

## A CEMETERY IN DISTRESS

BY

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Nestled in the rolling hills of Northeastern Louisiana, Twin City Memorial Gardens Cemetery has always been an anomaly of sorts. Founded in 1957, the cemetery had been in the hands of one family for 51 years and was operated as a perpetual care cemetery. Lying on 28 acres of solid Ouachita Parish (County) soil, the cemetery is the final resting place for 2,234 people, with room for thousands more.

Louisiana has always been famous for its cemeteries, in particular the cemeteries located in New Orleans and South Louisiana. Northeastern Louisiana cemeteries are nothing like their southern counter parts in terms of their architectural significance. Each has its own personality. Twin City Memorial Cemetery was designed with five different gardens, with a circular drive touching the boundaries of each. The original owners had passed away by 1999, and the cemetery was inherited by a family member. Almost immediately, cash- flow problems began to develop.

Louisiana has a cemetery board that regulates perpetual care cemeteries. Founded in 1957 by Act 417 of the Louisiana Legislature, under Title 8 of the Revised Statutes, the board was given the following responsibilities:

- The Board shall enforce and administer the provisions of Title 8. The Board may establish necessary rules and regulations for the administration and enforcement of Title 8 and prescribe the form of statements and reports provided for by law. (La. R.S. 8:66 through La. R.S. 8:67)
- The Board licenses Cemetery Authorities and Cemetery Sales and Management Organizations. (La. R.S. 8:70 through La. R.S. 8:76 and La. R.S. 8:401 through La. R.S. 8:408)
- The Board registers and/or catalogues Exempt Cemetery Authorities. (Chapter 7 of the Rules and Regulations of the Louisiana Cemetery Board)
- The Board monitors and audits Perpetual Care Trust Funds in accordance with the provision of law. (La. R.S. 8:451 through La. R.S. 8:467)
- The Board monitors and audits Merchandise Trust Funds and Suppliers in accordance with the provision of law. (La. R.S. 8:501 through La. R.S. 8:511)
- The Board monitors pre-construction and pre-development sales by cemetery authorities in accordance with the provision of law. (La. R.S. 8:606 & La. R.S. 8:706)
- The Board provides assistance to consumers through the timely handling of requests for information and mediation of consumer complaints.

Beginning in 2002, complaints began trickling in concerning Twin City. Most of them dealt with untimely delivery of purchased products and the unsightly state of disrepair of the cemetery. As with most state agencies, lack of staffing and distance prevented a formal investigation, so letters and or attempted phone calls were sent to the owners outlining how the cemetery board would handle the complaints.

By 2006 the complaints had multiplied ten fold and by November of 2008, 43 formal complaints had been filed with the Louisiana Cemetery Board. Families of loved ones buried at the cemetery contacted law enforcement agencies. Formal criminal charges and a civil class action law suit were filed against the owners.

The cemetery board, under title 8, seized the cemetery in January of 2008. With the cemetery in receivership and arrest charges pending and with problems mounting because of the civil suit and no cash flow the owner had no choice but to seek a buyer for the cemetery. At this same time a family owned funeral home was looking for ownership of a cemetery, under the leadership of Tex Richard Kilpatrick, as owner of Kilpatrick Funeral Homes, Inc. and Laura Kilpatrick Marchelos, as President of Kilpatrick Funeral Homes, Inc., conversations began concerning the purchase of Twin City Memorial Gardens.

Kilpatrick Funeral Homes, Inc. had been in the funeral business since 1927. Having ownership in four funeral homes within a 30 mile radius of the cemetery it seemed reasonable for the Kilpatrick family to investigate ownership of Twin City Memorial Gardens.

Mr. Kilpatrick has been a business associate of Dan Isard, owner of The Foresight Companies, LLC for a number of years. He contacted Mr. Isard and sought his professional help in purchasing a cemetery that had so many problems. The Foresight Companies, under the direction of Dan Isard had become nationally recognized as an authority in valuation, mergers and acquisitions. Having appraised hundreds of funeral homes and cemeteries it seemed like a natural fit. Based in Phoenix, Arizona, Mr. Isard traveled to West Monroe, Louisiana to appraise the cemetery.

Upon first glance, there was no doubt this was a perfect fit for Kilpatrick Funeral Homes. Mr. Isard contacted the owner and his lawyer and negotiations began. During this same time the ownership and the State of Louisiana were, also going through a court battle over receivership of the cemetery. The cemetery board was proceeding in uncharted waters. This was the board's first experience of putting a cemetery into receivership. The owner fought the cemetery board in the Fifth District Court of Ouachita Parish, Monroe, Louisiana. A judgment was rendered giving the cemetery board authority to put the cemetery into receivership. However, the owner appealed the District Court ruling and it was overturned on appeal.

By this time it was a moot point because the Kilpatrick Family had already purchased the cemetery and renamed it Kilpatrick's Serenity Gardens. Also, the Louisiana Legislature reworded Title 8, during their 2009 session to give the cemetery board more authority, and to address the deficiencies brought out on appeal. Before the purchase was finalized,

Mr. Isard recommended to Mr. Kilpatrick two very important points that should be addressed: (1) The cemetery would need to be professionally surveyed. (2) A perpetual care fund must be established to address problems that could surface in the future. This fund would be held out of the purchase price agreed on by the owner and the Kilpatrick. This could have been a stumbling block for the sale, but was not because of the financial situation of the owner.

As a result a fund was established for ten years to aid in the problems concerning perpetual care of the cemetery. So far, over \$8,000 worth of pre-needed merchandise has been discovered and proper paper work has been filed for repayment from the perpetual care fund, thereby protecting the current owners from this expense.

The survey saved the cemetery countless hours of manpower by identifying where ownership of property and burials were located. During the survey it was discovered just over 20 properties had been sold more than once and several people had been buried in the wrong plots. Every problem brought out in the survey has been addressed and corrected. The previous owners records were all kept on paper. It took almost three months of cross referencing hand written files, some dated back to 1957. With the help of the survey and a computer based program all records have been cross referenced placed in a computer based format for easy referencing.

Purchasing a cemetery can be a very difficult procedure, but if you follow certain guidelines the purchase can be a very worthwhile endeavor. The Kilpatrick family of funeral homes has certainly benefited from the purchase. Not only monetarily, but a price tag cannot be measured by the goodwill presented and received from the community serviced by Kilpatrick's Serenity Gardens.

(Marvin Dearman is the current general manager of Kilpatrick's Serenity Gardens and is a retired Major with the Monroe Police Department, Monroe, Louisiana)

