

No legal requirement for councillor to resign if convicted

By Bob Owen
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Tim Gilligan Jr. and Tim Gilligan Sr. are scheduled to appear in Cobourg court Aug. 11 for their first appearance on charges of assault with a weapon.

The Cramahe Township councillor Tim Jr. and his father (proprietor of the Queen's Hotel in Colborne) face charges after an incident on King Street in Colborne June 24 where a person received facial injuries when struck on the side of the head.

While the two men await their first visit to court, residents of Cramahe Township have been speculating about Mr. Gilligan Jr.'s future in politics.

Legally, there is nothing currently standing in the way

of Councillor Gilligan remaining in office.

Ontario Ministry of Municipal Affairs Municipal Advisor Penny Sharman would not comment on the councillor's options but pointed to two Ontario acts which govern the right to be elected and remain in office.

According to the Ontario Municipal Act Section 258.2.2, Councillor Gilligan is required to give up his place at council if he ceases to be a Canadian citizen, or ceases to be a resident, tenant or landowner. He would also be required to step down if he was prohibited from voting in a municipal election. His seat can be declared vacant if he misses meetings for three consecutive months or resigns.

The Ontario Municipal Elections Act defines those who cannot vote.

Any person serving a sentence in a penal or correctional institution or a person who has been

convicted of a corrupt practice within five years of the voting day cannot vote.

Those are the legal parameters of the situation - but what are the precedents when councillors are charged, or convicted of offences? What have others chosen to do?

There have been numerous cases where the public has called for a resignation, but seldom have the elected officials chosen to give up their seats.

March 2008, Toronto Councillor Rob Ford was charged with assault. Two months later, the charge against the eight-year veteran of council was dropped due to reliability concerns in the alleged incident with his wife.

Mr. Ford was not required to give up his council seat when he was charged, but there were questions at the time whether the Etobicoke councillor should step down.

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November 2006, London councillor-elect Stephen Orser was charged with assault and jailed for four days on arrest, only four days after he was elected for the first time on a law and order ticket.

Mr. Orser is still on council today.

January 2007, Bradley Goodhill of Warwick Township was convicted of impaired driving and fined \$850. No action was taken by the township council and it was not discussed by Warwick council. He retained his position.

North Bay Councillor Maureen Boldt lost her seat in January 2008 when North Bay council refused to grant her request for an extended leave of absence so she could serve a four-month term

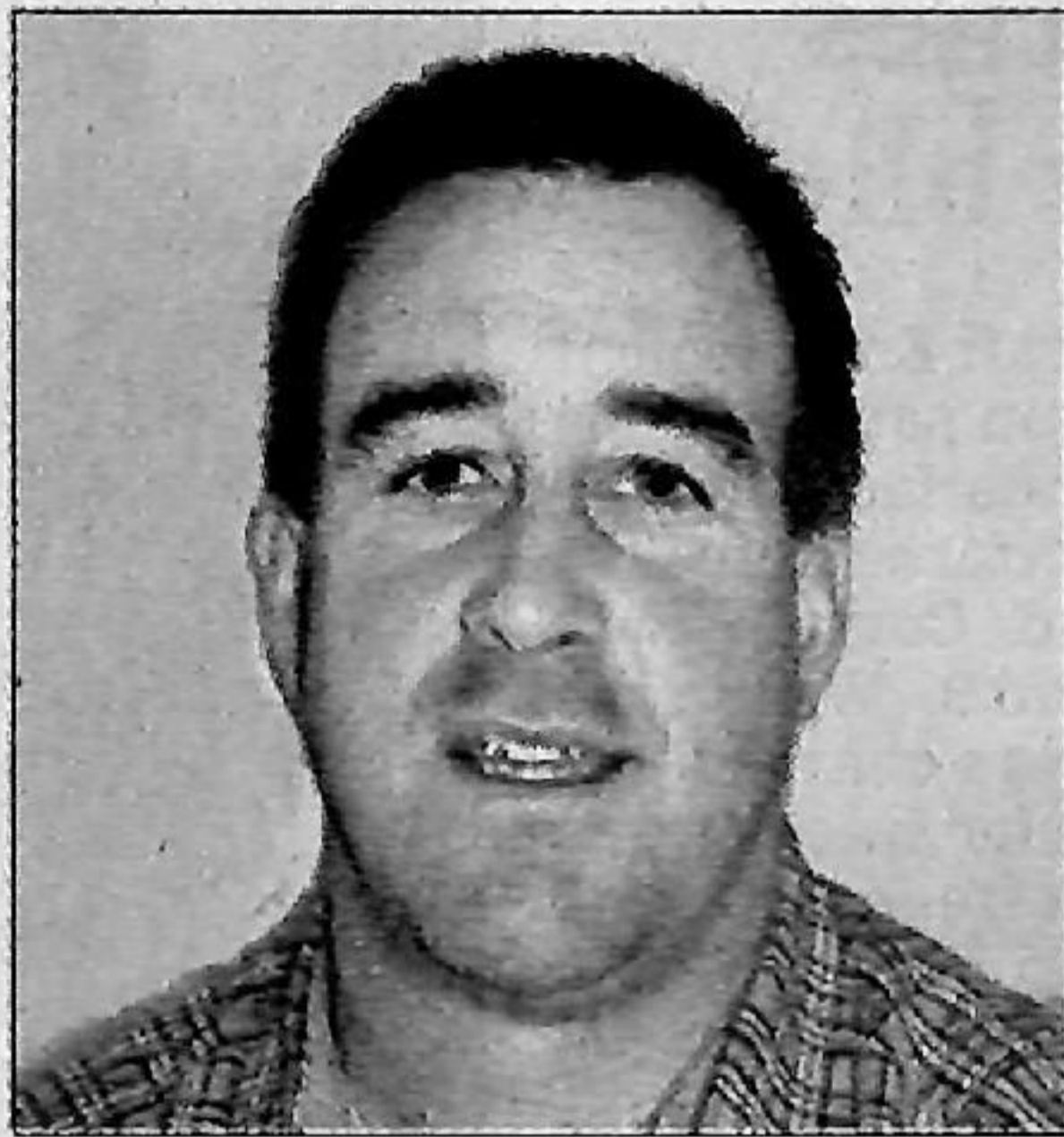
of house arrest. She was convicted of ignoring a court order to stop the unauthorized practise of law.

Sault Ste. Marie Councillor Lorena Tridico was charged with two counts of being a party to the commission of the offence of furnishing false information and two of being a party to the commission of the offence of voting in a place other than where entitled to vote following the 2006 municipal election. In a Feb. 16, 2007 news release, Ms. Tridico stated her intention of continuing in office. She has yet to go to trial and remains on council.

If she is convicted of the offences, she may be removed from council and would be prohibited from running for five years due to corrupt election practice

French River Councillor Sylvia Tomlinson held onto her seat for almost the entire term, resigning in September 2006 after pleading guilty to a charge of uttering a forged document, laid in connection

with the municipality's election in 2003. Ms. Tomlinson was given six months of house arrest and will be placed on probation for two years when that term is complete. She was also prohibited from participating in any municipal, provincial or



Cramahe Twp. Councillor
Tim Gilligan

federal election except to vote. Also charged was the mayor of French River, Claude Bouffard. He faced a charge of forgery related to the 2003 election and had not gone to trial when he was voted out in 2006.

Long-time Peterborough municipal politician, Councillor Paul Rexe, remained on council after being charged in 2005 with common assault. He was not convicted. He ran in 2006 for mayor and lost.

In one interesting twist, the taxpayers of Haldimand County will be footing the bill for an assault charge laid in February 2008 against Councillor Buck Sloat.

The incident occurred during a break in a January 2008 council committee meeting on county property while Mr. Sloat was fulfilling his role as a representative of the public.

A justice of the peace charged Mr. Sloat with assault after Delhi resident, Jeff Parkinson, requested a charge be laid. Mr. Parkinson alleged that Mr. Sloat grabbed his shoulder, pulled his recording device out of his pocket and dropped it. The incident has not yet gone to court.