

8

Letter from Roy Bercaw May 16, 2002

but as *carriers of information*. Ahem! This too was not fully or satisfactorily explained. In any case they do *NOT* represent MCNA.

I opposed this motion for two reasons: (1) the US Constitution (Article I, Section 9) prohibits *ex Post Facto* laws; and (2) frequent occasions when the President claimed he "speaks for the Association," though MCNA had not voted to authorize him to speak for it.

At this point I was accused of slander. I declared that criticism is not slander. Moreover the President is a public figure having run for City Council, twice. This may demonstrate how fragile public discourse is in Cambridge.

Not only are there no opposition candidates for public office, but any criticism of public policy, acts of public officials (or officials of neighborhood associations) is treated as hate speech. Democracy requires a *strong* opposition; it is essential. Shouting down opposition is not a form of democracy. This abomination of intolerance of diversity of opinion, should be considered by the Council.

The procedure used by the City Manager is a violation of state law. There was little concern by the Chosen Three that the process is illegal. Only concern about my audacity to question the leadership. The silence of those who meet with Harvard about this easement, regarding the impropriety of the way the meetings are conducted is shameful.

If they were attentive to keeping the rest of the City, if not the rest of MCNA, informed of what they do, they would insist that those meetings be open. This is not a question for two abutters. It is a question for the entire City.

After the meeting, one member of the Coordinating Committee (CC) said to me, "You better keep your *bleepin'* mouth shut!" I *do* not know if this was a threat. It came after I suggested that I had a *right* to speak. The coordinating committee member told me, "No, you don't have a right to speak!"

I suspect one reason for this intense animosity was my announcement at the MCNA meeting that the Manager's secret committee meetings are a violation of the Open Meetings Law of the Commonwealth. Though MCNA is a private organization, it receives public funds (\$200 in 2002) from the School Department and thus must be responsible to the laws and ordinances of the City.

Though I was allowed to speak, I was shouted down on two occasions. One member charged that I "*slandered*" the President. Huh? I said that if the Association voted to give the three members the right to report back to MCNA, that the President would likely say that he speaks for the entire membership. I've seen him do it more than once. The hand-picked Chosen Three do not represent me.

This is the latest instance of a flawed process. It is clear that city boards and commissions and MCNA are unable to stand up to Harvard's spin doctors. The President repeated the mantra of Harvard's newest chief PR flack (Alan Stone) when he tried to bully the Council on April 3, 2002. If the process is flawed, the approvals must be ignored. Yet Stone insisted that they *cannot* be ignored. What gall!

P

ENOUGH ROOM
ROY BERCAW, EDITOR
PO BOX 400297, CAMBRIDGE, MA 02140 USA
617-491-0433 bercaw@justice.com

2002 MAY 16 P 4: 27
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS MAY 16, 2002

The Honorable City Council
City of Cambridge
795 Mass Avenue
Cambridge MA 02139

Re: Harvard's petition
for Tunnel easement

On Wednesday May 15, 2002, the Mid Cambridge Neighborhood Association (MCNA) held its annual meeting. The "desire to conform" and "obedience to authority" were in full control of the meeting. Harvard's petition for an easement under Cambridge Street, and the secret meetings held by the City Manager with hand-picked members of the association, contrary to M.G.L. Chapter 39, § 23B, the Open Meetings Law, were discussed.

The reason this is an issue for the City Council is that currently the City Manager meets unlawfully with three members of that association; John Pitkin, Rick Childs, and Elizabeth Collins. The image is that they "represent" the Association.

On May 15, 2002 I first learned that three meetings had already been held. The only thing that was reported by the President was that an independent engineering firm was chosen; that Harvard was paying for this evaluation. The President assured the members that this firm was aware that they were being paid by Harvard but that their client was the City. Ahem!

For two years Harvard has rebuffed efforts to obtain files from their police department. They claim that since Harvard pays the salaries of the police, they are private police and unanswerable to requests for public records. I do not expect their opinion of who is paying, will be less determining of the outcome, than their policy on holding their police officers accountable.

The definition of a public official is a person who acts under authority of a political subdivision of the Commonwealth. A public record is defined as a document made by a public official. Is this engineering firm acting under Council authority?

The President assured the members that the Chosen Three had no authority, that they would report back before any decisions were made. But they already made decisions without any report or authorization by MCNA members. They agreed to hire an engineering firm on their own. It is not known what other decisions these Chosen Three made. We were not informed.

The President told me that he was chosen by the City Manager NOT because he was President of MCNA; that he did NOT represent the Association. Then he told me that the people chosen, were chosen through the MCNA.

This conflicting information was never satisfactorily explained; and became an issue at the May 15th meeting. A motion was made and withdrawn before a vote, to approve of the Chosen Three as "representatives" of MCNA. The member who made the motion, withdrew it in order to avoid disagreement. A second motion was made to approve of the three, NOT as representatives,

S-172

Consent Communication #8

A communication was received
from Roy Bercaw, regarding
Harvard's petition for Tunnel
easement.

In City Council May 20, 2002

PLACED ON FILE.