

Decision No. 29382

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
TOWN OF PLEASANTON, a municipal
corporation, for Order to widen and
improve crossing.

Application No. 20653

ORIGINAL

Walter T. Nilson for Applicant.
R. S. Myers for Central Pacific
Railroad Company and Southern
Pacific Company.

BY THE COMMISSION:

OPINION AND ORDER

This is an application from the Town of Pleasanton, Alameda County, for an order authorizing and directing Southern Pacific Company to make certain improvements at Crossing No. D-40.9 of Neal Street with the tracks of that company.

A public hearing was held at San Francisco on November 7, 1936 before Examiner Hall and at this hearing the matter was submitted.

Neal Street in the Town of Pleasanton extends in an easterly and westerly direction connecting the residential section of the town to the east of the track with the business district which lies to the west of the Niles-Tracy Line of the Southern Pacific Company. Of several crossings in the town, the Neal Street crossing is probably the most important and traffic counts submitted in the evidence show that the normal week-day traffic is approximately 500 vehicles a day. There are four tracks at this point, consisting of the main line track and three sidings,

one of which is not of concern in the present proceeding. Traffic counts referred to show that the normal train movement is from 20 to 25 trains daily with some additional switching moves over the crossing. The visibility of the crossing is somewhat obscured by trees, station buildings and cars standing on the adjacent side tracks. The crossing is now protected by a single wigwag located on the left-hand side of the easterly approach.

In the vicinity of the railroad crossing there is a slight angle in the alignment of Neal Street and while the easterly approach to the crossing is at right angles, the westerly approach is at an angle of approximately 75 degrees. The widths of the approaches are 70 feet on the west and 80 feet on the east, and in both instances the street outside of the railroad right-of-way is paved to the full width between curbs. Inside the right-of-way line the pavement does not extend the full width of the street but on the westerly side the track area has been filled in with oiled screenings so as to permit of reasonably safe passage.

On the easterly side of the tracks, however, a ditch has been constructed on the railroad right-of-way, parallel to and adjacent to the tracks. This ditch was probably excavated at the time the railroad was constructed, its evident purpose being to divert the waters of a natural water way along the tracks to a more favorable point of crossing. As such it can reasonably be considered as a railroad facility. At the Neal Street crossing a wooden culvert providing a driveway about 30 feet in width on the southerly side of the street has been maintained over this ditch by the railroad company. A narrow foot bridge for pedestrians is provided in the northerly sidewalk area and between the two is an open ditch some four or five feet in depth around which

a crude fence is maintained, presumably for the purpose of preventing vehicles from driving into this open hole (View No. 3, Exhibit 5). Since immediately to the east of this ditch, Neal Street is paved to a width of approximately 60 feet, the short bridge extending little more than half way across the width of the street creates a traffic menace which the Town of Pleasanton desires to correct. It requests that the Southern Pacific Company extend this culvert to the full width of the street and that the crossing with the tracks be improved to conform with the adjacent portions of Neal Street.

The Southern Pacific Company does not deny the desirability of the improvements suggested by the City but takes the position that the greater portion of the expense should be borne by the Town of Pleasanton. The company does, however, offer to prepare its tracks to receive the pavement and will replace or repair the pavement to the width of the existing traveled roadway. It also offers to bear 50% of the cost of removing the existing wigwag and installing an additional signal.

Estimates of the cost of the proposed work based on replacing the culvert with concrete construction and also with timber construction were presented. There appears to be a difference of less than \$600 between the two types of construction and it is believed that the permanency of the concrete structure is well worth this additional expenditure. The total cost of the project, based on this type of construction, is as follows:

1. Prepare tracks to receive widened pavement	\$150.
2. Renewing crossing on existing main track	300.
3. Move existing wigwag and install additional wigwag	1063.
4-a Replace existing culvert with a 5'x8' concrete box	2003.

4-b.	Extend existing culvert 40' with a 5'x8' concrete box	\$1644.
5.	Extend existing wooden drainage pipe lying in and parallel with Neal Street	120.
6.	Install curbs and sidewalks and all pavement lying within the limits of that portion of the roadway to be widened.	<u>380.</u>
		\$5660.

According to the proposal of Southern Pacific Company, that company would agree to assume the entire cost of Items 1 and 2 and one-half of the cost of Item 3 or a total of \$981.50, leaving the rest of the cost of the project to be borne by the Town of Pleasanton.

The Commission is not satisfied that this is an equitable apportionment of the cost of correcting the hazardous condition now existing at the Neal Street crossing. The principal item of cost is the reconstruction and extension of the existing inadequate culvert spanning the ditch constructed by Southern Pacific Company for its own convenience. We believe this ditch to be as much a railroad facility as the railroad tracks. When such a facility offers an obstruction to the free and safe use of a public crossing, there is an obligation on the part of the railroad company to share substantially in the expense of overcoming such obstruction. (1) That the railroad company has in

(1) In Decision No. 19113 on Application No. 14132 (30 C. R. C. 780) relative to the construction of a pedestrian subway through an embankment constructed by Southern Pacific Company to carry its tracks across the City of Marysville, the Commission used this language:

****These tracks were subsequently raised, in order to improve railway operating conditions, thereby necessitating the construction of a number of subways,***.

(continued on next page)

practice admitted this obligation is evidenced by the fact that it has for many years maintained entirely at its own expense, a wooden culvert spanning this ditch. We can see no reason why it should not continue to maintain the culvert at this point providing a roadway at least as wide as the existing roadway.

On the other hand the extension of this culvert to the full width of the street will give material benefit to the Town of Pleasanton in that it will remove a serious traffic hazard. For this reason we believe the town should also share in the expense. An equitable apportionment of the cost of renewing and extending this culvert would therefore appear

(1) continued.

****it is not essentially the relief from the hazard of crossing railroad tracks at grade which necessitates the construction of the pedestrian subway proposed in this application, but rather the fact that, due to the creation of an artificial barrier by the railroad for its sole benefit,****."

In this application the Commission assessed 75% of the cost of the subway to the Southern Pacific Company.

In Decision No. 22630 in Case No. 2829, a situation quite similar to the instant application was presented. Grand Avenue, in South San Francisco, was paved the full width of the street on each side of the railroad tracks. Across the tracks, however, only a narrow driveway on one side of the street was provided, due to the presence of street railway crossing frogs which would make difficult and expensive, the construction of the wider roadway. In deciding this case, the Commission made the following statement:

"In view of the fact that the City of South San Francisco considered that traffic conditions warranted a substantial expenditure on the part of the city by paving Swift Avenue and Grand Avenue to practically the full width of the right-of-way on each side of Southern Pacific tracks, it appears reasonable to require that a crossing be constructed to practically the same width."

The carrier was ordered to bear the entire expense of this improvement.

to be to assess to the Southern Pacific Company the cost of replacing the existing culvert with a 5x8 concrete box (Item 4a listed above) and to the Town of Pleasanton the cost of extending the culvert to the full width of the street (Item 4b).

As to the remaining items in the above estimate, there can be no doubt that the cost of preparing the tracks to receive the widened pavement and of renewing the existing crossing (Items 1 and 2) should be borne by the railroad company. Similarly, Items 5 and 6, the cost of extending the wooden drainage pipe carrying Neal Street drainage and the expense of installing curbs and sidewalks and the paving of the widened roadway should be borne by the Town of Pleasanton.

This disposes of all items in the estimate with the exception of No. 3, the cost of moving the existing wigwag and installing one additional signal. The existing wigwag is located on the lefthand side of the easterly approach. That it is not in its proper location on the righthand side of the road is clearly not the fault of the Town of Pleasanton. The railroad company has chosen to install and maintain this signal on the wrong side of the road for reasons best known to itself and we therefore believe that the cost of moving it to its proper location is its responsibility.

Because of the angular approaches from the west and the somewhat extensive area occupied by this crossing, we believe that it is in the interest of safety that an additional wigwag signal be installed on the westerly side of the railroad, approximately at the location shown on Exhibit 4. The installation of this additional signal is not in this instance occasioned by the widening project proposed by applicant but is rather an improvement in protection which is desirable regardless

of whether or not the other changes are made. While in some instances the Commission has required the municipality to participate in the cost of providing additional protection, this has usually been where changes in the streets or roads have been such as to induce additional traffic. There is nothing in this record to indicate that there has been any material change in traffic conditions at the Neal Street crossing for many years or that the elimination of the traffic hazard caused by the existing open ditch is going to increase the amount of traffic. Under these circumstances we are of the opinion that in the present instance Southern Pacific Company should bear the entire cost of installing an additional wigwag.

The record clearly shows that public convenience and necessity require the improvement of said crossing and that the cost of said improvement should be apportioned as outlined herein.

The following Order will therefore authorize the improvements to the Neal Street crossing requested by the Town of Pleasanton; require Southern Pacific Company to install additional protection and apportion the cost of the entire project on the basis outlined above.

O R D E R

The Town of Pleasanton having made application for an Order authorizing and directing certain improvements to the crossing of Neal Street with the tracks of Southern Pacific Company in said city, a public hearing having been held and the matter submitted and ready for decision,

IT IS HEREBY ORDERED that the Town of Pleasanton is hereby authorized to widen and improve the crossing of Neal Street with the tracks of Southern Pacific Company, Crossing No. D-40.9, substantially in accordance with the plan shown in Exhibit 4, filed at the hearing in this application, subject to the following conditions:

- (1) The cost of these improvements shall be apportioned in the following manner:

To Southern Pacific Company:

- (1) The cost of preparing its tracks to receive the widened pavement.
- (2) The cost of renewing the crossing where necessary, to its existing width, between bounds 2 feet northwesterly from the northwesterly rail of the house track to 2 feet southeasterly from the southeasterly rail of the passing track.
- (3) The cost of moving the existing wig-wag to its proper location on the righthand side of the easterly approach to said crossing.
- (4a) The cost of replacing the existing culvert to its present length with a 5x8 concrete box.

To Applicant:

- (4b) The cost of extending said culvert with a 5x8 concrete box to the full width of said Neal Street.
 - (5) The cost of extending the existing drainage pipe lying in and parallel with Neal Street.
 - (6) The cost of installing curbs and sidewalks and all pavement lying outside of the limits of the existing crossing as defined in Item 2 above.
- (2) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the work authorized herein and of its compliance with the conditions hereof.
- (3) The authorization herein granted shall lapse and become void if not exercised within one (1) year from the date hereof unless further time is granted by subsequent order.

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

IT IS HEREBY FURTHER ORDERED that Southern Pacific Company is hereby directed to install at its own expense, within 120 days from the effective date of this Order, one additional Standard No. 3 wigwag on the westerly approach to said crossing of Neal Street with its tracks in the Town of Pleasanton, (Crossing No. D-40.9) at the location shown on Exhibit 4 filed at the hearing in this proceeding.

For all other purposes the effective date of this Order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 21st day of December, 1936.

M B C

Leon C. Whaley

Matthew M. ...

Commissioners.