

Former councillors continue testimony in Buck lawsuit

By Brock Weir

Testimony continues this week in Councillor Evelyn Buck's lawsuit against former mayor Phyllis Morris, along with two sitting and three former councillors.

Testimony began Wednesday with former councillor Alison Collins-Mrakas and continued through Friday before former deputy mayor Bob McRoberts took the stand on Monday, both called as witnesses by Councillor Buck.

The two, who both served on the 2006-2010 term of Council, painted similarly contentious views of their terms.

Mr. McRoberts, a retired math teacher, characterized it as an "eye opener" compared to his time in the education system. It was his educational experience, he said, that if one disagreed with another at a particular meeting one would go back to working with that person once the meeting was over.

"I did not find that to be the case in my Council experience," he said, stating it seemed "grudges" were being held. "We were a fairly new Council - five of the nine of us never held positions on Council before - and I would use the word 'dysfunctional' to describe us."

Although he said there were a number of issues that went smoothly, things could be equally "strained."

Casting his mind back, the lawyer for Councillor Buck, walked him through the early days of when this matter got stated, beginning with the installation of Aurora's Code of Conduct through the development of a complaint - formal and otherwise - against the Councillor.

Mr. McRoberts stated his "surprise" his name had been added to a motion calling on Aurora to hire a lawyer to "investigate" Councillor Buck's blog postings when he had not been present at the meeting in question.

He also said he opposed taking things further on an "informal" complaint against the Councillor because a "23 page opinion" tendered by the lawyer struck him as "something not quite informal." A primary bone of contention was confidentiality in complaints, a principle enshrined in governing documents pertaining to matters of integrity and ethics, were breached when a statement of complaint was read in public at the Council table, published in two local newspapers, and posted on the Town's website.

"Confidentiality is a big factor to be upheld," he said. "I thought inappropriate steps had been taken. We seemed to be accusing Councillor Buck of wrongdoing before the assessor of any wrongdoing was brought into play."

Similar views were shared earlier in the trial by Ms. Collins-Mrakas. Early in the game, Mr. MacDonald introduced her credentials to the jury, which included her role as head of research ethics for York University. She described Councillor Buck as "forceful" and "opinionated" who has "strength of conviction", and although they often disagree, they are still friends.

On the last term of Council, she described her experience as "mentally, emotionally and physically exhausting, as well as "toxic" in its interactions.

As to the issue at hand, she said she believed Codes of Conduct to be "primarily educative" as guidelines rather than a set of rules with punitive consequences.

"I said, 'it would not do what you think it would do,'" she said, recounting a conversation on the development of the code with Evelina MacEachern. "I believe people misunderstand the purpose of what a code of conduct is. People seem to think it is a Thor's Hammer to smash down dissent and the penalties associated with it."

She said she did not endorse the complaint in question because the proper "process" was not followed, and also questioned the

nature of the complaint itself.

In his cross examination, David Boghosian, lawyer for the defence, tried to poke holes in Ms. Collins-Mrakas' testimony as well as her motives for being there. He said she was on the stand out of 'hatred' for Ms. Morris and Ms. MacEachern, but she countered she had been subpoenaed to 'state the facts.'

In his argument, Mr. Boghosian underscored close ties between Ms. Collins-Mrakas both with Councillor Buck and incumbent Mayor Geoffrey Dawe, including her work on the latter's election campaign.

While she contended Codes of Conduct were primarily educative, he stated this was not the case in practice with student codes at York University where cases often went beyond mere guidelines.

He then turned to *Hervey v. Morris*, in which Aurora resident George Hervey accused Ms. Morris of breaching the Municipal Conflict of Interest Act, a claim she successfully defended.

Mr. Boghosian highlighted what he stated were connections with Ms. Collins-Mrakas and the development of that particular case including an 'active' attempt 'to recruit a person to be an applicant' in the matter.

This was a claim Ms. Collins-Mrakas disputed, stating she said it was 'unfortunate' it had to be a private citizen to bring up a lawsuit.

Mr. Boghosian contended blog posts by Councillor Buck accused the then Town Solicitor of not 'following the ethics and standards of his professional governing body', in criticizing municipal employees, a tone Ms. Collins-Mrakas agreed could be seen as 'accusatory.'

As *The Auroran* went to press Tuesday, Mr. McRoberts was due to continue his testimony, along with Town Clerk John Leach. Mr. Boghosian is expected to make his case for Ms. Morris and the co-defendants later this week.

EVIDENCE AT ISSUE

As *The Auroran* went to press, both sides awaited a decision from Justice Edwards on whether a report from Aurora's first Integrity Commissioner, David Nitkin, would be admissible as evidence.

His report, which dismissed complaints against Councillor Buck as merely 'political' before his contract as Commissioner was terminated, was mentioned by Ms. Buck's lawyer in his opening statement. Although Ms. Morris' lawyer did not raise an objection to it at the time, he did so once witnesses were underway.

'It is the most important document in this case because it is from the only person who was in a position to make that statement,' argued Mr. MacDonald. 'We're going to have a situation [if it is not admitted] where we hear all about Mr. Mascarin's views but not at all from the Integrity Commissioner.'

Countered Mr. Boghosian: 'Of my six clients, I can tell you that he met with one of them - Al Wilson - for any period of time. He has got a very incomplete view of what this case was about and there were people putting speculative ideas into his head. It is not reliable because there is no indication Mr. Nitkin did a balanced investigation.'