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CHAIR:
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Zoning, Neighborhoods & Development

September 15, 2006

State Representative David Cullen
13th Assembly District
Room 216 North
State Capitol
P.O. Box 8952
Madison, WI 53708

Dear Representative Cullen:

I am contacting your office to discuss a matter of State law that is relevant to the current affairs of the City of Milwaukee: the exemption that cemetery care funds receive from statutory open records regulations. This exemption has prevented the City of Milwaukee from gaining access to information necessary in handling a matter involving Lincoln Memorial Cemetery, located within my Aldermanic district and the 13th Assembly district. To protect the rights of the constituents of my aldermanic district and the residents of the City of Milwaukee, I recently introduced legislation seeking statutory changes in cemetery open records provisions. I respectfully request your sponsorship and support as this issue moves through the State Legislature.

Open records provisions, as described in subch. II, ch. 19, Wis. Stats., exist in order to maintain a level of accountability for offices and activities that are governed by statutory regulation and to provide a level of protection to the citizens of Wisconsin. Exceptions to these provisions exist in circumstances where citizen rights would be compromised, violated or when a citizen would otherwise be negatively affected as a result of knowledge becoming public information. It is unclear how the exemption of cemetery financial records from open records provisions (s. 157.62 (2)(c), Wis. Stats.) is a function of citizen rights, or how this exemption serves the citizens of Wisconsin in any way. In a July 2006 correspondence, Assistant Attorney General Alan Lee stated, "The present exemption of cemetery financial records from Wisconsin's Public Records Law would seem too broad to serve any public purpose." In fact, the exemption of cemetery records adversely affects citizens, as the following case illustrates.

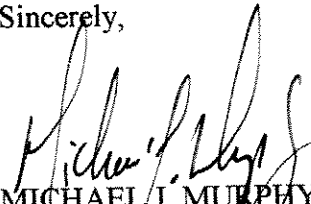
Town of Milwaukee Union Cemetery Association owns and operates Lincoln Memorial Cemetery (formerly named Wanderer's Rest Cemetery), at 6400 W. Burleigh St., and Valhalla Cemetery, at 5402 N. 91st St., in the City of Milwaukee. Lincoln Memorial

Cemetery is approximately 70 acres. The owner alleges that there are insufficient funds for lawn care maintenance at the Lincoln Memorial site, and negligible attempts have been made to maintain the property. Most attempts at maintenance have been limited to only those portions which are visible from the main thoroughfares. As grave markers are hidden within the grass, many people have attempted to self-maintain those portions of lawn surrounding the grave markers of their loved ones. Countless persons are affected by the poor state of the cemetery, and this matter has progressed into an emotional matter of neighborhood and citywide concern. Conversely, the Valhalla Cemetery site is satisfactorily maintained and has received no complaints.

To appropriately address this issue, it is necessary to have a firm understanding of the financial affairs of Town of Milwaukee Union Cemetery Association, and whether or not it has sufficient funds to maintain both of its properties; however, cemetery financial records are exempted from open records provisions, and thus the City of Milwaukee has no access to that information. As a matter of recourse, I have urged the Wisconsin Department of Regulation and Licensing-Division of Enforcement to perform an audit of the financial statements relating to cemetery care funds of Town of Milwaukee Union Cemetery Association, and introduced legislation seeking introduction and passage of state legislation to delete the statutory provision exempting cemetery funds from open records regulations. My urgency was a result of numerous constituent complaints and numerous attempts at working with Town of Milwaukee Union Cemetery Association to develop an adequate solution.

Subjecting the financial records of cemeteries to open records regulations will not cause citizen rights to be violated or otherwise compromised; rather it will bestow upon citizens the rights that they, as citizens of the State of Wisconsin, are already entitled to. As Attorney Lee stated, "The only solution, however, is to remove or greatly restrict the exemption in Chapter 157. If such legislation is proposed, the Department of Justice would gladly work with the authors to make Cemetery Association records more open." I welcome you to contact my office so that we might discuss this matter and develop a collaborative effort to pass legislation that protects the rights of citizens in our districts, and within the entire City of Milwaukee and State of Wisconsin.

Sincerely,



MICHAEL J. MURPHY
Alderman, 10th District