

Cedar-Vine cut-through remains controversial issue - opponents may sue

by David Johnson

Two nights of marathon sessions last week failed to resolve the dispute over assessments and the opening of Cedar-Vine streets in Santa Cruz to through traffic.

Opposing the project are some 40 property owners in the city-approved assessment district, represented by Santa Cruz attorney J. Frank Murphy Sr. The battle began at last Tuesday's council meeting, running through to 1:30 a.m. Wednesday morning. It was continued until Friday, and ran into the wee hours of Saturday without any-

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thing being resolved and the threat of a suit hanging over the city.

Friday night councilmen ruled that protestors would have to pay the assessments computed by district engineers. Councilman Norm Lezin hoped to sweeten things by offering to contribute another \$50,000 to the assessment kitty, thereby reducing all assessments. This would bring the city's share in the project to \$150,000.

The overall is to cost around \$600,000, with the opponents scheduled to pick up \$81,000 of the tab.

Murphy contends that if the project is of such a general benefit to the city as claimed by the council the assessments should be spread throughout the city.

"As a general benefit, it may be a red-hot prospect, but its special benefit is confined to the property fronting on it," said Murphy Friday night.

Once again Murphy argued that the so-called "key meeting" of February 25, 1964 setting up the district, had actually been voted down and that the council has not re-established its public need and benefit since. He claimed all subsequent proceedings since were null and void.

Councilmen heard arguments between Murphy and bonding attorney Albert Aubrey, during which city public works director Wilson Fieberling was grilled extensively.

Murphy led off things Tues-

day night with a list of 35 reasons why the city could not legally proceed with the proposed street cutthrough, and why each of the council members should be disqualified from sitting and hearing the requests of the 40 property owners for an assessment of their alleged "benefit" by the project.

Aubrey told the council the assessment district had been formed and the only question before the council was whether certain parcels should be assessed.

Aubrey came in for some indirect criticism Friday night when Murphy criticized the city for calling in out-of-town attorneys to handle the case.

"You can commit everything but murder under the code governing assessment districts," Murphy said.

Murphy felt the city should have called up the city attorney to handle the protest hearings.

The street opening will connect Cedar and Vine streets, providing downtown Santa Cruz with three major roads running parallel to Pacific avenue. The project, which will cost around \$600,000, requires the acquisition of the old Sentinel building, the old Salinas Valley Savings & Loan building and the old Pacific Telephone building. The major cost of the project is in land acquisition.

The assessment district set up by the city includes most of the downtown business dis-

trict and assessments were made, according to Fieberling, on a "benefit" system.

An attempt by Murphy to have council members and witnesses take an oath before giving evidence was rejected by Mayor Eugene Fleming on three occasions. Fleming declared the oath unnecessary; that the record would show what had transpired.

The "benefit system" was sharply attacked by Murphy who claimed the Palomar hotel, of which he is a part owner, had a higher assess-

ment (\$10,607) than the entire frontage area on the new street. To support this point Murphy produced real estate appraiser S. Clair Ellis, who stated that Pacific avenue businesses would not benefit by the project, but would indeed be hurt, as it would ultimately cut down Pacific avenue traffic.

Murphy was critical of the engineering firm of Bowman and Williams, which he said had set assessments for the district four times, with each change in assessments being "grossly in error."

NRA honors Aptos man as Man of the Year

The National Rifle association of America at its annual convention in Washington, D.C. named Fred C. Mills, 81, of Aptos, as its "Man of the Year," commemorating a lifetime of service to the cause of safety and the objects and purposes of the association. Mills is the second recipient of the recently-instituted annual NRA public service award.

For 25 years, Mills headed the health and safety program of the Boy Scouts of America insisting from the outset that shooting and firearms safety be an integral part of the boy

scout program. As a result of his efforts, which began in the mid-1920's, there are now 485 rifle ranges in boy scout camps. The health and safety service of the boy scouts estimated that at least 300,000 scouts were given safety and shooting training in those camps during the summer of 1966 alone.

Mills' lifetime interest in safety began in his youth, which was marred by tragedy on several occasions. At the age of ten, he was saved by his brother from drowning in

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Murphy asked Fieberling why Kelly's Auto Parts on Front street had a higher assessment than a parcel on the corner of Vine and Church streets.

To support the "benefit system" Aubrey called realtor Joseph Nittler. Nittler read a prepared statement supporting the assessments and the need for the new street.

Murphy then attempted to show how Nittler would stand to gain through the street opening, doubling his street frontage when the street was completed.

In his questioning of Fieberling Murphy offered evidence how the assessments on the Bank of America, Elks and PG&E property had been substantially altered through the four assessments.

Attorney Aubrey sought to establish Fieberling as legally qualified to assess land for the district and show that he had done a "soul searching" job. He spent much of the first session reading involved legal arguments as to why the city is impowered to hear the pleas for reassessment, and why it can deny them.

At Friday's meeting Aubrey called engineer Thomas Williams, who affirmed the need for the cutthrough and said since its benefits would be area wide, the assessments should be area wide. He said he saw no reason to reapportion the assessments.

Murphy questioned Williams' impartiality, pointing 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.

Councilman Norman Lezin said Murphy's reasoning was naive and claimed the city did not have a sufficient staff to do the work itself.

Murphy said the Palomar hotel pays "over \$1000 a month in taxes" to the city and county, and a room tax on top of this. He implied the \$10,000 district assessment might be "the straw that broke the camel's back." He called the proposed assessments "almost highway robbery" and reminded the council that it could dispose of the entire problem by merely dissolving the district.

United California Bank trust officer John Navarro, acting as executor of several Pacific avenue parcels, told the council he sees no benefit to the property he manages resulting from the Cedar-Vine project.

Aubrey claimed Navarro was "unqualified" to decide the value of the cutthrough.

Dr. Bernard Zwerling, who opposed the project and has property fronting on Pacific avenue, pleaded with the council that the project be dropped, countering an expected rebuttal from Aubrey by saying, "Contrary to the statement of the bonding attorney,

I am the expert on my property."

Contradicting the claims of Fieberling, Aubrey and the council, Dr. Zwerling listed various "experts" in real estate who felt the new street would be of no aid to downtown businessmen.

The only councilman voicing real opposition to the proposed \$50,000 contribution, over and above the \$100,000 it has already approved, was Dick Hackbarth, who said he didn't feel the city should put up any more money.

The council voted unanimously to reaffirm the assessments, however.

Bella Donna salon overwhelmed by response to ad

"We were overwhelmed with the response to our advertisement in the April 12 edition of The News," according to Don Thomas and Charles Dicks, owners of Bella Donna Salon of Beauty in Aptos.

Wiglets and wigs were advertised and people came from all over the county to purchase them.

Merchandisers have learned that if they want "total response" they use the advertising columns of The News, the county's picture newspaper.

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