




Hamilton

CITY OF HAMILTON

**COMMUNITY SERVICES DEPARTMENT
Recreation Division**

TO: Chair and Members Emergency & Community Services Committee	WARD(S) AFFECTED: WARD 1
COMMITTEE DATE: May 14, 2012	
SUBJECT/REPORT NO: Westdale High School Tennis Facility (CS12024) (Ward 1)	
SUBMITTED BY: Joe-Anne Priel General Manager Community Services Department	PREPARED BY: Alana Henderson 905-546-2424 ext. 4143 Steve Sevor 905-546-2424 ext. 4645
SIGNATURE: 	

RECOMMENDATION

- (a) That the City of Hamilton enter into a Licence Agreement with the Hamilton Wentworth District School Board to refurbish the tennis courts located at Westdale High School, substantially based on the key terms attached as Appendix A to Report CS12024;
- (b) That the Mayor and City Clerk be authorized and directed to execute the Licence Agreement between the City of Hamilton and the Hamilton Wentworth District School Board for the refurbishment and use of the Westdale High School tennis courts, as well as any related or ancillary documentation, in a form satisfactory to the City Solicitor; and,
- (c) That the General Manager of Community Services or designate be granted the delegated authority to approve any changes to the Licence Agreement between the City of Hamilton and the Hamilton Wentworth District School Board and to execute any related or ancillary documentation as may be required to give effect thereto, in a form satisfactory to the City Solicitor.

EXECUTIVE SUMMARY

Currently, there is an unused tennis court complex contained within the grounds of the Westdale high school, located at 700 Main Street West, Hamilton, Ontario. This complex consists of four hard surface tennis courts that are fenced off within the school grounds. The complex also has a lighting system that had allowed for evening use when the courts were still operational.

The tennis courts were used by both the students of Westdale high school and the public. General ongoing maintenance and some programming of the courts had been provided by the City and volunteers from the greater tennis community. There had been a Playlot Counsellor (“Supie”) program located at the tennis courts in the summer as well as City led tennis lessons. However, these programs were discontinued in the mid 1990’s and resulted in a diminished City presence at the facility. The courts were then utilized on a first come/first serve basis with no specific responsibility assigned for ongoing maintenance. The courts gradually fell into a state of disrepair that eventually left them idle.

Staff are recommending that the City enter into an agreement with the Hamilton Wentworth District School Board (HWDSB) to refurbish and redesign the existing court complex at Westdale high school, for both student and community use. A total of \$250,000 has been allocated within the City’s 2012 capital budget to offset the costs of the refurbishment (\$202,000 for construction, \$25,000 for design, \$23,000 for internal resources/staffing). The work to refurbish the courts will be done by a company selected through an RFP process to be administered by the City.

The HWDSB will provide the land for the courts and allow public access to the courts in designated non-school use times.

The design being considered is to construct a multi-purpose court on the existing footprint to accommodate a wide range of interests. This would include two tennis courts, one basketball court and one open, multi-use court for activities such as ball hockey. The design is subject to public consultation and sign-off from the City and the HWDSB.

Upon completion of the project, HWDSB will have exclusive use of the courts during school hours throughout the academic year and the public will have access outside of the hours reserved for school use. It is anticipated that public access to the courts would be on a first come/first serve basis. However, City staff from the Recreation Division will manage any permitting requirements in the future if the use of a permit is deemed necessary. The City’s Public Works Department (Parks Division) will provide ongoing general maintenance of the court complex.

An agreement has been negotiated in principle between City staff and HWDSB staff. There are some outstanding legal and other issues (e.g. insurance) that remain to be negotiated between City and HWDSB legal representatives before the Agreement can be formally executed.

The partnership will provide the City of Hamilton with additional recreational assets that have been identified as a need in this area of the City. Additionally, this partnership will provide the HWDSB with the opportunity to enhance their current physical education offerings to their students.

Alternatives for Consideration – N/A

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: The City of Hamilton will provide up to \$250,000 for the refurbishment of the courts, including upgrades to the lighting system, fencing and design and construction costs (\$202,000 for construction, \$25,000 for design, \$23,000 for internal resources/staffing). The funding has been allocated within the City's 2012 capital budget.

The City will administer an RFP process to select the company that will refurbish the courts.

Ongoing maintenance of the court complex will cost approximately \$1,700.00 per annum. This includes staffing costs as well as costs related to ongoing repair and replacement. Funding for maintenance was added to the Park Division's operating budget.

Staffing: Summer student staff employed by the City's Park Division will maintain the court complex as part of their ongoing work assignments.

Legal: The Licence Agreement is being drafted by Legal Counsel from the City in consultation with HWDSB's Legal Counsel.

HISTORICAL BACKGROUND

The Recreation Division recently undertook an Outdoor Recreation Facilities & Sport Field Provision Plan to provide a sustainable strategy for managing outdoor sports fields and other outdoor community-use recreational infrastructure such as tennis courts, outdoor multi-purpose courts, skate parks etc. The Outdoor Study indicated that the City should consider improvements to the courts located at Westdale high school.

The Study further indicated that such projects should be facilitated through partnerships between the City and other interested parties (e.g. school board or tennis clubs).

During public consultation sessions regarding Churchill Park, the request for additional tennis facilities was highlighted by members of the community. In subsequent discussions, a proposal eventually evolved to redevelop the Westdale high school tennis courts into a multi-purpose court complex as part of a refurbishment project.

Community and HWDSB interest in maintaining the tennis courts provided the City with an opportunity to partner with Westdale high school and the HWDSB to redesign and refurbish the existing courts. Staff met with both parties to discuss interest, needs and partnership opportunities. Feedback from Westdale high school staff, parent council and HWDSB indicated that a multi-use court facility similar to the Sir Allan McNab Secondary School site (two tennis courts, one basketball court and one multi-purpose court) would be the preferred option if the courts were redeveloped.

City Council approved a total of \$250,000 for the refurbishment of the Westdale high school tennis courts. This funding is included in the Recreation Division's 2012 capital budget (approved by City Council on December 14, 2011).

The Agreement will stipulate specific hours of use for both the HWDSB and the general public. The Agreement will also stipulate that City and HWDSB staff will meet on a semi-annual basis to review the programming and operation of the facility to ensure that the facility is being utilized in a manner that maximizes the benefit to both parties.

City and HWDSB staff have reached agreement in principle on the major program and funding elements of the court refurbishment project. Staff and Legal Counsel from both the City and the HWDSB are now in the process of dealing with the remaining outstanding issues so that a formal Agreement can be executed. These include construction issues related to removal of trees and access for construction purposes, length of Agreement (twenty-five years being proposed by City), responsibility for the ongoing maintenance of the fencing around the court facility, right of first refusal if school decides to sell the licensed land, and confirmation of insurance requirements for both parties. These issues are not necessarily in dispute. However, they require further discussion and the advice of Legal Counsel before a formal Agreement can be executed by the parties.

Staff are recommending that Council provide authority to proceed based on the information provided in Appendix A. This will allow for the execution of the Agreement after the outstanding issues have been resolved so that construction can place in the summer/non school months. An early September opening date is being targeted for the new court facility.

POLICY IMPLICATIONS

N/A

RELEVANT CONSULTATION

Recreation staff have consulted with the HWDSB staff on the development of the agreement which includes the design, construction, access and programming terms and conditions. The direction for the development of a multi-purpose court is supported by school board officials, Westdale high school staff and parent council members.

Recreation staff have also consulted with Parks staff within the Public Works Department regarding ongoing maintenance issues. Parks staff raised issues regarding access to the property during school hours for maintenance purposes. This issue will be addressed within the licence agreement.

The following City departments were consulted on the recommendations:

- City Manager's Office
- Risk Management Section, Corporate Services
- Legal Services Division
- Parks Division

ANALYSIS / RATIONALE FOR RECOMMENDATION

The agreement provides the City and HWDSB with an opportunity to leverage a partnership that will build sport capacity and create additional opportunities for participation in sport. The redevelopment of a multi-purpose court facility also supports the trends and recommendations of the Outdoor Facilities and Sports Field Provision Plan study.

The revitalization of the courts will provide an additional recreational asset to the students and teachers of Westdale high school and enhance options for physical activity during school hours.

The Agreement will enhance accountability related to a shared asset by detailing:

- The roles and responsibilities of the parties;
- The funding contributions to be made by the City for the refurbishment and ongoing maintenance of the courts;
- Use and access of the licensed premises;
- The payment of regular fees such as utilities;
- Maintenance of the property by the City;

- Construction requirements, times, and parameters;
- Data to be collected so that performance measures can be developed;
- Insurance and indemnification requirements;
- Reporting requirements;
- Protocol for maintenance and facility issues; and,
- City and HWDSB policies that must be adhered to during facility use.

ALTERNATIVES FOR CONSIDERATION

N/A

CORPORATE STRATEGIC PLAN

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Skilled, Innovative and Respectful Organization

- A culture of excellence

Financial Sustainability

- Delivery of municipal services and management capital assets/liabilities in a sustainable, innovative and cost effective manner

Growing Our Economy

- An improved customer service

Social Development

- People participate in all aspects of community life without barriers or stigma

Healthy Community

- An engaged Citizenry
- Adequate access to food, water, shelter, and income, safety, work, recreation and support for all (Human Services)

APPENDICES / SCHEDULES

Appendix A to Report CS12024: Key Terms and Conditions to an Agreement

KEY TERMS & CONDITIONS TO AN AGREEMENT

BETWEEN

THE CITY OF HAMILTON

AND

HAMILTON WENTWORTH DISTRICT SCHOOL BOARD

**FOR THE REFURBISHMENT & OPERATION OF A MULTI-COURT FACILITY
LOCATED ON THE GROUNDS OF WESTDALE SECONDARY SCHOOL**

The Agreement will define the relationship between the City of Hamilton and the Hamilton Wentworth District School Board throughout the planning, design, construction and the operation of a multi-purpose court on the grounds of the Westdale Secondary School located at 700 Main Street West, Hamilton. The key terms and conditions are as follows:

The City of Hamilton shall:

- enter into an Agreement with the Hamilton Wentworth District School Board for a term of twenty-five years to permit the refurbishment, reconstruction and operation of the existing courts located on the grounds of Westdale Secondary School.
- fund up to \$250,000 to refurbish, redesign and/or reconstruct the courts into two new tennis courts, a new basketball court and a new multi-use court. The construction will include renewing the lighting system and fences around the perimeter of the courts. The courts are located on the Westdale Secondary School property.
- tender for construction will be facilitated by the City of Hamilton through an RFP.
- start construction sometime in the summer and aim to complete by September.
- obtain, at its own cost, all approvals and permits necessary to carry out the refurbishment of the tennis courts.
- be responsible for maintenance and utility costs to operate the courts.
- in partnership with the HWDSB - promote the facility and recreational opportunities to the community and local sport groups.
- will review and provide a written report to the school board on the public use and awareness of the facility following the first year of usage.
- if necessary will manage any permitting required for the facility during public access hours.
- be responsible for enforcing any applicable City of Hamilton policies and procedures during public access hours.
- meet semi-annually with the school board to review the programming and operation of the multi-use courts.

- agrees to the schedule of hours designated for both school and public access to the multi-court facility.
- agrees to report to the school board based on the reporting requirements and related reporting schedule that will be stipulated in the agreement.
- indemnify the HWDSB against any and all loss, costs, charges, damages, expenses, claims and demands whatsoever to which the HWDSB may be put or, which the HWDSB may suffer or sustain, or for which the HWDSB may be liable for reason of anything done or omitted to be done arising from the City Of Hamilton's operation of the multi court facility during non-school hours (i.e. weeknights 6 PM to 11 PM September 1 to June 30, holidays, nights year-round from 11 PM to 7 AM and 24 hours a day during July 1 to August 31), such indemnification to be in wording satisfactory to the City's Risk Management Division. [*This provision is still being worked out by Legal Services and Risk Management*];
- maintain insurance satisfactory to the HWDSB and Risk Management of the City Of Hamilton, and furnish proof of such insurance upon request at any time during the term of the License Agreement and any renewals thereof [*The level of insurance is still being worked out by Legal Services and Risk Management*];

The Hamilton Wentworth District School Board shall:

- enter into an Agreement with the City of Hamilton for a term of twenty-five years to permit the refurbishment and operation of the existing courts located on the grounds of Westdale Secondary School.
- in partnership with the City of Hamilton - promote the facility and recreational opportunities to the community and local sport groups.
- will review and provide a written report to the City of Hamilton on the programs operated by the school board on the multi-court facility.
- be responsible for enforcing any applicable school board policies and procedures during hours reserved for school use.
- meet semi-annually with City of Hamilton staff to review the programming and operation of the multi-use courts.
- agrees to the schedule of hours designated for both school and public access to the multi-court facility.
- agrees to report to the City of Hamilton on the reporting requirements and related reporting schedule that will be stipulated in the agreement.
- abide by all Provincial and Federal laws and regulations and all Municipal by-laws, policies and procedures affecting the construction and use of the premises or activities thereon;

- indemnify the City against any and all loss, costs, charges, damages, expenses, claims and demands whatsoever to which the City may be put or, which the City may suffer or sustain, or for which the City may be liable for reason of anything done or omitted to be done arising from the school board's operation of the multi court facility during school hours (i.e. 7 AM to 6 PM weekdays September 1 to June 30 excluding holidays), such indemnification to be in wording satisfactory to the City's Risk Management Division;
- maintain insurance satisfactory to the HWDSB and Risk Management of the City Of Hamilton, and furnish proof of such insurance upon request at any time during the term of the License Agreement and any renewals thereof [*The level of insurance is still being worked out by Legal Services and Risk Management*];
- provide any further covenants to the City and enter into any further Agreements as the City may deem necessary to give effect to the foregoing, in a form satisfactory to the City Solicitor.