



Oshawa HARBOUR

Moving Forward at the Oshawa Harbour

Background

In 1966, the City of Oshawa transferred about 61 acres of land to the Government of Canada (“Crown”) specifically for harbour purposes and the growth of the local economy.

For some time, the City felt that the 61 acres were underutilized and did not contribute to the growth of the local economy as intended.

In April 2006 the Oshawa Harbour Commission (OHC) and CN proposed a rail spur on a part of the 61 acres. In response, the City initiated a lawsuit in July 2006 against OHC, CN and the Crown to get the 61 acres back.

In September 2007 the Canadian Transportation Agency approved the construction of the rail spur over the City’s objection; however, the lawsuit continued with respect to the return of the 61 acres.

In June 2009 in response to an offer by the Crown, City Council authorized confidential negotiations with the Crown and OHC to try and settle the lawsuit and move the harbour forward in an appropriate manner. It is normal for negotiations associated with lawsuits to be conducted confidentially.

Negotiations took place between June 2009 and May 2010 and a proposed settlement was prepared.

The City, the Crown and OHC have negotiated a settlement and two legal agreements implementing the settlement have been prepared and signed by all three parties.

The settlement was agreed to for a number of reasons:

- The lawsuit would have cost hundreds of thousands of dollars.
- The Crown has certain authority over the City and could have expropriated back any of the 61 acres the City won in the lawsuit.
- The lawsuit and the 61 acres did not include all of the former marina lands so the only way to get all of the marina lands was to negotiate.
- The City did not own any land with which to bargain.
- The Crown was willing to contribute to the environmental clean up of land returned to the City as part of a settlement but not as part of a lawsuit; the Crown wanted to spend its money on an environmental clean up instead of legal fees.
- The negotiated settlement is fair and balanced and very much in the interests of the City and its taxpayers especially when the alternatives are considered.

It is important to note that the settlement discussions were limited to the future ownership of the 61 acres that were the subject of the lawsuit. There has been some confusion around this point. For instance, the ownership of the Gifford Hill lands was not “on the table” because it was not part of the lawsuit.



Colin Carrie MP
Oshawa



THE SETTLEMENT

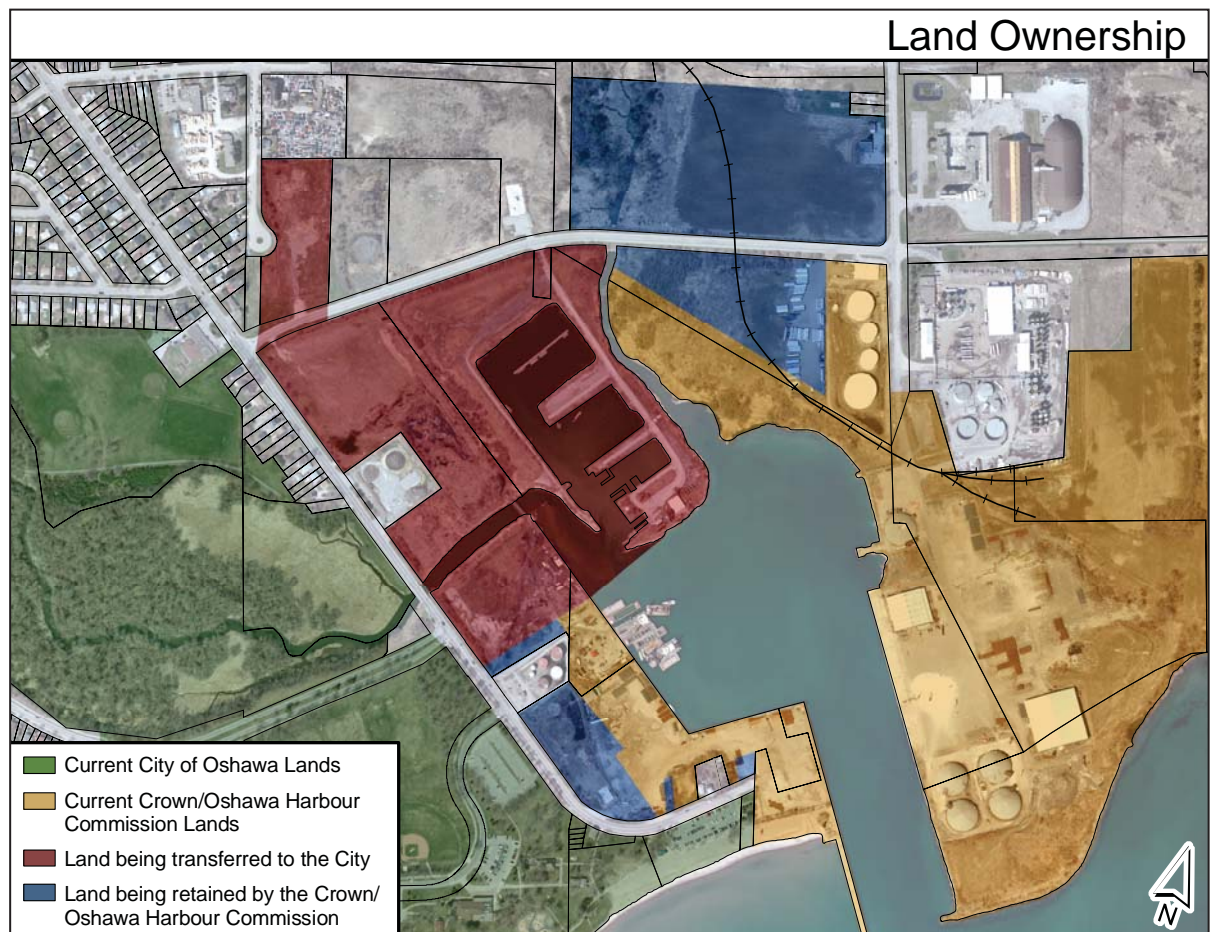
The terms of the settlement are included in two legal agreements (Settlement Agreement and Land Use, Development & Municipal Services Agreement).

These agreements are posted on the City of Oshawa's website: www.oshawa.ca/harbour.

The key highlights of the settlement are:

- The Crown confirms its commitment to spend up to \$9.2 million to conduct an environmental clean up at the harbour.
- The Crown commits to spend up to \$5 million on environmental clean up of land to be transferred to the City.
- The Crown commits to provide \$10 million to the OHC for new, modern east wharf dockage; the east wharfage is intended to grow the tax base, deliver new jobs and allow the Crown Land on the west wharf to evolve to uses essential to the Port and be more compatible with Lakeview Park.
- The Crown commits to provide \$200,000 to the OHC for landscape buffers adjacent to Simcoe and Farewell Streets and Harbour Road. The intent is to beautify the area and create a landscaped edge for the waterfront trail.

- Nearly 47% of the 61 acres (approximately 29 acres) is to be transferred to the City.
- The Crown to transfer an additional 19 acres of Crown Land to the City.
- The lands to be transferred to the City are strategically located on the west side of the harbour and have significant potential.
- The lands to be transferred include all of the former marina lands and the City now has the opportunity to reestablish the Oshawa Marina which closed in 2002.
- The City is not required to accept any land that is not cleaned up to an acceptable environmental standard.
- The lawsuit is settled and all parties avoid the costs and risks associated with the lawsuit.
- There is the potential for new jobs and to grow the tax base at the Port and on adjacent lands.
- The City provides some tax relief to the Port amounting to about \$30,000/year for 15 years. In addition, most new port users will be responsible for all servicing and development costs and will be subject to property taxes.
- The City is required to spend about \$1 million developing new parkland on land it will receive; these monies have already been set aside in a City reserve fund.
- No negative impact on the City's property tax base and taxes as a result of the settlement; in fact, monies are expected to be saved and generated.



MOVING FORWARD

The settlement allows all parties to move forward with concrete action that will benefit the community. In this regard:

- All public land at the harbour not owned by the City will become Crown Land; Crown Land is not subject to municipal planning instruments like the Official Plan and Zoning By-law.
- The Crown has completed the environmental planning and testing process.
- The Crown is preparing tender documents for the fall, with the environmental clean up completion date of spring 2011.
- The OHC will transition into a Canada Port Authority (CPA) in fall 2010; the CPA business model is consistent with port governance across the country with some benefits being enhanced transparency and public accountability.
- The rail spur may be built by the CPA and CN in accordance with the ruling by the Canadian Transportation Agency.
- The CPA will begin to immediately plan, design and receive approvals for the new east wharf.
- The CPA will begin to prepare its first Land Use Plan and will involve the public in this process; the Land Use Plan will encompass all of the lands owned by the Crown.
- The City will begin to finalize its Waterfront Master Plan.
- The City will investigate the reestablishment of a marina and the involvement of potential private sector partners to advance development on its new lands at the harbour.

- The City will work with the landowners on the north side of Harbour Road to revitalize the area and to move forward with residential development permitted by the Zoning By-law.
- The OHC will begin to plan and implement landscape buffers along the roadways adjacent to the Harbour Lands, which will complement the development of the waterfront trail by the City along the east side of Simcoe Street, south side of Harbour Road, to link with the existing trail east of Farewell Street.
- The City will implement its commitments outlined in the legal agreements including the development of new parkland; this work will be coordinated with other work in the area and will be done progressively prior to 2014.
- The settlement resolves three historical issues: Governance (establishment of a CPA); Land Ownership (defined land ownership and transfer of land); and Land Use (development of CPA Land Use Plan and City Waterfront Master Plan).



MORE INFORMATION

The harbour is of great interest to many people. This pamphlet is a brief overview of the settlement highlights and moving forward initiatives.

For additional information:

- Visit the website (www.oshawa.ca/harbour) to read the agreements and for other information.
- Send an email to harbour@oshawa.ca with your questions. The Crown, the OHC and the City will work cooperatively to provide you with a response in a timely manner.



Questions & Answers

Is this a fair settlement?

The negotiated settlement is fair and balanced and very much in the interest of all parties, including City of Oshawa taxpayers. All parties can now work together to develop a mixed use waterfront.

Why was the public not formally invited to provide input before the agreements were signed?

It is normal for negotiations associated with lawsuits to be conducted confidentially. Furthermore, the CPA will begin to prepare its first Land Use Plan and the City will begin to finalize its Waterfront Master Plan. The community will have the opportunity to provide input into these plans that will guide future developments at the harbour.

How much is this going to cost the City?

There is no increase to property taxes as a result of the settlement. The City is required to develop some of the lands it is receiving for parkland. This will cost about \$1 million and these monies have already been set aside in a City reserve fund. In addition, most new port users will be responsible for all servicing and development costs and will be subject to property taxes.



What is the status of the marina?

This settlement finally provides the City with the opportunity to reestablish the marina following the Federal Government's environmental clean up of the associated lands. The City will now develop a go forward plan that assesses the cost, timing, and delivery options to reestablish the marina.

Why is a Canada Port Authority (CPA) being established?

Canada's Transport Minister announced in May 2009 the Federal Government's intention to create a CPA to operate the Port of Oshawa. The Oshawa Harbour Commission will transition to become a CPA in the fall. The CPA will manage all port land and will be comprised of representatives from the City, Province, Federal Government and stakeholders. The CPA business model is consistent with port governance across the country. Some of the benefits include enhanced transparency and public accountability.

Was an ethanol plant part of this settlement?

Oshawa City Council has forwarded to the Federal Government its opposition of the creation of any ethanol plant around the Gifford Hill location. There is absolutely no mention whatsoever of an ethanol plant in any part of the agreements. The current application mentioned in local newspapers has been withdrawn from the Ministry of the Environment. After the creation of the CPA, any proposed new industrial development would be subject to an open, transparent and thorough public process.