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ENOUGH ROOM
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MAY -9 P 4: 22

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

OFFICE OF THE CITY CLERK
CAMBRIDGE, MA 02142
MAY 9 2002

Re: Open Meetings Law Violation

The manner in which the meetings between the City Manager, hand-picked citizens, and developer Harvard University regarding the petition for an easement for a tunnel under Cambridge Street is unlawful. The Orders passed by the City Council on April 3, 2002, which directed these meetings to be held, did not specify their procedure.

But the General laws of the Commonwealth say the following: M.G.L. Chapter 39, § 23B: "All meetings of a governmental body shall be open to the public and any person shall be permitted to attend any meeting except as otherwise permitted by this section.

No quorum of a governmental body shall meet in private for the purpose of deciding on or deliberating toward a decision on any matter except as otherwise permitted." and

"No chance meeting or social meeting shall be used in circumvention of the spirit or requirements of this section to discuss or act upon a matter over which the governmental body has supervision, control, jurisdiction or advisory power." and

"Except in emergency, a notice of every meeting of any governmental body shall be filed with the clerk of the city or town in which the body acts, and the notice or a copy thereof shall, at least 48 hours, including Saturdays but not Sundays and legal holidays, prior to such meeting, be publicly posted in the office of such clerk or on the official bulletin board of such city or town. ... The notice shall be printed in easily readable type and shall contain the date, time and place of such meeting. Such filing and posting shall be the responsibility of the officer calling such meeting." and

"A governmental body shall maintain accurate records of its meetings, setting forth the date, time, place, members present or absent and action taken at each meeting, including executive sessions.

M.G.L. Chapter 39 § 23A defines a governmental body as "every board, commission, committee or subcommittee, of any district, city, region or town, however elected or appointed or otherwise constituted, ... "

The City Manager failed to give notice of the first meeting on Friday May 3, 2002. Any further meetings cannot be held without proper notice and allowing the meetings to be open to the public.

The following quote is from an article in the *Harvard Crimson* (Lauren Dorgan, "Message to tunnel: You've Got Mail," Wednesday May 8, 2002):

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Letter from Roy Bercaw May 9, 2002

"Neighbors have long said they would like to see CGIS' south building-surrounded on three sides by apartment buildings-scaled back. They have suggested the neighborhood might accept the tunnel, but only if Harvard builds what the neighbors call a 'modified south building.'"

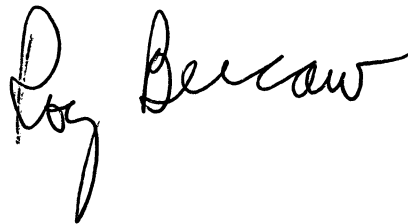
The speaker of these words is not identified. It appears that it was one of the three appointed by the City Manager. In any case it is not within the power of the residents, the neighbors or the City Manager's committee to "accept the tunnel."

The City ordinance requires, **REQUIRES**, a public benefit to transfer public land to a private person. It is not an item to be used in negotiations. Whoever spoke those words is misled, or being misled.

Not only was the previous approvals of the CGIS project as a whole flawed, but the procedural violations continue both by City officials, in this case the City Manager, and his hand-picked civilians.

The Council must exercise its oversight powers and throw out the decisions regarding this project by the Mid Cambridge Neighborhood Conservation District Commission, the report by the Executive Director of the Historical Commission, the variances granted by the Board of Zoning Appeals, the Report by the Planning Board and especially the City Manager's report.

The City Council has begun its scrutiny of this project. It must order an entire new approval process. The City Manager's lack of oversight, along with high pressure tactics by this tax exempt developer allowed for serious abuses of his statutory powers. His appointees on City boards and commissions have acted unlawfully.



S-151

Communication #11

A communication was received from Roy Bercaw, regarding an open meetings law violation.

In City Council May 13, 2002

PLACED ON FILE.