MPP supports anti-SLAPP bill in principle

By Brock Weir

Despite the Attorney General beating Aurora to the punch, Councillors are expected to consider signing off on a letter endorsing provincial anti-SLAPP measures this week.

As The Auroran reported June 4, Ontario Attorney General John Gerretsen tabled legislation on Tuesday which would provide measures to protect residents against Strategic Litigation Against Public Participation ? or SLAPP lawsuits. Billed by the Attorney General as an act ?to protect expression on matters of public interest?, the legislation was tabled including a number of provisions to protect the interests of people who might find themselves involved in such situations.

These include a new fast-track review process, with new tests and evaluations given to judges to evaluate whether a case is or is not a SLAPP intended to stifle public debate, as well as measures to ensure that requests to dismiss such cases are heard by the courts within 60 days, curtailing what is often a prolonged process to get the matters before the judge.

The recommendations were originally borne out of a panel appointed by the Attorney General in 2010 to explore the issue and recommend solutions and the bill is dubbed a ?made-in-Ontario? solution that would balance the protection of public participation and freedom of expression with the protection of reputation and economic interests.

The Attorney General has had considerable time to sit on these recommendations and, in the meantime, Aurora Council considered a motion from Councillor Michael Thompson earlier this spring to encourage the Attorney General and Premier Kathleen Wynne to adopt the recommendations as put forward by the panel.

Council voted at the time to direct Mayor Geoffrey Dawe to draft a letter doing so, with it coming back to Council for consideration. It is now on the agenda for this week.

SLAPPs are a contentious issue in Aurora after Master Thomas Hawkins determined that the $6 million defamation lawsuit involving former mayor Phyllis Morris and bloggers Bill Hogg, Richard Johnson, and Elizabeth Bishenden, was indeed SLAPP litigation. While some Councillors dispute that decision, Mayor Dawe said although the Province tabled the legislation before they received Aurora's letter, it is still important to voice municipal support.
Also considering the bill, of course, will be Newmarket-Aurora MPP Frank Klees. Mr. Klees said Aurora's SLAPP situation will make him look at the legislation with a more critical eye.

?I will be able to speak from the standpoint of very practical examples of what takes place in the real world,? he says. ?I would certainly be extending an invitation to my constituents to come forward and appear before the public hearings and make submissions based on their personal experience and very practical experience, and I think that is going to be very helpful to us in the Legislature.?

Overall, he says at this point he would support the legislation in principle. There are ?significant challenges? he said, in the justice system as is, particularly with people having access to the justice system.

?When you have lawsuits that are brought against an individual or individuals that are strategic in nature, I think it is important we have mechanisms in place to test that, and what this legislation does is it allows for a motion to be filed to have lawsuit like that dismissed,? he says. ?What is positive about this is the timeframe that is imposed to make a decision on whether this, in fact, meets the test of being a strategic lawsuit.?
That being said, as the legislative debates and hearings go on, Mr. Klees says he will also be looking to make sure the new legislation itself will not become strategic in itself. There will always, he says, be ?unintended consequences.?

?We want to ensure people on both sides of the issue have a fair process made available to them, that their issues are heard, and that

no one is excluded from having their issues heard in a fair and balanced way,? he says. ?The last thing we want to see is this legislation create an imbalance.?