

City Solicitor Hamersley Resigns - November 4, 1895

The Fire, Market & Police Committee recommended that the City terminate Mr. Beattie's lease of the City Market. There were varying accounts as to how much City Solicitor Hamersley represented the City's best interests in dealing with the Market lease issue over the past several months. Mr. Hamersley resigned as City Solicitor effective the end of 1895. (Note: City Clerk McGuigan almost always misspelled Hamersley's name as "Hammersley".)

This transcript was made in 2021 by Transcribimus volunteer Gerald Soon.

Original handwritten documents:
COV S31 Volume 6 pages 816 - 829

To view or download images of the handwritten minutes for November 4, 1895 click the button below (four parts):

[part one:Nov 4 1895 | part one](#)

[part two:Nov 4 1895 | part two](#)

[part three:Nov 4 1895 | part three](#)

[part four:Nov 4 1895 | part four](#)

[Volume 6 page] 816

Vancouver November 4th 1895
The Council met on Monday November 4th 1895

Present – His Worship, the Mayor and Aldermen Shaw, Coupland, Queen, Gallagher, McPhaiden, Clandenning, Brown, Sanders, Bethune and McDonald

The Minutes of last meeting were read and adopted.

Communications

From James McGeer asking the Mayor to declare the seat of Alderman Queen vacant on account of him being absent over two months from meetings of the Health Committee.

Moved by Alderman Clandenning
Seconded by “ Sanders
That the communication be filed.
Carried.

From the Gutta Percha & Rubber Mfg Go. Stating that they were sending 200 feet of hose to replace the defective lengths.
Referred to the Fire, Market & Police Committee.

From Wm Ward reporting on the electric lights.
Filed.

From C. Tetley City Accountant furnishing Vouchers in connection with moneys paid to the City Solicitor since January 1890.
Filed

From A. Blayney furnishing prices of anthracite Coal
Referred to the Fire, Market & Police Committee

From J. Z. Hall asking the City to have the electric light pole removed from in front of Lot 18. Block 23.D.L. 196
Referred to the Water & Light Committee.

[Volume 6 page] 817

From the City Auditor reporting the accounts carried for September
Filed.

From Wm Farrell agreeing to contribute \$100 towards the cost of laying a six foot sidewalk on Denman Street
Referred to the Board of Works

From Sir Mackenzie Bowell and Hon John Costigan acknowledging receipt of communication from the Mayor re the Foreshore on English Bay.
Filed.

From W.F. Salsbury etal asking for a new sidewalk on the east side of Hornby Street.
Referred to the Board of Works

From A. Campbell Reddie and the Hon James Baxter stating that J.A. Russell had been appointed Police Magistrate at a salary of \$1800 a year.
Filed

From the City Engineer stating that the work of plastering Fire Hall No 1 was good and sound though not quite as straight as it should be.
Referred to F.M. & P. Committee

From John McDowell garnisheeing the moneys coming due James Brooks.
Referred to the City Solicitor

From O. Evans Thomas asking the City to protect his advertisements from being torn down.

Moved by Alderman Gallagher
Seconded by " Clandenning
That the Communication be referred to the Finance Committee to consult with Evan Thomas and to

prepare bond.
Carried.

From E. Mackin asking the Council to place \$1000 to the credit of the Library Board to pay for books ordered.
Referred to the Finance Committee.

[Volume 6 page] 818

From A.H. Brintrull, Toronto calling attention to a new patent for running street railways. Filed

From Messrs Russell & Godfrey giving explanation in connection with the delay in paying the fine of W.H. Gallagher.
Filed

From A.H. Cooke stating that he would complete the City Assessing for \$50.00
Referred to the Finance Committee

From Mason & Co stating that an Intelligence Office had not paid their license and asking for the refunding of their License.
Referred to the License Inspector

From F. S. Barnard acknowledging receipt of resolution regarding the railing of False Creek Bridge at the foot of Granville Street and stating that the gates were kept closed to prevent accidents
Referred to the Board of Works

From the City Solicitor furnishing copies of correspondence in connection with the Market Lease. Filed

From G.F. Monckton stating that he was going to give a series of lectures for the benefit of prospectors and asking for the use of the minerals in the Free Library to illustrate his lectures
Referred to the Library Board

From G.F. Monckton asking the Council to pass resolutions regarding a bonus for a smelter
Laid over for motions.

From W. T. Stewart asking for a further extension of time to complete arrangements re electric light contract
Laid over for motions.

[Volume 6 page] 819

Reports

The following Reports were received and read:-

Finance Committee

The Finance Committee met on Friday November 1st 1895
Present – the full Board.

Communications

From M. Beattie. Assessor of Yale District sending Assessment notice.
Referred to the City Solicitor to obtain particulars

From A.H. Macneil serving a summons on the City in the case of A.E.E. Clarke vs Kendall.
Referred to the City Solicitor

From Messrs. Davis, Marshall, Macneill and Abbot serving a writ in the case of Haywood cs the City and afterwards withdrawing same.
Referred to the City Solicitor

From E. J. Cashmore of Toronto asking the City to grant him a loan of \$5000 and take as security a chattel mortgage on tools etc to be used in connection with a bicycle manufactory to be erected in the city
Filed

Resolved that R.H. Cooke be notified that he will be required to assess buildings up to the last day of November

Resolved that Alderman Coupland and Mr Baldwin look after the purchase of a store for the Treasurer's office

The following accounts were recommended for payment:-

James England Orphanage Grant \$125.00

H. H. Davis Painting 5.65

Geo E Trorey Supplies 6.00

C.P. Telegraph Co Telegram .72

[Volume 6 page] 820

Arthur Ward supplies \$7.00

Chief. Proceed Sale of horse 5.75

News.Advertiser Supplies 7.25

Robert Robinson Labor 11.00

G.H. Blair " 9.66

R.H. Cooke Assessing 3.00

Clarke & Stuart Supplies 21.48

City Treasurer Supplies 4.00

sgd Alex Bethune
Chairman

Moved by Alderman Gallagher
Seconded by " Bethune
That the Report be adopted.
Carried.

Fire, Market & Police Committee

The Fire, Market and Police Committee met on Friday, November 1st, 1895
Present – Aldermen Gallagher, Coupland, Sanders and McDonald
These were also present – Messrs J. Miller, M. Costello and the City Solicitor

The following accounts were recommended for payment:-

Wm Ralph Supplies \$6.77
Thos Dunn & Co. " 2.15
B.C. Iron Works " 12.40
E.W. Bennett " 2.25
J.W. Johnston Fares 9.50
Thos Simpson Care of horse 25.
C.P. Telegraph Co Telegram .72
Can Gen Elec Co. Supplies 9.45
J.G. Mortimer Plumbing 50.30
News.Advertiser Supplies 3.50
G.L. Allan " 14.20
T. Marshall " 26.88

[Volume 6 page] 821

Clark & Stuart Supplies \$5.85
H. Kinsey Labor 2.00
E. Clough Drayage 1.00
J.W. Robinson Hire of horse 5.50
Malcolm McLean Ry fares 8.85
H.A. Mellon Magistrate's fees 20.00
Louie Jack Moieties 37.50

Communications

From John McLaren, ex Chief of Police stating that his wife had sent in all his police clothing.
Laid Over

From Byron Phelps writing the Council to be represented at the tournament to be held in Seattle on the 18th of November.

The communication was referred to the Chief of the Fire Brigade and it was resolved that four of the firemen be allowed to go if they put men in their place.

From Wm Beattie asking for the positions of Market Clerk.
Filed.

From John Purdy asking for an additional allowance as night watchman.
Referred to the Chief of Police for report.

From J.H. Carlisle stating that J. Cooper had received \$48.57 insurance while in the City Hospital.

Resolved that J. Cooper be paid October's salary less \$48.57 already received by him for insurance he having already been paid in full by the City when he was off work.

From J. H. Carlisle stating that the following supplies were needed, viz 27 pairs of pants, 22 pairs rubber boots, 14 pairs blankets, and 22 helmets

Resolved that the City Clerk be instructed to call for tenders for supplying pants, blankets, rubber boots, helmets and rubber coats such tenders to be received to the 9th of November 10 a.m.

[Volume 6 page] 822

also that he be instructed to call for tenders for overcoats and MacIntoshes for the police.

Resolved that the account of J. Brooks for plastering Fire Hall No 1 be paid subject to being found correct by the City Engineer.

The following report was received from the City Clerk shewing the costs imposed by H.A. Mellon in the Police Court during the absence of the Police Magistrate:-

Four persons \$3.50 each, one \$2.00, Ten \$2.50 each and two \$1.50 each.

Filed

Resolved that the merchants be requested to send in their accounts promptly at the end of each month, one of them Mr. Allan having neglected to send in an account since October 1894.

Resolved that the question of repairing the Pound House be referred to Alderman McDonald to look after.

Resolved that W.E. Johnstone be instructed to check over the Report of Mr Cooke on the buildings belonging to A.M. Beattie on the Market grounds and report on Monday night in writing to the Council.

Market Hall Lease

The Chairman reported that the amount received from the sale of goods of Mr Beattie on the Market amounted to \$222.05 and that the valuation of the buildings erected on the grounds by Mr. Beattie amounted to \$668.80 said valuation being made by the assessor for buildings for the year, the total being \$890.85.

The amount of rent due from Mr Beattie up to October 21st is ~~\$890.85~~ \$900.

The Committee recommends that the City take possession and terminate Mr Beattie's lease according to the terms thereof.

Clause 11 of said lease provides how the City

[Volume 6 page] 823

is to take possession, the following is a copy of said clause:-

“provided always and these presents are upon the express condition that if and whenever any part of the said rent hereby reserved shall be in arrears for twenty days whether the same shall have been legally demanded or not; if and whenever there shall be a breach of any of the covenants or agreements by the lessee herein contained the Lessors ay at any time thereafter deliver to the lessee or lease at the Market buildings a notice in writing under the seal of the Lessors signifying their intention to determine the said term and immediately upon the delivery or leaving of said notice as aforesaid the said term shall absolutely determine but without prejudice to any right or remedy which may have previously accrued and the Lessors may re-enter upon any part of the said premises in the name of the whole and thereupon the said term of 5 years hereby granted shall absolutely determine. And the lessors hereby covenant with the lessee that he paying the rent herewithbefore reserved or made payable or performing and observing the covenants and agreements by the lease herein contained may quietly hold and enjoy the said premises herewithbefore expressed to be hereby devised and granted during said term without any interruption or disturbance by the lessors or any other person or persons claiming by through or under therein. That in the opinion of this committee Clause 10 is not sufficiently imperative for the Committee to recommend that the Council should force Mr Beattie or his sureties to make repairs or enter into litigation.

[Volume 6 page] 824

Clause 10 bearing on the subject cites as follows:-

“The Lessee will during the said term at his own expense without being thereunto required will and sufficiently repair, maintain and keep the said premises and all fixtures and additions thereto in good and substantial repair and condition and will at the expiration or sooner determination thereof deliver up the same in as good order and condition, destruction by fire or tempest excepted that this Committee reports that on January 28th and February 19th 1895, communications had been received from Mr Beattie re the Market. On the 19th February 1895, Mr Beattie notified the Council that he would not pay any further rent under said lease.

On the 9th of April 1895, the City Solicitor was instructed to enforce the conditions and covenants of the lease re rent and repairs and he has positively neglected to enforce the conditions of the lease and in his report to the Council on July 29th 1895 he states that he would recommend the taking over of the Market on certain conditions, one of the conditions being that Mr Beattie hand over the lease. That at other times Mr Hammersley has reported to the Committee that the sureties were the proper parties to take possession of the market and then to hand it over to the City. That Mr. Hammersley reported and insisted to the Committee at their last meeting that the sureties hand it over to the City and contended that that was the legal course to pursue.

That in conjunction with the report of Mr Hammersley to this Committee verbally and in writing and the report of Messrs Miller and Costello to day which shall be read as part of this report

[Volume 6 page] 825

this committee is of the opinion that Mr Hammersley has not acted in the interests of the City in this matter nor yet in the interests of the sureties and that the written report of Mr Hammersley of July 19th and the verbal report made to the Committee at its last meeting differs to such an extent that this Committee cannot act according to both.

That in view of the complications creeping into this matter the Committee strongly recommends that Mr. Hammersley's services be dispensed with and a new solicitor be employed.

Resolved that Aldermen Coupland, McDonald and Sanders be a committee to draft a resolution in harmony with Clause 11 of the lease.

Mr Hammersley stated that he had heard and had every reason to believe that a report had been circulated that he stated to Mr. Costello that if he got \$100 he would relieve the sureties of the Market of their responsibilities to the City: He said that it was absolutely incorrect and untrue. He wished to be present when this matter was discussed so that no misconception could be put into his words. He did not wish to leave the room before Messrs Miller and Costello were asked if there was any truth in the statement and that he wished to be put right in the presence of all the Committee.

The Chairman stated that he had not heard that Mr Hammersley had ever made such a proposition to Mr Costello.

Mr Costello said that he thought it the duty of the City to take over the Market lease and sell out everything to pay the rent in arrears and to call upon the bondsmen for the difference.

Mr Miller had the same opinion as Mr Costello. He wanted the business terminated.

[Volume 6 page] 826

Mr Miller stated that he had a conversation with Mr Hammersley about the Market Lease.

He asked him about the best way to proceed. Mr Hammersley said that he thought the best way was the City to bring an action against Mr. Beattie to get possession but that the Sureties would have to bear the expense. Mr Miller then asked what would be the expense. Mr Hammersley said it would take about six weeks to get the thing wound up and that it would cost in the neighbourhood of \$100. Mr Miller told him that when Mr Costello came they would call on him.

Mr Miller wanted to know what it would cost he meant what they would have to pay, law costs were not mentioned.

The Chairman had spoken favorably about having the matter settled.

Mr Miller's object in going to Mr Hammersley was to talk over Market matters, Mr Costello was to be present but had to go to Victoria

He thought that the \$100.00 would go to the City Solicitor. He did not know what arrangements Mr Hammersley had made with the City

sgd W.H. Gallagher
Chairman

Moved by Alderman Gallagher
Seconded by " Coupland
That the Report be adopted.

Moved in amendment by Alderman Shaw
Seconded " Alderman Brown
That the clause in reference to the Market Lease and the dismissal of the City Solicitor be laid over.

Amendment carried. Motion not put.

Moved by Alderman Brown.
Seconded by " Bethune
That the Report as amended be adopted.
Carried.

Motions

Moved by Alderman Brown
Seconded by " Gallagher
That W. T. Steward be allowed an extension of time for twenty days in conformity with the resolution passed by the Council on the 9th of September 1895. to complete arrangements for the installation of an electric light plant.
Carried.

Moved by Alderman Brown
Seconded by " Bethune
That the Vancouver Electric Railway & Light Co be informed that the City does not require the electric lights on moonlight nights.
Carried

Moved by Alderman Brown
Seconded by " Bethune
That the Mayor appoint a Committee Aldermen Brown, Bethune, Shaw, Gallagher and McDonald

Moved by Alderman Shaw
Seconded by " Queen
That in the opinion of this Council it is to the advantage of the City that a bonus of \$5 per ton be paid on the first five thousand tons of ore smelted by the Monckton Smelting and Refining Co and

[Volume 6 page] 828

it is further resolved that in the event of G.F. Monckton and his associates satisfying the Council that he is prepared to erect a fifty ton smelter within the city limits within the period of one year that this

Council does hereby agree to submit a By-Law to this effect to the citizens.

Carried

Moved by Alderman Shaw

Seconded by " Queen

That in the opinion of this Council it is to the advantage of this City that a bonus of three dollars per ton be paid to the Monckton Smelting and Refining Co on the first ten thousand tons refined by it; and it is further resolved that in the event of G.F. Monckton and his associates satisfying the Council that they are prepared to erect a fifty ton refinery within the City Limits within the period of one year that this Council does hereby agree to submit a By-Law to bonus the said refining works for base bullion to the said amount.

Carried.

Moved by Alderman Coupland

Seconded by " Sanders

That Mr Hammersley be notified that 30 days from this date his services will not be required by the City and that he be sent a copy of this notice.

Moved in amendment by Alderman Gallagher

Seconded by Alderman Queen.

That the resolution be laid over for one week.

Amendment lost;

Motion lost.

Mr Hammersley then tendered his resignation of the City Solicitorship to take effect at the end

[Volume 6 page] 829

of this Municipal year.

Moved by Alderman Brown

Seconded by " Clandenning

That Mr. Hammersley's resignation be accepted according to the terms thereof.

Carried

The Council then adjourned.

Henry Collins

Mayor

Thos F. McGuigan

City Clerk