



CITY OF HAMILTON
City Manager's Office
Finance, Administration, and Revenue Generation

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	September 17, 2014
SUBJECT/REPORT NO:	Hamilton Farmers' Market Incorporation (CM12009(d)) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	John Hertel 905-546-2424 Extension 2739 Eleonora Filippone 905-546-2424 Extension 4707
SUBMITTED BY:	Chris Murray City Manager
SIGNATURE:	

RECOMMENDATION

- (a) That the City Solicitor be authorized and directed to file the Letters Patent, attached as Appendix "A" to Report CM12009(d), respecting the Hamilton Farmers' Market Incorporation, subject to any revisions required by the Ministry of Government Services and satisfactory to the City Solicitor;
- (b) That the General Manager of Finance and Corporate Services be authorized and directed to appoint the following three staff members to execute the Letters Patent and act as the incorporators and initial Directors of the Hamilton Farmers' Market Corporation, until such time that a Board of Directors is chosen by the Selection Committee:
- (i) Mike Zegarac, General Manager of Finance and Corporate Services
 - (ii) Brian McMullen, Director of Financial Planning and Policy
 - (iii) John Hertel, Director of Finance, Administration, and Revenue Generation
- (c) That Corporate By-law No. 1, attached as Appendix "B" to Report CM12009(d), respecting the Hamilton Farmers' Market Incorporation, be approved as the initial corporate by-law for the Hamilton Farmers' Market Corporation;
- (d) That the City Clerk be directed to advertise for citizens to serve on the board of directors of the Hamilton Farmers' Market Corporation;

- (e) That the Selection Committee, through the selection process, conduct interviews and recommend citizen appointments to the Board of Directors of the Hamilton Farmers' Market Corporation to the General Issues Committee for consideration;
- (f) That two members of Council, through the Nomination Committee, be approved to the Hamilton Farmers' Market Corporation Board of Directors.
- (g) That staff be authorized and directed to negotiate an Operating Agreement with the Hamilton Farmers' Market Corporation Board of Directors addressing the operational, financial, personnel, reporting and other requirements of the parties, and report back to the General Issues Committee with respect to such negotiations;
- (h) That, until such time as an Operating Agreement between the City and the Hamilton Farmers' Market Corporation is signed, the Hamilton Farmers' Market continue to operate as set out in the Market By-law No. 10-209.

EXECUTIVE SUMMARY

On July 7, 2014 and July 11, 2014, the General Issues Committee and Council supported the Terms of Reference/Business Case approved by the Hamilton Farmers' Market Sub-committee regarding the creation of a municipal not-for-profit corporation to govern the Hamilton Farmers' Market. This report follows the recommendations contained in the Terms of Reference/Business Case.

Alternatives for Consideration –Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS (for recommendation(s) only)

Financial: The cost for filing the Letters Patent with the Ministry of Government Services is \$155. There will be additional nominal disbursements for conducting a corporate name search and ordering a minute book and corporate seal for the new corporation.

Staffing: None.

Legal: Legal Services Division will file the appropriate documents, including the Letters Patent for the new corporation.

HISTORICAL BACKGROUND (Chronology of events)

On June 12, 2014, by Report 14-003, the Hamilton Farmers' Market Sub-committee approved the Terms of Reference/Business Case to create a municipal not-for-profit

corporation for the Hamilton Farmers' Market. Approval of the General Issues Committee and Council was given on July 7, 2014 and July 11, 2014, respectively.

The Terms of Reference/Business Case set out a number of recommendations which includes a Board of Directors comprised of 4 stallholders (50% being farmers/producers), 2 City Councillors and 5 members of the general public, with ex officio members including the General Manager of the Hamilton Farmers' Market and a staff representative from Public Health Services.

The Terms of Reference/Business Case included a number of other recommendations regarding the set-up of the not-for-profit corporation, which are captured in the recommendations in this report.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

None.

RELEVANT CONSULTATION

Legal Services Division prepared the draft Letters Patent and Corporate By-law No. 1.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

A not-for-profit corporation is created by filing Letters Patent with the Ministry of Government Services. The "objects" or mission of the corporation must be approved by the Ministry. The draft Letters Patent, attached as Appendix "A" to this report, will be submitted to the Ministry for its review and approval. Once approved and filed, the not-for-profit corporation will come into existence.

The by-laws of a corporation set out how the corporation will be organized and include the time and place for meetings of the directors; set-up of the board of directors, officers and committees; appointment of officers; and filling of vacancies. Corporate By-law No. 1, attached as Appendix "B" to this report, reflects the recommendations contained in the Terms of Reference/Business Case, which was approved by Council.

Upon incorporation, the initial Directors of the corporation will be those individuals identified as the incorporators in the Letters Patent. These Directors will be replaced by a full complement of 11 Directors, as recommended in the Terms of Reference/Business Case. These 11 Directors will be chosen as follows: 1) the Selection Committee of Council will recommend five citizen appointments to Council for consideration; 2) the Hamilton Farmers' Market vendors, through a facilitated process requiring 100% vendor participation, will recommend four vendor representatives to Council for consideration; and 3) Council will select two members of Council. Ex officio

Directors will include the General Manager of the Hamilton Farmers' Market and a staff representative from Public Health Services.

The City will negotiate an operating agreement with the corporation, once the full complement of Directors is appointed. City staff will negotiate the agreement on behalf of the City, and the Directors will negotiate on behalf of the corporation. The operating agreement will set out the rights and obligations of each party. It will identify City resources required by the corporation, such as funding, with the expectation that reliance on City resources will decline over time. The Agreement will also set out the responsibilities of the corporation, including operation of the Hamilton Farmers' Market, selection of stallholders, enforcement of stallholder contracts, maintenance of the Market facility, and submission of annual budgets and audited financial statements.

Until such time that the operating agreement is negotiated and signed, the Market By-law will continue to apply. In other words, there will be a transition period from the time the corporation is created until the operating agreement is signed, during which the existing staff, operating budget and operating procedures will continue to apply.

ALTERNATIVES FOR CONSIDERATION

None.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Objective

- 1.3 Promote economic opportunities with a focus on Hamilton's downtown core, all downtown areas and waterfronts.
- 1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.
- 1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

Strategic Priority #2

Valued & Sustainable Services

WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.

Strategic Objective

- 2.2 Improve the City's approach to engaging and informing citizens and stakeholders.

2.3 Enhance customer service satisfaction.

Strategic Priority #3

Leadership & Governance

WE work together to ensure we are a government that is respectful towards each other and that the community has confidence and trust in.

Strategic Objective

3.4 Enhance opportunities for administrative and operational efficiencies.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" - Draft Letters Patent

Appendix "B" - Corporate By-law No. 1