

Decision No. 14791.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
the City of South San Francisco for
a grade crossing at Orange Avenue and
Third Street in said City.

Application No. 10110.

ORIGINAL

John F. Davis for applicant.
F. W. Mielke for Southern Pacific Co.
I. R. Dains for Market St. Railway.

SQUIRES, Commissioner:

OPINION ON REHEARING

This application was heard at South San Francisco on August 4, 1924, and in Decision No. 14036 the Commission, after a careful review of the evidence, denied it on the ground that conclusive evidence of public necessity had not been produced. Subsequently, on September 25, 1924, the applicant asked for a rehearing, stating that it was now prepared to offer testimony showing that there is an actual and immediate necessity for favorable action on its petition. Thereafter on November 1, 1924, the Commission ordered a rehearing, and after several postponements at the request of the applicant, the application was reheard on May 4, 1925, at South San Francisco, when considerable testimony both oral and documentary was introduced and when the case was finally submitted.

In its petition the applicant requests permission to

construct grade crossings over the double track line of the Market Street Railway Company, where it intersects Third Street, the Southern Pacific Company's Baden branch and the Southern Pacific Company's Valencia Street branch, in order that it may open a street extending Orange Avenue in a southwesterly direction to connect Third Street with a sub-division formerly called Baden but now designated on the maps as Los Cerritos. The Market Street Railway Company's right of way and that of the Southern Pacific Company's Valencia Street branch are adjacent, the latter running along the easterly side of Los Cerritos. The tract of land traversed by the proposed extension of Orange Avenue between these tracks and the Southern Pacific's Baden branch is low ground, which is sometimes overflowed during the rainy season, it being the natural outlet to the Bay for a large watershed located northwesterly of South San Francisco. At the present time this low ground is overgrown with a dense growth of willows.

According to evidence taken at the former hearing, the City of South San Francisco plans to reclaim this tract by constructing a drainage channel in which the surface water will be confined, and it was stated that the proposed extension of Orange Avenue, in addition to being used as a highway, would act as a levee to check the flow of the surface water in winter and cause the sediment to deposit on the upper side of the roadway. It was stated also that the principal object of the proposed extension was to provide a direct route between the business center of South San Francisco and Los Cerritos, which is a growing territory annexed to the city, but which can now be reached only by circuitous routes via Cypress Lawn Cemetery on the north or San

Bruno on the south, a distance in each case of three or four miles, or by certain other more direct route over which streets are at present unimproved and not physically open for travel.

At the previous hearing, it was shown that the City proposed to establish a City park on the low ground to which reference has been made adjoining the projected roadway. Owing to the fact, however, that its park plans were in an inchoate condition, the Commission deemed it advisable before establishing the crossings over the three railroad lines in question, to await their maturity. The former record established the fact that a direct connection between the business center of South San Francisco and Los Cerritos constituted in itself a public necessity, owing to the difficulty of reaching that subdivision via streets already open, but which are unimproved, namely, Oak and Chestnut Avenues, and the much longer distance via Cypress Lawn and San Bruno, but except for this condition there was not sufficient showing for an order in the former proceeding.

But at the hearing on May 4, 1925, the applicant introduced a great deal of testimony which bears directly upon this question of public convenience. Briefly, this consisted of a deed from the South San Francisco Land and Improvement Company to the City of South San Francisco conveying twenty (20) acres of land adjoining the proposed extension of Orange Avenue to be dedicated for a public park. This deed is dated April 27, 1925. Also a resolution of the Board of Trustees of the City of South San Francisco, accepting the grant and pledging the city to carry out the conditions expressed in the deed and agreeing to levy the necessary taxes for the development of the park. This park when improved will adjoin the extension of Orange Avenue on the north and it thereby becomes apparent that public necessity requires a

crossing of the Baden branch of the Southern Pacific where it intersects Orange Avenue. In no other way could the people of South San Francisco reach the proposed park. Indeed, this was so clear that the representative of the Southern Pacific, at the hearing, withdrew the protest of that corporation to the proposed crossing over the track of the so-called Baden Branch. This branch is not now in operation, being used mainly as a storage track, and there is, therefore, little if any hazard.

The County Surveyor of San Mateo County testified that travel via Oak and Chestnut Avenues to Los Cerritos on the northwest was at the present time impracticable and that during certain seasons of the year impossible. It was his opinion that if Orange Avenue were extended across the railway tracks adjoining Los Cerritos the City would not undertake the improvement of these two avenues for a long time to come, since the distance to Los Cerritos was greater by both of them than by the proposed direct route. The Mayor of South San Francisco testified that the City was unanimously in favor of the Orange Avenue extension, not only because it would provide direct access to the proposed park, but because it would enable school children in Los Cerritos to reach the high school and grammar school now located in Block 96, which adjoins Orange Avenue. At present, he added, Los Cerritos is without fire protection by reason of the long distance separating it from the City of South San Francisco. Such protection would be provided if the proposed avenue is opened.

There is located to the west of Los Cerritos 436 acres of land belonging to the California Golf Club. Some of the employees and members of this club reside in South San Francisco, and the president of the club testified that the membership, consisting of about 400, will procure their supplies in the latter

city. It is proposed to call this golf club the "Baden Golf Course" and it will represent an investment of \$400,000. exclusive of the individual homes that will be constructed in its vicinity. This witness also testified that the members of the club are unanimously in favor of the extension of Orange Avenue.

Evidence was also given by town trustees, real estate men and a representative of the employees of the Pacific Coast Steel Company, located at South San Francisco, all of which was to the same effect. The industrial plants located in the city, one witness testified, represent an annual payroll of \$6,000,000. Large numbers of the employees of these plants, it was stated, would build their homes on the west side of the city if they had direct access thereto. Mr. Kleemyer, principal of the Grammar School, testified that 15 High School and 24 Grammar School pupils reside in Los Cerritos, their only means of getting to the school in Block 96, South San Francisco, being a street car line over which they are required to pay two fares. He asserted that this greatly interferes with attendance during rainy weather and is more or less a subject of hardship and complaint.

The Chief of the Fire Department testified that it is practically impossible to haul his apparatus via Cypress Lawn and San Bruno and reach a fire in Los Cerritos until the property sought to be saved has been completely destroyed. The proposed extension would shorten the distance by nearly three miles and would render it possible to give the people of Los Cerritos fire protection. An official of the South San Francisco Land and Improvement Company testified that if Orange Avenue is extended across the tracks in question his company would open immediately for subdivision about seventy acres of land, and the Manager of

the Chamber of Commerce of South San Francisco stated that his body had endorsed the extension on the sole ground that it was the most direct and shortest route to Los Cerritos, the cost of which could be most easily met by the tax payers. Similar endorsement was made by the President of the South San Francisco Women's Club. Applicant also placed on record a petition from 1283 citizens favoring the proposed extension.

As at the former hearing, the Market Street Railway Company, through its representatives, opposed the establishment of a grade crossing over the tracks of that company at Third Street and the proposed extension of Orange Avenue on the sole ground that it would create a serious hazard, since the cars of the company in approaching Third Street run on a descending grade and at high rates of speed. But it was agreed by the protestants that even if this hazard were such as to seriously interfere with the granting of the crossing permit, it could be largely eliminated by the installation of an automatic flagman. While it is true that there will be some hazard at the crossing proposed, it will be no greater than at hundreds of other crossings where no protection at all is provided. The travel to Los Cerritos for a long time will not be heavy, and the principal of the Grammar School stated that the Probation Officer would see that children were protected whenever they desired to cross to attend school. There was some discussion of an alternative route from Magnolia Avenue intersecting a tract of unimproved land lying southerly of Los Cerritos, where a shallow cut renders a grade separation possible. But this line, besides being longer than the proposed extension of Orange Avenue, would not accommodate the parking plans of the city and would impose a cost upon the city which its Mayor thought it would hesitate to assume.

It is my conclusion, and I so find, that the record shows a clear public necessity for these crossings, one of which is not opposed by the railroad interested. I think that the installation of proper signals at Third Street and Orange Avenue will reduce the hazard to such a degree as to justify the Commission in granting the petition of the applicants.

The following order, therefore, is recommended:

ORDER ON REHEARING

City of South San Francisco having filed a petition for rehearing and said rehearing having been held, the Commission being apprised of the fact, and the matter being submitted and ready for decision,

IT IS HEREBY ORDERED that the Commission's Decision No. 14036 dated September 10, 1924, be and it is hereby vacated and set aside.

IT IS HEREBY FURTHER ORDERED that permission be and it is hereby granted the City of South San Francisco, County of San Mateo, State of California, to construct Orange Avenue at grade across tracks of the Baden Branch of Southern Pacific Company and at grade across the tracks of the San Bruno Branch of Southern Pacific Company and at grade across the tracks of the Market Street Railway Company, in the following described locations:

"Beginning at a point which is the intersection of the northerly line of the Southern Pacific Railway Company's right of way, Baden Branch, with the center line of Orange Avenue produced southerly; running thence south 15 degrees 33 minutes west 50 feet to the southerly line of said Southern Pacific Railway's right of way, Baden, Branch

Also, a right of way 60 feet in width, lying 30 feet on either side of the following described center line, in the City of South San Francisco, to-wit:

Beginning at a point on the westerly line of the right of way of the Southern Pacific Railway Company's Valencia Street Branch which point is distant North 63 degrees 39 minutes 30 seconds East 223.4 feet and north 42 degrees 37 minutes 46 seconds East 90.00 feet from the intersection of the center line of Third (3rd) Street with the center line of C Street as said streets are shown on that certain map entitled, "Town of Baden, Part of the Buri Buri Rancho West of the Railroad", which map was filed for record in the office of the County Recorder of San Mateo County, Nov. 30, 1891, in Vol. E of Maps at page 62; running thence from said point of beginning North 42 degrees 37 minutes 46 seconds East 80.00 feet to the easterly right of way line of said Southern Pacific Railway Company's Valencia Street Branch."

as shown by the map attached to the original application, said crossings to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossings shall be borne by applicant. The cost of their maintenance up to lines two (2) feet outside of the outside rails shall be borne by applicant. The maintenance of that portion of each of the crossings of tracks of Southern Pacific Company between lines two (2) feet outside of the outside rails shall be borne by Southern Pacific Company. The maintenance of that portion of the crossing of the tracks of Market Street Railway Company between lines two feet outside of the outside rails shall be borne by the Market Street Railway Company. No portion of the cost herein assessed to the applicant for the construction or maintenance of said crossing shall be assessed by applicant in any manner whatsoever to the operative property of Southern Pacific Company and Market Street Railway Company, or either of them.

(2) The crossings shall be constructed of a width not less than twenty-four (24) feet and at an angle of ninety (90) degrees to the respective railroads and with grades of approach not greater than four (4) per cent; shall each be protected by suitable crossing signs and shall in every way be made safe for

the passage thereon of vehicles and other road traffic.

(3) An automatic flagman shall be installed for the protection of the crossings of the San Bruno Branch of Southern Pacific Company and the crossing of the tracks of the Market Street Railway at the sole expense of applicant. Said automatic flagman shall be of the type and installed in accordance with plans or data approved by this Commission. The maintenance of said automatic flagman shall be borne fifty (50) per cent by Southern Pacific Company and fifty (50) per cent by Market Street Railway Company.

(4) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(5) If said crossings shall not have been installed within one year from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is granted by subsequent order.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commis-

sion of the State of California.

Dated at San Francisco, California, this 3rd day
of June, 1925.

H. B. Brundage

George D. Squires

Emmerson

Commissioners.