

Brian Masse M.P.
Member of Parliament
Windsor West



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Ellen
Room 1000, The Valour Building
House of Commons
Ottawa, ON K1A 0A6
Tel: 613-996-1541
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October 12, 2017

Windsor Port Authority
c/o David Cree – President & CEO
3190 Sandwich St.
Windsor, ON
N9C 1A6

Chamber
1398 Ouellette Avenue, Suite 2
Windsor, ON N8X 1J8
Tel: 519-255-1631
Fax: 519-255-7913

David

Dear Mr. Cree (David),

I read with great interest recent media reports regarding the Windsor Port Authority's position with respect to the disposition of the Ojibway Shores property. The report indicates that the Port has concluded that the value of this property is roughly \$10 Million.

In terms of how you arrived at a \$10 Million valuation for the Ojibway Shores property, I have 5 specific questions that I hope you can address in your reply:

1. What specific professional appraisals did the Port conduct?
2. Over the last 10 years did the Port ever consider a different valuation(s) for Ojibway Shores and what process(es) did the port engage to arrive at those valuation(s) and when did the Port place those valuation(s) on the property?
3. Has the discussion related to Community Benefits connected to the new public border crossing impacted in any way the Port's valuation of Ojibway Shores?
4. What are the all-in costs to the Port to keep Ojibway Shores as a property it is responsible to administer?
5. What is the revenue that the Port generates from Ojibway Shores?

I will look forward to your reply.

Sincerely,

Brian Masse M.P.
Windsor West

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October 25, 2017

Mr. Brian Masse
MP, Windsor West
1398 Ouellette Avenue
Windsor, ON
N8X 1J8

Dear Mr. Masse

Thank you for your letter of October 12, 2017 relative to our proposal for Ojibway Shores. First, I want to clarify that our proposal was not for the "disposition" of Ojibway Shores. The property would be retained by the Port Authority, and the successful proponent for construction of the new Gordie Howe Bridge would pay the Port Authority a fixed annual sum to allow the Authority to maintain the site as green space, and do additional maintenance and enhancements. The agreement would be for the term of the build/manage agreement with the successful proponent, which we understand is 30 years.

Also to clarify, we did not arrive at a \$10 million valuation for the Ojibway Shores property. The number which we quoted to the media was \$10-\$12 million being the approximate sum of the payments to be received by the Port Authority over the 30 year term of the agreement (i.e. \$330,000 - \$400,000 per year). The payments included our projected lost rental income, plus lost revenue on projected cargo throughput (cargo dues and wharfage fees), plus the cost to maintain and enhance the property over the 30 year term. This is not to be confused with the fair market value or appraised value of the property; reiterating, this is simply the sum of the annual payments over the 30 year period.

In terms of your specific questions, I would reply as follows:

- 1) What specific professional appraisals did the Port conduct?

Please refer to our previous comments. Our estimated lost income was based on our knowledge of property values in the area and our normal cargo throughput at a terminal of the size which could be constructed on Ojibway Shores; maintenance and enhancement costs were based on our experience with the property over 20 years and similar projects in the area;

- 2) Over the last 10 years did the Port ever consider a different valuation(s) for Ojibway Shores and what process(es) did the port engage to arrive at those valuations(s) and when did the Port place those valuations(s) on the property?

The property is currently zoned for industrial uses and WPA has based it's evaluations on that use.

- 3) Has the decision related to Community Benefits connected to the new public border crossing impacted in any way the Port's valuation of Ojibway Shores?

No.

- 4) What are the all-in costs to the Port to keep Ojibway Shores as a property it is responsible to administer?

We estimate the annual expenses for payments-in-lieu-of-taxes, maintenance, insurance and staff time at approximately \$70,000 per year.

- 5) What is the revenue that the Port generates from Ojibway Shores?

We are currently not generating any revenue from Ojibway Shores.

Hopefully this answers all of your questions, but if you should require anything further, please do not hesitate to contact me.

Best regards.



David Cree
President & CEO

Brian Masse
Member of Parliament
Windsor West



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October 25th, 2017

Amber
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Tel: 519-255-1631
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Hon. Catherine McKenna
Minister of the Environment
House of Commons
Ottawa, ON
K1A 0A6

Hon. Marc Gameau
Minister of Transport
House of Commons
Ottawa, ON
K1A 0A6

Re: Environmentally Critical Land in Windsor, Ontario – Ojibway Shores

Dear Ministers McKenna and Gameau,

I am writing you both today to bring to your attention an issue that can assist your government achieve some of its climate change objectives.

Ojibway Shores is a federal property currently under the management of the Windsor Port Authority; it is a 33 acre parcel of land of major environmental and heritage significance. This property provides the opportunity to preserve, protect unique and crucial environmental piece of land.

I am proposing the Government of Canada transfer the management of this property from under the Windsor Port Authority to Environment Canada. The law with respect to this process is clear and simple, it only takes political will.

The Windsor-Essex region hosts an incredible collection of properties known as the Ojibway Prairie Complex (OPC); collectively their environmental significance cannot be understated. You will find enclosed some of the documentation outlining the OPC's environmental importance but in short it is a haven for species at risk, rare fauna and flora.

Ojibway Shore needs to be placed under federal environmental protection as a matter of consistency and realizing a community dream.

brian.masse@parl.gc.ca
www.brianmasse.ca

As a component of the broader OPC, Ojibway Shores is a living environmental laboratory that properly belongs under the jurisdiction of Environment Canada. Bringing it under the jurisdiction of this Ministry will afford the government the opportunity to fully protect and preserve this ecological treasure and advance your environmental agenda.

As Ojibway Shores is federally owned but under the management of the Port Authority, for the land transfer to proceed the Transport Minister would have to notify the Port of his intention to remove the property in question from under the management of the Port. Once this process is vetted the property could then be transferred from one Ministry (in this case Transport) to another (Environment).

As you are aware the Windsor Port Authority is simply the agent of the Federal government holding stewardship over this property. The federal government is well within its authority to remove this property from under their stewardship at any time and is under no obligation whatsoever to compensate the Port.

You will find that this parcel of land could be eligible for many of the environmental protection programs administered through Environment Canada. A recent study jointly published by several leading local environmental organizations, including our regional conservation authority has concluded that this parcel of land is of "natural heritage significance" and further noted that Ojibway Shores is a "great candidate for preservation and habitat enhancement."

I have enclosed a copy of this study for your convenience.

You may also be aware that Environment Canada has virtually no federally protected lands in South Western Ontario. Ojibway Shores is a very strong candidate for federal protection and is already federal land, making it an uncomplicated and unique opportunity.

Given the mandate of the Port Authority and the environmental significance of Ojibway Shores the management of this parcel of land is misplaced. The Port is rightly concerned with its own mandate of advancing the marine commercial interests of the region and simply not equipped to properly administer a parcel of land as ecologically important as Ojibway Shores.

The community has time and again re-iterated its deep concern for the protection and preservation of this property. Previous proposals for its development were met with strong community opposition that ultimately led to the WPA and partners abandoning development plans.

Therefore from the perspective of the WPA, this land is a pure liability as it not possible for them to develop it for commercial interests. The public has spoken; they want their land, which they own protected.

It's clear that the Port Authority understands the untenable situation they are in given their recent statements regarding divestment of Ojibway Shores. As you are likely aware there is a discussion in my community around Community Benefits in the context of the construction of the Gordie Howe International Bridge. They have proposed that \$10 Million of those funds be used to pay the Port Authority for the community to acquire Ojibway Shores.

It's appalling that the WPA interprets the Community Benefits discussion as an opportunity to further their own interests instead of recognizing it as a vehicle through which crucial, mitigating investments can be made in our community. These funds are meant to help offset the significant deleterious impacts we have experienced in places like Sandwich Towne, where we have lost schools, businesses public services and housing all due to a major international border crossing being located in the immediate neighbourhood.

As I point out above, the community already owns Ojibway Shores. In attempting to leverage people's concern for the environment to secure an absurdly high pay out for land that is a pure liability, the WPA is taking an odious position. The land is undevelopable for commercial interest and as such is essentially less than worthless in the furtherance of the WPA's mandate.

However, from the broader perspective of the federal government as a whole and to the Canadian public generally is a major opportunity. Transferring the administration of Ojibway Shores from Port Authority management to Environment Canada will relieve the WPA of a liability; provide the Government of Canada the opportunity to properly protect and study of Ojibway Shores. Proceeding as I suggest aligns very succinctly with many of the articulated goals in your Government's Federal Sustainable Development Strategy (FSDS).

Some FSDS priorities listed in the government's document that the transfer of Ojibway Shores to your Department would support include the following:

- Effective action on climate change
- Sustainably Managed Lands and Forests
- Healthy Wildlife Populations
- Connecting Canadians with Nature
- Safe and Healthy Communities

The status quo is no longer sustainable; the Port cannot develop Ojibway Shores and is not equipped to exercise proper stewardship over this property. It is under the direct stewardship of Environment Canada where this property will yield the greatest benefit to all stakeholders – including the WPA.

I trust you will give this proposal your thoughtful consideration; I would be pleased to have the opportunity to discuss this in greater detail at your convenience.

Sincerely,



Brian Masse M.P.
Windsor West

Encl. Ojibway Shores Natural Heritage Inventory/Evaluation (2017)

c.c. The Rt. Hon. Justin Trudeau – Prime Minister of Canada

 Mr. David Cree – President/CEO Windsor Port Authority

 Mr. George Sandala – Chair, Board of Directors,
 Windsor Port Authority (Federal Government appointee)

 Rocco Lucente – Vice Chair, Board of Directors
 Windsor Port Authority (Federal Government appointee)

 Walter Benzinger – Board of Directors,
 Windsor Port Authority (Federal Government appointee)

 Barry Fowler – Board of Directors,
 Windsor Port Authority (Provincial Government appointee)

 Anthony Mascaro – Board of Directors,
 Windsor Port Authority (City of Windsor appointee)

 Bianca DeLuca – Board of Directors,
 Windsor Port Authority (Federal Government appointee)

 Mr. Tom Porter – Board of Directors,
 Windsor Port Authority (Federal Government appointee)

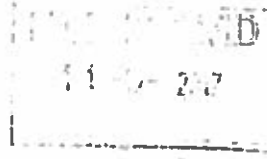
Minister of Transport



Ministre des Transports

Ottawa, Canada K1A 0N5

DEC 6 2017



Mr. Brian Masse, M.P.
Windsor West
House of Commons
Ottawa ON K1A 0A6

Dear Mr. Masse:

Thank you for your correspondence of October 25, 2017, in which you expressed your concerns regarding the status of Ojibway Shores.

I share the belief that the preservation of environmentally sensitive areas is of great importance, and I take the concerns that you have raised most seriously. As Minister of Transport, I have been entrusted with the responsibility to ensure that Canada's transportation system functions in the best interest of our economy, while preserving our natural environment through prudent, sustainable management. Achieving an appropriate balance between these two areas is a priority for the government.

Canada Port Authorities, including the Windsor Port Authority (WPA), are autonomous entities that operate on a commercial basis at arm's length from the federal government. As with other Canada Port Authorities, the WPA has the responsibility and the legal authority to carry out day-to-day operations related to the Port within the limits established by the *Canada Marine Act* and its letters patent. An independent Board of Directors is responsible for setting the strategic direction of the Port Authority and overseeing operational decisions.

The WPA is responsible for managing the federal real property comprising the Port of Windsor, which includes the Ojibway Shores lands. The WPA has been given legal and administrative autonomy to determine its own course of action, taking into consideration economic, social and environmental factors, as well as the viewpoints and priorities of the port's users, stakeholders and communities. Transport Canada, as a matter of policy and good governance, respects the Canada Port Authorities' autonomy in this regard.

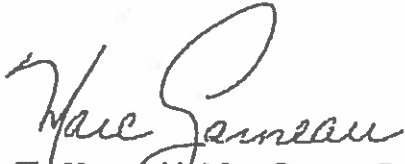
Canada

It is my understanding that the WPA and the City of Windsor are currently engaged in discussions related to the Ojibway Shores that would ultimately result in the preservation of the Ojibway Prairie Complex, which I had the privilege of seeing on a recent visit to the Windsor-Essex region.

As I have noted previously, I encourage all key stakeholders and interested parties to continue working together toward a consensus that will benefit all involved.

Thank you again for sharing your views on this important matter.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Marc Gameau". The signature is fluid and cursive, with a large loop at the end.

The Honourable Marc Gameau, P.C., M.P.
Minister of Transport

c.c. Office of the Right Honourable Justin Trudeau, P.C., M.P.
Prime Minister

The Honourable Catherine McKenna, P.C., M.P.
Minister of Environment and Climate Change

Brian Masse
Member of Parliament
Windsor West



Brian
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December 12, 2017

Mayor Drew Dilkens
City of Windsor
350 City Hall Square West
P.O. Box 1607
Windsor, Ontario
Canada
N9A 6S1

Brian
1398 Ouellette Avenue, Suite 2
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Dear Mayor Dilkens and Councillors,

I am writing you today regarding Ojibway Shores and specifically to clarify incorrect public statements from the CEO of the Windsor Port Authority (WPA) regarding the process whereby they can transfer property assets.

Specifically, in an article published in the Windsor Star on December 20th, the CEO of the WPA was quoted as follows:

"We don't have the authority to transfer the property," Cree said. "We are the administrators of it. We have no authority to transfer it or give the administration of it to somebody else."

This is incorrect and misleading.

I have included for your reference correspondence I received from the Federal Transport Minister responding to a letter I sent him proposing the transfer of Ojibway Shores to Environment Canada. I have drawn this excerpt from his letter to illustrate the Government's view regarding the autonomy of the Port.

"The WPA is responsible for managing the federal real property comprising the Port of Windsor, which includes the Ojibway Shores lands. The WPA as been given legal and administrative autonomy to determine its own course of action, taking into consideration economic, social and environmental factors, as well as viewpoints and priorities of the port's users, stakeholders and communities. Transport Canada, as a matter of good governance, respects the Canada Port Authorities' autonomy in this regard."

To further clarify on a broader level, a similar process was executed in 2007 by the Port of Halifax. The Board of Directors passed a motion to petition the Minister of Transport to acquire a specific parcel of land under management of the Port and transfer the property in question to the Department of Defense.

The simple fact is the WPA Board can direct their Administration to begin the process of requesting the transfer of administration of property assets. The Minister, in his letter to me re-asserted the Port's authority to proceed independently.

I understand that the City is involved in negotiations with the Port regarding the potential acquisition of this property as well. As you consider this issue it is important to be cognizant of the reality that citizens already own this land. I know you have a representative appointed on this Board – Mr. Mascaro. It is important for him (as well as all of his colleagues on the Board) to understand that this asset is already owned by the public and is not developable given its environmental significance.

Given this, Ojibway Shores – at least as far as the WPA is concerned is a pure liability. They recently disclosed that this property is an annual cost of roughly \$70,000 for maintenance and upkeep. A transfer of this property from the WPA to another entity better equipped to preserve and protect it (such as the City or Environment Canada) is – in-and-of-itself – a good business transaction for the WPA.

I am excited about the potential of Ojibway Shores and its significance to Windsor and Essex County and Canada as a whole. I look forward to working constructively with all stakeholders involved to ensure that as a community we protect and preserve this critical parcel of land. Collectively we have a rare opportunity to create a unique environmental corridor that will begin with Ojibway Shores. I look forward to us accomplishing this as a community in 2018.

Wishing you all a wonderful and happy holiday and all the best in the new year.

Sincerely,



Brian Masse M.P.
Windsor West

Encl. Letter from Minister Garneau to Brian Masse M.P.

c.c. Councillor Fred Francis
Councillor John Elliott
Councillor Rino Bortolin
Councillor Chris Holt
Councillor Ed Sleiman

Councillor Jo-Anne Gignac
Councillor Irek Kusmierczyk
Councillor Bill Marra
Councillor Hilary Payne
Councillor Paul Borelli

Brian Masse

Member of Parliament
(Windsor West)



December 19, 2017

The Windsor Port Authority
Board of Directors
c/o Mr. George Sandala – Chair
3190 Sandwich St.
Windsor, ON
N9C 1A6

Dear Windsor Port Authority Board of Directors:

Mr. George Sandala (Chair), Mr. Rocco Lucente (Vice Chair), Mr. Walter Benzinger, Mr. Barry Fowler, Mr. Anthony Mascaro, Ms. Bianca DeLuca, Mr. Thomas Porter,

I am writing you and your colleagues on the Windsor Port Authority (WPA) Board of Directors to take pro-active steps to ensure the long term protection of Ojibway Shores. As you know I have been calling upon the WPA to execute a transfer of stewardship over the Ojibway Shores property currently under your management to a more appropriate body. While I appreciate recent efforts to work collaboratively with the environmental community to study this ecological treasure, it is clear that the WPA is not the appropriate agency to manage this special parcel of land.

The environmental significance of Ojibway Shores is well known – the recently published Ojibway Shores Natural Heritage Inventory/Evaluation Report is more documented, scientifically rigorous evidence of this fact.

Despite the WPA's statements to work with the community to it is clear that the mandate of the WPA: "to maximize economic and development and trade" does not support the long-term ecological outcomes that are necessary for Ojibway Shores. Indeed it is clear the WPA still has conflicted intention, as you currently feature Ojibway Shores on your website as a development opportunity for commercial marine freight operations and recently asked another Government department to pay for the property.

Minister Gameau recently indicated in correspondence that the WPA Board of Directors is "responsible for setting the strategic direction of the Port Authority and overseeing operational decisions." This is clear confirmation that the WPA has the authority to execute a transfer of Ojibway Shores to another body with a more specific mandate to protect and preserve the natural heritage of this crucial ecological parcel of land. The Minister also emphasized that "...the preservation of environmentally sensitive areas is of great importance."

Windsor

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This is good news for our community as it is clear that you and your Board will not have an appeal to protect Ojibway Shores, and will benefit your bottom line by removing (what to the WPA is) a financial liability.

Recently the WPA disclosed that the administration and maintenance of Ojibway Shores is roughly a \$70,000 annual expense. Furthermore, you indicated that the Port is not "pursuing marketing of the property", but have listed it as your featured development opportunity on your website. These confusing messages create anxiety for members of the public.

The community will never allow for the development of that property to proceed. Therefore the costs will continue to grow exponentially.

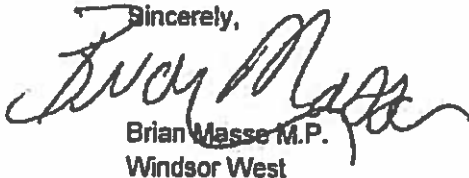
The WPA's recent proposal to extract \$12 Million in WDBA Community Benefit funds to subsidize a lease of this property to the community contemplates a 30 year time frame. Using the financial information you provided regarding the costs of maintaining Ojibway Shores, the WPA will lose a minimum \$2.1 Million over this period. Transferring what to you is a financial liability in fact frees resources for you to develop your own Community Benefit Framework similar to the WDBA with \$0.00 net impact to your budget.

Moving to transfer this property to a more appropriate body, be it the City of Windsor or Environment Canada represents a win for the Environment, the Community and (most importantly in the context of your membership on the Board) for the WPA. In fact, should this transfer proceed Ojibway Shores would be eligible for a significant infusion of resources and legal protections that could ensure the long-term ecological preservation of this property. In addition a suitable steward could leverage appropriate and unique tourism and or research opportunities as well as creating a spectacular border gateway entering or exiting Canada.

As Board Members you are in a position to give the community an early gift for the Holidays and let the "people's land" reach its fullest potential. The Minister has confirmed your independent authority to act on this issue and I urge you in the strongest possible terms to move with urgency in this direction for the betterment of the community as a whole and the WPA.

Wishing you a wonderful holiday and all the best in 2018.

Sincerely,



Brian Masse M.P.
Windsor West

c.c. Drew Dilkens – Mayor of Windsor

Brian Masse

Member of Parliament
(Windsor West)



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August 10, 2018

Mayor Drew Dilkens
City of Windsor
350 City Hall Square West
P.O. Box 1607
Windsor, Ontario
Canada
N9A 6S1

Dear Mayor Dilkens,

I am writing you again about Ojibway Shores, I was pleased to learn of some concrete actions as the campaign to protect this ecological treasure nears 5 years. Stopping the Windsor Port Authority (WPA) from developing this property has been a major public achievement. Unfortunately, it still remains advertised as a developable property in their public communications.

It is my understanding that the City is preparing to move forward to expropriate a privately owned parcel of land (Dorian) and then provide the Windsor Port Authority the opportunity to assume use of part of the property. I commend the movement of this property for the public interest, as Sandwich Towne remains unfinished business

You will recall I sent you a letter dated December 12, 2018 indicating a process whereby the City of Windsor could acquire Ojibway Shores at no additional cost to local taxpayers as it is Crown land and is already owned by the public. The WPA has the option to begin the process of transferring this property to another department of the Federal Government that has the resources and mandate to exercise proper stewardship over environmentally significant land such as Environment Canada or the City of Windsor should it be desired. That option remains available. Your appointed Board Member of the WPA – Mr. Anthony Mascaro – would only need the support of 3 of his colleagues on the Board to initiate this process.

The Port has a new CEO and some recently appointed new board members. I am hopeful all parties involved adopt a cooperative approach that will benefit the community as a whole by protecting our environment and not requiring the public to essentially purchase property they already own.

Additionally it is important to note the powers of the WPA under the Port Authority Act. Should the Dorian property be acquired by the WPA the City of Windsor will lose all authority over it from a zoning perspective. You may wish to consider a lease arrangement rather than a pure divestment in order to maintain a measure of control over this property.

Should you choose to proceed with this expropriation plan I trust that the City of Windsor will provide an opportunity for extensive and meaningful public consultations for this waterfront use. Thus far the public has only been made aware of pieces of a plan that seems to be proceeding without full public knowledge or understanding.

Please feel free to contact my office at your convenience, thank you and City Council for your work on this historic opportunity for our City, region and country.

Sincerely,

Brian Masse M.P.
Windsor West

c.c. Councillor Fred Francis
Councillor John Elliott
Councillor Rino Bortolin
Councillor Chris Holt
Councillor Ed Sleiman
Councillor Jo-Anne Gignac
Councillor Irek Kusmierczyk
Councillor Bill Marra
Councillor Hilary Payne
Councillor Paul Borelli