

## RECOMMENDATIONS FOR THE FUTURE OF OSHAWA HARBOUR

A Report by The Honourable David Crombie, P.C., O.C.

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### BACKGROUND

The Port of Oshawa dates back to the early 18th Century when it provided important transportation services to the fur trade. In 1853, it was established as a clearing and warehousing port.

Its economic and social importance to the City and residents of Oshawa and surrounding areas has grown and diminished over the ensuing years as transportation systems and other circumstances changed.

The introduction of containerized cargo, for example, meant that the anticipated increase in freight along the St. Lawrence Seaway was short-lived. By the mid-1970s, commercial marine traffic to Oshawa and most other ports on the Great Lakes had been further reduced by other factors such as national rail subsidies, changes in marine technology and industrial development.

Both sail and power boaters had used the Oshawa Marina and Yacht Club as their homeport for the 40 years prior to its 2002 closure because of concerns over environmental contamination. These pleasure boaters had built it up to be a successful and well-regarded club.

In the 1960s, the City of Oshawa sold approximately 25 hectares of prime waterfront to the federal government for "industrial uses" at the harbour. The federal government subsequently transferred the administration of the port to the [Oshawa Harbour Commission](#) (OHC), which it established in 1960. It was stipulated at the time of the transfer that the lands would be returned to the City if/when they were declared surplus. The properties the City transferred to the senior level of government are now known as the "caveated lands."

In 1967, following the opening of the St. Lawrence Seaway, Oshawa Harbour was dredged to accommodate Seaway-sized vessels. It is currently home to a commercial port, former landfill, industrial yard and offers a wide range of cargo handling equipment, including heavy lift cranes.

OHC is now the last remaining Harbour Commission in Canada and is governed by the [Harbour Commissions Act](#).

In December 1995, the government announced its National Marine Policy (NMP) and its intention to bring in legislation containing comprehensive changes to the ports, St. Lawrence Seaway, ferries and pilotage components of Canada's marine industry. Specifically, the objectives of the NMP were to:

- Ensure affordable, effective and safe marine transportation services;
- Encourage fair competition based on transportation rules applied consistently across the marine transport system;
- Shift the financial burden for marine transportation from the Canadian taxpayer to the user;
- Reduce infrastructure and service levels where appropriate, based on user needs; and
- Continue the Government of Canada's commitment to safe transportation, a clean environment, and service to designated remote communities. The government would also maintain its commitment to meet all constitutional obligations.

Under the [\*Canada Marine Act\*](#) (CMA), the enabling legislation for the NMP, which received Royal Assent in 1998, all Canadian ports that met the Act's criteria were put under the jurisdiction of local Port Authorities. Ports not meeting the criteria are subject to other forms of divestiture.

The NMP calls for the Port of Oshawa to be transferred to and operated by those best able to respond to local circumstances, namely the local community and its commercial users.

## **PROCESS**

The future of the Port of Oshawa has sparked much public debate and diverse and divergent views among its stakeholders.

Because of this lack of a common vision among stakeholders, in September 2007, the federal Minister of Transport, Infrastructure and Communities, The Hon. Lawrence Cannon, P.C., M.P., appointed an independent federal representative, The Hon. David Crombie, P.C., O.C., to receive and analyze the contradictory and sometimes hostile perspectives on the port's future and to make recommendations to the Minister.

The representative's efforts to develop an appropriate vision for the future of the Port of Oshawa have been open and inclusive and focused to a large extent on a governance model that stakeholders can accept.

The facilitation process included meeting with or receiving written briefs from all interested stakeholders including Transport Canada, the City of Oshawa, the Oshawa Harbour Commission, the Oshawa Port Users Group, Greater Oshawa Chamber of Commerce, the Marina Users Committee, Friends of Second Marsh, Lake Ontario Waterkeeper, Durham Region, individual industrial and commercial users and political representatives.

All stakeholders agree on the strategic objective of revitalization and "mixed use" for the port and surrounding lands, including opportunities for the generation of additional employment and tax revenue for the City. However, they differ in terms of their specific objectives.

The City's stated preference is direct ownership and control of all coveated lands as well as Harbour Commission- and Crown-owned lands, with full control of port operations. The City's Official Plan calls for a mixed use waterfront, balancing commercial and industrial with residential, recreational and retail uses.

For its part, the Oshawa Harbour Commission would return to the City the coveated lands on the west side of the harbour and consolidate port operations on the East Wharf and the two parcels of coveated land required for the proposed railspur. It would retain current OHC lands and other Crown-owned lands and continue to develop commercial port operations and opportunities.

Commercial and industrial users are seeking to protect their investments and to continue to develop and expand their business opportunities. They would like to maintain a stable operating environment and be assured of some reasonable control over port operations.

The Greater Oshawa Chamber of Commerce recognizes the need for a comprehensive and pragmatic plan for the revitalization of the port lands.

It believes that the Port of Oshawa offers significant economic benefits for existing businesses and has the potential to attract new business to Durham Region; it also believes there are further economic benefits to be gained from blending industrial, recreational, commercial and residential uses. The Chamber is prepared to play a proactive role in resolving outstanding issues.

Lake Ontario Waterkeeper (LOW), a respected environmental organization with expertise on a variety of Great Lakes-related issues, calls for the creation of a new, multi-stakeholder governance structure that has the authority and resources to enhance stewardship and to protect and develop the harbour in and for the public interest.

Durham Region maintains a strong interest in the Oshawa port's future. It wants the Oshawa Harbour to be "maintained as a commercial port facility in the Region until such time as studies have been completed for both Oshawa Harbour and the St. Mary's Cement dock facility in the Municipality of Clarington, after which the role of the Oshawa Harbour may be reconsidered."

It should be noted that all stakeholders have respected the integrity of the Minister's representative's consultations and, during their course, have refrained from actions that might otherwise have jeopardized its successful progress to this point. It is expected that stakeholders will continue to respect the process as it moves from the report phase through that of Ministerial deliberation.

## **BASIC CONCEPT AND RECOMMENDATIONS**

There are three categories of land and assets that comprise the port lands:

- Caveated land that the City of Oshawa conveyed to the Crown for harbour purposes
- Crown land and assets that are located in the harbour area and managed by the Oshawa Harbour Commission
- Oshawa Harbour Commission land and assets that are owned by the OHC

This report makes recommendations for the disposition of the so-called caveated lands, Crown lands and lands owned by the Oshawa Harbour Commission. It makes no recommendations regarding privately-owned properties in the area.

The federal representative's recommendations, contained herein, deal with future use and ownership of the port lands and contiguous areas and propose a new governance structure for their future management.

The recommendations embrace three fundamental concepts. First, the Oshawa waterfront must be shared by all stakeholders in a mixed use environment: industrial, residential, retail, recreational users can co-exist under a management regime appropriate to this port. Second, the port lands and the contiguous areas need a single owner if the conflict and competition over their use is to be brought to an end. Third, any surpluses realized from the sale or development of waterfront properties should be dedicated to and used exclusively for the further improvement of the harbour and waterfront.

This report recommends that ownership of the port and surrounding lands be vested in the City of Oshawa under specific conditions and obligations.

These are described in detail in the recommendations for each area.

For the purposes of this report, the port lands and contiguous areas have been segmented and designated as:

- Port industrial lands;
- West side lands;
- Gifford farm lands; and
- Second Marsh.

Please see the following map of the area.

[Map](#) (PDF version)

## **PORT INDUSTRIAL LANDS**

The industrial functions of the port are located on the East Wharf, for the most part. The major industrial facilities operated by OHC include:

Storage tanks for storing calcium chloride;

- A dome for storing potash;
- A 40-year old warehouse;
- A new 50,000-square-foot warehouse built in 2003; and
- A complex of four domes previously used for storing and handling cement, which has not been used on a regular basis since 1991.

Industrial users of the port include:

- McAsphalt Industries Limited
- Miller Paving Limited
- Oshawa Stevedoring Inc.
- Agrico Canada Limited
- Cargill
- Morris Chemicals Inc.
- Traveline Leasing Ltd.
- McNally Construction
- International Longshoremen's Association
- CCC Steel Canda

Industrial users of the port want to protect their long term interests. They want assurance that their investments will be respected and that they will be able to pursue new business opportunities as they occur. Indeed, a number of creative ideas and perspectives were presented that could see the transformation of water transportation and port usage in the twenty-first century. These wealth-creating possibilities should not be prematurely discounted. As previously stated, it is recommended that ownership of the port lands be transferred to the City of Oshawa. This, of course, imposes upon the City a new and important responsibility to do its utmost to ensure the successful operation of the port. Therefore as a condition of the transfer, the municipality will agree to recognize and respect all existing leases, business contracts and undertakings. In addition, the municipality would seek the approval of the federal government prior to concluding the sale or closure of harbour lands and assets for a period of 25 years. A similar arrangement exists between the City of Oshawa and the federal government with regard to the ownership and operation of the airport and by all accounts has proven to be successful.

It is further recommended that an independent, five-person board be established and maintained by the City to oversee management of the port. This management board would be accountable to the City and its membership drawn from the following local institutions:

- A representative of Oshawa City Council
- A representative of the Port Industrial Users Group
- A representative of the Friends of Second Marsh
- A representative of the Greater Oshawa Chamber of Commerce
- An outside Chair chosen by the other four members of the Board

## **WEST SIDE LANDS**

The west side of the port is currently the site of OHC's overflow wharf operations; it also is the site of several parcels of caveated land and a marina that was closed in 2002 by the OHC because of concerns over environmental contamination.

More than 150 recreational boaters and charter fishing operators were based at the Oshawa Marina prior to its acrimonious closure six years ago by the OHC. Additionally, up to that time, the marina was the only major facility for docking pleasure boats between Kingston and Toronto. Accordingly, this report recommends that the federal government fasttrack a special environmental remediation program for the area proposed for the marina/public boat launch, given the marina's importance both as an anchor for the development of the remaining lands on the west side of the harbour and as a symbol that the era of conflict and dysfunction between the City and OHC (a federal body) has come to a conclusion. Some have suggested that the environmental cleanup would be a "unifying factor" among those holding a stake in the future of Oshawa Harbour.

The City, together with the Marina Users, should develop a sound business plan for the establishment and operation of a marina/public boat launch. While the federal government will have no responsibility for the operation of the marina, the business plan should be presented to them for their participation in a joint initial capital contribution.

Additionally, and also in the interest of public benefit, this report recommends that a portion of the West Side Lands be put aside for natural and cultural programming. Several compelling suggestions to highlight the area's unique local character and history were presented and discussed during the facilitation process. A continuation of the waterfront trail providing a direct link between Lakeview Park and incorporating a vista of the working harbour on the way to the Second Marsh was one such idea; this would provide the opportunity to communicate Oshawa port's historic participation on the Great Lakes. As well, supporters of the Second Marsh are currently engaged in promoting an interpretive centre as a new educational and tourist feature. A heritage component incorporated into the new marina/ boat launch facility is another possibility.

## **GIFFORD FARM LANDS**

The so-called Gifford Farm Lands provide a valuable physical barrier separating and, in effect, containing the industrial activities of the Port of Oshawa to the west from the environmentally sensitive marshlands to the east, known as Second Marsh.

The City should be mindful of the importance of that buffer-zone role in preserving a balanced waterfront, when considering the possible benefit of future development of these lands.

Accordingly, as previously noted, any surplus from the sale or development of this large and significant tract of land would be re-invested in the waterfront.

## **SECOND MARSH**

Second Marsh is recognized universally as an environmental gem in an industrial, transportation and residential setting. It is the largest wetland to be found on the northern shore of Lake Ontario. Its protection and stewardship is supported by all stakeholders and spearheaded by its own active and volunteer governing body.

This report therefore serves to re-enforce the necessity of ensuring not only that the marsh be rendered safe from adverse effects of proposed developments but indeed plans for its future should be considered an integral part of the City's vision for its revitalized waterfront.

## **THE WAY FORWARD**

The divestiture of the Oshawa Harbour lands and assets from the federal government to the City of Oshawa should be guided by a mutually-acceptable agreement between the two levels of government. The agreement would impose clear terms and conditions for the devolution on each party holding a stake in the port's future.

This report recommends that, prior to the transfer of the caveated and Crown lands to the City, the federal government undertake an environmental evaluation and remediation program that would return the entire area, with the exception of those lands currently used by the working port, to a state equivalent at least to the condition in which it was transferred in 1966.

The federal government should consider, in consultation with the City, a higher standard of remediation for certain areas designated for special public uses, in particular the lands proposed for the re-opened marina and the extension of the waterfront trail, linking Lakeview Park with Second Marsh.

The agreement transferring the lands and assets from the federal government to the municipality should include, inter alia:

- A financial audit of the Port of Oshawa
- A review and analysis of personnel matters, current leases, contracts, encumbrances and obligations
- An environmental audit and remediation plan
- An audit of all structures and a determination of any capital improvements required in the short term
- An appraisal of the value of the lands and other assets
- A legal survey of the lands
- A business plan for a self-sufficient harbour that addresses the above points; resolves outstanding issues, such as harbour dredging and additional wharf requirements; and transfers current OHC operations, capital funding/reserves and other binding agreements to the proposed new Management Board

In addition, it should be noted that currently there are two important development proposals under consideration: a rail spur line and an ethanol plant. Both of these projects are subject to the appropriate public processes. However, the resolution of these issues should be among the first orders of business for the new oversight body and the City.

## **SHARING THE VISION**

With the appointment of the federal representative and the commencement of this consultative process, the Minister of Transport, Infrastructure and Communities initiated a valuable opportunity for stakeholders of the Port of Oshawa to contribute to and shape their harbour. Participants have engaged in these proceedings with a sincere interest in considering other perspectives, resolving issues and moving into the future with an Oshawa Harbour that will benefit all who come here to live, work, and enjoy themselves. Responsibility for the successful conclusion of these deliberations now resides with the federal government and the City of Oshawa; they must continue to work together in the same collaborative spirit as they determine the details of divestiture and communicate its implementation to those who matter most, the citizens of Oshawa and the surrounding region.