

# Speaking Out

April, 2003

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## TRUTH

Now that the trial of Councillor Doug Downey is over and his fate is in the hands of Justice Howden, I wish to let everyone know what caused me to pursue this issue. I would like to share the facts that I found to be disturbing at the least. Truth is the first thing to suffer when people are desperate, but Truth eventually does prevail.

People believe that Doug Downey, came to the rescue of the Kiwanis Club from the nasty by-law enforcement officer. Doug would like you to believe that he mounted his white charger and fought the good fight to save a charitable organization from harm. Mr. Downey would like everyone to believe that the Kiwanis Club did not know that under the by-law, permission had to be asked of council before placing the signs, and that he acted only in the interest of the Kiwanis Club which had made an unintentional error. So now here is the truth.

Doug Downey was the Chairman of the Kiwanis Auction committee. It was this committee's responsibility to run the auction, arrange advertising, rent the hall and place the signs. Under Doug's leadership and knowledge the signs were put up in contravention of the sign by-law which he as a city councillor, drafted and voted for. The Kiwanis members relied on Doug's knowledge of the by-law to keep them out of trouble. Now here is where it gets interesting. Jason Shaw, Municipal By-law Officer, contacted Doug verbally and told him that a complaint had been received and the signs must be removed. The signs were not removed by next day; Jason contacted Doug again verbally and again nothing was done the following day. Jason made one more effort to ask Doug, as Chairman of the Kiwanis Auction committee to remove the signs and again Doug did not act. Jason then issued a Notice of Violation against the Kiwanis Club only this time in writing, with Personal Service to Doug Downey as he was responsible for the infraction of the by-law being the



chairman of the auction Committee ( NO ONE ELSE FROM THE KIWANIS CLUB WAS NOTIFIED EXCEPT DOUG verbally or in writing). After almost a week of trying to work with Doug to make sure the by-law which Doug helped draft and voted for (and expects everyone else to obey) was upheld, Jason as the Municipal By-Law Officer, had no choice but to do his job. Now once it was in writing, Doug had no choice either but to act. Should he contact his committee and have the signs removed? That would prove embarrassing since he knew that there was a problem and ignored it and of course allowed the signs to go up in the first place. He decided that a Special Meeting of council would get him off the hook. Instead of being hailed as an incompetent chairman he would be hailed as a hero for trying to save a charitable club from a fine, and no one had to be the wiser, because if there was any controversy it would blow over. Surely as a lawyer he could convince his fellow councillors if they were concerned, that there was no conflict of interest and assure them that he was an expert on the conflict legislation. Well had the Packet and Orillia Today reporters not shown up, the scheme would have worked. Thanks to the press it became a public issue and the rest is history.

I did not start this action lightly knowing that Doug and his friends would attack me as a rabble-rouser, sour grapes politician, councillor wannabe etc. and true to my gut feeling that is exactly what happened. I also had to contend with

costs for bringing this application. Even though I represented myself I have spent about \$2000 and somewhere about 250 hours of my time. Believe me I am not a lawyer. I had to start this application by sitting down with a lawyer to explain how to fill out the papers (\$225 for 1 hr). Then I purchased books on Ontario Annual Practice and Ontario Annual Practice Forms. I spent hundreds of hours on the internet and in libraries doing research. I filed Affidavits, conducted cross-examinations and fought my case against Doug, and not one but two lawyers representing him. I had to fend off their attempts to wear me down by bringing up irrelevant issues which I had to deal with. Lastly, I presented my case before a Judge for about 1 ½ hours.

Would I do it again? Yes! But I hope that I will never have to.

Jim Tolnai

I have reproduced the NOTICE OF VIOLATION on page two. It clearly shows Method of Service-Personal Service to Doug Downey. Read the second paragraph which states "Further to our numerous conversations". Sometimes the truth takes time to surface. Now is the time.

## FREE FILTERED WATER

I have moved my FREE Water Fill-up to the Atherley Plaza 660 Atherley Rd. We are located inside of MD Hydroponics. You can buy water everywhere but you get FREE filtered water only at Water So Pure . Taste the difference that WATER SO PURE filtration makes. As always our water is FREE but if you wish you can make a donation to our chosen charity SLEEPING CHILDREN AROUND THE WORLD. Just toss your donation into the water jug.

Jim Tolnai

OAC Student aspiring to become a teacher is looking for primary grade students to tutor  
Call Taryn 327-5686

## CONFLICT OF INTEREST

Doug Downey under his solemn oath states "I also verily believe that each and every member of Council was aware of my involvement with the Kiwanis Club and that Council did not take the view that I was in a conflict of interest situation". This is a very interesting statement. I have asked Councillor McLaughlin (who would not talk to me) and left a message for Councillor Gardy (who never returned my call) whether they knew of Doug's involvement with Kiwanis. So here is Doug saying they knew.

Now I did some checking on who declared conflicts and why. My research shows that councillors are concerned with their conflict obligations. The following are just a few examples of what I found.

Councillor Smith claims a conflict whenever council deals with issues concerning the Orillia Public Library. His wife who is on the unpaid Library Board is his reason.

Councillor McLaughlin claims a conflict whenever council deals with issues concerning a youth group which his grown son works for.

Councillor Buchanan claims a conflict whenever council deals with issues dealing with Georgian College, her employer. She also claimed conflict when discussion involved property across the road from her mothers house.

Hard to believe these councillors ignored Doug's conflict having seen their own record on claiming a conflict.

### Speaking Out

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"Exhibit 1"

## NOTICE OF VIOLATION Pursuant to Chapter 832 of The City of Orillia Municipal Code

Date November 7, 2002  
Name Kiwanis Club of Orillia  
P.O. Box 184  
Orillia, ON. L3V 6J3

Method of Delivery - Personal Service to Doug Downey

Please be advised that the City of Orillia has received complaints about signs located at various locations on City property.

Further to our numerous verbal conversations these signs are in direct contravention of Chapter 832 section 832.4.2 of the City of Orillia Municipal Code.

### Section 4.2 Prohibited Signs

No person shall erect, install, post, display, maintain or keep on a lot or premises any of the following types of signs:

- f) Signs on public property or public roads and rights-of-way unless the Council has granted appropriate permission.
- k) A ground sign within 15.0 metres (50 ft.) of a traffic light.

These signs must be moved by November 8 at 8:00 a.m. 2002.

Failure to comply with the above conditions by the aforementioned date will result in the removal of the sign at your expense and possible charges pursuant to the Provincial Offences Act.

Jason Shaw  
Municipal Law Enforcement Officer

Any questions pertaining to this Notice please contact 325-2313.

H:\legis.enf.signs.notice of violation\Kiwanis

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## SETTING RECORD STRAIGHT

Back in February Ray Hayhurst wrote an insight column in the Packet claiming to explain de-regulation of Hydro. Ray was a former manager of the old OWLP and is now a director of the new Orillia Power Corp. I sent the following letter to the editor as a rebuttal to the Packet but unfortunately they chose not to print it. I hope time has not blurred your memories of Mr. Hayhursts commentary and that my rebuttal will make sense.

In reply to Ray Hayhursts Insight article I would like to point out a number of inconsistencies in his story. Ray states that there was no one more committed to the public utility system of Ontario than himself. If that is correct how is it that to my knowledge and others I have spoken to he has never come out publicly urging or fighting the PC government in their privatization effort. I do not remember him supporting Maurice Mcmillan. In fact just the opposite happened.

He then states that in the 70's the growth of electricity demand forced Ontario Hydro to build huge facilities to meet this demand using debt to finance it. Gee! How does any business build new capacity? Of course they borrow it with the expectation that increased sales will pay off the debt. Ray makes it sound like the debt was created with no income to pay it off.

Next he takes the Liberal government of David Peterson to task for recognizing that Ontario Hydro was in serious financial condition and halting Darlington's construction. He then states that when the government realized the need for this capacity the project started up again at higher cost. What Ray didn't say was that it was the previous PC government who had huge over runs in costs due to mismanagement of the project causing the serious financial situation.

Ray then states that in the early 1990's the incoming NDP government found Ontario Hydro in serious financial condition. So if Ontario Hydro was in serious financial trouble when the Liberals took power and was still in serious financial trouble when the NDP took over and the PC government created it in the first place why not just say the PC's screwed up?

Then Mike Harris comes to power in the mid 1990's and he finds Ontario Hydro virtually

bankrupt. The truth is Ontario Hydro, Ontario Canada can not go bankrupt. Even if what Ray states that Hydro's assets were worth less than the debt, Hydro was making it's payments and no one had called in the note. This debt and near bankrupt story was told for only one reason. Mike Harris and company wanted to hand over the assets owned by all of us to a few very rich and very influential companies. If Harris wanted more capacity and encourage development of private generation of power all he had to do was give these people a fair return on their investment if they built generating capacity. Why sell what cost 30 billion for 5 billion. That would not encourage these people to build new generation. Why build if you can buy cheap? He then goes on to give Mike Harris government credit that he overruled Ontario Hydro's claim that municipal utilities were actually owned by them. Gee! Thanks a lot Mike for saving us from an illegal takeover of Orillia's assets, which no court in the land would have allowed any way.

Ray then explains how OWLP was not a non profit corporation any way, so he does not want us confused. Wait a minute He also states that it made a profit and that under it's non profit status for tax purposes only after it covered it's debts, capital asset replacement, capital expansion reserve it had to lower rates to customers. Gosh! that is all we are asking for. Profits should flow to Orillians in reduced energy costs and not to the city coffers as a hidden tax.

He then makes a claim that it is every ones responsibility to work together to make the system function efficiently and reliably. Well what we are saying and what every other jurisdiction is saying who has tried this experiment is that it does not work. Look at California, Alberta, England, Pennsylvania etc. In fact it is our duty and Ray's duty to fight Ernie Eves and company from destroying a publicly owned and operated energy system.

In the whole article Ray fails to explain what in Bill 210 forced council to keep OPC a for profit company paying dividends to city coffers. I have read the appropriate section of the Act and I do not see where OPC would be hindered from going on about it's business of serving Orillia if it was allowed to be a non profit corporation. What the Act does say is that Council under non-profit is forbidden to sell the assets or shares of OPC and that dividend are forbidden to be paid out to the city/shareholder. Why does Ray not let us know what section of this Act forbids OPC from carrying on the business of generating power, distributing, maintaining it or expanding

it. Why does Ray not explain this? Because it does not exist. City council was asked to explain this as well and as reported they could not come up with an explanation.

Lastly Ray claims that the confusion brought on in peoples minds is being used for political and personal gain. I would ask Ray to explain who is benefiting from this mess. Is Maurice Mcmillan getting rich? Am I against this rip off because I chose to run for council? The truth is I am running for council because we are being ripped off. Maurice is fighting because we are being ripped off and every other person in Ontario who can see through the scam fights to preserve not to destroy unlike the present government of Ontario and the present city council.

As I write this on March 24 we have yet to hear an explanation from council or Mr. Hayhurst as to what part of the Act forbids OPC from operating if it had been kept non profit. Their silence says it all.

## FLIM FLAM EVES FLIP-FLOPS

The PC's have finally figured out that their ill thought out de-regulation of hydro is killing small business. Ernie and company have announced that power rates to all who consume up to 250,000 KW will receive subsidization. Only one problem. This subsidy is really being added to our collective debt.

Ernie, Garfield and company have added over a billion dollars to the debt that was left over from the old Ontario Hydro. We are supposed to be paying this debt off via the debt service charge on our Power bills. Only problem is that Ernie and company are adding to the debt faster than we can pay it down. So it is growing every month.

With an election coming the PC's hope you and I can be flim flammed by their power subsidy long enough to get elected. Don't be fooled. If these people get re-elected they will increase the debt re-payment charge thereby increasing our costs while claiming hydro did not go up. Mark my words this is the only way that hydro can be kept at 4.3 cents and subsidized. We will still pay the going price.

# Do Councillors Know What They Vote For?

ORILLIA'S \$5400  
MAN

My pursuit for justice in the Conflict of Interest case against Councillor Downey has led me down many paths. In my wildest moments I could not have imagined the twists and turns that this situation has taken. Because I was self represented I not only had to learn legal matters but became some what of a private detective. I am sure Doug and friends just refer to me as that dick.

On January 27, I sat in the council chambers listening to councillors talking about how hard they work researching issues, studying the problems and how well informed they are. I sat there and listened in awe as councillor after councillor told us that because of all this work and research our opinion and concerns did not matter and went ahead to vote OPC a for profit corporation.

Well I now can share with you the information that Doug Downey under oath has shared with me contrary to what is claimed by councillors. I had to examine Doug under oath and of the few questions he answered directly, the answers shocked me and should shock every taxpayer of Orillia. I know it will be hard for you to believe these statements but I do have the transcripts to prove them. So here goes.

Q. Mr. Downey, before you vote on a by-law as councillor do you read it?

A. Not always, no

Q. So you don't know what you're voting on?

A. I do know what I'm voting on?

Q. Oh, ok. but what you're saying in this case you didn't know what you were voting on?

Doug became very agitated at this point and tried to explain how staff deal with council in regards to by-laws being voted on. This part blew me away.

A. The process of council, we pass numerous by-laws every week. They (staff) don't put the drafted by-laws in front of council to sit and read every word of.

So What is Doug saying? According to his testimony councillors vote for these laws without actually reading or understanding the by-law.

If what Doug says is true then why do we need a council at all? Let's save the money and let staff just proclaim by-laws. Now if Doug is not telling the truth I

would hope that every councillor would explain the process of how their decisions are made and that they actually do read the by-laws and understand them before they are voted on because quite frankly after seeing some of the by-laws passed by this council I do have my doubts. In particular I find it hard to believe that anyone in this day and age would allow such an archaic section of the Taxi by-law as 6. (2) An applicant's record of past conduct shall be such that it would not be contrary to the public interest for a license to be granted, renewed or transferred.

Which councillor actually knowingly voted for this section and do they know what it means? Let me help. What this says is that council and the authorities can discriminate on any grounds they can dream up. I was born in a communist country and my father had to flee from laws like this one. Dictators make laws that allow them to interpret laws based on the mood of the moment. As I stated last month this section must be struck from the by-law along with a number of others. This archaic wording allows left handed people from being able to get a taxi license if the person issuing them believes it to be contrary to public interest.

So how many other sections of by-laws passed by this council contain similar sections. Could any councillor answer this question? Have they read and understood what they voted for? Don't they realize that these sections of the by-laws are against the Ontario Human Rights Legislation? Either council doesn't care or they have not read and understood what was voted on. Which is it?

## ON THE WEB

Speaking Out is now available on the WEB. I will be posting each issue on our [www.speakingout.biz](http://www.speakingout.biz) web-site. So if you don't get your copy via Canada Post then just go to our web-site and print your own copy. People have been asking and I have listened. Thanks for your interest.

So City council expenses have tripled since 1998. Is this money well spent? In February's Speaking Out I critiqued Sheila Copps regarding her expenses and failing to disclose what the money was spent on. I believe that if councillors take expense money then there should be a process where these expenses can be verified and made public. I have no problem with reimbursement of expenses. What I do have a problem with is the disparity of the amounts. How come McLaughlin spends \$5,455 yet others spent as little as \$1,029. So Ken how about an itemized list of what the money was spent on. Of course that goes for all councillors including the Mayor. Then we can decide if the spending was excessive. Politicians should be accountable for their actions.

While on this subject I would also like to see expenses for city staff. It's not fair to make only councils expenses public. We should know for instance, what the City Manager had for an expense account as well as all staff expenses and what it was spent on. Then we can compare and decide this matter.

## ATTACKING VOLUNTEERISM

Ken McLaughlin claims that my complaint of Conflict of Interest against Doug Downey is an attack on volunteerism. He says that others will be discouraged from joining community-minded groups.

What do Doug's actions have to do with volunteerism? I researched Conflict of Interest cases that have come to court dating back to 1899. I have not come across one case where anyone had ever breached the law in such a blatant manner. This is an act by Doug Downey in Doug Downey's own interest, so Ken get a new soapbox to stand on. This ones fallen apart.

Ken has every right to stand up for his friend. But he should be at least honest and not use such hyperbola.

If anyone decides to not do community service because of this case I guarantee they weren't interested in serving anyway. You see you can serve and not break the law.