

Cedar-Vine Foes Lose Second Round--Court Fight Looms

By Don Righetti
Sentinel Staff Writer

Protestors against the Cedar-Vine connecting street project lost the second round of their battle Friday night when the city council ruled the assessments will have to be paid.

But the city isn't out of the woods yet. Round three is coming up: Frank Murphy Sr., attorney for the opponents, has indicated he will carry the battle to the courts.

The objectors, who represent \$81,000 in assessments on the \$407,000 project, won the first battle when they raised so many arguments during preliminary hearings that the city agreed to drop the proceedings and begin all over to prove obligation.

The marathon hearings of Tuesday and Friday nights were held to re-establish the validity of that obligation.

The fate of the project itself was not in doubt at either of these hearings. All other steps have been taken to begin the Cedar-Vine job, and the work will go on. These last two hearings concerned only the dissident property owners representing some one fifth of the assessments.

At the conclusion of Friday's hearing, which actually ended early Saturday morning, some hope was given for a measure of relief for all property owners in the assessment district. Councilman Norman Lezin suggested the city increase its con-

tribution by \$50,000, thereby reducing all assessments.

Councilman A. R. (Dick) Hackbarth thought the city shouldn't put any more money into the work, but the council by a 6-1 vote decided to consider increasing the city's share after hearing recommendations from the municipal staff.

Friday's hearing was a replica of the Tuesday proceedings. It resembled civil court procedure more than a council meeting, with Murphy representing the plaintiffs, attorney Robert Aubrey representing the city, and

the council sitting as judge and jury.

Aubrey started the hearing by calling Thomas Williams, engineer on the Cedar-Vine job, to the witness chair.

Williams affirmed the need for the cut-through and said that since its benefits would be area wide, the assessments should be area wide. He said he saw no reason to reapportion the assessments.

Murphy then attempted to establish a selfish interest by

Williams in the work. He pointed out that the engineer had done considerable work on the job before it was ever officially approved by the council, and that his only hope of payment would be if the job were finally approved and he was awarded the engineering contract.

Lezin called Murphy's reasoning naive, noting that many assessment districts are formed by small groups who call in experts to assist them.

He said the city does not have a sufficient staff to do the work itself.

Murphy retorted that property owners were entitled to have their assessments made by Public Works Director Bill Fieberling, a man who has no monetary interest in such projects. He said Fieberling was required by statute to spread the assessments.

Murphy also resented the calling in of out of town attorneys on the case. "You can commit everything but murder under the code governing assessment districts," he said. "The city attorney could have handled it."

The protestants' counselor then made another bid to have the assessments spread throughout the city. Referring to the Cedar-Vine cut-through, he said, "As a general benefit, it may be a red-hot prospect, but its special benefit is confined to the property fronting on it."

Real estate appraiser S. Clair Ellis, who had testified at Tuesday's hearing, again took the witness chair.

He restated that Pacific avenue businesses would not benefit by the project, but would indeed be hurt as it

cut down Pacific avenue traffic.

He further noted that some of the assessments in the district were confiscatory.

Murphy then pulled one final argument out of his hat. He read a transcript of a February 25, 1964, council meeting which he said proved the council had voted down the project at that time and had never since re-established its public need and benefit.

He claimed all subsequent Cedar-Vine proceedings, then, were null and void.

Aubrey, however, claimed the council had passed other resolutions that night that proved it was still interested in the project.

After hearing all the arguments, the council voted quickly and unanimously to reaffirm the assessments.

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