133375 MAINE ENERGY RECOVERY CO.	11/23/2010	3,108.78
00053035	132320 MAINE STATE LIBRARY	11/23/2010	143.00
00053036	133195 MAINE TURNPIKE AUTHORITY	11/23/2010	18.00
00053037	133358 W.B.MASON	11/23/2010	322.81
00053038	133402 MCR SERVICES LLC	11/23/2010	548.00
00053039	132200 MAINE FIRE CHIEFS ASSOC.	11/23/2010	50.00
00053040	134300 MAINE MUNICIPAL EMPLOYEES	11/23/2010	3,874.21
00053041	134400 MAINE MUNICIPAL ASSOCIATION	11/23/2010	200.00
00053042	134450 MMTCTA	11/23/2010	50.00
00053043	134601 EXXON/MOBIL	11/23/2010	321.36

TOWN COUNCIL

Agenda Information Sheet

Meeting Date: November 23, 2010	Agenda Item # NB 1
Subject: Fogarty's Restaurant liquor license	
Information:	
Fogarty's current liquor license expires December 25th.	
Staff Comments/Recommendation:	
From Chief Lajoie: I have reviewed this past year's records. Fogarty's has caused no concerns for the Town of South Berwick Police Dept.	
Requested Action:	
Motion to approve the renewal of Fogarty's liquor license.	
Vote:	

**Department of Public Safety
Division**



Liquor Licensing & Inspection

Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded. To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

BUREAU USE ONLY	
License No. Assigned:	
Class:	
Deposit Date:	
Amt. Deposited:	

PRESENT LICENSE EXPIRES 12/25/10

INDICATE TYPE OF PRIVILEGE: MALT SPIRITUOUS VINOUS

INDICATE TYPE OF LICENSE:

- RESTAURANT (Class I,II,III,IV)
- HOTEL-OPTINONAL FOOD (Class I-A)
- CLASS A LOUNGE (Class X)
- CLUB (Class V)
- TAVERN (Class IV)
- RESTAURANT/LOUNGE (Class XI)
- HOTEL (Class I,II,III,IV)
- CLUB-ON PREMISE CATERING (Class I)
- GOLF CLUB (Class I,II,III,IV)
- OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) –(Sole Proprietor, Corporation, Limited Liability Co., etc.) <i>Lawrence Fogarty</i> DOB: _____			2. Business Name (D/B/A) <i>Fogarty's Restaurant Inc.</i>		
DOB: _____			Location (Street Address) <i>471 Main Street</i>		
DOB: _____			City/Town State Zip Code <i>So. Berwick, ME 03908</i>		
Address <i>35 Beaver Dam Rd.</i>			Mailing Address <i>Same</i>		
City/Town <i>So. Berwick</i>		State <i>ME</i>	City/Town		State Zip Code
Telephone Number		Fax Number <i>207-384-2009</i>	Business Telephone Number <i>207-384-8361</i>		Fax Number <i>207-384-2009</i>
Federal I.D. # <i>01-0464888</i>			Seller Certificate # <i>0253565</i>		

- 3. If premises are a hotel, indicate number of rooms available for transient guests: —
- 4. State amount of gross income from period of last license: ROOMS \$ — FOOD \$ 1.5m LIQUOR \$ 30,000
- 5. Is applicant a corporation, limited liability company or limited partnership? YES NO

complete Supplementary Questionnaire ,If YES

- 6. Do you permit dancing or entertainment on the licensed premises? YES NO
- 7. If manager is to be employed, give name: Linda Brown, Deanna Foley, Danielle Linscott
- 8. If business is NEW or under new ownership, indicate starting date: —
- Requested inspection date: _____ Business hours: _____
- 9. Business records are located at: 471 Main St. So. Berwick ME
- 10. Is/are applicants(s) citizens of the United States? YES NO

11. Is/are applicant(s) residents of the State of Maine? YES NO

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married: Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
LAWRENCE A FOGARTY		DOVER, N.H
LINDA BROWN		DOVER, NH
DEANNA FOLEY / DANIELLE LINSOTT		PORTLAND, ME / DOVER, N.H
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
① SO. BERWICK, ME ② SO. BERWICK, ME ③ NO. BERWICK, ME ④ ROCHESTER, N.H		

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES NO

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued? Yes No If Yes, give name: _____

15. Has/have applicant(s) formerly held a Maine liquor license? YES NO

16. Does/do applicant(s) own the premises? Yes No If No give name and address of owner: _____

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) Full service restaurant

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services? YES NO Applied for: _____

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 1/4 mile Which of the above is nearest? Church

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES NO

If YES, give details: Kennebunk Savings Bank - mortgage

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: So. Berwick, ME on Nov 04, 20 10
Town/City, State Date

[Signature]
Signature of Applicant or Corporate Officer(s)

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

STATE OF MAINE

Dated at: _____, Maine _____ SS
City/Town (County)

On: _____
Date

The undersigned being: Municipal Officers County Commissioners of the
 City Town Plantation Unincorporated Place of: _____, Maine

Hereby certify that we have given public notice on this application and held public hearing thereon as required by Section 653 Title 28A, Maine Revised Statutes and herby approve said application.

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE – SPECIAL ATTENTION

§ 653. Hearings; bureau review; appeal

1. **Hearing.** The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, shall hold a public hearing for the consideration of applications for new on-premise licenses and applications for transfer of location of existing on-premise licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms. [1993, c.730, §27(amd).]

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c.140, §4 (amd).]

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premise license, for transfer of the location of an existing on-premise license or for renewal of an on-premise license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premise license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premise license that has been extended pending renewal with 120 days of the filing of the application. [1999, c589, §1 (amd).]

2. **Findings.** In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class c crime: [1987, c45, Pt.A§4 (new).]

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c.45, Pt.A§4(new).]

C. Conditions of record such as waste disposal violations, health or safety violation or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c.730, §27 (amd).]

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c.592,§3 (amd).]

E. A violation of any provision of this Title; and [1989, c.592, §3 (amd).]

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601. [1989, c.592, §4 (new).]

[1993, c730, §27 (amd).]

3. **Appeal to bureau.** Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. [1993, c.730, §27 (rp).]

4. **No license to person who moved to obtain a license. (REPEALED)**

5. **(TEXT EFFECTIVE 3/15/01) Appeal to District Court.** Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

STATE OF MAINE
Liquor Licensing & Inspection Unit
164 State House Station
Augusta, Maine 04333-0164
Tel: (207) 624-7220 Fax: (207) 287-3424

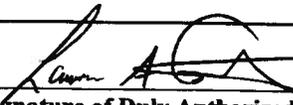
SUPPLEMENTARY QUESTIONNAIRE FOR CORPORATE APPLICANTS, LIMITED LIABILITY COMPANIES AND LIMITED PARTNERSHIPS

1. Exact Corporate Name: Fogarty's Restaurant Inc.
Business D/B/A Name: Fogarty's Restaurant and Bakery
2. Date of Incorporation: 7/91
3. State in which you are incorporated: ME
4. If not a Maine Corporation, date corporation was authorized to transact business within the State of Maine:

5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list percent of stock owned:

Name	Address Previous 5 Years	Birth Date	% of Stock	Title
<u>Lawrence A. Fogarty</u>	<u>35 Ocean Dan Rd So. Berwick, ME</u>		<u>100</u>	<u>PRESIDENT</u>

6. What is the amount of authorized stock? 200 shares Outstanding Stock? —
7. Is any principal officer of the corporation a law enforcement official? () YES NO


Signature of Duly Authorized Officer

Date: 11/04/10

Lawrence A. Fogarty
Print Name of Duly Authorized Officer

Print Name

Print Name

NOTICE – SPECIAL ATTENTION

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval of their application for liquor licenses prior to submitting them to the bureau.

THIS APPROVAL EXPIRES IN 60 DAYS.

FEE SCHEDULE

Class I	Spirituos, Vinous and Malt	\$ 900.00
	CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
Class I-A	Spirituos, Vinous and Malt, Optional Food (Hotels Only)	\$1,100.00
	CLASS I-A: Hotels only that do not serve three meals a day.	
Class II	Spirituos Only	\$ 550.00
	CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III	Vinous Only	\$ 220.00
	CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV	Malt Liquor Only	\$ 220.00
	CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class V	Spirituos, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)	\$ 495.00
	CLASS V: Clubs without catering privileges.	
Class X	Spirituos, Vinous and Malt – Class A Lounge	\$2,200.00
	CLASS X: Class A Lounge	
Class XI	Spirituos, Vinous and Malt – Restaurant Lounge	\$1,500.00
	CLASS XI: Restaurant/Lounge; and OTB.	

FILING FEE..... \$ 10.00

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All fees must accompany application, made payable to: **TREASURER, STATE OF MAINE. – DEPARTMENT OF PUBLIC SAFETY, LIQUOR LICENSING AND INSPECTION DIVISION, 164 STATE HOUSE STATION, AUGUSTA ME 04333-0164.** Payments by check subject to penalty provided by Sec. 3, Title 28A, MRS.

**AMENDMENTS TO
CHAPTER 60 OF THE TOWN OF SOUTH BERWICK CODE OF ORDINANCES
APPLYING THE MAINE UNIFORM BUILDING & ENERGY CODE**

Be it hereby ordained, by the Town Council of the Town of South Berwick, Maine, in Town Council assembled, that Chapter 60, **BUILDING CONSTRUCTION**, of the South Berwick Code of Ordinances is amended as follows.

Be it further ordained: Because the Maine Uniform Building and Energy Code (M.U.B.E.C.) must be applied and enforced on December 1, 2010 in South Berwick which is in less than 30 days, and the Council finds and declares that such circumstances constitute an emergency within the meaning of Article II, section 11 of the Charter, these amendments shall take effect on December 1, 2010.

Section 60-1, **Adoption of Building Code**, is deleted in its entirety and replaced with the following new Section 60-1:

Sec. 60-1. Administration and enforcement of the Maine Uniform Building and Energy Code.

Effective December 1, 2010, the Town of South Berwick applies and enforces the Maine Uniform Building and Energy Code ("M.U.B.E.C."), as required by 10 M.R.S.A. § 9724. The Code Enforcement Officer of the Town of South Berwick shall serve as the building official as defined in 25 M.R.S.A. § 2371 and shall be responsible for issuing building permits and certificates of occupancy. The Code Enforcement Officer shall be responsible for inspecting all permitted construction for compliance with all components of M.U.B.E.C., as such components may be revised from time to time by the Technical Building Codes and Standards Board. Administration and enforcement of M.U.B.E.C., including permits, violations, penalties and appeals, shall be in accordance with Article VI of Chapter 140, Zoning, of the South Berwick Code.

Section 60-2, **Inconsistent ordinances repealed**, is deleted in its entirety.

Section 60-3, **Additions, insertions and changes**, is deleted in its entirety and replaced with the following new Section 60-3:

Sec. 60-3. Additional requirements.

- A. Notwithstanding the exceptions to permit requirements in M.U.B.E.C., permits are required for the following in the Town of South Berwick:
1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, including those of which the floor area does not exceed 200 square feet (18.58m²);
 2. Prefabricated swimming pools including those that are less than 24 inches (610 mm) deep;
 3. Decks including those that do not exceed 200 square feet (18.58m²) in area, that are not more than 30 inches (762mm) above grade at any point, are not attached to a dwelling and do not serve the exit door.

- B. Separation required. The garage shall be separated from the residence and its attic area by not less than “5/8 inch (15.9 mm)” Type X gypsum board applied to the garage side. Garages beneath habitable rooms shall be separated from all habitable rooms above by not less than “5/8 inch (15.9 mm)” Type X gypsum board or equivalent.
- C. Fees Schedule. The permit fee schedule is determined by multiplying the square footage of each floor of each category of structure by the applicable rate, as shown in the table below:

Building Permit Fees

Category	Rate
A. All new residential structures to include homes and additions to living areas	\$0.50
B. All unfinished accessory residential structures including decks, porches, garages, barns, and sheds	\$0.20
C. Swimming pools (must be fenced)	
(1) Aboveground	\$0.20
(2) In ground	\$0.20
D. Commercial/retail, per story	\$0.30
E. Institutional	\$0.50
F. Industrial	\$0.50
G. Signs - flat rate	\$25.00
H. Demolition of buildings - flat rate	\$25.00
I. Special use permit	\$25.00
J. Minimum permit fee, flat rate	\$25.00

(When work has begun prior to issuance of a permit, the above fees shall be doubled.)

Review and Hearing Fees

Category	Rate
A. Zoning Board of Appeals	\$70.00 + cost of notices
B. Change of use permit	\$60.00
C. Subdivision fees	
(1) Preapplication	No charge
(2) Sketch plan	
Minor	\$100.00
Major	\$200.00
(3) Preliminary plan	\$200.00
Plus per unit/lot	\$200.00
(4) Final plan	\$150.00
D. Site plan	
(1) Minor	\$100.00
(2) Major	\$200.00

Section 60-4, **Effect on other provisions**, is deleted in its entirety.

Section 60-5, **When effective**, is deleted in its entirety.

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: November 23, 2010	Item # NB 3
Agenda Item: Approve the Transfer of Forfeiture Assets	
Department Head Recommendation: Chief Dana P. Lajoie	
Approval of Transfer of Forfeiture Assets in the amount of \$942.00 to be placed in the Police Equipment Account (4230.4050).	
Interim Town Manager's Recommendation	
A formal motion is required by the Attorney General's office however, the transfer of assets to the South Berwick Police Dept. is not guaranteed at his time.	
Requested Action	
Motion to approve the transfer of forfeiture assets in the amount of \$942.00 to be placed in the Police Dept. Equipment account # 4230.4050.	
Vote	

JANET T. MILLS
ATTORNEY GENERAL



REGIONAL OFFICES:
84 HARLOW ST., 2ND FLOOR
BANGOR, MAINE 04401
TEL: (207) 941-3070
FAX: (207) 941-3075

415 CONGRESS ST., STE. 301
PORTLAND, MAINE 04101
TEL: (207) 822-0260
FAX: (207) 822-0259

14 ACCESS HIGHWAY, STE. 1
CARIBOU, MAINE, 04736
TEL: (207) 496-3792
FAX: (207) 496-3291

TEL: (207) 626-8800
TTY: 1-800-577-6690

STATE OF MAINE
OFFICE OF THE ATTORNEY GENERAL
6 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0006
October 26, 2010

Chief Dana Lajoie
South Berwick Police Department
180 Main Street
South Berwick, ME 03908

RE: State of Maine vs. Angela Bailey
York County Superior Court Doc. No. CR-09-2589 - **Criminal Forfeiture**
Required Vote of Municipal Officers/Approval of Transfer of Forfeiture Assets

Dear Chief Lajoie:

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

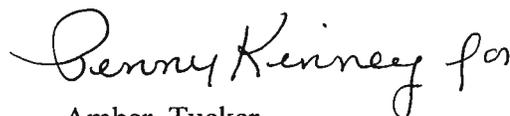
enforcement agency involved are **cautioned** that they **should not encumber** funds or property until a Final Order granting them lawful title to the property is delivered to them;

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 cursive script that reads "Benny Kenney for".

Amber Tucker
Assistant Attorney General
CRIMINAL DIVISION

Enclosure

STATE OF MAINE
York, ss

SUPERIOR COURT
Criminal Action
Docket No. CR-09-2589

State of Maine	}	
	}	Municipality of South Berwick
v.	}	Approval of Transfer
	}	15 M.R.S.A. §5824(3) & §5822(4)(A)
Angela Bailey,	}	
Defendant;	}	
	}	
And	}	
	}	
\$942.00 U.S. Currency,	}	
Defendant(s) In Rem	}	

NOW COMES the municipality of South Berwick, 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 (\$942.00), or any portion thereof, on the grounds that the South Berwick Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the municipality of South Berwick, 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 South Berwick municipal legislative body on or about _____.

Dated: _____

Municipal Officer
South Berwick, Maine
(Impress municipal legislative body seal here)

JANET T. MILLS
ATTORNEY GENERAL



TEL: (207) 626-8800
TTY: 1-800-577-6690

STATE OF MAINE
OFFICE OF THE ATTORNEY GENERAL
6 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0006
October 26, 2010

REGIONAL OFFICES:
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14 ACCESS HIGHWAY, STE. 1
CARIBOU, MAINE, 04736
TEL: (207) 496-3792
FAX: (207) 496-3291

Chief Dana Lajoie
South Berwick Police Department
180 Main Street
South Berwick, ME 03908

RE: State of Maine vs. Samuel Cote
York County Superior Court Doc. No. CR-09-1653 - **Criminal Forfeiture**
Required Vote of Municipal Officers/Approval of Transfer of Forfeiture Assets

Dear Chief Lajoie:

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 cursive script that reads "Amber Tucker for".

Amber Tucker
Assistant Attorney General
CRIMINAL DIVISION

Enclosure

STATE OF MAINE
York, ss

SUPERIOR COURT
Criminal Action
Docket No. CR-09-1653

State of Maine	}	
	}	
v.	}	Municipality of South Berwick
	}	Approval of Transfer
Samuel Cote,	}	15 M.R.S.A. §5824(3) & §5822(4)(A)
Defendant;	}	
	}	
And	}	
	}	
\$942.00 U.S. Currency,	}	
Defendant(s) In Rem	}	

NOW COMES the municipality of South Berwick, 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 (\$942.00), or any portion thereof, on the grounds that the South Berwick Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the municipality of South Berwick, 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 South Berwick municipal legislative body on or about _____.

Dated: _____

Municipal Officer
South Berwick, Maine
(Impress municipal legislative body seal here)