



Hamilton

## **REPORT 12-001**

### **HAMILTON FARMERS' MARKET SUB-COMMITTEE**

**Monday, March 19, 2012**

**9:30 a.m.**

**Rooms 192/193**

**Hamilton City Hall**

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Present: Councillor McHattie, Chair  
Councillors J. Farr and R. Pasuta

Also Present: A. Bradford, Director of Culture  
B. Atanas, Manager, Social Housing and Homelessness  
T. Tollis, City Treasurer  
E. Filippone, Legal Division  
I. Bedioui, City Clerk's Office

#### **THE HAMILTON FARMERS' MARKET TRANSITION SUB-COMMITTEE PRESENTS REPORT 12-001 TO THE EMERGENCY AND COMMUNITY SERVICES COMMITTEE AND RESPECTFULLY RECOMMENDS:**

**1. Resignations of Councillors B. Clark and L. Ferguson**

That the resignations of Councillors B. Clark and L. Ferguson from the Hamilton Farmers' Market Sub-Committee be received.

**2. Appointment of Vice-Chair**

That Councillor Jason Farr be appointed Vice-Chair of the Hamilton Farmers' Market Sub-Committee.

**3. Interim Market Manager Position**

That staff be directed to enter into a service contract, for a period not less than six months but not more than nine months, for the overall management of the Hamilton Farmers' Market including but not limited to: property management, administration, programming and marketing, with the objective to decrease operating costs immediately and identify further savings, while the Council directed study of privatization and other governance structures is being completed.

**Emergency and Community Services Meeting April 10, 2012**

**FOR INFORMATION:**

**(a) Appointment of Vice-Chair**

Councillor McHattie relinquished the Chair to the Clerk in order to move that Councillor Jason Farr be appointed Vice-Chair of the Hamilton Farmers' Market Sub-Committee.

**(b) CHANGES TO THE AGENDA**

The Clerk advised there were no changes to the agenda.

The Agenda of the March 19, 2012 Hamilton Farmers Market Sub-Committee meeting was approved as presented.

**(c) DECLARATIONS OF INTEREST**

There were none declared

**(d) APPROVAL OF MINUTES OF THE PREVIOUS MEETING**

The Minutes of the June 29, 2011 meeting were approved as presented.

**(e) DELEGATION REQUESTS**

The Sub-Committee approved the following delegation requests:

- (i) Saji Kollanlara, Taste of India, requesting a reconsideration of his application for a Market stall. (Item 4.1)
- (ii) Shane Coleman, Battlefield Farms, refusal of contract; requesting that an independent Liaison Committee be established for an impartial hearing of events that have transpired respecting the refusal of his Market stallholder contract. (Item 4.2)

**(f) DISCUSSION ITEMS**

**(i) Stall Allocation Process (Item 7.1)**

Anna Bradford explained the stall allocation process with the aid of a PowerPoint presentation. Hand outs were distributed.

Her comments included but were not limited to the following:

- The three top criteria: Grow It, Make It, Bake It;
- Council's approved vision;

- Council directed priorities for selecting vendors;
- Public Call for Vendors;
- 2012:
  - What were the results of the public call for new applications at the Hamilton Farmers' Market?
  - What is the appeal process for declined applications?
  - What happens if a vendor is granted or denied his/her reconsideration request?
  - How is the waiting list organized?
  - Who gets priority?

Anna Bradford responded to questions from the Sub-Committee.

On a motion, the Sub-Committee received the staff presentation.

Prior to hearing the delegations, the Chair explained to the public that this is not a tribunal under the Statutory Powers and Procedures Act hearing appeals but a Sub-Committee with the authority delegated by Council to reconsider property management decisions of the Market Supervisor to terminate a stallholder contract or to deny a stall application.

**(i) Saji Kollanthara, Taste of India, requesting a reconsideration of his application for a Market stall. (Item 4.1)**

Mr. Saji Kollanthara addressed the Sub-Committee and he requested that Judy MacDonald-Musitano speak on his behalf. Ms. MacDonald-Musitano read from a prepared statement. Her comments included but were not limited to the following:

- The denial of Mr. Kollanthara's application is victimization by those in power;
- Mr. Kollanthara is a family man who immigrated to Canada;
- The denial of his application has undone his dream to be a business operator;
- He initially leased a 100 square foot stall from Yale Properties for two months;
- In 2011 Ms. Bradford offered him a large 600 square foot;
- When he indicated he could not afford the rent Ms. Bradford told him they could work something out and he could sub-lease a portion to another vendor;
- Ms. Bradford did not uphold this verbal agreement;
- Mr. Kollanthara requested that he be allowed to operated more days or that he be allotted a smaller area;
- His request was denied;
- The system demonstrates prejudice to ethnic stall holders;
- Saji conducted an Indian cooking class which was well attended;
- He is unemployed without any means of having access to employment;

- The Sub-Committee is requested to re-evaluation the denial of his application.

The Sub-Committee asked Mr. Saji whether he agrees that he has been a victim of *discrimination and a despicable demonstration of power*.

He responded *yes, because there are many customers who purchase his products*.

When asked to justify the statements, Judy Musitano-MacDonald clarified that what they were trying to say is that this is *a social injustice to the community as a whole* to not offer ethnic foods at the market.

In answers to questions posed by the Sub-Committee, Mr. Kollanthara stated the following:

- He does not have Anna Bradford's statement that he could sub-lease the stall in writing, however, he would not have agreed to the large stall if that was not an option;
- He confirmed that he is behind in rental payments and that is why his application was denied even though a payment plan was worked out with the City;
- No other vendor sells his products;
- Indian spices are very popular;
- Other vendors are selling items that are not grown in Canada;
- He requests that he be allowed to rent a small 10 foot by 10 foot stall;
- That's all he can afford;
- Now he is unemployed and cannot pay his rent arrears.

On a motion, the Sub-Committee received Mr. Kollanthara's delegation.

**(ii) Shane Coleman, Battlefield Farms, requesting that an independent Liaison Committee be established for an impartial hearing of events that have transpired respecting the refusal of his Market stallholder contract. (Item 4.2)**

Shane Coleman addressed the Sub-Committee reading from a prepared statement. A copy was submitted to the Clerk for the record.

Mr. Coleman indicated that the stallholders are experiencing a loss of power. He provided details about past disputes between staff and the stallholders and how he tried to be of assistance.

The Chair and Legal staff advised him that he needs to speak to the issues of why the denial of his application should be reconsidered. The letter from the City dated February 19, 2012 stated that the reasons for the denial are

his poor performance with respect to the trespass and the continued operation of the business in the absence of the contract.

Mr. Coleman explained that he was never offered a temporary stall. It was his understanding that staff wanted to move the flower vendors around. Anna Bradford moved him to the window area and indicated that she would ask Council to allow him thirty feet. He was told that a florist would be put next to him. He appeared as a delegation at the Emergency and Community Services Committee regarding the shuttle bus proposal and advertising fund. He tried to advise staff and members of the Hamilton Farmers' Market Sub-Committee of various concerns at the Market. In December, 2011 he received a letter stating that his stall would be closed down and outlined the reasons.

In response to questions posed by Committee, Shane Coleman indicated the following:

- He does not have poor performance in the Market – he always opens his stall early and closes late;
- He agrees he did not move when asked to do so and that the City had to hire a bailiff;
- He continued to operate because he thought he could come before the Sub-Committee; – he wrote to Bill indicating that he wanted to meet; he e-mailed the Councillors during Christmas vacation; he asked to meet with Joe-Anne Priel; after receiving the Notice of Trespass on January 3, 2012, he e-mailed staff the next day indicating that he wished to discuss procedures;
- He did not want to move because the locations offered to him would have required him to transport his produce down a ramp and the location next to the flower stall, which was offered to him, has mice and rodents that would eat his produce;
- The other vendors signed their contracts under duress because they did not agree with the changes in the contracts;
- He did not sign his contract to demonstrate that there is a problem.

In response to questions from the Sub-Committee, Bill Atanas advised of the following;

- After issuing his letter to Mr. Coleman on December 7, 2011 outlining the rationale for moving his stall (i.e. lack of plumbing/hydro at this temporary location; health and safety compliance; security of neighbouring area during extended hours; lack of public event space; and cramped space in Market Café area) he had communications with Mr. Coleman regarding general Market issues but nothing specific to his letter;
- Battlefield Farms indicated verbally that they refused to move;
- Mr. Coleman was given three choices of where to re-locate; one stall was larger than the temporary location he was occupying.

In response to questions from the Sub-Committee, Anna Bradford advised of the following;

- She did not give a verbal commitment to Mr. Kollanlara that he could operate six days a week or sublet his stall because she does not have the authority to do so;
- With respect to the victimization by power and discrimination allegations, she indicated that she has always been professional and fair in her dealings with Mr. Kollanlara.

On a motion, the Sub-Committee received Mr. Coleman's delegation.

The Sub-Committee moved into Closed Session at 11:30 a.m. to deliberate upon the submissions of the parties respecting the stall applications from Mr. Saji Kollanlara and Mr. Shane Coleman.

The Sub-Committee reconvened in Open Session at 12:00 noon.

The Sub-Committee made the following decision with respect to the stall application from Saji Kollanlara, operator of Taste of India:

- (a) That staff make attempts to find a 10 foot X 10 foot stall location for Mr. Kollanlara in the Hamilton Farmers' Market proper;
- (b) That, If staff are unsuccessful in locating a 10 foot X 10 foot stall at this time, Mr. Kollanlara's name be placed on the waiting list in the number one spot;
- (c) That subsections (a) and (b) be subject to the following conditions:
  - (i) That a mutually agreed upon accelerated payment plan, be established between the City and Mr. Kollanlara when Mr. Kollanlara acquires a stall;
  - (ii) That a product line suitable to the market manager and the *Grow It; Make It, Bake It* approach be ensured;
  - (iii) And that all other stipulations of the stallholder contract be complied with.

The Chair noted that the City has already agreed to a payment plan with Mr. Kollanlara which was a factor the Sub-committee considered in arriving at its decision.

The Sub-Committee made the following decision with respect to the stall application from Shane Coleman, operator of Battlefield Farms:

That the Market Supervisor's decision to deny the stall application from Mr. Shane Coleman, operator of Battlefield Farms be upheld, as per the reasons specified in the Market Manager's letter of February 17, 2012.

**(g) DISCUSSION ITEMS**

**(i) Privatization of Hamilton Farmers' Market**

Tony Tollis, City Treasurer, provided a verbal update with respect to this issue and read the motion from the General Issues Committee which directed staff to conduct a feasibility study on privatizing the management of the Hamilton Farmers' Market and to prepare a Terms of Reference for consideration by the Hamilton Farmers' Market Sub-Committee and to look at ways to reduce the annual subsidy for the Market and report back to the General Issues Committee.

Tony Tollis outlined the next steps. He will be presenting a Terms of Reference to the April 30, 2012 Hamilton Farmers' Market Sub-Committee meeting.

If Council decides to issue a Request for Proposals, it would take a few months to prepare and will likely be presented to the General Issues Committee by the end of June.

He will consult with City staff, potential interested parties and stakeholders as part of the feasibility study.

On a motion, the Sub-Committee received the staff update.

**(h) MOTIONS**

Councillor Farr presented the following Notice of Motion:

**8.1 Authority to Hear and Decide on Requests for Reconsideration**

Whereas section 11 of the Market By-law currently provides a stallholder whose contract has been terminated or an applicant for a stall whose application has been rejected, with a right to submit a request to appear as a delegation before the Hamilton Farmers' Market Sub-committee for reconsideration of the termination or rejection;

And whereas at its meeting of February 2, 2012, the General Issues Committee directed staff to explore alternative forms of governance for the Hamilton Farmers' Market;

And whereas during this period of transition, it is desirable to amend the reconsideration process;

And whereas requests for reconsideration may be heard more expeditiously if such requests are made to the General Manager of Community Services;

**Therefore be it resolved:**

- (a) That where a stallholder's contract is terminated in accordance with its terms or otherwise, or where a person's application for a stall has been rejected, the stallholder or person, as the case may be, may, within fifteen (15) days of being notified of the termination or rejection, make a formal written request to meet with the General Manager of Community Services for reconsideration of the termination or rejection;
- (b) That the General Manager of Community Services will review the matter and may affirm the termination or rejection or provide other direction on the matter;
- (c) That the decision of the General Manager of Community Services, which may be made orally or in writing, will be final;
- (d) That the necessary by-law be passed to reflect the resolution in Subsections (a), (b) and (c), in a form satisfactory to the City Solicitor;
- (e) That the by-law in Subsection (d) be effective on the date it is passed.

**(i) ADJOURNMENT**

The Hamilton Farmers' Market Sub-committee meeting adjourned at 12:30 p.m.

**Councillor B. McHattie, Chair  
Hamilton Farmers' Market Sub-committee**

**Ida Bedioui, Legislative Co-ordinator  
Hamilton Farmers' Market Sub-Committee  
March 19, 2012**