

d.

Agenda Item

Discussion/Possible Action

Can the CSD legally spend money contributed by Kiewit Pacific Co. to fight the construction of the proposed Solar Projects?

This is an unresolved issue from the May CSD Meeting.

At the May CSD meeting, the request was made for approval to spend from the remainder of the money contributed by the Kiewit Pacific Co. in 2004, to fight the construction of the proposed solar projects. In response, the Vice President proposed we write a very explicit letter to a lawyer to get an answer to this question. The letter was written and turned over to others to proceed as the Vice President was going out of town.

What is the status of the question? Do we have an answer?

June 1, 2018

Kiewit Pacific Question

In 2004 to settle an "Appeal to Board of Supervisors Regarding Planning Action" by Newberry CSD, CEQUA-NOW, and certain individuals, Kiewit Pacific Co. donated \$350,000 to Newberry Springs Community through the Newberry CSD (see attached letter of Settlement Agreement). \$20,000 of this money was designated for emergency services and the balance to be used at the "discretion of the CSD" for the benefit of the community. The \$20,000 was used for the Newberry Volunteer Fire Department. Portions of the \$330,000 were used at various times for the community. There is a balance of \$138,206 (in a CD) left.

Currently, the CSD is being asked by several people to approve spending money from this account for defending the community from proposed solar projects. Their premise is that since this is not Tax money, it is not restricted as to how it can be spent. We are not sure this is allowed.

A legal analyst advised that a CSD can only spend money in areas sanctioned by our powers: Park & Recreation, Street Lights, Fire Department, Water, & Sewer Services (see letter dated May 26, 2015 attached).

- 1) Can we spend money received from donations, contributions, and any funds other than tax dollars outside those powers?
- 2) If law allows the CSD to spend donations, contributions, any funds other than tax dollars outside our powers, is there anything in the Kiewit Pacific agreement that would prohibit this spending as suggested by Mr. Fred Stearn (Item 8, letter attached)?

Thank you.