



**CITY OF HAMILTON**  
**HEALTHY AND SAFE COMMUNITIES DEPARTMENT**  
**Recreation Division**

<b>TO:</b>	Chair and Members Emergency & Community Services Committee
<b>COMMITTEE DATE:</b>	March 25, 2021
<b>SUBJECT/REPORT NO:</b>	Bernie Morelli Recreation Site Outdoor Natural Play Area (HSC21009) (Ward 3)
<b>WARD(S) AFFECTED:</b>	Ward 3
<b>PREPARED BY:</b>	Dawn Walton (905) 546-2424 Ext. 4755
<b>SUBMITTED BY:</b>	Chris Herstek Director, Recreation Division Healthy and Safe Communities Department
<b>SIGNATURE:</b>	

### RECOMMENDATION(S)

- (a) That the City of Hamilton be authorized to enter into a ten-year Licence Agreement with the Hamilton-Wentworth District School Board, for the construction of an outdoor natural play area on lands owned by the Hamilton-Wentworth District School Board at the Bernie Morelli Recreation Centre site on the terms set out in this Report; and,
- (b) That the General Manager of the Healthy and Safe Communities Department or his designate, on behalf of the City of Hamilton, be authorized to execute the Licence Agreement and any extensions and ancillary agreements in a form satisfactory to the City Solicitor.

### EXECUTIVE SUMMARY

The Bernie Morelli Recreation Centre opened in December 2018. During the construction of the facility a second-floor multi-purpose room remained incomplete due to budget constraints on the project. A planned EarlyON Child and Family Centre (then referred to as Ontario Early Years Child and Family Centre) proposed for the King George Elementary School site, already in receipt of Ministry of Education funding for renovation, retrofit or expansion, required relocation. The opportunity to partner for the

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refurbishment of the unfinished space at the Bernie Morelli Recreation Centre for shared early years programming was introduced by the Children's Service and Neighbourhood Development Division in 2019. The Ministry approved the relocation of this program from the King George Elementary School to the Bernie Morelli Recreation Centre through a Revised Community-Based Early Years and Child Care Capital Program Funding Allocation Letter dated November 8, 2019.

As part of the proposed EarlyON Child and Family Centre at the Bernie Morelli Recreation Centre site, enhanced outdoor natural play space was considered for inclusion in the project. The area identified for conversion to an outdoor natural play area, is located on a portion of the property ("the Premises") owned by the Hamilton-Wentworth District School Board ("the School Board"). A diagram of the area is attached as Appendix "A" to Report HSC21009.

Staff have contacted the School Board and have gained approval, in principle, to License the Premises from the School Board to allow for the construction of the natural play area on School Board property.

**Alternatives for Consideration – Not Applicable**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: The City has already accepted and received \$510,000 from the Ministry of Education in capital funding for the renovation, retrofit or expansion of an EarlyON Child and Family Centre to be located at the Bernie Morelli Recreation Centre site. A portion of this funding will cover the design, construction and maintenance of the proposed play area.

Staffing: N/A

Legal: Legal Services will assist with the preparation of a License Agreement with the School Board in a form satisfactory to the City Solicitor on the following proposed terms:

- Term of ten years with an option to extend on the same terms and conditions for two additional terms of five years;
- Nominal annual license fee;
- Board consents to use of the Premises by the City's third-party operator of the EarlyON Child and Family Centre (the "Operator");
- City through its Operator to ensure regular inspection of the Premises and improvements and equipment thereon;
- City to be responsible for all costs of construction and maintenance for term of agreement and any extensions;

- City and its Operator to have exclusive use of the Premises during the operational hours of the EarlyON Child and Family Centre;
- Title to any improvements and equipment placed on the Premises shall be vested in the name of the City;
- City shall ensure the Premises is open to the general public other than during EarlyON Child and Family Centre operational hours;
- Termination provisions as follows:
  1. Termination of license where default has not been remedied within 30 days of written notice of default;
  2. City to have the right to terminate this Agreement at any time upon at least 90 days' written notice to the Board, and in the event of such termination, the City shall be allowed up to 90 days from the date of termination to remove its improvements and to restore the Premises;
  3. The School Board shall have the right to terminate the License if the Premises is designated as being surplus to the Board's needs. The School Board shall give the City a minimum of 90 days' written notice of such termination and in the event of such termination, the City shall be allowed up to 90 days from the date of termination to remove its improvements and to restore the Premises;
  4. Notwithstanding the School Board's rights to terminate the License, the City shall not be required to remove the improvements from the Premises, vacate the Premises or restore the Premises during the months of January, February and March;
  5. Notwithstanding the Board's rights to terminate the License, the City shall not be required to remove the natural play area from the Premises during the first seven years of the Term in accordance with Ministry Funding stipulations.
- Where the License is terminated the City shall be allowed up to 90 days from date of termination to remove improvements from the Premises and restore the Premises failing which, at the option of the School Board, the improvements shall be deemed to be transferred to the School Board;
- City shall indemnify the School Board from any cause of action, demands, liabilities, etc. arising from use of the Premises during the Term and any extensions;
- During the Term and any extensions, each party to carry third party liability insurance of at least \$5 M naming the other party as an additional insured.

## **HISTORICAL BACKGROUND**

During the construction of the Bernie Morelli Recreation Centre a second-floor multi-purpose room was left incomplete due to lack of funding on the project. In 2019, the opportunity to finish this room as a shared EarlyON Child and Family Centre space was introduced by the Children's Services and Neighbourhood Development (CSND)

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Division who were looking to secure space for the previously planned King George Elementary School site with secured Ministry funding to fit up a new site in the identified community for the provision of early child care programming.

In Fall 2019, an informal site review undertaken by staff from CSND and Recreation Divisions determined that the Bernie Morelli Recreation Centre had the indoor infrastructure in place to support an EarlyON Child and Family Centre program with some retrofits to the identified multi-purpose room. Access to suitable outdoor play space was identified as preferred for EarlyON sites but lacking at the location.

The Ministry approved the relocation of this program from the King George Elementary School to the Bernie Morelli Recreation Centre through a Revised Community-Based Early Years and Child Care Capital Program Funding Allocation Letter dated November 8, 2019.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

Not Applicable

**RELEVANT CONSULTATION**

Staff from the following internal Departments, outside agencies and boards were consulted through the development of this report and proposed project:

Legal Services Division, Corporate Services Department – Licence Agreement development

Real Estate Division, Planning and Economic Development Department – Report review  
Children’s Services and Neighbourhood Development Division, Healthy and Safe Communities Department – Outdoor play area project management and EarlyON Centre requirements and funding

Strategic Planning and Capital Compliance Division, Public Works Department – Facility retrofit project management

Hamilton Wentworth District School Board – Property owner and partner

Hamilton East Kiwanis Boys’ & Girls’ Club – EarlyON Centre site operator

**ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)**

The Bernie Morelli Recreation Centre shares property with Bernie Custis Secondary School and the existing outdoor green space is used primarily by students of the school throughout the day. Identified green space along the East side of the property is close to the roadway and not ideal for play based learning opportunities.

It is an accepted principle in early childhood education that children learn best through free play and discovery. In well-designed natural play areas children can play, explore and interact with the natural world including vegetation, animals, insects, water, and sand. The conversion of two planters and the existing courtyard to a natural play area with appropriately defined play areas, traffic flow, accessibility, seating and safety considerations would satisfy the current gap for outdoor play space at Bernie Morelli Recreation Centre for the delivery of an EarlyON Child and Family Centre.

The area identified for conversion to an outdoor natural play area is located on a portion of the property owned by the Hamilton Wentworth District School Board. The City must enter a Licence Agreement with the Board for the placement of the natural play area on school board property.

The City of Hamilton has enjoyed a long-standing partnership with School Board, and staff recognize the benefits provided for the community. Entering a License Agreement with the School Board to allow for the construction and maintenance of a natural play area on the Premises will support a commitment to providing quality early childhood programs in the community. The proposed project and associated agreement will strengthen the partnership between the City of Hamilton and the School Board.

#### **ALTERNATIVES FOR CONSIDERATION**

Not applicable

#### **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

##### **Economic Prosperity and Growth**

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

##### **Healthy and Safe Communities**

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

##### **Clean and Green**

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

##### **Built Environment and Infrastructure**

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

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

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Appendix "A" to Report HSC21009: Site Map

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