

## Wars of words as Buck takes the stand in trial

**By Brock Weir**

Wars of words and old wounds were the topics of the day as Councillor Evelyn Buck took the stand in her trial against former mayor Phyllis Morris, Councillors Wendy Gaertner and John Gallo, and three former Councillors into this week.

Her testimony began Thursday after an eventful week in court, where jurors will decide whether certain members of the last Council defamed Buck by publishing a statement alleging mistreatment of municipal staff through her blog.

As testimony from former councillor Bob McRoberts continued, presiding judge Justice Edwards ruled a report from former Aurora integrity commissioner David Nitkin, in which he declared complaints brought against Councillor Buck by the defendants was improper and "wholly political."

Although Kevin MacDonald, lawyer for Councillor Buck, argued he based a significant chunk of his case around Mr. Nitkin's report, Justice Edwards ruled against a mistrial and the proceedings continued.

During Councillor Buck's time on the stand, both Mr. MacDonald and defence lawyer David Boghosian painted very different views of Councillor Buck's motives in this case.

Speaking of her long career and "joyful" approach to politics in her nearly 50 year career in the public eye, Councillor Buck said her time on the last Council was "personally distressing."

Arguing she felt "silenced" at the table, starting a blog was an "exciting" way of communicating with the people who voted her back to the Council Chamber, she argued.

"The blog was a reaction to how I saw it being literally frozen out of participating in Council deliberations," she said. "I thought if they are not going to allow me to participate in the way I am accustomed, I will find another way."

Mr. MacDonald then moved to Aurora's former Code of Conduct, a list of rules governing the behaviour of Councillors. Councillor Buck said she didn't feel any need for it "as if a person is incapable of exercising judgement in all of these matters" they shouldn't put themselves on the ballot.

"There is nothing to guarantee integrity or good judgement simply by a signature on a document," she said.

One of the primary bones of contention in this case is an appearance at Council in May, 2009 by Sher St. Kitts, then an organizer of the Aurora Canada Day Parade, who complained that she felt "harassed" by Councillor Buck looking into how her group spent funds.

Council then voted to put Ms. St. Kitts' comments into the public record, a direction which, Councillor Buck's side maintains, was not properly followed.

"It should never have happened in the first place," contended Councillor Buck. "Those accusations should not be allowed to be published in the record. [Council] weaseled out of it. The comments were not recorded in the minutes."

From there, they moved back to the blogs and the posts that resulted from it, discussing how members of Town Staff handled the issue. What resulted was Council taking action to "investigate" comments made on her blog. Councillor Buck said she was "outraged" when she was informed other Councillors had hired lawyer John Mascarin to investigate her writings.

"At some point, I received an email from [Aurora CAO Neil] Garbe telling me staff didn't like to see their names in the blog," she recalled. "I thought that was perfectly reasonable. I certainly didn't want to be the cause of any discomfort staff might have had about seeing their names in a blog."

She stated that at no point did municipal staff ever make complaints directly to her on her writings, to her recollection, and the resulting report from Mr. Mascarin put his own "interpretation" of her words into the conversation.

"He took some things I had written and put his own sense of meaning onto that," she said. "I considered the Code of Conduct they put before me was never intended to be anything else but to allow them to maintain complaints against me. It had nothing to do with the standards of ethics of the Town of Aurora. It only had one purpose."

The following statement and the lawsuit she brought about as a result of it left her "distraught, despondent and distracted", she said. "There was a great weight inside me," she said. "I had to resolve it. I had to bring it to this point."

## **CROSS EXAMINATION**

This was a view Councillor Buck maintained in her cross examination with Mr. Boghosian.

Mr. Boghosian began his cross examination by tackling the compensation Councillor Buck is seeking in the suit, underlining she did not lose any job as a result of the statement, and eventually faring better in the subsequent municipal election.

"I am suggesting that why we are here and why the jurors are here is because you want to safeguard what you consider to be your legacy," said Mr. Boghosian. "We are here because you want this jury to settle your political feud with my clients. You are trying to punish them for daring to challenge your conduct and for not including you in the decision making to the extent you thought was warranted."

For Councillor Buck, a "legacy and a reputation" is about much more than politics. She argued she was in court fighting not only for her rights, but all those who might seek public office in the future.

"I am trying to ensure that no person who ever chooses to put their name forward for public office should ever be afraid of having this kind of action taken against them by a few other people who have been elected in the same way they have," she countered. "If this was allowed to happen and nobody challenged it, they would form a precedent for other unscrupulous politicians to use in the future against someone they just didn't agree with."

Mr. Boghosian contended although she presents herself as "a champion of freedom of expression", criticising municipal staff in her blog was something of a trend.

Much of his cross examination focused on semantics, whether it was the definition of a "criticism" versus "disagreement".

To illustrate his point, he presented a laundry list of blog postings, one of which disclosed the illness of a staff member, something Councillor Buck said she later apologised for and regretted but was done so to underscore this staff member's "dedication" to her job. Others included posts on Mr. Garbe and what Councillor Buck said she viewed as an "improper" way he brought on the current municipal treasurer.

Monday turned to harassment of municipal employees and debate over the term. Mr. Boghosian characterised Councillor Buck's view that harassment was largely confined to racial and sexual matters as "archaic" in that it also covered bullying in the workplace.

Arguments centred around comments made by Councillor Buck on her blog on Aurora's former Manager of Corporate Communications in which she suggested his primary job was to get Ms. Morris "re-elected" as Mayor. The comments, contended Mr. Boghosian, resulted in a harassment complaint.

Councillor Buck countered that Mr. Ballantyne's concern stemmed from her political view on a development in the south end of

Aurora and that he was 'pressured' by Ms. Morris to press on with the complaint. While Mr. Boghosian said this was mere speculation, Councillor Buck argued she had a 'ringside seat' to what went on.

'I may be archaic, I may be a relic, but I am not stupid,' she said.

Moving back to the complaint in question, Mr. Boghosian said there was more to any animosity between Councillor Buck and Ms. St. Kitts.

'I am suggesting that you disliked her and resented her, and you were jealous of her popularity and the warm feelings residents of the Town had for her,' said Mr. Boghosian.

'I am embarrassed that you would even suggest such a thing,' countered Councillor Buck.

He went on to suggest her word choices, such as describing Ms. St. Kitts as 'a self proclaimed Wonder Woman' were defamatory as meant she was 'saying she is arrogant and conceited.'

'You wanted the full text of her comments to be included [on the public record] because you wanted to be able to sue the Town for defamation for publishing her comments, which you would do if they were published,' said Mr. Boghosian, before questioning whether she would agree she broke the Code of Conduct if a jury found her words defamatory.

Councillor Buck did not bite.

He went on to say despite her lawyer's arguments for the confidentiality related to Code of Conduct complaints, she broke that confidentiality herself to beat everyone else to the punch.

'For your own political purposes, you decided to get out ahead of this complaint and publish the facts,' said Mr. Boghosian. 'You knew you were guilty of breaching the Code of Conduct, you wanted to twist [the story] around and make it all about freedom of expression and trying to muzzle a Councillor and this was really only about trying to stop you from slugging employees.'

Following Councillor Buck's cross examination, former mayor Tim Jones was called to the stand. He hailed Councillor Buck for her honesty and forthrightness 'such qualities that either get her elected or defeated at the polls' and her integrity as a politician. Cross examining him, however, Mr. Boghosian brought up statements made by Mr. Jones questioning Councillor Buck's behaviour, including her expulsion from the Council chamber when she hit a fellow Councillor with a rolled up newspaper.

These claims have not been proven in court.

Mr. Boghosian told the court on Monday he planned to make his opening statements Wednesday.