

Daily Journal

www.dailyjournal.com

MONDAY, NOVEMBER 19, 2018

Everything you've been dying to know about cemetery districts

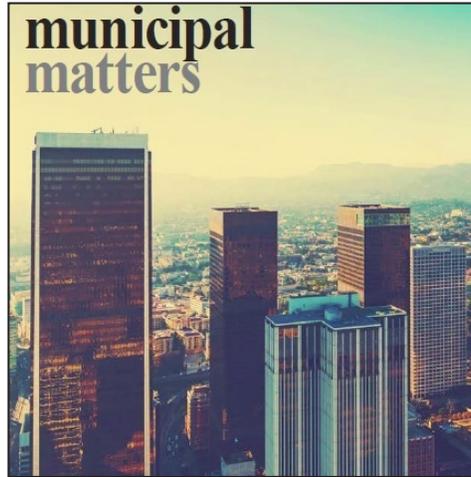
By Jolena E. Grider

A little-known subset of local government law is the law that applies to special districts. There are several types of special districts including those for libraries, hospitals, water services, fire protection, flood control and cemeteries. Special districts have most of the same basic powers as counties and cities in California. They can sign contracts, employ workers and acquire real property through purchase or eminent domain. Following constitutional limits, they can also issue bonds, impose special taxes, levy benefit assessments and charge service fees. Like other governments, special districts can sue and be sued. Special districts have corporate powers and tax powers, but rarely police power. Special districts usually build public facilities and provide services.

One type of special district in California is the cemetery district. Public cemetery districts provide a single service to the public, cemetery plots and interment. There are 256 public cemetery districts in the state of California. Health and Safety Code Section 9000, et seq., known as the Public Cemetery District Law provides regulations for cemetery districts. The Public Cemetery District Law was originally enacted in 1909 and was comprehensively rewritten in 2004.

Public cemetery districts are limited purpose local governments separate from cities and counties. Within their boundaries, they provide focused public services regarding cemeteries and interment for residents in the district. They were created to provide for the respectful and cost-effective interment of human remains to meet the cultural, economic, religious and social needs of California's diverse communities. Health and Safety Code Section 9001. For nearly a century, public cemetery districts have provided communities with the means to publicly finance the ownership, improvement, expansion and operation of public cemeteries and the provision of interment services. In that regard, these districts provide a great service to their residents.

Health and Safety Code Section 9020 provides that a cemetery district must be made up of at least three members as a board of trustees. This board governs the district and is sub-



Shutterstock

ject to the laws that apply to public agencies for conduct of meetings, such as the Ralph M. Brown Act (Government Code Section 54950, et seq.), the Public Records Act (Government Code Section 6250, et seq.) and the Myers-Milias-Brown Act (Government Code Section 3500, et seq.). Trustees are typically appointed by the board of supervisors of the county where the district is located. Appointees are required to be voters in the district that they are appointed to and are required to represent the interests of the residents, property owners and the public as a whole while carrying out their duties. Their duties include the same that are expected of cities and counties. They are required to adopt a budget and comply with municipal operation regulations. The board of trustees is required to hold meetings at least every three months. A county board of supervisors can appoint themselves to sit as the board of a cemetery district rather than have a separate board.

Cemetery districts are given certain rights and powers under Health and Safety Code Section 9041 including the following: to sue and be sued; to acquire property by purchase, eminent domain, grant, gift or other lawful means; to sell, lease or otherwise dispose of property; to hire employees, define their qualifications and duties, and to set compensation; to hire legal counsel and other professional services; to enter into and perform contracts; to adopt ordinances; to adopt and enforce rules for the administration, maintenance, operation and the use of cemeteries; to enter

into joint powers agreements; and to appoint advisory committees. These districts operate just as cities and counties do.

Cemetery districts are funded by an allocation from the county's property tax revenue. The district may also impose a special tax on all real property within the district through the procedures in the Government Code, including the Mello-Roos Community Facilities Act. The district may also charge fees to cover the actual costs of services it provides or regulations it enforces.

Cemetery districts are authorized to sell interment rights to residents of the district. They can only charge the actual amount it costs them to provide the services. They are allowed to sell interment rights to nonresidents of the district only under certain conditions. A non-resident fee is charged and is typically only allowed if the person is a family member of a person who is already interred in a cemetery owned by the district or a family member of a person who has acquired interment rights in a cemetery owned by the district. There are also many other exceptions to the resident only rule that can be found in Health and Safety Code Section 9061.

Public cemetery districts use the same general municipal legal services that cities and counties use. They are subject to the same laws and regulations that apply to municipalities in California. For any other facts that you are dying to know about cemetery districts, more information can be found in the Health and Safety Code. There is also a California Association of Public Cemeteries website with useful information that can be found at www.capc.info.

Jolena Grider is a partner at Cole Huber LLP's Ontario office.

