

Buck trial will continue on Tuesday

By Brock Weir

Councillor Evelyn Buck's case against former Aurora mayor Phyllis Morris, Councillors Wendy Gaertner and John Gallo, and former councillors Stephen Granger, Evelina MacEachern and Al Wilson will continue Tuesday after a brief hearing on Friday.

Justice Edwards, who has been overseeing the case since it began in November, adjourned the trial following a request from Councillor Buck's lawyer, Kevin Macdonald, seeking further time to review an objection made Thursday by David Boghosian, lawyer for the defence.

The seven, all members of the 2006 to 2010 term of Aurora Council, are facing off in court in a multi-million dollar defamation lawsuit launched by Councillor Buck against the others in 2009.

It stems from a notice published by the defendants in local newspapers entitled 'Statement from Town of Aurora Council', explaining Council 'retained independent legal counsel' to review posts made on Councillor Buck's blog which, they allege, criticised municipal staff.

It concluded the posts 'contravened numerous provisions of the Council Code of Conduct, which included unfounded and completely unmerited public criticism of staff in a manner that unjustifiably maligned their professional competence in credibility.'

Councillor Buck argues the published statements were defamatory, damaged her reputation, and claims damages of \$1 million 'for misfeasance in public office and abuse of power, conspiracy, intentional infliction of mental suffering, injurious falsehood, breach of confidence and breach of privacy' with a further \$1 million for 'infringement or breach [of her] Charter Rights of Freedoms,' a further \$1 million in punitive damages, and \$250,000 in aggravated damages.

The defendants strongly deny the claim, and argued in court they were acting within their duties as councillors, and to 'protect' municipal staff from criticism.

After five weeks, the trial came to a dramatic halt in December following closing arguments when Justice Edwards dismissed the jury of four men and two women citing an improper submission made during Mr. Macdonald's closing.

The judge opted to continue hearing the trial, and to render a decision on his own.

The trial was expected to continue in that fashion on Thursday, with Mr. Macdonald calling expert witnesses to the stand, as well as calling Councillor Buck, and former councillors Bob McRoberts and Alison Collins-Mrakas to re-testify. But, the latter three were dropped, with the intention of wrapping everything up on Friday alone.

Mr. Boghosian's objection, however, threw a wrench into that plan.

'I have elected to rely solely on the expert evidence and not recall Mrs. Buck, Collins-Mrakas, and Mr. McRoberts,' Mr. Macdonald told the court on Friday. 'I am requesting a brief adjournment to return to my earlier request of one day to provide us an opportunity to respond to the written argument of my friend on the admissibility of the experts [but] I am prepared to argue the point now.'

Mr. Boghosian, however, said his objections remain on the table since December.

'I was hoping we would end the trial today,' Mr. Boghosian said. 'I am just at a complete loss to understand how my friend could claim they were not aware that on December 14, I said I would be objecting to this evidence.'

Justice Edwards nevertheless agreed to allow Mr. Macdonald a few more days to respond.

'Let's assume in the case they should have known, that given the circumstances, my guess is you might have been in the same position once in your career where you might have misunderstood something and you had to seek an indulgence,' said Justice Edwards. 'There is no real prejudice than a weekend or a couple of days' delay.'

Both lawyers will have roughly an hour, collectively, to make their arguments on whether or not witnesses Donald Cousens and municipal lawyer Valerie M'Garry should be accepted by the court as experts for Councillor Buck.

If Justice Edwards decide they can be called on Tuesday, that afternoon will be devoted to their testimony. If not, the trial is likely to be adjourned with both lawyers having until April 7 to make written submissions before the Judge can render his verdict.