



## City of Hamilton

# SOLE VOTING MEMBER OF THE HAMILTON FARMERS' MARKET AGENDA

**Meeting #:** 22-001  
**Date:** February 2, 2022  
**Time:** IMMEDIATELY FOLLOWING GIC  
**Location:** Due to the COVID-19 and the Closure of City Hall (CC)

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Stephanie Paparella, Legislative Coordinator (905) 546-2424 ext. 3993

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Pages

1. CEREMONIAL ACTIVITIES

2. APPROVAL OF AGENDA

(Added Items, if applicable, will be noted with \*)

3. DECLARATIONS OF INTEREST

4. APPROVAL OF MINUTES OF PREVIOUS MEETING

4.1. September 13, 2021

3

5. COMMUNICATIONS

5.1. Correspondence from Paul Dube, Ombudsman of Ontario, respecting Complaints about the Meeting Practices of the City of Hamilton's Farmers' Market Board of Directors

12

Recommendation: Be received.

- 5.2. Resignation of Joshua Czerniga, Former Vice Chair of the Hamilton Market Board 17

Recommendation: Be received.

6. DELEGATION REQUESTS
7. CONSENT ITEMS
8. PUBLIC HEARINGS / DELEGATIONS
9. STAFF PRESENTATIONS
10. DISCUSSION ITEMS
- 10.1. Hamilton Farmers' Market Corporation Governance and Operational Review Update (PED22029) (Ward 2) 18
11. MOTIONS
- 11.1. Vision of Hamilton Farmers' Market for City, and Feasibility of Greater Private Sector Role in Operations and Management of the Market and the Associated Space 59
12. NOTICES OF MOTION
13. GENERAL INFORMATION / OTHER BUSINESS
14. PRIVATE AND CONFIDENTIAL
15. ADJOURNMENT



City of Hamilton  
**SOLE VOTING MEMBER  
OF THE HAMILTON FARMERS' MARKET  
MINUTES 21-002**

**11:00 a.m.**

**Monday, September 13, 2021**

**Due to COVID-19 and the closure of City Hall, this meeting was held virtually.**

Stephanie Paparella, Legislative Coordinator 605-546-2424 Ext. 3993

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**Present:** Deputy Mayor T. Jackson (Chair)  
Councillors M. Wilson, J. Farr, N. Nann, E. Pauls, J.P. Danko,  
B. Clark, M. Pearson, B. Johnson, L. Ferguson, A. VanderBeek,  
J. Partridge

**Absent:** Councillor T. Whitehead – Leave of Absence  
Mayor F. Eisenberger and Councillors C. Collins and S. Merulla - Personal

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**THE FOLLOWING ITEMS WERE REFERRED TO COUNCIL FOR CONSIDERATION:**

**1. Notice; Minutes of Previous Meeting; Directors; Audited Financial Statements and Auditor's Report; and, Appointment of Auditor (Item 7.1)**

**(Pauls/Clark)**

WHEREAS, the Corporation is a corporation without share capital to which the *Corporations Act*, R.S.O. 1990, c.38 (the "Act") applies;

WHEREAS, by the Corporation's Letters Patent, the City of Hamilton is the sole voting member of the Corporation ("Sole Voting Member");

WHEREAS, by section 5 of the Corporation's By-Law No.1, the Board of Directors shall consist of a minimum of seven (7) and a maximum of thirteen (13) or such other number of Directors, as may be determined from time to time by the Sole Voting Member; and,

WHEREAS, by section 15 of the Corporation's By-Law No.1, the City of Hamilton, as the Sole Voting Member, is authorized to or may require the Directors of the Corporation to appoint an auditor;

THEREFORE, BE IT RESOLVED:

- (a) That the Sole Voting Member hereby waives its right to receive general or special notice of an annual meeting of the members of the Corporation;
- (b) That the minutes of the meeting held January 25, 2021, be approved;

**Sole Voting Member of the  
Hamilton Farmers' Market  
Minutes 21-002**

**September 13, 2021  
Page 2 of 9**

- (c) That the following persons be affirmed or appointed as Directors of the Corporation and shall hold office until the date specified below, unless further extended as permitted by the by-laws of the Corporation or until their respective successors are elected or appointed subject to the by-laws of the Corporation:
- |        |   |                    |
|--------|---|--------------------|
| (i)    | Councillor Esther Pauls – Council Member              | November 15, 2022  |
| (ii)   | Anne Miller – Vendor Member - Second Term             | August 11, 2023    |
| (iii)  | Wilfred Arndt – Citizen Member - Third Term           | December 14, 2022  |
| (iv)   | Elly Bowen – Citizen Member - Third Term              | December 14, 2022  |
| (v)    | Damian Wills – Citizen Member - First term            | March 29, 2023     |
| (vi)   | Joshua Czerniga – Citizen Member - First Term         | March 29, 2023     |
| (vii)  | Eva Marie Olsen – Citizen Member - First Term         | March 29, 2023     |
| (viii) | Jason Hofing – Vendor Director - First Term           | September 13, 2023 |
| (ix)   | Celina Masoudi – Vendor Director - First Term         | September 13, 2023 |
| (x)    | Brandon Linares –Vendor Director - First Term         | September 13, 2023 |
| (xi)   | Bill Slowka – Market Manager (Non-voting, Ex Officio) |                    |
- (d) That the financial statements of the Corporation for the fiscal year ended December 31, 2020, together with the Auditor's Report, as prepared by KPMG LLP, attached hereto as Schedule "A", be received; and,
- (e) That the Directors of the Corporation be authorized and directed to appoint an auditor of the Corporation to hold office until the next following annual meeting at such remuneration as may be fixed by the Directors and the Directors are hereby authorized to fix such remuneration.

**Result: Motion CARRIED by a vote of 12 to 0, as follows:**

Absent	-	Mayor Fred Eisenberger
Yes	-	Ward 1 Councillor Maureen Wilson
Yes	-	Ward 2 Councillor Jason Farr
Yes	-	Ward 3 Councillor Nrinder Nann
Absent	-	Ward 4 Councillor Sam Merulla
Absent	-	Ward 5 Councillor Chad Collins
Yes	-	Ward 6 Councillor Tom Jackson
Yes	-	Ward 7 Councillor Esther Pauls
Yes	-	Ward 8 Councillor J. P. Danko
Yes	-	Ward 9 Councillor Brad Clark, Deputy Mayor
Yes	-	Ward 10 Councillor Maria Pearson
Yes	-	Ward 11 Councillor Brenda Johnson
Yes	-	Ward 12 Councillor Lloyd Ferguson
Yes	-	Ward 13 Councillor Arlene VanderBeek
Absent	-	Ward 14 Councillor Terry Whitehead
Yes	-	Ward 15 Councillor Judi Partridge

**FOR INFORMATION:**

**(a) APPROVAL OF AGENDA (Item 1)**

The Committee Clerk advised of the following changes to the agenda:

**4. DELEGATION REQUESTS**

- 4.1 Eric Miller respecting Item 5.1, Presentation respecting the Hamilton Farmers' Market
- 4.2 John Alexander and Shane Coleman, Hamilton Farmers' Market Stallholders' Association, respecting the Hamilton Farmers' Market Board Election

**(Johnson/Danko)**

That the agenda for the September 13, 2021 meeting of the Sole Voting Member of the Hamilton Farmers' Market, be approved, as amended.

**Result: Motion CARRIED by a vote of 11 to 0, as follows:**

Absent	-	Mayor Fred Eisenberger
Yes	-	Ward 1 Councillor Maureen Wilson
Yes	-	Ward 2 Councillor Jason Farr
Yes	-	Ward 3 Councillor Nrinder Nann
Absent	-	Ward 4 Councillor Sam Merulla
Absent	-	Ward 5 Councillor Chad Collins
Yes	-	Ward 6 Councillor Tom Jackson
Yes	-	Ward 7 Councillor Esther Pauls
Yes	-	Ward 8 Councillor J. P. Danko
Yes	-	Ward 9 Councillor Brad Clark, Deputy Mayor
Yes	-	Ward 10 Councillor Maria Pearson
Yes	-	Ward 11 Councillor Brenda Johnson
Yes	-	Ward 12 Councillor Lloyd Ferguson
Yes	-	Ward 13 Councillor Arlene VanderBeek
Absent	-	Ward 14 Councillor Terry Whitehead
Absent	-	Ward 15 Councillor Judi Partridge

**(b) DECLARATIONS OF INTEREST (Item 2)**

There were no declarations of interest.

**(c) APPROVAL OF MINUTES OF THE PREVIOUS MEETING (Item 3)**

**(i) January 25, 2021 (Item 3.1)**

**(Pearson/Nann)**

That the Minutes of the January 25, 2021 special meeting of the Sole Voting Member of the Hamilton Farmers' Market, be approved, as presented.

**Result: Motion CARRIED by a vote of 11 to 0, as follows:**

Absent	-	Mayor Fred Eisenberger
Yes	-	Ward 1 Councillor Maureen Wilson
Yes	-	Ward 2 Councillor Jason Farr
Yes	-	Ward 3 Councillor Nrinder Nann
Absent	-	Ward 4 Councillor Sam Merulla
Absent	-	Ward 5 Councillor Chad Collins
Yes	-	Ward 6 Councillor Tom Jackson
Yes	-	Ward 7 Councillor Esther Pauls
Yes	-	Ward 8 Councillor J. P. Danko
Yes	-	Ward 9 Councillor Brad Clark, Deputy Mayor
Yes	-	Ward 10 Councillor Maria Pearson
Yes	-	Ward 11 Councillor Brenda Johnson
Yes	-	Ward 12 Councillor Lloyd Ferguson
Yes	-	Ward 13 Councillor Arlene VanderBeek
Absent	-	Ward 14 Councillor Terry Whitehead
Absent	-	Ward 15 Councillor Judi Partridge

**(d) DELEGATION REQUESTS (Item 4)**

**(i) Eric Miller respecting Item 5.1, Presentation respecting the Hamilton Farmers' Market (Item 4.1)**

**(Pauls/Farr)**

That the delegation request submitted by Eric Miller, regarding Item 5.1, the presentation respecting the Hamilton Farmers' Market, be approved for the September 13, 2021 meeting of the Sole Voting Member of the Hamilton Farmers' Market.

**Result: Motion CARRIED by a vote of 12 to 0, as follows:**

Absent	-	Mayor Fred Eisenberger
Yes	-	Ward 1 Councillor Maureen Wilson
Yes	-	Ward 2 Councillor Jason Farr
Yes	-	Ward 3 Councillor Nrinder Nann
Absent	-	Ward 4 Councillor Sam Merulla

Absent	-	Ward 5	Councillor Chad Collins
Yes	-	Ward 6	Councillor Tom Jackson
Yes	-	Ward 7	Councillor Esther Pauls
Yes	-	Ward 8	Councillor J. P. Danko
Yes	-	Ward 9	Councillor Brad Clark, Deputy Mayor
Yes	-	Ward 10	Councillor Maria Pearson
Yes	-	Ward 11	Councillor Brenda Johnson
Yes	-	Ward 12	Councillor Lloyd Ferguson
Yes	-	Ward 13	Councillor Arlene VanderBeek
Absent	-	Ward 14	Councillor Terry Whitehead
Yes	-	Ward 15	Councillor Judi Partridge

**(ii) John Alexander and Shane Coleman, Hamilton Farmers' Market Stallholders' Association, respecting the Hamilton Farmers' Market Board Election (Item 4.2)**

**(Ferguson/Partridge)**

That the delegation request submitted by John Alexander and Shane Coleman, Hamilton Farmers' Market Stallholders' Association, respecting the Hamilton Farmers' Market Board Election, be approved for the September 13, 2021 meeting of the Sole Voting Member of the Hamilton Farmers' Market.

**Result: Motion CARRIED by a vote of 12 to 0, as follows:**

Absent	-	Mayor Fred Eisenberger
Yes	-	Ward 1 Councillor Maureen Wilson
Yes	-	Ward 2 Councillor Jason Farr
Yes	-	Ward 3 Councillor Nrinder Nann
Absent	-	Ward 4 Councillor Sam Merulla
Absent	-	Ward 5 Councillor Chad Collins
Yes	-	Ward 6 Councillor Tom Jackson
Yes	-	Ward 7 Councillor Esther Pauls
Yes	-	Ward 8 Councillor J. P. Danko
Yes	-	Ward 9 Councillor Brad Clark, Deputy Mayor
Yes	-	Ward 10 Councillor Maria Pearson
Yes	-	Ward 11 Councillor Brenda Johnson
Yes	-	Ward 12 Councillor Lloyd Ferguson
Yes	-	Ward 13 Councillor Arlene VanderBeek
Absent	-	Ward 14 Councillor Terry Whitehead
Yes	-	Ward 15 Councillor Judi Partridge

**(e) PRESENTATIONS (Item 5)**

**(i) Hamilton Farmers' Market (Item 5.1)**

Elly Bowen, Acting Chair of the Hamilton Farmers' Market Board, addressed Committee and provided a PowerPoint presentation respecting the Hamilton Farmers' Market.

**(Clark/Pauls)**

That Elly Bowen, Acting Chair of the Hamilton Farmers' Market Board, be permitted additional time, beyond the permitted 5 minutes, to continue with her presentation.

**Result: Motion CARRIED by a vote of 11 to 0, as follows:**

Absent	-	Mayor Fred Eisenberger
Yes	-	Ward 1 Councillor Maureen Wilson
Yes	-	Ward 2 Councillor Jason Farr
Yes	-	Ward 3 Councillor Nrinder Nann
Absent	-	Ward 4 Councillor Sam Merulla
Absent	-	Ward 5 Councillor Chad Collins
Yes	-	Ward 6 Councillor Tom Jackson
Yes	-	Ward 7 Councillor Esther Pauls
Yes	-	Ward 8 Councillor J. P. Danko
Yes	-	Ward 9 Councillor Brad Clark, Deputy Mayor
Yes	-	Ward 10 Councillor Maria Pearson
Yes	-	Ward 11 Councillor Brenda Johnson
Yes	-	Ward 12 Councillor Lloyd Ferguson
Yes	-	Ward 13 Councillor Arlene VanderBeek
Absent	-	Ward 14 Councillor Terry Whitehead
Absent	-	Ward 15 Councillor Judi Partridge

**(Farr/Pauls)**

That the presentation respecting the Hamilton Farmers' Market, be received.

**Result: Motion CARRIED by a vote of 12 to 0, as follows:**

Absent	-	Mayor Fred Eisenberger
Yes	-	Ward 1 Councillor Maureen Wilson
Yes	-	Ward 2 Councillor Jason Farr
Yes	-	Ward 3 Councillor Nrinder Nann
Absent	-	Ward 4 Councillor Sam Merulla
Absent	-	Ward 5 Councillor Chad Collins
Yes	-	Ward 6 Councillor Tom Jackson
Yes	-	Ward 7 Councillor Esther Pauls



Yes	-	Ward 8	Councillor J. P. Danko
Yes	-	Ward 9	Councillor Brad Clark, Deputy Mayor
Yes	-	Ward 10	Councillor Maria Pearson
Yes	-	Ward 11	Councillor Brenda Johnson
Yes	-	Ward 12	Councillor Lloyd Ferguson
Yes	-	Ward 13	Councillor Arlene VanderBeek
Absent	-	Ward 14	Councillor Terry Whitehead
Yes	-	Ward 15	Councillor Judi Partridge

**(f) DELEGATIONS (Item 6)**

**(i) Eric Miller respecting Item 5.1, Presentation respecting the Hamilton Farmers' Market (Item 6.1)**

Eric Miller addressed Committee respecting Item 5.1, the presentation respecting the Hamilton Farmers' Market.

**(ii) John Alexander and Shane Coleman, Hamilton Farmers' Market Stallholders' Association, respecting the Hamilton Farmers' Market Board Election (Item 6.2)**

John Alexander and Shane Coleman, Hamilton Farmers' Market Stallholders' Association, addressed Committee respecting the Hamilton Farmers' Market Board Election.

**(Pauls/Farr)**

That the following delegations, be received:

- (i) Eric Miller respecting Item 5.1, Presentation respecting the Hamilton Farmers' Market (Item 6.1)
- (ii) John Alexander and Shane Coleman, Hamilton Farmers' Market Stallholders' Association, respecting the Hamilton Farmers' Market Board Election (Item 6.2)

**Result: Motion CARRIED by a vote of 12 to 0, as follows:**

Absent	-	Mayor Fred Eisenberger
Yes	-	Ward 1 Councillor Maureen Wilson
Yes	-	Ward 2 Councillor Jason Farr
Yes	-	Ward 3 Councillor Nrinder Nann
Absent	-	Ward 4 Councillor Sam Merulla
Absent	-	Ward 5 Councillor Chad Collins
Yes	-	Ward 6 Councillor Tom Jackson

**Sole Voting Member of the  
Hamilton Farmers' Market  
Minutes 21-002**

**September 13, 2021  
Page 8 of 9**

Yes	-	Ward 7	Councillor Esther Pauls
Yes	-	Ward 8	Councillor J. P. Danko
Yes	-	Ward 9	Councillor Brad Clark, Deputy Mayor
Yes	-	Ward 10	Councillor Maria Pearson
Yes	-	Ward 11	Councillor Brenda Johnson
Yes	-	Ward 12	Councillor Lloyd Ferguson
Yes	-	Ward 13	Councillor Arlene VanderBeek
Absent	-	Ward 14	Councillor Terry Whitehead
Yes	-	Ward 15	Councillor Judi Partridge

**(g) PRIVATE & CONFIDENTIAL (Item 9)**

**(i) Closed Session Minutes – January 25, 2021 (Item 9.1)**

**(Danko/Farr)**

- (a) That the Closed Session Minutes of the January 25, 2021 General Issues Committee meeting, be approved, as presented; and,
- (b) That the Closed Session Minutes of the January 25, 2021 General Issues Committee meeting remain confidential.

**Result: Motion CARRIED by a vote of 12 to 0, as follows:**

Absent	-	Mayor Fred Eisenberger
Yes	-	Ward 1 Councillor Maureen Wilson
Yes	-	Ward 2 Councillor Jason Farr
Yes	-	Ward 3 Councillor Nrinder Nann
Absent	-	Ward 4 Councillor Sam Merulla
Absent	-	Ward 5 Councillor Chad Collins
Yes	-	Ward 6 Councillor Tom Jackson
Yes	-	Ward 7 Councillor Esther Pauls
Yes	-	Ward 8 Councillor J. P. Danko
Yes	-	Ward 9 Councillor Brad Clark, Deputy Mayor
Yes	-	Ward 10 Councillor Maria Pearson
Yes	-	Ward 11 Councillor Brenda Johnson
Yes	-	Ward 12 Councillor Lloyd Ferguson
Yes	-	Ward 13 Councillor Arlene VanderBeek
Absent	-	Ward 14 Councillor Terry Whitehead
Yes	-	Ward 15 Councillor Judi Partridge

**(h) ADJOURNMENT (Item 14)**

**(Wilson/Ferguson)**

That there being no further business, the Sole Voting Member of the Hamilton Farmers' Market be adjourned at 12:13 p.m.

**Result: Motion CARRIED by a vote of 12 to 0, as follows:**

Absent	-	Mayor Fred Eisenberger
Yes	-	Ward 1 Councillor Maureen Wilson
Yes	-	Ward 2 Councillor Jason Farr
Yes	-	Ward 3 Councillor Nrinder Nann
Absent	-	Ward 4 Councillor Sam Merulla
Absent	-	Ward 5 Councillor Chad Collins
Yes	-	Ward 6 Councillor Tom Jackson
Yes	-	Ward 7 Councillor Esther Pauls
Yes	-	Ward 8 Councillor J. P. Danko
Yes	-	Ward 9 Councillor Brad Clark, Deputy Mayor
Yes	-	Ward 10 Councillor Maria Pearson
Yes	-	Ward 11 Councillor Brenda Johnson
Yes	-	Ward 12 Councillor Lloyd Ferguson
Yes	-	Ward 13 Councillor Arlene VanderBeek
Absent	-	Ward 14 Councillor Terry Whitehead
Yes	-	Ward 15 Councillor Judi Partridge

Respectfully submitted,

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Tom Jackson, Deputy Mayor  
Chair, General Issues Committee

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Stephanie Paparella  
Legislative Coordinator,  
Office of the City Clerk



J. Paul Dubé, Ombudsman

## SENT BY EMAIL

Board of Directors of the Hamilton Farmers' Market  
 c/o Elly Bowen, Chair  
 35 York Boulevard  
 Hamilton, ON L8R 3K1

January 5, 2022

Dear Chair Bowen:

### **Re: Complaints about the meeting practices of the City of Hamilton Farmers' Market**

My Office received complaints about the meeting practices of the Board of Directors of the City of Hamilton Farmers' Market. I am writing to share the outcome of my review of these complaints.

The complainant alleged that the Hamilton Farmers' Market Board of Directors is a local board and therefore subject to the open meeting rules under the *Municipal Act, 2001* (the "Act"). They told us that the Board failed to provide public notice for a special meeting held virtually on September 28, 2020, contrary to the Act. The complainant also said that the Board held a "Marketing Advisory" meeting on March 23, 2021, which was neither advertised nor open to the public.

I am writing to advise that my review – in my capacity as closed meeting investigator for the City of Hamilton (the "City") – has determined the Hamilton Farmers' Market is a municipal services corporation. As municipal services corporations are deemed not to be local boards by section 21 of O. Reg 599/06 under the Act, the Hamilton Farmers' Market Board of Directors is not subject to the open meeting rules under the Act.

However, alongside its position as a municipal services corporation, the Hamilton Farmers' Market is also a municipally-controlled corporation, and as such, it is subject to Ombudsman oversight under my Office's general municipal jurisdiction. The Ombudsman's municipal jurisdiction enables us to promote good governance by making recommendations that enhance public administration. My review in this capacity revealed that while the Board is not subject to the open meeting rules under the Act, it

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has adopted its own procedural rules that require it to hold meetings open to the public unless the discussion falls within a prescribed exception. However, these rules are silent on providing notice of meetings to the public. As a best practice, in order for the Board's meetings to be meaningfully open to the public, it should amend its rules to require that adequate notice be provided to the public in advance of meetings.

### **Ombudsman's role and authority**

As of January 1, 2008, the *Municipal Act, 2001* gives anyone the right to request an investigation into whether a municipality has complied with the Act in closing a meeting to the public. Municipalities may appoint their own investigator. The Act designates the Ombudsman as the default investigator for municipalities that have not appointed their own. The Ombudsman is the closed meeting investigator for the City of Hamilton.

In investigating closed meeting complaints, we consider whether the open meeting requirements of the Act and the municipality's governing procedures have been observed.

Our Office has investigated hundreds of closed meetings since 2008. To assist municipal councils, staff, and the public, we have developed an online digest of open meeting cases. This searchable repository was created to provide easy access to the Ombudsman's decisions on, and interpretations of, the open meeting rules. Council members and staff can consult the digest to inform their discussions and decisions on whether certain matters can or should be discussed in closed session, as well as issues related to open meeting procedures. Summaries of many of the Ombudsman's previous decisions can be found in the digest: [www.ombudsman.on.ca/digest](http://www.ombudsman.on.ca/digest).

### **Review**

We notified the City of our investigation on November 27, 2020. My Office spoke with City staff and the former Board Chair, who provided us with documentation regarding the creation and governance of the Board. We reviewed the Board's incorporating documents, procedure by-law, operating agreement, and governance framework as well as meeting agendas and minutes. We also reviewed relevant sections of the Act and associated regulations.

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## Analysis

*The Hamilton Farmers' Market Board is not a local board subject to the open meeting rules*

The open meeting rules apply to municipal councils, local boards, and committees of either of them. Section 21 of O. Reg 599/06 under the Act states that a municipal services corporation is “not a local board for the purposes of any Act”.<sup>1</sup>

City staff explained that the Hamilton Farmers' Market is a municipal services corporation, as it was established in accordance with specific requirements set out in O. Reg. 599/06 made under the Act. We reviewed documentation provided by the City confirming that the establishment of the Hamilton Farmers' Market complied with the statutory prerequisites to qualify as a municipal services corporation. As municipal services corporations are deemed not to be local boards, the Board is not a local board subject to the open meeting rules.

*The Hamilton Farmers' Market is a municipally-controlled corporation subject to the Ombudsman's jurisdiction under the Ombudsman Act*

While the open meeting rules apply only to municipal councils, local boards, and committees of either of them, my Office has had jurisdiction to review complaints about municipalities since January 1, 2016. Under the *Ombudsman Act*, my Office can review and investigate complaints about municipal sector entities, which includes municipalities, local boards, and municipally-controlled corporations.

“Municipally-controlled corporation” is defined as a corporation that has 50 per cent or more of its issued and outstanding shares vested in a municipality or that has the appointment of a majority of its board of directors made or approved by a municipality.

The Hamilton Farmers' Market letters patent establish it as a not-for-profit corporation, without share capital. The City is the sole shareholder and voting member of the corporation. In addition, the City appoints the entire Board of Directors. Accordingly, the Hamilton Farmers' Market is a municipally-controlled corporation, and thus within the Ombudsman's general municipal jurisdiction.

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<sup>1</sup> O Reg 599/06: Municipal Services Corporations, s. 21 under *Municipal Act, 2001*, S.O. 2001, c. 25.



*The Board's operating agreement and procedure by-law impose obligations on the Board with respect to meetings*

The Hamilton Farmers' Market has adopted procedural rules governing the meetings of the Board. These are set out in its operating agreement with the City and its procedure by-law. Under its operating agreement with the City of Hamilton and procedure by-law, the Hamilton Farmers' Market Board of Directors' meetings are to be open to the public, except where otherwise permitted under the Act. Before closing a meeting, the Board must pass a resolution stating the general nature of the matter to be considered in closed session. The Board is not permitted to vote in closed session unless it is for a procedural matter or for giving directions or instructions. These provisions mirror the open meeting rules under the Act.

The procedure by-law contains provisions relating to notice of Board meetings. Notice of regular meetings is given to Board members by providing a copy of the resolution fixing the place and time of regular meetings. Special meetings may occur with not less than 48 hours' notice (excluding Sundays and holidays) to each Board member.

In light of the clear intention that Board meetings be open to the public unless they fall within an exception under the Act, I encourage the Board to amend its procedure by-law to reflect its practice of providing public notice, setting out the date, time and location of each Board meeting.

As I have previously noted, the public does not have the opportunity to attend and observe a meeting if no notice about the time and location of the meeting is provided in advance. In such circumstances, the meeting is effectively closed to the public contrary to the open meeting requirements.<sup>2</sup>

## Conclusion

As a municipal services corporation, the Hamilton's Farmers' Market Board of Directors is not subject to the open meeting rules under the *Municipal Act, 2001*. However, the Board has adopted its own procedural rules which require it to hold Board of Directors' meetings open to the public.

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<sup>2</sup> *Kirkland Lake (Town of) (Re)*, 2017 ONOMBUD 19, online: <<https://canlii.ca/t/hqspk>>; *Hornepayne (Township of) (Re)*, 2016 ONOMBUD 20, online: <<https://canlii.ca/t/h2st9>>; *Magnetawan (Municipality of) (Re)*, 2015 ONOMBUD 20, online: <<https://canlii.ca/t/gtp6h>>.



To improve accessibility, transparency and accountability, I urge the Board to amend its procedure by-law to require that public notice be given for all meetings, setting out the date, time and location of the meeting.

I would like to thank the Board for its co-operation during my investigation. The Chair has confirmed that this letter will be included as correspondence at the next available meeting of the Board and will be shared with the City of Hamilton.

Sincerely,



Paul Dubé  
Ombudsman of Ontario

Cc: Council for the City of Hamilton, c/o Andrea Holland, City Clerk

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**From:** Elly Bowen <[REDACTED]>  
**Sent:** Monday, January 17, 2022 4:52 PM  
**To:** Paparella, Stephanie <Stephanie.Paparella@hamilton.ca>  
**Subject:** Resignation of Citizen Board Member

Hello Stephanie:

At the January 10, 2022 Hamilton Farmers' Market Board meeting, the Board passed a motion to accept the resignation of Joshua Czerniga, a citizen board member effective December 22, 2021. Attached is his resignation letter. Details are included in the document.

Regards,

Elly Bowen,  
Chair,  
Hamilton Farmers' Market Board

The notes below were placed at the top of the resignation letter by the Board:

Resignation Letter of Board Member

- Email communication directed to Ray Kessler that Elly Bowen was cc'd on
- As the resignation is communicated within an email response to another matter, those elements have been redacted.

The Clerk's office has removed all redaction, with the exception of the personal information.

**From:** Czerniga, Joshua [REDACTED]  
**Sent:** December 22, 2021 12:09 PM  
**To:** Kessler, Raymond <Raymond.Kessler@hamilton.ca>  
**Cc:** Nicholson, Susan <Susan.Nicholson@hamilton.ca>; Elly Bowen [REDACTED] Pauls, Esther <Esther.Pauls@hamilton.ca>; Koch, Jodi <Jodi.Koch@hamilton.ca>; Chiappetta, Melissa <Melissa.Chiappetta@hamilton.ca>; warndt [REDACTED]  
**Subject:** Re: Market Manager concerns and withholding contract.

Dear Raymond

My motivation is to always be helpful and it is evident that [REDACTED] and [REDACTED] want me off this board. So therefore, they can get their Christmas wish I am resigning effective immediately.

It is clear that this is not how a board of directors operates. I apologize if people were offended and I just wanted to help understand this man's frustrations. I would like also mention to have my name removed asap from the board info.

I wish everyone a Merry Christmas and Hope the Market succeeds in the future. That the consultation process shows that a structural change is necessary.

As stated, I resign immediately from the board of directories takes effect at. 12:04 pm today please acknowledge my resignation.


Joshua Czerniga

God Bless,

Former Vice Chair at Hamilton Market Board



# INFORMATION REPORT

<b>TO:</b>	Mayor and Members City Council
<b>COMMITTEE DATE:</b>	February 2, 2022
<b>SUBJECT/REPORT NO:</b>	Hamilton Farmers' Market Corporation Governance and Operational Review Update (PED22029) (Ward 2)
<b>WARD(S) AFFECTED:</b>	Ward 2
<b>PREPARED BY:</b>	Raymond Kessler (905) 546-2424 Ext. 7019 Julia Davis (905) 546-2424 Ext. 2632
<b>SUBMITTED BY:</b>	Norm Schleeahn Director, Economic Development Planning and Economic Development Department
<b>SIGNATURE:</b>	

## COUNCIL DIRECTION

Staff prepare a report that provides a preferred governance and operating model for the Hamilton Farmers' Market Corporation, which prioritizes value-for-dollar invested by the City as the sole voting member, role clarity, enhanced governance and the avoidance of any potential conflicts of interest.

## INFORMATION

### HISTORICAL CONTEXT

This Report provides a summary of the work done on the Hamilton Farmers' Market (the Market) governance and operations, with an update on the current review being undertaken.

---

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Hamilton Farmers' Market Corporation Governance and Operational Review Update (PED22029) (Ward 2) - Page 2 of 5**

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In December 2014, the City of Hamilton incorporated the HFMC, a not-for-profit entity in accordance with Section 203 of the *Municipal Act* for the purpose of operating the Market. Through this incorporation the City of Hamilton was appointed the sole voting member of the HFMC, and that:

- Is responsible to elect or appoint the Board of Directors who are responsible to manage and direct the business affairs of HFMC;
- Considers the annual operating and capital budget submissions which are provided by HFMC and has the authority to approve, or amend, the budget as they deem appropriate;
- Reviews the Annual Report of the HFMC and holds the Annual General Meeting which includes the delivery and or update of strategic business plans; and,
- Amends the Operating Agreement or corporate governance of HFMC as required.

Beginning in the fall of 2019, the fifth anniversary since implementing this governance model, City staff undertook an evaluation of the governance model of the HFMC. This review, conducted by 2WA Consulting Inc., reviewed documentation related to the Board (operating agreements, by-laws, procedures and Board minutes), interviewed Board Members, and researched other farmer's markets. A report was produced that outlined some areas of concern with the Board's current operations and provided recommendations to be considered. On September 28, 2020 a meeting was held with the HFMC Board to review the document, following which the HFMC Board provided a response letter which indicated concern with the process and many of the recommendations.

On November 23, 2020, the City as sole voting member of the HFMC considered the recommendations included in Hamilton Farmers' Market Governance Report (CM20010) and directed staff to prepare a report that provides a preferred governance and operating model for the Hamilton Farmers' Market Corporation, which prioritizes value-for-dollar invested by the sole voting member, role clarity, enhanced governance and the avoidance of any potential conflicts of interest. This direction also followed a deferred motion from the June 15, 2020 General Issues Committee which asked staff to investigate a third party operator for the Market by issuing a Request for Proposal and reporting back to the General Issues with those results and to utilizing the governance model review research that is currently under way, to inform the Request for Proposal scope.

## **CURRENT STATE**

Staff proceeded to issue a Request for Proposal in early May 2021 to solicit qualified submissions from firms to undertake this governance and operational review work. The successful proponent, Optimus SBR, began evaluation on the HFMC through analysis, consultation and benchmarking in September 2021. The first phase of the Hamilton

**SUBJECT: Hamilton Farmers' Market Corporation Governance and Operational Review Update (PED22029) (Ward 2) - Page 3 of 5**

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Farmers' Market Corporation Governance and Operational Review resulted in a Current State Report, attached to Report PED22029 as Appendix "A". The methodology used to compile this Report involved extensive documentation review (operating bylaws, stallholder agreements, minutes of open board meetings, staff reports, media coverage, etc.), stakeholder engagement through interviews, surveys and focus groups, and a jurisdictional scan of five comparator markets. It contains observations and assessments of the data, benchmarking, and stakeholder input, and provides an overview of the current state of the Market. It also makes recommendations toward pursuing the future governance and operational options that will form the basis for the final Report.

A summary of the governance and operational findings for the HFMC included in the Current State Report are:

### **Governance Findings**

- The strategic plan for the Market expired towards the end of 2020 – a new plan has not been created;
- The Market has been operating with a shared governance structure where the City of Hamilton is supported by a Board of Directors, City Contract Manager and the Market Manager and his team. The City approves key Board decisions, e.g., the budget of the Market;
- The authority of two integral stakeholders: The Board of Directors and the Market Manager, have been outlined in the Governance Policy of the Board. However, over the past few years, the practices of the Board have evolved and deviated from its outlined role to include day-to-day operations;
- The Board is exposed to conflict of interest due to its composition which includes vendor directors;
- The Market is strongly dependent on the in-kind and financial support from the City of Hamilton;
- Feedback collected from City Council indicates a desire for less municipal involvement in the governance and operations of the Market; and,
- Stakeholders indicated that continuous negative public relations related to the dysfunctionality of governance and operations over the past few years have impacted the brand of the Market.

### **Operational Findings**

- The maintenance of the infrastructure that houses the Market and the availability of resources such as ventilation, common storage, and electrical power has been raised as a concern;
- Accessibility to the Market for customers has been identified as a pain point. The downtown area is in transition and has been impacted by vagrancy;

**SUBJECT: Hamilton Farmers' Market Corporation Governance and Operational Review Update (PED22029) (Ward 2) - Page 4 of 5**

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- Feedback from vendors indicates a need to adjust the operating hours of the Market to attract more customers such as “evening shoppers” and “post-work shoppers”;
- Customer experience has been identified as a key area of focus for vendors. Little space for customers to sit and to interact with others over coffee or food;
- Feedback collected suggests the brand of “The Farmers’ Market” is not well represented with less than 5% of the vendor portfolio representing growers; and,
- The financial sustainability is big cause of concern for the Market with a heavy dependency on the City of Hamilton. The expiry of the sponsorship with Meridian puts pressure on the Market to find alternate revenue streams to make up for \$125,000 which will not be available going forward. Without sponsorship and the levy from the City, the current operations of the Market recover approximately 69% of the direct costs, essentially being the stallholder fees.

The Current State Report (attached as Appendix “A” to PED22029) outlines four potential models to be evaluated for the future governance and operations of the Market:

### **1. Incorporation / Not-for-Profit**

- This option represents the current business model of the Market, with improvements. This model will continue to depend on the City or other sponsors for support both financially and in-kind until a time when financial sustainability can be achieved;
- The Market would be run by a Board and Market Manager. The vision of the Market would be defined by the Board with operational management and support from the Market Manager;
- The vendors would have input but no decision-making authority;

### **2. City Owned and Operated**

- The City of Hamilton would repatriate the Market. City Staff would run the operations with support from an Advisory Board. The City would define the vision and strategic plan for the Market;
- The Advisory Board would consist of City staff, Councillors, qualified citizens, and vendor representation;

### **3. Partially Privatize**

- The Market would be operated by a private sector partner, under terms and conditions of a contract with the City;
- The City would recover its costs for the facilities and any services it provided;
- The vision and strategic plan for the Market would be jointly agreed upon by the City and the private sector partner; and,

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OUR Vision: To be the best place to raise a child and age successfully.

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OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Hamilton Farmers' Market Corporation Governance and Operational Review Update (PED22029) (Ward 2) - Page 5 of 5**

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#### **4. Fully Privatize**

- The City of Hamilton would in essence sell the HFMC to an arm's length organization – this organization could be any manner of for-profit, not-for-profit, co-operative, or vendor association;
- The City would lease the current Market space - the City would have no other involvement in the operations of the Market.

#### **NEXT STEPS**

With the Current State Report being compiled and drafted, staff will continue to work with the Optimus SBR team to implement the second phase of the project which will include facilitating additional private sector consultation and outreach to determine the best future state governance and operations model to recommend for the Market. Recently staff have also been working with the consultant on adding an additional element to the review. The location of the Market is within an area of the downtown core which will be undergoing substantial change. Engagement with surrounding partners will be vital to understanding ideal future state models under consideration.

As staff seek to achieve City Council's objectives for the governance and operations review, the consultant's next steps will be to facilitate working groups and consultative sessions focused on the proposed future state models outlined in the Current State Report, with the goal of determining which of these would be the most effective to adopt and implement for the future success of the Market.

During the consultation to date, one matter that was raised that was outside the scope of the current review was the questions of the vision, identity and purpose of the Hamilton Farmers' Market and its role within the community. As an institution in Hamilton since 1837, having a broader understanding of the vendor, customer and community's vision for the Market beyond the work that was conducted in 2012, may be desirable. Should Council desire to revisit this question, staff would pause this second phase of the current review and turn its attention to separate public consultation.

#### **APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" - Governance and Operational Review: Hamilton Farmers' Market Corporation Current State Report



# Governance and Operational Review: Hamilton Farmers' Market Corporation

→ Current State Report

January 12, 2022



## Table of Contents

<b>Executive Summary .....</b>	<b>3</b>
Project Mission and Success.....	3
Project Methodology .....	3
Current State Findings.....	4
Governance Findings.....	4
Operational Findings.....	4
Jurisdictional Scan Findings .....	5
SWOT Analysis.....	5
Future State Model Options.....	6
<b>1.0 Purpose of this Document.....</b>	<b>6</b>
<b>2.0 Project Background and Context.....</b>	<b>7</b>
<b>3.0 Project Overview .....</b>	<b>8</b>
3.1 Project Mission and Success.....	8
3.2 Project Scope .....	8
3.3 Project Approach and Methodology.....	9
3.3.1 Project Approach.....	9
3.3.2 Project Methodology.....	9
3.3.3 Stakeholder Engagement Overview .....	10
<b>4.0 Current State Findings.....</b>	<b>13</b>
4.1 Overview.....	13
4.1.1 Purpose and Objective of The Hamilton Farmers’ Market Corporation .....	13
4.1.2 Duties of The Hamilton Farmers’ Market Corporation .....	13
4.1.3 Financial Summary.....	14
4.1.4 Organizational Structure.....	17
4.1.5 Decision-Making Authorities of The Board of Directors and Market Manager.....	18
4.2 Vendor Survey.....	19
4.2.1 Method.....	19
4.2.2 Insights .....	19
4.3 City Council Survey .....	20
4.3.1 Method.....	20
4.3.2 Insights .....	20
4.4 Governance.....	21
4.5 Operations.....	23
4.6 Jurisdictional Scan.....	25
4.6.1 Method.....	25
<b>5.0 SWOT Analysis .....</b>	<b>28</b>



**6.0 Future State Model Options..... 30**

6.1 Option #1 – Current model with no changes (Incorporation/Not-for-Profit)..... 31

    6.1.1 Description: ..... 31

    6.1.2 Pros:..... 31

    6.1.3 Cons: ..... 31

    6.1.4 Considerations: ..... 31

6.2 Option #2 – Incorporation/Not-for-Profit Operated (Current model with amendments) ..... 32

    6.2.1 Description: ..... 32

    6.2.2 Pros:..... 32

    6.2.3 Cons: ..... 32

    6.2.4 Considerations: ..... 32

6.3 Option #3 – City Owned and Operated ..... 33

    6.3.1 Description: ..... 33

    6.3.2 Pros:..... 33

    6.3.3 Cons: ..... 33

    6.3.4 Considerations: ..... 33

6.4 Option #4 – Fully Privatize ..... 34

    6.4.1 Description: ..... 34

    6.4.2 Pros:..... 34

    6.4.3 Cons: ..... 34

    6.4.4 Considerations: ..... 34

6.5 Option #5 – Partially Privatize ..... 34

    6.5.1 Description: ..... 34

    6.5.2 Pros:..... 35

    6.5.3 Cons: ..... 35

    6.5.4 Considerations: ..... 35

**7.0 Next Steps..... Error! Bookmark not defined.**

## Executive Summary

### Project Mission and Success

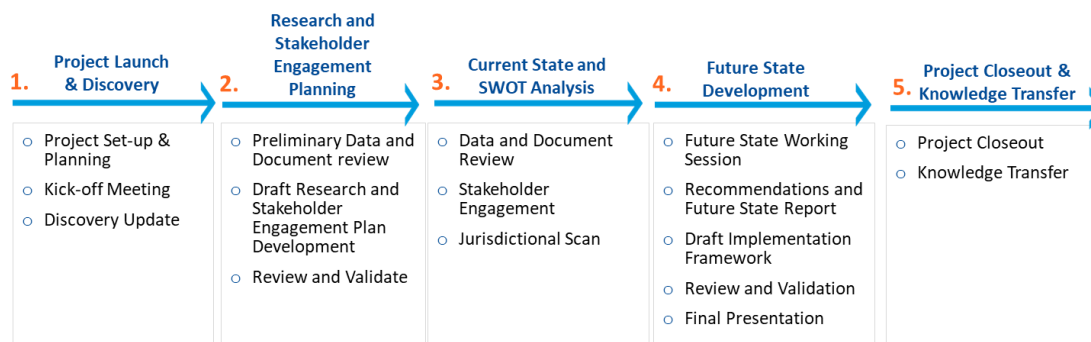
#### Project Mission

To conduct a governance and operational review of The Hamilton Farmers’ Market Corporation (HFMC) to recommend the best-fit structure for The Market moving forward.

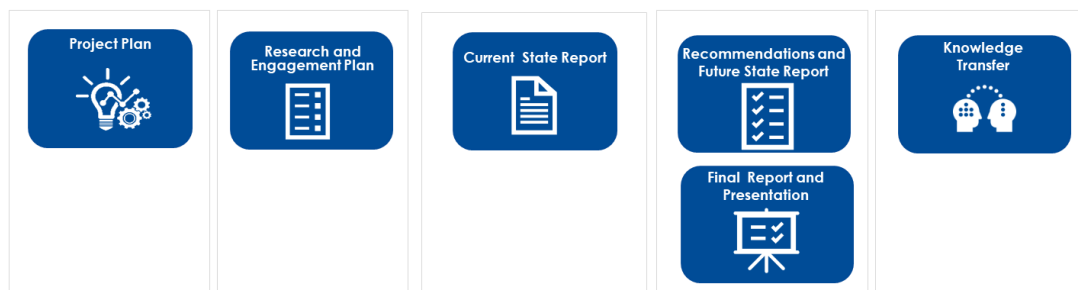
#### Project Success

- A clear understanding of the current state of governance and operating model
- Identification of leading practice on governance and operational structures used by comparable jurisdictions/organizations, to provide evidence-based recommendations
- Tailored and evidence driven recommendations related to key gaps identified during the current state assessment around
  - Governance
  - Operating structure and
  - Key roles and responsibilities
- A governance structure and operating model that ensures that the HFMC prioritizes value-for dollar invested by the City

### Project Methodology



#### Milestones



## Current State Findings

### Governance Findings

The summary of observations regarding the governance of The Hamilton Farmers' Market is as follows:

- The strategic plan for the Market expired towards the end of 2020; a new plan has not been created
- The Market has been operating with a shared governance structure where the City of Hamilton is supported by a Board of Directors, City Contract Manager and the Market Manager and his team. The City approves key Board decisions, e.g., the budget of the Market
- The authority of two integral stakeholders: the Board of Directors and the Market Manager, have been outlined in the Governance Policy of the Board. However, over the past few years, the practices of the Board have evolved and deviated from its outlined role to include day-to-day operations
- The Board is exposed to conflict of interest due to its composition which includes vendor directors
- The Market is strongly dependent on the in-kind and financial support from the City of Hamilton. Feedback collected from City Council indicates a desire for lesser public sector involvement in the governance and operations of the Market, with a preference towards private sector involvement
- Stakeholders indicated that continuous negative public relations related to the dysfunctionality of governance and operations over the past few years have impacted the brand of the Market

### Operational Findings

The summary of observations regarding the Operations of The Hamilton Farmers' Market is as follows:

- The maintenance of the infrastructure that houses the Market and the availability of resources such as ventilation, common storage, and electrical power has been raised as a concern
- Accessibility to the Market for customers has been identified as a pain point. The downtown area is in transition and has been impacted by vagrancy
- Feedback from vendors indicates a need to adjust the operating hours of the Market to attract more customers such as "evening shoppers" and "post-work shoppers"
- Customer experience has been identified as a key area of focus for vendors. Little space for customers to sit and to interact with others over coffee or food
- Feedback collected suggests the quality of produce available has been on the decline
- Feedback collected suggests the brand of "The **Farmers'** Market" is not well represented with less than 5% of the vendor portfolio representing growers
- The financial sustainability is big cause of concern for the Market with a heavy dependency on the City of Hamilton. The expiry of the sponsorship with Meridian puts pressure on the Market to find alternate revenue streams to make up for \$125,000 which will not be available going forward. Without sponsorship and the levy from the City, the

current operations of the Market are able to recover approximately 69% of the direct costs, which represents the stallholder fees collected from vendors

### Jurisdictional Scan Findings

The jurisdictional scan shows the challenge of comparing Markets. Each Market has different circumstances, physical space, fees and facilities, making an equal comparison across the board, difficult. Results showed that there are multiple different models and innovative ways to operate a Farmers’ Market. The most common trends are listed below.

- Not all City run Markets are fully subsidized
- Not all City Markets have stall leases. Some Markets are transient and only operate 1 to 2 days per week
- Markets want to see vendors’ businesses succeed
- Markets are looking for ways to continuously promote and monetize downtime in support of financial sustainability

### SWOT Analysis

The current state analysis has revealed key areas of strength and weaknesses of the market:

- **Strengths:**
  - The Market’s location in the centre of downtown Hamilton has been identified as a key strength
  - The community, inclusive of vendors and citizens, care deeply about the success of The Market, as indicated in the most recent change.org initiative to save The Farmers’ Market, which collected ~13K signatures
  - The partnership with the City of Hamilton provides financial and operational support and is crucial to the continuity of The Market
- **Weakness:**
  - The Market’s brand has suffered from negative publicity. Additionally, the vendor portfolio with grower representation under 5% does not align with “The Farmers’ Market” brand or esthetic
  - The quality of produce, largely brought in from The Ontario Food Terminal, has been in a state of decline, resulting in customers looking for alternate solutions
  - COVID-19 safety measures resulted in a strong decline of foot traffic which is traditionally the vendors’ main source for customers
  - The absence of a formalized communication channel between the vendors and the management has resulted in frustration amongst the vendors
  - The overlap of roles and responsibilities between The Board and Market Manger has resulted in redundancies leading to inefficiencies
- **Opportunities:**
  - The Market is operational 4 days a week, leaving 3 days to be utilized for alternate sources of revenue
  - Feedback collected indicates there is a desire for the “outside” area to be available during summers to provide a better customer experience
  - The current stallholder vacancies provide The Market with an opportunity to bring Farmers to the vendor portfolio and increase the grower representation

- Feedback indicates modification to the operating hours will be beneficial for the vendors to attract the “evening”, “post-work” and “Sunday” customers
- **Threats:**
  - The expiry of the sponsorship agreement with the Meridian Credit Union will pose a loss of \$125,000 annually which represented 16.6% of the 2020 budget
  - There is a growing gap between stall fee revenue and the cost of running the market
  - The lack of a vision for The Market is a roadblock to progress, as stakeholders do not know what the path forward looks like
  - Availability of other supermarket options in the downtown area creates additional options for customers

## Future State Model Options

The Hamilton Farmers’ Market represents a historic institution for the City of Hamilton. While the current state analysis and jurisdictional scan reveals multiple business models, structurally the following four high-level models seem the most appropriate:

### 1. Incorporation / Not-for-Profit

- This option represents the current business model of The Market. This model will continue to depend on the City or other sponsors for support both financially and in-kind until a time when financial sustainability can be achieved.
- The Market would be run by a Board and Market Manager. The vision of the Market would be defined by The Board with support from the Market Manager.
- The vendors would be represented by an association and non-voting seat.

### 2. City Owned and Operated

- The City of Hamilton would take over The Market. The City Staff would run the operations with support from an Advisory Board. The City would define the vision of The Market.
- The Board would primarily consist of City staff and Councillors and one non-voting seat for a representative of a vendor association.

### 3. Fully Privatize

- The City of Hamilton would lease the space to a private organization, who would operate it based on the vision they define. The change implications for this option are the highest because City involvement would be minimal, and the model would potentially change to for-profit.

### 4. Partially Privatize

- The Market would be jointly operated by the City and the private sector partner. The City would continue to own the asset, but would collect a fee or rent, in addition to delivering services to the Market based on a service level agreement. The change implications would be dependent on the vision for the Market jointly agreed upon by the City and the private sector partner.

## 1.0 Purpose of this Document

This **draft Current State Report** of the Governance and Operational Review for The Hamilton Farmers’ Market provides:

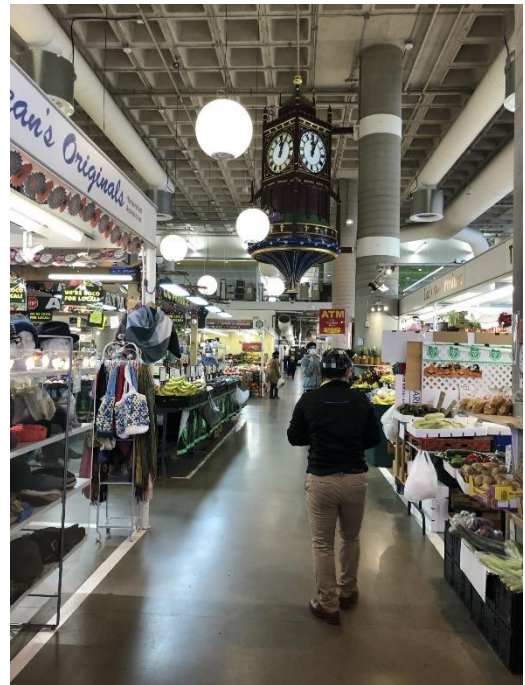
- An overview of the project approach and progress to date
- An overview of the methodology used to understand the current state and to provide context to the suggested alternatives
- Current state findings including what is working well and opportunities for improvement
- Suggested alternatives for how to structure The Hamilton Farmers’ Market’s governance and operations

The goal of this draft Current State Review Report is to identify evidence-driven observations of the current state of the organization. Key gaps have been identified during the current state assessment around Governance, Operations and Key Roles and Responsibilities. These gaps will inform future state options that are aligned to the expectations of the City of Hamilton and The Hamilton Farmers’ Market Corporation to provide a clear path forward.

## 2.0 Project Background and Context

The Market was originally founded in 1837 and is located at the corner of York Boulevard & MacNab Street. The Market has been in its current indoor location next to the Hamilton Public Library since August 1980. As a historic community gathering place, The Market offers produced food, a wide variety of local and international food products, locally grown produce, artisan wares and events such as the Peach Festival and Harvest Festival.

Much more than a facility, the Market has been a cultural destination in the downtown core and a part of this community for 175 years. However, the Market has not kept pace with the changing preferences of the food shopping public over the past decade, nor met its potential to be a destination in the downtown core. Recognizing that the Hamilton Farmers' Market can play a much broader and important role in the City's future, The City made an 8-million-dollar capital investment to revitalize its location, improve its street presence, provide full accessibility, functional capacity and reach its potential as a downtown destination. During the construction period, the Market was temporarily located in Jackson Square. The facility reopened in February 2010.



In December 2014, the City of Hamilton incorporated The Hamilton Farmers’ Market Corporation (HMFC), a not-for-profit entity, for the purpose of operating the Market. At the beginning of the Fall 2019, City Staff conducted a review of the current governance model of The Hamilton Farmers’ Market Corporation (HFMC). The review was conducted on the fifth anniversary of implementing the HMFC’s current governance model, which includes a Board of Directors made up of citizen and vendor directors and shareholder representation. There were challenges associated with the review process and the final report submitted was not approved by Council.

There continue to be political sensitivities around the Market, specifically around the financial sustainability of the current governance and operations model; the desire of City Council to continue to subsidize and support the Market; and the strained relationships between the Board, the vendors, and the Market Manager.

## 3.0 Project Overview

### 3.1 Project Mission and Success

#### Project Mission

To conduct a governance and operational review of The Hamilton Farmers' Market Corporation (HFMC) to recommend the best-fit structure for the Market moving forward.

#### Project Success

- A clear understanding of the current state of governance and operating model
- Identification of leading practice on governance and operational structures used by comparable jurisdictions/organizations, to provide evidence-based recommendations
- Tailored and evidence-driven recommendations related to key gaps identified during the current state assessment around
  - Governance
  - Operating structure and
  - Key roles and responsibilities
- A governance structure and operating model that ensures that the HFMC prioritizes value-for dollar invested by the City

### 3.2 Project Scope

Based on Optimus SBR's proposal and the discussion with the City's project team, the following scope was defined for this engagement:

- Conduct review of data and documents and discovery interviews with key stakeholders
- Engage stakeholders through survey, interviews and focus groups to understand the current state and potential future state opportunities
- Engage external organizations/municipalities to identify leading practices, focusing on size, governance and operational model, funding models, facility type and operations, type of products, operating hours, and vendor contract structure
- Develop a Current State Report (including SWOT analysis) that summarizes the findings from project discovery, data and document review, jurisdictional scanning, and stakeholder engagement
- Develop governance and operational model options, including implementation prioritization as a part of the future state iteration of the report
- Present final report

Additional interviews and discussions were scheduled as needed throughout the current state analysis.



The items that were not included as part of the scope for this engagement are:

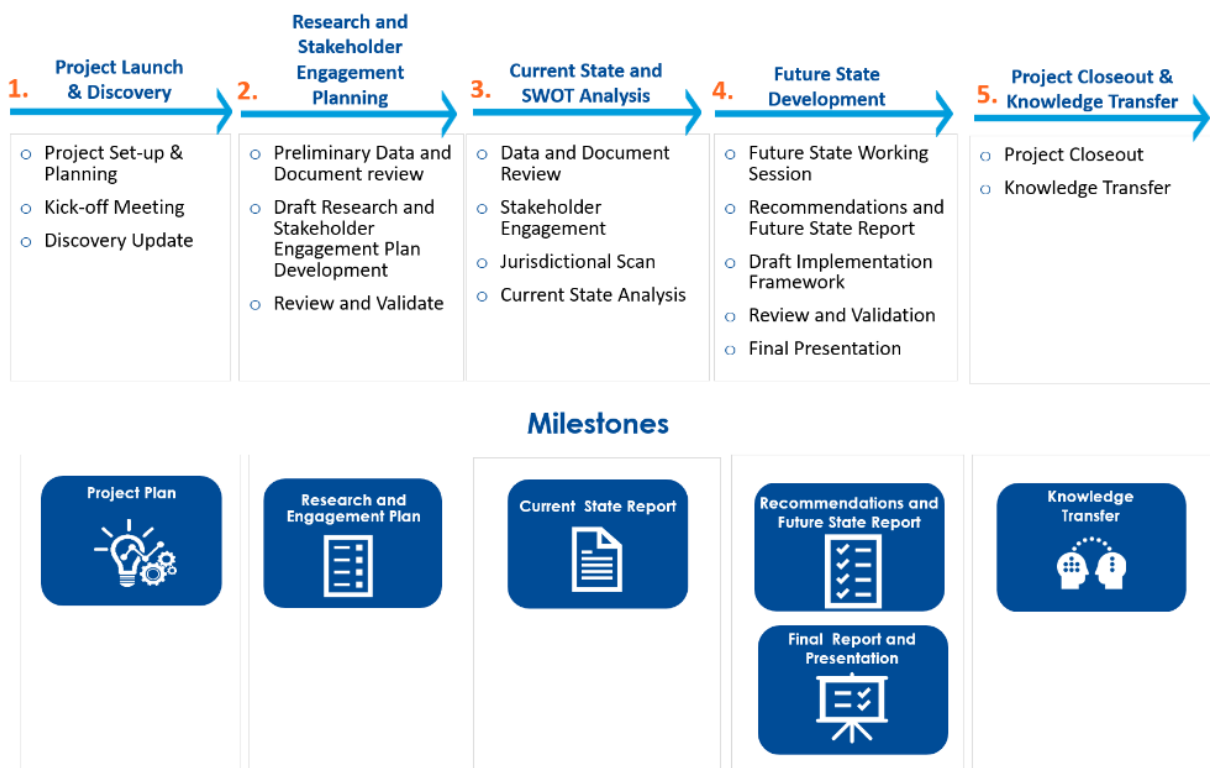
- Detailed implementation and change management planning
- Detailed financial modelling

### 3.3 Project Approach and Methodology

#### 3.3.1 Project Approach

Optimus SBR followed the five-step approach to conducting the assessment for Hamilton Farmers' Market Corporation

*Figure 1: Project Approach*



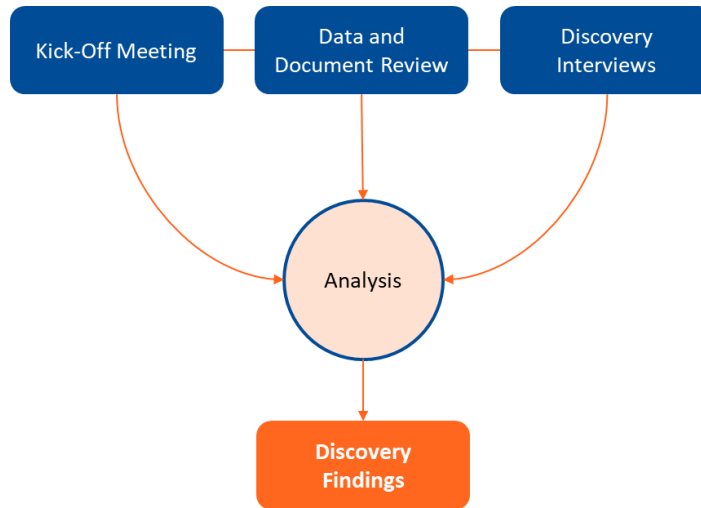
#### 3.3.2 Project Methodology

Optimus SBR reviewed the data and documents, engaged multiple stakeholders through interviews and focus groups, and conducted a survey to develop insights for the Current State Report. The findings, preliminary opportunities, and future state model options are identified in this Report.

The following figure represents the methodology and criteria used by Optimus SBR to conduct the current state analysis:



Figure 2: Project Methodology



### 3.3.3 Stakeholder Engagement Overview

Optimus SBR conducted a robust stakeholder engagement plan in order to better understand the various perspectives, opinions and visions from those individuals associated with the Hamilton Farmers’ Market. The below table outlines the individuals who were engaged to share their perspectives; the engagement method used; and the objectives for each interaction.

Stakeholder Groups	Group Details	Engagement Method	Objective
City Council	<ul style="list-style-type: none"> <li>Mayor Fred Eisenberger</li> </ul>	Individual Interview	<ul style="list-style-type: none"> <li>Understand perspective on the desired model and vision for The Market</li> <li>Discuss the purpose of The Market</li> <li>Identify key governance and operational considerations</li> </ul>
	<ul style="list-style-type: none"> <li>Councillor Jason Farr</li> </ul>	Individual Interview	
City Staff	<ul style="list-style-type: none"> <li>Ray Kessler, Chief Corporate Real Estate Officer</li> <li>Susan Nicholson, Solicitor</li> </ul>	Group Interview	<ul style="list-style-type: none"> <li>Understanding the desired target operating model and associated rationale</li> </ul>
	<ul style="list-style-type: none"> <li>Dave McCullagh, Senior Real Estate Consultant</li> </ul>	Individual Interview	

Stakeholder Groups	Group Details	Engagement Method	Objective
	<ul style="list-style-type: none"> <li>Cyrus Tehrani, Chief Digital Officer</li> <li>Janette Smith, City Manager</li> </ul>	Group Interview	<ul style="list-style-type: none"> <li>Current pain points and opportunities for improvements</li> </ul>
	<ul style="list-style-type: none"> <li>Rom D'Angelo, Director, Energy, Fleet &amp; Facilities</li> </ul>	Individual Interview	
	<ul style="list-style-type: none"> <li>Brian McMullen, Director of Financial Planning</li> </ul>	Individual Interview	
	<ul style="list-style-type: none"> <li>Ryan McHugh, Manager of Tourism and Events, City of Hamilton</li> </ul>	Individual Interview	
<b>City Councillors</b>	<ul style="list-style-type: none"> <li>Survey sent to the Mayor and 14 Councillors with 10 responses received</li> </ul>	Online Survey	<ul style="list-style-type: none"> <li>Understand perspective of the City on The Market from an Operations and Governance Perspective</li> <li>Recommendations for the future of The Market</li> </ul>
<b>Market Board</b>	Participated: <ul style="list-style-type: none"> <li>Elly Bowen, Citizen Member, Active Chair, and Secretary</li> <li>Esther Pauls, Council Member</li> <li>Joshua Czerniga, Citizen Member</li> <li>Damian Wills – Citizen Member</li> <li>Jason Hofing – Vendor Member</li> </ul>	Group Interview	<ul style="list-style-type: none"> <li>Understand the desired target operating model and associated rationale</li> <li>Current pain points and opportunities for improvements</li> <li>Vendor engagement recommendations</li> </ul>
	<ul style="list-style-type: none"> <li>Wilfred Arndt, Citizen Member</li> <li>Eva Marsden, Citizen Member</li> <li>Brandon Linares – Vendor Director</li> </ul> Did not participate: <ul style="list-style-type: none"> <li>Anne Miller, Vendor Member</li> <li>Celina Masoudi – Vendor Director</li> </ul>	Group Interview	
<b>Market Staff</b>	<ul style="list-style-type: none"> <li>Bill Slowka, Market Manager</li> </ul>	Individual interview	<ul style="list-style-type: none"> <li>Operational strengths and challenges</li> </ul>

Stakeholder Groups	Group Details	Engagement Method	Objective
			<ul style="list-style-type: none"> <li>Recommendations for improvements</li> <li>Vendor engagement recommendations</li> </ul>
<b>Vendors</b>	<ul style="list-style-type: none"> <li>Survey sent to 49 vendors with 24 responses</li> </ul>	Online and paper survey	<ul style="list-style-type: none"> <li>Operational strengths and challenges</li> <li>Recommendations for improvements</li> </ul>
<b>Friends of The Market</b>	<ul style="list-style-type: none"> <li>Did not take advantage of opportunity to provide insights and feedback via interview or written submission</li> </ul>	Individual Interview followed by Written Questionnaire	<ul style="list-style-type: none"> <li>Operational strengths and challenges</li> <li>Recommendations for improvements</li> <li>Vendor engagement recommendations</li> <li>Impact of The Market on the community</li> </ul>
<b>Downtown Hamilton BIA</b>	<ul style="list-style-type: none"> <li>Kerry Jarvi, Executive Director of Downtown Hamilton BIA</li> </ul>	Individual interview	<ul style="list-style-type: none"> <li>Operational strengths and challenges</li> <li>Recommendations for improvements</li> <li>Vendor engagement recommendations</li> <li>Impact of The Market on the community</li> </ul>
<b>Other Jurisdictions</b>	<ul style="list-style-type: none"> <li>St. Lawrence - City of Toronto</li> </ul>	Individual Interview and Desk Research	<ul style="list-style-type: none"> <li>Governance model</li> <li>Number of staff</li> <li>Average rent</li> <li>Service levels and operating hours</li> </ul>
	<ul style="list-style-type: none"> <li>Covent Garden Market - City of London</li> </ul>	Individual Interview and Desk Research	
	<ul style="list-style-type: none"> <li>Halifax Seaport Farmers' Market</li> </ul>	Individual Interview and Desk Research	
	<ul style="list-style-type: none"> <li>Welland Farmers' Market</li> </ul>	Desk Research	

Stakeholder Groups	Group Details	Engagement Method	Objective
	<ul style="list-style-type: none"> <li>Kitchener Market</li> </ul>	Desk Research	

## 4.0 Current State Findings

### 4.1 Overview

The following section of the Report contains the Current State Findings. Rigorous data reviews, interviews, focus groups, desk research, and survey analysis, provided themes and insights about the current state of the Governance and Operations of The Hamilton Farmers’ Market.

This section provides a review of the role and objectives of The Hamilton Farmers’ Market Corporation; a snapshot of the current financial picture; the current organizational structure; the role of the Board; and themes and observations regarding the Market’s Governance and Operations.

In addition, the results of a jurisdictional scan are provided. The scan was conducted to compare the Market and five comparators in Canada against a set criterion. The objective of the scan was to better understand other models used for similar Markets; the types of fee structures in place; and decision-making processes, to name a few.

#### 4.1.1 Purpose and Objective of The Hamilton Farmers’ Market Corporation

As stated in the Operating Agreement between the City of Hamilton and The Hamilton Farmers’ Market Corporation, the main objectives of The Market are as follows:

- Provide a venue for local food growers and producers to sell directly to the public
- Provide the public with access to high quality, nutritious, locally grown food
- Strengthen the local economy with the purchase of locally grown food wherever possible
- Promote relationships and opportunities between farmers, food producers, independent food merchants, consumers, and the public
- Offer a diversity of fresh food products, including international and specialty foods
- Foster an economically, ecologically and socially sustainable community

#### 4.1.2 Duties of The Hamilton Farmers’ Market Corporation

The Operating Agreement between the City of Hamilton and The Hamilton Farmers’ Market Corporation outlines the duties of The Market. The Hamilton Farmers’ Market Corporation is expected to administer, manage and supervise the operation of The Market, including but not limited to the following duties:

- Provide the public with access to high quality, nutritious, locally grown food

- Promote relationships and opportunities between Farmers, food producers, independent food merchants, consumers, and the public
- Advertise the Market as a shopping destination of choice
- Create promotional event plans for the Market
- Use reasonable efforts on a continuing basis to reduce its dependence on subsidies from the City
- Increase local awareness of the economic and ecological benefits of purchasing locally grown food
- Prepare, implement and, where appropriate, obtain any necessary approval of all budgets necessary for the efficient, effective, and timely carrying out of the Hamilton Farmers' Market Corporation's business, initiatives, and responsibilities
- Consult, as appropriate, with the City
- Select persons to whom stalls shall be assigned and assign stalls to those persons
- Enter into contracts with persons who have been selected as stallholders and enforce those contracts
- Determine the fees to be paid by stallholders
- Determine the days and hours when the Market shall be open
- Determine the products which may be sold at the Market, which shall include a diversity of fresh food products including international and specialty foods
- Ensure the Market operates continuously and actively throughout the year, unless the Contract Manager consents to a temporary shutdown
- Ensure the Market is kept clean and safe
- Maintain, repair, and replace the furnishings in the Market
- Approve, establish, and enforce rules pertaining to the operation of the Market

### 4.1.3 Financial Summary

#### **Budget Overview**

The Hamilton Farmers' Market Corporation is a Not-for-Profit organization that is supported by three main revenue streams:

- Stallholder fees collected from Vendors - \$438K estimated in 2021; down by 8% YoY
- Sponsorship from Meridian Credit Union of \$125,000 annually for 5 years starting in 2017
- Annual levy from the City of Hamilton, estimated to be \$115,000 from 2021

The financial statement from the Board of Directors, available up to 2020, depicts the dependency of the Market on revenue sources from sponsors and the City. Excluding the alternate sources of revenue (i.e., sponsorship and levy), the Market is able to recover 70% of the expenses on average.

Budget Category	2016	2017	2018	2019	2020
<b>Revenue</b>					
Merchandise Sales	5,538	7,292	3,654	3,512	1,646
Rental Income	472,197	512,830	530,453	519,225	476,710
Other Revenues	28,184	8,093	44,514	40,542	43,657
Sponsorship	-	125,000	125,000	125,000	125,000
Levy funded deficit	107,510	109,450	111,000	112,800	76,628
<b>Total Revenue</b>	<b>613,429</b>	<b>762,665</b>	<b>814,621</b>	<b>801,079</b>	<b>723,641</b>
<b>Expenses</b>					
Employee Related Costs	338,422	279,127	310,275	328,804	292,590
Building and Grounds	157,294	257,210	237,495	306,187	155,608
Contractual	182,747	104,181	133,738	115,402	48,103
Materials & Supplies	77,042	40,458	78,683	92,553	25,574
Financial	9,343	10,096	10,761	16,322	15,507
Consulting	-	-	4,250	-	-
Capital Expenditure					4,242
Cost Allocations					72,246
COVID Expenses	-	-	-	-	145,792
<b>Total Expenses</b>	<b>764,848</b>	<b>691,072</b>	<b>775,202</b>	<b>859,268</b>	<b>759,662</b>
<b>Operating Profit (Loss)</b>	<b>-151,419</b>	<b>71,593</b>	<b>39,419</b>	<b>-58,189</b>	<b>-36,021</b>
<b>Operating Profit (Loss) excluding Sponsorship and Levy</b>	<b>-258,929</b>	<b>-162,857</b>	<b>-196,581</b>	<b>-295,989</b>	<b>-237,649</b>

The rental income listed in the income statement above is utilized in Market operations with no flow back to the City. As a result, this asset of the City while utilized, adds no revenue to the City.

Additionally, the Market Corporation has a reserve fund which was first established in 2018.

Capital Category	2016	2017	2018	2019	2020
<b>Reserve Fund</b>	-	-	75,687	120,717	109,771

As a part of the Operating Agreement, The City provides the following services to The Market Corporation:

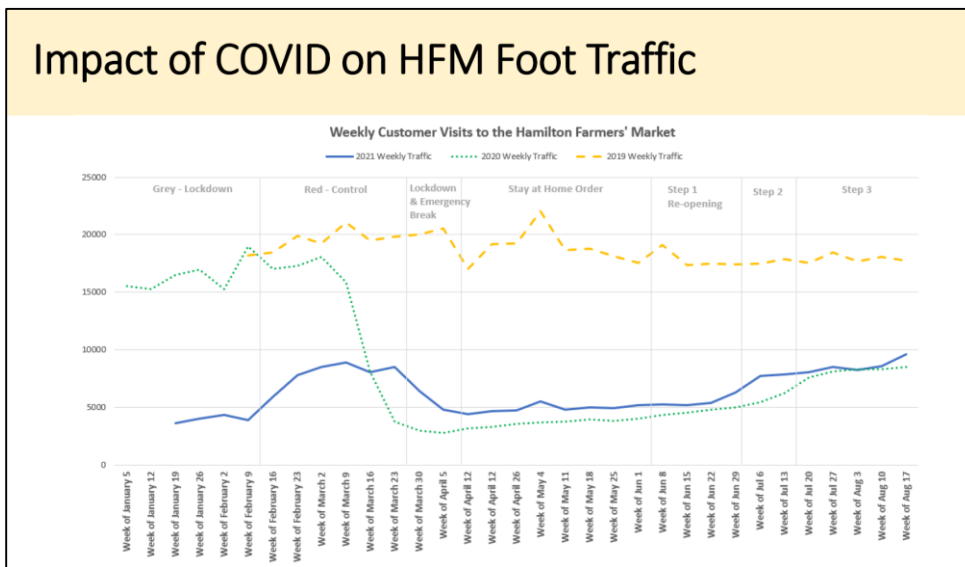
- Finance & Administration – no cost to the Market Corporation
- Human Resources – no cost to the Market Corporation
- Legal Services – no cost to the Market Corporation
- Procurement – no cost to the Market Corporation
- Facilities Management – charged back to the Market Corporation
- IT – charged back to the Market Corporation

The employee costs of The Market Corporation have remained stable due to consistent staffing levels:

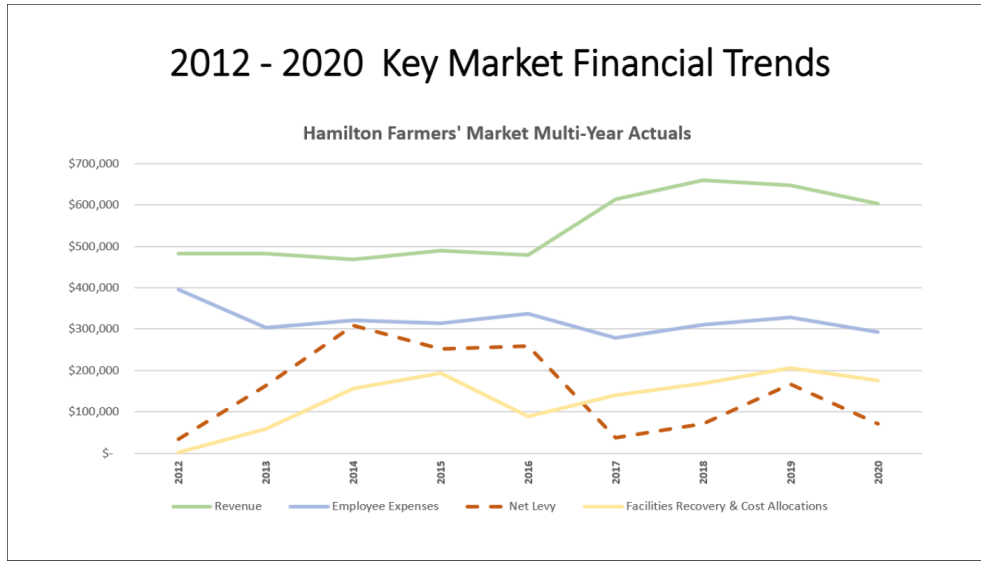
Staffing Levels	2016	2017	2018	2019	2020
<b>FTE Count</b>	4.47	4.00	4.20	4.20	4.40

### Financial Trends

The impact of COVID-19 has been challenging for many businesses, both globally and locally. The stay-at-home safety measures resulted in a massive decline in foot traffic, which strongly impacted the income potential of vendors in The Market Corporation.



Despite the decline in foot traffic, the revenue decline of The Market Corporation has been contained within 7% between 2019 and 2020.



**Assistance and Initiatives during COVID:**

- The Market Corporation received emergency assistance of \$144,652 in 2020 as part of the Federal-Provincial Safe Restart Agreement allocated to the City of Hamilton
- The Market Corporation developed a rent deferral program to assist vendors with rent payments. The program enabled vendors to defer rent payments from April-September 2020, to 2021 without interest. It is notable that 60% of the vendors have not signed their deferral agreements

**Stallholder Summary**

The Market has been operating with an average vacancy rate of 8.9% since 2016. Due to the high dependency on rentals for revenue (estimated 81% from 2016-2019), carrying vacant stalls in addition to a one-time rent increase of 2% in 2017, poses a significant challenge on the Market’s financials.

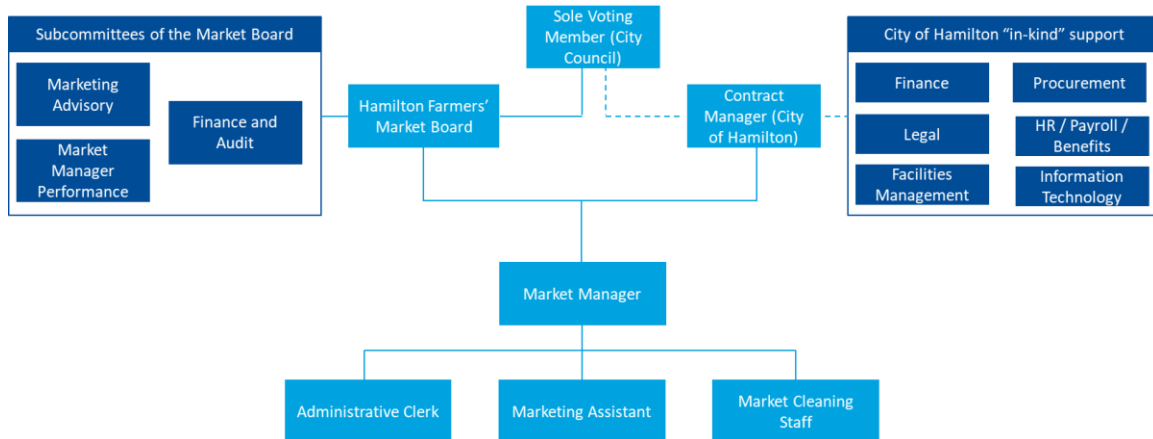
Stallholder Details	2016	2017	2018	2019	2020	2021
Stallholder Departure	9	2	5	8	5	10
Stallholder Additions	5	8	3	4	4	7
Total Available Stalls	56	57	57	56	55	53
Total Occupied Stalls	49	55	53	49	48	50
Estimated Vacant Stalls	7	2	4	7	7	3
Vacancy Rate	12.5%	3.5%	7.0%	12.5%	12.7%	5.6%

Source:

- <https://www.hamilton.ca/sites/default/files/media/browser/2021-02-26/budget-follow-up-questions-hamilton-market-corporation-2021-02-26-presentation.pdf>
- KPMG Audited Financial Statements - Appendix "D" to Report CM20010
- 2021 Annual General Meeting presented on September 13, 2021
- 2020 actuals prepared by Market Manager
- 2021 stallholder actuals prepared by Market Manager

**4.1.4 Organizational Structure**





### Board Composition

The current Board is made up of 10 members representing City Council, vendors, and citizens:

- City Councillors (2 seats)
  - Councillor Esther Pauls
  - Second seat is vacant
- Citizen Directors (5)
  - Elly Bowen –Active Chair, and Secretary
  - Wilfred Arndt
  - Joshua Czerniga
  - Eva Marsden
  - Damian Wills
- Vendor Directors (4)
  - Jason Hofing – Vendor Member
  - Brandon Linares – Vendor Director
  - Celina Masoudi – Vendor Director
  - Anne Miller – Vendor Member

#### 4.1.5 Decision-Making Authorities of The Board of Directors and Market Manager

The Board Governance Policies from 2018 clearly outline the roles and decisions that need to be taken by The Board and the Market Manager.

#### Role of The Board

The Board of Directors has the decision-making authority for the overall direction of the Hamilton Farmers' Market. The role is focused on governance. This includes, but is not limited to, the authority to:

- Set strategic direction and priorities
- Conduct Board performance evaluation
- Approve the budget
- Establish all governance policies
- Develop all committee direction and goals

- Set the annual goals for the Market Manager that are realistic and achievable given the hours that need to be dedicated to operations versus special projects / strategic plan

### Role of the Market Manager

The Market Manager has the decision-making authority to determine how best to carry out the work of the organization and implement the direction given by The Board of Directors. Decisions that are within the authority of the Market Manager include:

- Enforce the contract and other operational policies
- Determine the best leadership model to use to lead and manage the organization
- Distribute tasks; determine workload; implement processes to help ensure the Market meets strategic and operational goals set by The Board and others
- Ensure the Hamilton Farmers' Market stays on budget
- Implement the strategic directions set by The Board

## 4.2 Vendor Survey

### 4.2.1 Method

A brief survey was administered to 49 vendors to gain their perspective on the governance and operations of the Market. Responses were collected online as well as in paper format. The survey was available for a period of two weeks and resulted in a response rate of 48.9%

### 4.2.2 Insights

Area of Focus	Observations
<b>Ineffective decision-making process</b>	<ul style="list-style-type: none"> <li>• 20% of the respondents feel that the Board is not able to come up with decisions</li> <li>• 17% of the respondents feel that leadership positions which have no “skin in the game” (e.g., citizen members), should not be making decisions that impact the livelihood of vendors</li> </ul>
<b>Missing skillset in management</b>	<ul style="list-style-type: none"> <li>• 25% of the respondents feel that the Board and the Market management do not have the right skill sets or appropriate background experience to lead the Market</li> <li>• 12.5% of the respondents have stated that it is important for the leadership to have a background in market management to be effective in their roles</li> </ul>
<b>Vendors feel that their voices are not heard</b>	<ul style="list-style-type: none"> <li>• 42% of the respondents feel that there isn't a medium to communicate and escalate their pain points, leading to frustration</li> </ul>
<b>Mission and vision refresh</b>	<ul style="list-style-type: none"> <li>• 21% of the respondents feel that the Market is operating without a vision and mission</li> </ul>

<b>Strengths of The Market</b>	<ul style="list-style-type: none"> <li>• 46% of the respondents share a sense of pride and experience positive community sentiment</li> <li>• 17% of the respondents find the low overhead and stallholder fees to be beneficial in operations</li> <li>• 33% of the respondents feel the location and infrastructure of The Market are key strength areas</li> </ul>
<b>Operating hours</b>	<ul style="list-style-type: none"> <li>• 30% of the vendors believe the operating hours need to be redefined</li> </ul>

### 4.3 City Council Survey

#### 4.3.1 Method

A brief survey was administered to the Mayor and 14 City of Hamilton Councillors with a 68% response rate (10 out of 15). The data was correlated and analyzed by Optimus SBR to provide the below observations.

#### 4.3.2 Insights

Area of Focus	Observations
<b>Governance Model does not work</b>	<ul style="list-style-type: none"> <li>• 100% of the respondents stated that they do not believe the current governance model and integration with the City is working well</li> <li>• 60% of the respondents said that they would like to see the Market more autonomous than it already is</li> </ul>
<b>City should be less involved in Operations</b>	<ul style="list-style-type: none"> <li>• 80% of the respondents believe that the City should be less involved in the day-to-day operations of the Market than it is today</li> <li>• 60% believe that the City should provide less Operational Resources (i.e. facilities staff, IT, support, accounting services) than it does today. Only 20% felt the City should provide more</li> </ul>
<b>Council should not have a role in Market Operations</b>	<ul style="list-style-type: none"> <li>• 90% of the respondents feel that Council should be less involved in the overall workings of the Market than it is today</li> </ul>
<b>Future of The Market</b>	<ul style="list-style-type: none"> <li>• 60% of the respondents feel that the Market should be privatized with 30% believing it should remain the same with governance adjustments</li> </ul>
<b>No Vendors on The Board</b>	<ul style="list-style-type: none"> <li>• 60% of the respondents do not agree with vendors sitting on the Board as it creates a conflict of interest</li> </ul>

#### Spotlight / Verbatims:

The responses to the following two questions, encapsulate City Councils views on the Market:

**1. How do you view The Hamilton Farmers' Market today?**

- *“Community institution with retail and food court with very little, if any, actual direct from farm produce”*
- *“Tourist attraction”*
- *“Retail outlet/Food outlet”*
- *“Food security and grocery source”*
- *“Small local business incubator; social capital generator”*
- *“Currently, terrible location within the mall, difficult to get to, not easy to find, dysfunctional, not well laid out”*
- *“Not enough farmers as venders. The current venders are never happy”*

**2. What is your vision for The Hamilton Farmers' Market?**

- *“I think the concept and space should be re imagined before we set up a new governance model. I would like the private sector to work with the city to rest a destination that reflects the historical context of the market but builds it into the entertainment precinct as part of the attraction for local and tourists' interests”*
- *“Privately operated similar to St. Jacobs, Burlington Market, Byward Market Ottawa. The city should not be shareholders, board members nor operationally involved.”*
- *“Tourist Attraction. Hardly any real farmers”*
- *“Food outlet”*
- *“Food source and small independent local business incubator”*
- *“It should be professionally managed, and venders should not be on the board as they are in conflict”*
- *“A real Farmers' Market focusing on local food”*
- *“Tourist Destination, Real Farmers' Market with an emphasis on local produce. The food court and retail is fine, but we have only one local grower currently.”*
- *“Grocery and food court”*

## 4.4 Governance

This section summarizes the themes and insights with respect to the Governance of the Hamilton Farmers' Market Corporation.

Area of Focus	Themes and Supporting Insights
<b>Governance Model</b>	<p>The Hamilton Farmers' Market has been operating with a shared governance model.</p> <ul style="list-style-type: none"> <li>● The Hamilton Farmers' Market is governed by the Board of Directors and relies heavily on the City for resources to support day-to-day operations</li> <li>● The Market Manager, an ex-officio member, reports to the Contract Manager organizationally. However, the Board of Directors is responsible</li> </ul>

	<p>for reporting on the Market Manager’s performance to the Contract Manager.</p> <ul style="list-style-type: none"> <li>The Board of Directors has the authority to delegate full power to the Market Manager to manage and direct the day-to-day affairs of the Market Corporation. Any decision from The Board of Directors is binding to the Market Manager</li> </ul>
<b>Roles and Responsibilities</b>	<p>Over the last few years, the division of roles and responsibilities has overlapped resulting in redundancies.</p> <ul style="list-style-type: none"> <li>There is consensus amongst market stakeholders (the Board and Market Manager), that the role of the Board has evolved to include contribution and oversight into the day-to-day operations of the Market</li> <li>The decision-making framework used by the Market has been set up to involve Board approval in all major decisions; resulting in a reduction of the autonomy of the Market Manger role</li> <li>The overlapping roles have resulted in reduced availability of the Board to focus on strategic issues (e.g., the strategic plan / vision for the Market)</li> </ul>
<b>Conflict of Interest</b>	<p>The Board setup continues to be exposed to conflict of interest.</p> <ul style="list-style-type: none"> <li>The Hamilton Farmers’ Market Board is a Municipal Services Corporation under the Ontario Municipal Act to which the Municipal Conflict of Interest Act (MCIA) applies. The MCIA requires members to recuse themselves from discussing any matter in which they have a pecuniary interest</li> <li>The Board currently consists of four vendor members who have business ventures in The Market. As a result, any agenda item requiring votes that discusses impacts to vendors (e.g., increasing stallholder fees), can be construed as a conflict of interest even if the intentions are sound and pure</li> </ul>
<b>Dependency on City of Hamilton</b>	<p>The Market is dependent on The City for funding and services.</p> <ul style="list-style-type: none"> <li>The City of Hamilton owns the building where the Market resides but does not receive any financial benefit or revenue from the HFM. In addition, the City provides a wide array of services to the Market. Some of the services are charged back and some are in-kind support</li> <li>Additionally, The City of Hamilton provides an annual levy to the Market Corporation</li> </ul>
<b>Public exposure and branding</b>	<p>Negative press has tarnished the brand of the Market which casts doubt over management.</p> <ul style="list-style-type: none"> <li>Multiple articles from news outlets, in addition to stakeholder feedback, highlight the “Culture of Complaint” that has been displayed and documented over the past few years. As a result, confidence in the corporation has been impacted, which has led to a challenging internal environment</li> </ul>

	<ul style="list-style-type: none"> <li>Local organizations have published online petitions in support of the Market during COVID-19, to combat The City’s decision to roll back on “rent relief” offered during the April – September, 2020 period. The petition has gained traction and accumulated approximately 13,000 signatures</li> </ul>
<b>Strategic vision</b>	<p>The vision for the future is unclear.</p> <ul style="list-style-type: none"> <li>Because of the time spent on operational issues, the Board has had little time to discuss the path forward for the Market. The current strategic plan expired near the end of 2020 with majority of the initiatives being left as outstanding. The Market has been operating without a plan since.</li> </ul>

## 4.5 Operations

This section summarizes the themes and insights with respect to the Operations of the Hamilton Farmers’ Market Corporation.

Area of Focus	Themes and supporting Insights
<b>Infrastructure</b>	<p>Despite the City’s capital investment, the Market’s ageing building has maintenance issues, which poses challenges to the vendors’ operations.</p> <ul style="list-style-type: none"> <li>The history of the Market is respected and considered a cultural institution for the City of Hamilton</li> <li>Vendors appreciate the access to available water and heat to run their businesses</li> <li>The venue has limited equipment and services:               <ul style="list-style-type: none"> <li>There is only one exhaust hood available to vendors. Coffee bean suppliers must roast their beans elsewhere. The current infrastructure in place is challenging for those vendors who make prepared foods</li> <li>Not every vendor has access to a sink in their stall. This makes food preparation, clean up, and general hygiene a challenge</li> <li>Ventilation and cooling systems need updating; electrical power is limited with only a few stalls having access to over 30AMPS. This results in vendors preparing foods off of hot plates</li> </ul> </li> <li>Updates to plumbing are difficult to make because new flooring was installed and pipes were not clearly marked as to their location</li> <li>Pests (i.e. flies and cockroaches) have been seen in the building by vendors and are considered a public health concern</li> <li>There are Wi-Fi issues and no cell signal is available in the Market</li> <li>No common storage spaces are available for vendors in which to leave equipment on site, resulting in congestion in the docking area as vendors load and unload their supplies</li> </ul>
<b>Location</b>	A number of concerns were raised about the Market’s location and services.

	<ul style="list-style-type: none"> <li>• The current floor plan of the Market is not well laid out</li> <li>• Customers have access to 1-hour of free parking but concerns were raised about visibility and accessibility</li> <li>• Transit is not convenient to the Market. Customers must walk from the bus terminal down the street</li> <li>• No curbside pick-up during COVID because no lane is available for cars to pull into and wait</li> <li>• The Market is located in an area in transition. While there is positive change occurring, there are still issues with nearby closed businesses and vagrancy</li> </ul>
<b>Operating Hours</b>	<p>A number of concerns were raised about the Market’s operating hours:</p> <ul style="list-style-type: none"> <li>• Farmers are not set up for success by having to commit to four days at the Market. If they were required to commit to weekends only, it might encourage more local farmers to participate</li> <li>• Vendors are contracted to be operational during the hours of the Market yet it is rarely enforced. Vendors keep their own hours, resulting in customer complaints about closed stores</li> <li>• Hours of operation are confusing to the customers (i.e. open on a Tuesday but closed on a Wednesday). Customers who work in the business area cannot shop after work or in the evenings due to limited operating hours</li> <li>• The Tuesday and Thursday to Saturday model is not attractive to families since it leaves only one day on the weekends to attend the Market</li> </ul>
<b>Customer Experience</b>	<p>Concerns were raised about the Market’s current atmosphere and customer experience.</p> <ul style="list-style-type: none"> <li>• Vendors enjoy the customers and appreciate their loyalty</li> <li>• The Market is a gathering place for families and friends and there is a strong repeat customer base</li> <li>• Currently, there is a duplication of vendor types which does not offer customers variety or diversity</li> <li>• Not all vendor stalls are open during operating hours which creates an unwelcoming atmosphere and frustrates customers who made the trip to the Market only to find the stall they want to shop in closed</li> <li>• There are few areas for customers to interact, have a coffee and socialize</li> <li>• Businesses surrounding the Market now offer cheaper produce, making the Market less of a destination point for customers</li> <li>• There are many lunch options in the area; therefore, lunch at the Market is no longer a value add</li> </ul>
<b>Marketing &amp; Communications</b>	<p>Some concerns were raised about the Market’s difficulty in defining its brand and positioning</p> <ul style="list-style-type: none"> <li>• The Market is a great incubator for new businesses. Some are successful enough to grow out of the Market and set up downtown</li> </ul>

	<ul style="list-style-type: none"> <li>• In the past, the Downtown Hamilton Business Improvement Area (BIA) has looked for ways to partner, such as offering to setup booths for the Market at events like Gore Park Summer Promenade</li> <li>• Some of the smaller restaurants use produce from the Market to prepare their food</li> <li>• Vendors feel customers are misled by the name “Farmers’ Market” because there are very few Farmers represented. Many vendors are wholesalers, but the public think it’s buying locally farmed product</li> <li>• The Market does not have a defined strategy or clear vision of what it wants to be</li> <li>• Signage around the outside of the building is hard to find or missing</li> <li>• Systems for communicating important information to vendors and the public is lacking; poor follow up and follow through on requests from the public</li> </ul>
<b>Financial Support</b>	<p>The Market is reliant on support from the City of Hamilton and other sources to sustain itself.</p> <ul style="list-style-type: none"> <li>• The City provides a levy. The levy budget for 2021 was estimated to be \$115,000</li> <li>• In addition, a wide array of services are offered to the Market by the City. While some of these services are charged back, some are in-kind support. The actual amount of staff time invested by the City to provide the in-kind services is unclear</li> <li>• In addition, sponsorship from Meridian Credit Union included \$125,000 annually for 5 years starting from 2017. It is scheduled to expire in April 2022</li> </ul>

## 4.6 Jurisdictional Scan

The purpose of the jurisdictional scan is to provide a high-level overview of how the Hamilton Farmers’ Market compares to other similar Markets with regards to Governance and Operations. Optimus SBR was provided with comparable Markets to engage and assess.

### 4.6.1 Method

The scan of five markets was conducted either by interview, desk research or both. Individuals interviewed from the various markets represented key roles such as General Manager, Market Manager, and Marketing & Communications. A set of criteria upon which to compare and assess each of the five markets was established.

Name	Interview	Desk Research
Hamilton Farmers’ Market, Hamilton, Ontario	✓	✓
St. Lawrence Market, Toronto, Ontario	✓	✓
Covent Garden Market, London, Ontario	✓	✓



Halifax Seaport, Halifax, Nova Scotia	✓	✓
Welland Farmers' Market, Welland, Ontario		✓
Kitchener Farmers' Market		✓

#### 4.6.1.1 Governance

A comparison of the five Markets' Governance structures and responsibilities across the set criteria highlighted the various structures, processes, and systems.

Governance Parameter	The Hamilton Farmers' Market	St. Lawrence	Covent Garden	Halifax Seaport	Welland Farmers' Market	Kitchener Market
<b>Board Composition and Skillset</b>	Governance Board (decision-making) with City Council, Citizen and Vendor Directors	Advisory Board (non-decision making) with special skillset members	Governance Board (decision-making) with general members	Market Manager and shared resources from Port Authority	Advisory Board (non-decision making) with general members	Information not publicly available
<b>Decision-Making Process</b>	Board makes decisions and informs Market Manager	Staff makes governance and operational decisions	Board makes governance and operational decisions	Staff makes governance and operational decisions	Staff makes governance and operational decisions	Information not publicly available
<b>City's Involvement</b>	City Owned / Board operated with City Support	City owned / City operated market	City owned / Board operated market	Not applicable (Port Authority owned and operated)	City owned / City operated market	City owned / City operated market
<b>City Council Involvement</b>	Approve budget/business plan	Approve budget/capital expenses	Approve budget/capital expenses	Not applicable (Port Authority owned and operated)	Approve budget/capital expenses	Approve budget/capital expenses

#### 4.6.1.2 Operations

Similarly, Markets were compared across a set of criteria with an operational focus.

Operational Parameter	The Hamilton Farmers' Market	St. Lawrence	Covent Garden	Halifax Seaport	Welland Farmers' Market	Kitchener Market
<b>Hours of Operation</b>	Tuesday, Thursday-Friday: 9am to 4pm  Saturday: 8am to 4pm	Tuesday-Friday: 8am to 5pm; Saturday 5am to 4pm Farmers' Market Saturday only: 5am to 3pm	Monday to Saturday: 8am to 6pm	Saturday: 8am to 2pm;  Sunday: 10am to 2pm	Saturday: 7am to noon, year-round	Saturday: 7am to 2pm, year round
<b>Vendor Fees</b>	Varies by location and vendor type. Fee rates for 2021 is either \$25.59 per square foot (standard) or \$28.78 (premium)	Varies by location and vendor type, farmers' market fee \$25-\$58/day	Varies by location and vendor type, \$7-\$10/sq ft/year	\$80 per 8- foot table. Vendors must register for tables in advance and are vetted and approved by Market Manager	Varies by location; stall comparable is \$16.52/day (includes water and hydro), stalls vary \$5-\$7/sq ft/year	\$45.50 per table and chair available to vendors under <i>Small Business Guidelines</i>
<b>Lease Agreement</b>	Annual permit	Annual permit for Farmers' Market, 2-, 3-, and 5-year leases with possibility of extension for tenants	Vendor specific	Online pre-registration and 7-day notice of cancellation	Annual or daily	Weekly; approved vendors must contact the city by Wednesday 4pm to reserve the table on Saturday

Operational Parameter	The Hamilton Farmers’ Market	St. Lawrence	Covent Garden	Halifax Seaport	Welland Farmers’ Market	Kitchener Market
<b>Subsidization &amp; Sponsorship</b>	City budget and Corporate sponsorship Agreement with Meridian which expires in April 2022	Owned by the City of Toronto	None, fully funded through vendor fees and parking garage revenue	Owned by the Port Authority	City subsidy, City funded events/advertising budget	Owned by the City of Kitchener

**Key Takeaways from the Jurisdictional Scan:**

- Not all City run markets are fully subsidized:** Some markets have identified alternate revenue streams and promotional events to become financially sustainable.
- Not all City markets require vendors to sign stall leases:** In the case of the Halifax Seaport Market, vendors are offered a ‘hoteling model’ where they can rent a table, by the day, via an online pre-registration process and approval from the Market Manager. Vendors are not locked into a lease. The ‘pay-as-you go’ model has resulted in many repeat vendors and a waiting list.
- Markets want to see vendors’ businesses succeed.** The Market is used as an ‘incubator’ where vendors can pilot their businesses, build their reputation and a customer base. In many of the Markets, vendors have gone on to open store front businesses due to the success of their Market Stalls. Beanermunky Chocolate is a success story from the Hamilton Farmers’ Market.
- Markets are looking for ways to promote and monetize downtime in support of financial sustainability:** Halifax Seaport is preparing to use free space in its Market as an innovation space for transportation. There are 28 different groups who will use the space as an innovative collaborative environment and, in turn, this will create a stream of revenue for the Halifax Seaport. The Covenant Garden market hosts multiple events all year round which adds positive PR and drives foot traffic into the market.

## 5.0 SWOT Analysis

Strengths
<ul style="list-style-type: none"> <li>• <b>Location</b> <ul style="list-style-type: none"> <li>○ There is a potential for a strong increase in foot traffic for the following reasons:               <ul style="list-style-type: none"> <li>▪ As the economy starts to recover from the impacts of COVID-19, the downtown lunch crowd will return to the Market if appropriate options are available</li> </ul> </li> </ul> </li> </ul>

- The “evening-shopper” or “post-work shopper” working in and around downtown, could potentially become customers depending on the quality of products available and hours of operation
  - Downtown Hamilton is going through real estate development projects which will potentially increase traffic into downtown Hamilton. The increased traffic will likely provide a boost to the economy of The Hamilton Farmers’ Market Corporation
- **Community**
  - The community of vendors and citizens is a major strength for the Hamilton Farmers’ Market. The most recent example is the online petition which gathered 13K signatures from the downtown community in protest of the withdrawal of the rent relief which was initially offered to the vendors of market
- **Partnership with the City of Hamilton**
  - The partnership with the City of Hamilton enables the Market Corporation to leverage corporate services without being charged as a part of the operating agreement
  - The subsidies and the levy provided by the City of Hamilton helps to maintain financial stability. As a result, the lack of rent increases over the last 4 years has not impacted the operations of the Market

**Weakness**

- **Branding**
  - The repeated complaints on public forums about inefficiencies and lack of solidarity amongst the Board of Directors have created low confidence in leadership
  - The image of a “Farmers’ Market” is not well represented with growers representing under 5% of the vendors
- **Quality of Produce**
  - Feedback collected shows that in some cases, the quality of produce available in the Market does not represent “farm grown” standards. This has resulted in customers looking for alternate options for grocery shopping and fresher produce
- **Foot traffic**
  - The impact of COVID-19 on foot traffic has posed significant constraints on vendors
- **Communication**
  - Feedback collected from vendors indicates frustration resulting from a lack of communication with management
  - The communication from the City of Hamilton to reduce rent between April to September 2020 by 75% only to roll it back, has led to vendor unrest at a time when local businesses are suffering from the impacts of COVID-19
- **Clarity of roles and responsibilities**
  - Consultations indicate there is an overlap of the roles and responsibilities between the Board and the Market Manager leading to broader strategic issues

Opportunities
<ul style="list-style-type: none"> <li>• <b>Revenue streams</b> <ul style="list-style-type: none"> <li>○ The Market is open for limited hours only 4 days a week, leaving 3 days as an opportunity to identify additional revenue streams. The jurisdictional scan indicates similar markets host multiple events themed around food and culture which drive traffic into the Market and provides positive PR</li> <li>○ Feedback collected indicates an “outside” area in the summer would be desirable for many vendors (including Farmers)</li> </ul> </li> <li>• <b>Vendor selection</b> <ul style="list-style-type: none"> <li>○ The current vacancies in the vendor portfolio presents an opportunity to the management to bring in more Farmers to continue with the “The Farmers’ Market” image</li> </ul> </li> <li>• <b>Operating hours</b> <ul style="list-style-type: none"> <li>○ The operational review is an opportunity for management to redefine the hours of operations of the Market. Vendors have indicated that evenings as well as the Sunday traffic is a missed opportunity</li> </ul> </li> </ul>
Threats
<ul style="list-style-type: none"> <li>• <b>Revenue Streams</b> <ul style="list-style-type: none"> <li>○ The expiry of the sponsorship agreement with Meridian Credit Union poses a significant threat to the financials of the Market. Management will need to find alternate revenue streams or modify the business model</li> <li>○ Rent from vendors is the main source of revenue and has not been adjusted since 2017</li> <li>○ The jurisdictional scan indicates most Farmers’ Markets tend to have a waitlist for vendor registration whereas the Hamilton Farmers’ Market has been carrying an average vacancy of 8.9% since 2016. A pipeline of vendors needs to be built and maintained.</li> </ul> </li> <li>• <b>Vision and Mission</b> <ul style="list-style-type: none"> <li>○ The Hamilton Farmers’ Market Corporation is currently operating without a strategic plan. A visioning exercise needs to be undertaken and implemented</li> </ul> </li> <li>• <b>Competition</b> <ul style="list-style-type: none"> <li>○ Average quality produce puts the vendors at risk of losing customers to alternate options (e.g., the nearby Nation Fresh Foods). The planned development projects in downtown Hamilton will continue to attract more grocery stores which will increase competition</li> </ul> </li> </ul>

## 6.0 Future State Model Options

The Hamilton Farmers’ Market has been a major landmark for The City of Hamilton and will continue to be a cultural touchstone. This section of the Report depicts the impact of not making

any changes to the current state and proposes, at a high level, three distinct options as to how the Market can structure itself from a governance and operations standpoint with a view to a path forward. Following the selection of an option, the next phase of work, will be to delve deeper into the preferred option and provide recommendations and draft an implementation framework.

## 6.1 Option #1 – Current model with no changes (Incorporation/Not-for-Profit)

### 6.1.1 Description:

The Hamilton Farmers' Market Corporation will continue to run as it is today with no changes to the operational agreement with the City of Hamilton.

### 6.1.2 Pros:

The benefits of not changing the operating model are:

- No change to current state of operations
- City continues supporting The Market

### 6.1.3 Cons:

The potential drawbacks could include:

- Vendors on The Board will remain a serious conflict of interest
- Market Staff who are reporting to the City and the Market Board have no clear lines of accountability and responsibility
- No viable Market Strategy in place
- City's real estate asset remains under-utilized

### 6.1.4 Considerations:

The impact to the following stakeholder groups should be considered:

- Board Composition: Existing Board structure remains
- Financial: Dependency on City of Hamilton and external sources for funds remain
- City: City of Hamilton will need to continue supporting financially and in-kind through staff time and resources
- Vendors: Renewed selection criteria and loss of seats on The Board
- Community: No impact

## 6.2 Option #2 – Incorporation/Not-for-Profit Operated (Current model with amendments)

### 6.2.1 Description:

The Hamilton Farmers' Market Corporation will continue to run as it is today with no changes to the operational agreement with the City of Hamilton. The key changes will be focused on fixing the gaps identified in this review, including but not limited to the following:

- Redefine the responsibilities and accountabilities of the Board and Market Manager
- Implement a skills-based Board
- Creation of a vendor association / committee with a non-voting seat
- Creation of a citizen association / committee with a non-voting seat
- Operating hours refresh
- Defined vendor selection criteria

### 6.2.2 Pros:

The benefits of not changing the operating model are:

- Minimal changes to the existing model
- Strengthen the weak areas such as:
  - Eliminate conflict of interest exposure
  - Potential skill-based leadership and management selection
  - Clearly defined roles and responsibilities
- Reduced city involvement
- Potential reduction of negative PR

### 6.2.3 Cons:

The potential drawbacks could include:

- Dependency on external sources and City of Hamilton for funds
- Dependency on a strong leadership figure to make and own market decisions
- Requires individual stakeholders to remain committed to their roles
- City's real estate asset could potentially remain under-utilized

### 6.2.4 Considerations:

The impact to the following stakeholder groups should be considered:

- Board Composition: Board composition is skill-based, with a single vendor representative without voting rights
- Financial: Dependency on City of Hamilton and external sources for funds remain
- City: City of Hamilton will need to continue supporting financially and in-kind through staff time and resources
- Vendors: Renewed selection criteria and loss of seats on The Board
- Community: No impact

## 6.3 Option #3 – City Owned and Operated

### 6.3.1 Description:

The Hamilton Farmers' Market Corporation comes under the purview of City of Hamilton. An Advisory Board will need to be created containing City Staff based on skillset. A Vendor Association would be created with one non-voting seat on the Board. The City would be the landlord and would run it like any other asset.

### 6.3.2 Pros:

The potential benefits for the city owned model would include:

- Usage of City approved processes
- Availability of City resources to maintain the culture and tradition of the Market and drive the strategy and vision
- City is accountable for market performance

### 6.3.3 Cons:

The potential drawbacks of the city owned model would include:

- Potential to become onerous for City employees if they try to run it as a 'side of desk' project
- Disconcerting option for the vendors and less palatable for the public because the City is responsible for the Market, whether it succeeds or not
- The City becomes accountable for any Market losses
- As indicated by multiple articles, there is a potential for the City to lose public support in favour of the vendors
- Will require significant change management and communications to get vendors on Board, as the relationship with City has been difficult

### 6.3.4 Considerations:

The impact to the following stakeholder groups should be considered:

- Board Composition: will primarily consist of Councillors and City staff
- Financial: City would provide operating budget and may require additional resources in the City's finance department
- City: remains landlord with additional responsibility of operating the asset
- Vendors: may offer resistance
- Community: negligible impact; may find improved service



## 6.4 Option #4 – Fully Privatize

### 6.4.1 Description:

The City of Hamilton would lease the space to private organization to own and operate the Market. This option would have massive change implications as the model could be changed to for-profit.

### 6.4.2 Pros:

The potential benefits of privatization are as follows:

- Reduced accountability from the City
- Enforced accountability for management and vendors
- Optimized resource management and service levels for vendors and customers
- Ability to pivot if needed

### 6.4.3 Cons:

The potential drawbacks of privatization are as follows:

- City loses control of a historical institution
- Increase in operational costs because no levy or subsidy from the City
- Potential increase in rent recovered from vendors to cover increased costs
- May lose the culture and traditions of the Market in favour of profitability

### 6.4.4 Considerations:

The impact to the following stakeholder groups should be considered:

- Board Composition: potentially new Board composition aligned with the vision of the private organization
- Financial: potential to maximize the resources from the asset
- City: has no control over the Market; has no representation on the Board and no say in what the focus of the Market will be
- Vendors: may see increases in rent
- Community: will potentially be tailored to the needs of the community

## 6.5 Option #5 – Partially Privatize

### 6.5.1 Description:

The Farmers' Market would be jointly governed by the City of Hamilton and private sector partner. The real estate asset would be owned by the City, with a degree of strategic and operational autonomy entrusted to the private partner depending on the agreement. The model can remain not-for-profit, or transform into for-profit depending on various factors, like the future vision for

the Market, City's desire to be more or less involved and other macro-economic factors like COVID-19, which has been detrimental to retail businesses.

### 6.5.2 Pros:

The potential benefits of privatization are as follows:

- The City would retain a level of control of this historic institution by having seats on The Board
- Opportunity for the City to generate revenue from the asset by collecting a fee or rent from the private sector partner, involving SLAs to procure operational services like facilities maintenance
- The financial obligations and commitment would be shared between the City and private sector partner
- Enforced accountability for management and vendors
- Optimized resource management and service levels for vendors and customers

### 6.5.3 Cons:

The potential drawbacks of privatization are as follows:

- Alignment between the City and private sector partner would require increased stakeholder engagement
- Increase in operational costs because no levy or subsidy from the City
- Potential increase in rent recovered from vendors to cover increased costs
- May lose the culture and traditions of the Market in favour of profitability

### 6.5.4 Considerations:

The impact to the following stakeholder groups should be considered:

- Board Composition: potentially new Board composition with representation from the City and the private sector partner
- Financial: potential to maximize the resources recovered from the asset
- City: potential to increase revenue from the asset in terms of rent and services procured for operations and maintenance
- Vendors: may see increases in rent
- Community: will potentially be tailored to the needs of the community

# CITY OF HAMILTON MOTION

**Sole Voting Member of the Hamilton Farmers’ Market: February 2, 2022**

**MOVED BY MAYOR F. EISENBERGER.....**

**SECONDED BY COUNCILLOR E. PAULS .....**

**Vision of Hamilton Farmers’ Market for City, and Feasibility of Greater Private Sector Role in Operations and Management of the Market and the Associated Space**

WHEREAS, on April 11, 2012, City Council directed staff to conduct a feasibility study on privatizing the management of the Hamilton Farmers' Market, and to look at ways and means to internally reduce the annual subsidy for the Market;

WHEREAS, following considerable research, consultation and analysis, on December 12, 2013, the Hamilton Farmers’ Market Sub-Committee approved recommendations directing staff to bring forward a new governance model;

WHEREAS, on May 14, 2014, City Council directed staff to prepare a governance model and implementation plan, prepare a business case, and undertake public consultation;

WHEREAS, on June 12, 2014, the Hamilton Farmers’ Market Sub-Committee approved the terms of reference and business case for the establishment of the current Market corporation and governance model;

WEREAS, on September 4, 2014, the General Issues Committee approved recommendations creating the Hamilton Farmers’ Market Corporation, directing the selection of Board members, and authorized staff to negotiate an operating agreement;

WHEREAS, on May 7, 2018, the Hamilton Farmers’ Market Corporation Board of Directors approved the Hamilton Farmers’ Market Strategic Plan 2016-2020 that had been commissioned by the Board and prepared by 2WA Consulting, Inc;

WHEREAS, on November 23, 2020, the Sole Voting Member of the Hamilton Farmers’ Market considered the Hamilton Farmers’ Market Governance Report (CM20010), and directed staff to prepare a report that provides a preferred governance and operating model for the Hamilton Farmers’ Market Corporation, which prioritizes value-for-dollar

## **Vision of Hamilton Farmers' Market for City, and Feasibility of Greater Private Sector Role in Operations and Management of the Market and the Associated Space**

### **Page 2 of 2**

invested by the Shareholder, role clarity, enhanced governance and the avoidance of any potential conflicts of interest;

WHEREAS, the first phase of the Hamilton Farmers' Market governance and operational review has been completed, with a report from the Consultant that summarizes the outcome of its research and stakeholder input to date, provides an overview of the current state of the Market, and identifies direction on pursuing the future governance and operational options;

WHEREAS, the neighbourhood surrounding the Market is in the process of undergoing significant change, the nature of the vendors and offerings at the "farmers" market has been changing, and the Markets' engagement with its customers and the surrounding community has been changing; and,

WHEREAS, having a broader understanding of the vision, role and opportunities for the Hamilton Farmers' Market within its evolving neighbourhood context would assist Council in making any decisions on the preferred governance and operating model;

THEREFORE, BE IT RESOLVED:

- (a) That staff be directed to undertake a review and consultation on the vision and role of the Hamilton Farmers' Market within the local neighbourhood context, with a focus on engaging surrounding neighbourhood and other interested stakeholders, including using charettes, requests for expressions of interest, and other means, to examine opportunities for the potential future role of the Market and associated space it occupies in the City facility on York Blvd, within the downtown neighbourhood, and report back to the Sole Voting Member of the Hamilton Farmers' Market, prior to completing the governance and operating review; and,
- (b) That staff be authorized and directed to retain any necessary consulting services to undertake the consultation and engagement, to an upset limit of \$100,000, to be funded from the Economic Development Reserve (Account 112221).