

ORIGINAL

Decision No. 46655

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the CITY OF MARTINEZ)
to construct a public highway across) Application No. 32608
a railroad.)

- Francis Hoey, City Attorney, for the City of Martinez.
- Leonard M. McClintock, City Administrator, for the City of Martinez.
- Thomas Y. Sturtevant, City Engineer, for the City of Martinez.
- Thomas F. Fraga, for Martinez Furniture Company, protestant.
- R. S. Myers, for Southern Pacific Company, interested party.

O P I N I O N

The City of Martinez seeks an order authorizing it to construct a crossing at grade over the tracks of the Southern Pacific Company at Pine Street and to effect the closing of the existing grade crossing at Ferry Street, in said city, in such manner as is particularly delineated on a map attached to the application.

A public hearing was held at Martinez before Examiner Silverhart.

Ferry Street runs west of and immediately adjacent to the Southern Pacific Company's railroad station, continues across the tracks, and connects, after traversing a distance of approximately 450 feet easterly, with the roadway leading to the Martinez-Benicia Ferry. Pine Street is approximately 700 feet east of Ferry Street, terminates at the southerly line of the railroad right-of-way and by prolongation is approximately 250 feet easterly of the ferry road.

Leonard M. McClintock and Clarence Viera, City Administrator and Fire Chief, respectively, of the City of Martinez, and Lowell Kunze, Armament Superintendent of Benicia Arsenal, testified in support of the application.

The city administrator testified that traffic to the Benicia Ferry is barred daily at Ferry Street, by trains standing at the railroad station and that such condition has existed for many years; that the proposed crossing will afford more room for trains at the station without obstructing traffic moving to the ferry; that the proposed crossing will make available a more direct route to the ferry and through traffic will also be thereby enabled to better meet the scheduled ferry trips; that the proposed crossing would make possible the routing of traffic away from the business district thus allowing the police and fire departments easier access to the area north of the tracks. The witness stated that if the authority herein requested were granted, a pedestrian crossing will be constructed at Ferry Street, and Howard Street, which connects Ferry and Pine Streets, will be paved.

According to the testimony of the fire chief the Ferry Street crossing is utilized in responding to fire calls north of the railroad tracks; that on one occasion fire equipment was delayed seven minutes by a train standing at the crossing; on other occasions delays as long as 12 to 15 minutes were encountered.

The Benicia Arsenal armament superintendent testified that 400 residents of Martinez are employed at the arsenal; that the ferry is employed in travelling to the arsenal; that the Ferry Street crossing often is blocked by standing trains.

The train master of the Southern Pacific Company's Western Division testified that 100 trains per day pass through Martinez; that the 15 westbound freight trains per month which stop at Martinez block the Ferry Street crossing; that eastbound freight trains do not stop at Martinez; that 26 passenger trains stop at the Martinez station each day; that trains carrying mail block the Ferry Street crossing from 10 to 18 minutes and those with passengers only, obstruct such crossing for three to seven minutes; that such trains could be stopped at the station so as to clear the proposed Pine Street crossing but in any event trains cannot use the station without blocking the Ferry Street crossing.

Southern Pacific Company's assistant division engineer testified the proposed crossing would eliminate one track at Pine Street, improve the traffic situation and relieve the railroad of complaints directed to it by the City's officials and residents. The witness estimated the cost of constructing the proposed crossing, including automatic gates, at \$28,770, which cost would be borne by the railroad if the Ferry Street crossing was closed.

Ralph G. Hoffman, co-owner of the Martinez Furniture Company, situated on the west side of Ferry Street, south of Howard Street, protested the granting of the application. The witness stated that transient motorists en route to the ferry have stopped and made purchases at his store; that the Ferry Street crossing is a direct benefit to him and that the proposed crossing would be detrimental to his business. According to his testimony, however, traffic inbound from Walnut Creek could continue to proceed past his establishment; that approximately 60 per cent of his business is derived from the surrounding areas nearby and forty per cent from the city; that business diverted as a result of closing Ferry Street might amount to five per cent in the course of a year.

It should be noted that there were no other protests although the evidence indicated there are other businesses including a furniture store, located in the block immediately abutting the railroad right of way. The record also shows that closing the Ferry Street crossing would not result in a cul-de-sac.

This record shows and we so find, that the public interest would be best served by granting the within application.

The ensuing order will provide for an allocation of the costs of closing the existing crossing and constructing a crossing at Pine Street in such manner as is contained in a proposed street agreement (a part of the record in this proceeding) presently pending between the City of Martinez and the Southern Pacific Company.

O R D E R

A public hearing having been had and based upon the evidence therein adduced,

IT IS ORDERED:

(1) That the City of Martinez is authorized to construct a public crossing of Pine Street with the tracks of the Southern Pacific Company at the location more particularly outlined and in the manner delineated upon the drawing attached to the application, subject to and only upon the following conditions:

- a. The above crossing shall be identified as Crossing No. A-34.9.
- b. Said crossing shall be constructed equal or superior to type shown as Standard No. 2 in General Order No. 72 and shall be protected by two automatic crossing gates incorporated as a supplement to two Standard No. 8 flashing light signals of the type shown in General Order No. 75-B.

- c. The cost of constructing the Pine Street crossing shall be borne by the City of Martinez and the Southern Pacific Company in such proportions as are provided by the terms of a proposed agreement entitled "Street or Highway Agreement" presently pending between them and filed herein.
 - d. The cost of maintaining said gates and lights and those portions of said crossing between lines two feet outside of the outside rails shall be borne by the Southern Pacific Company.
 - e. Upon completion of the crossing at Pine Street as herein authorized, the Southern Pacific Company and the City of Martinez, shall abolish, by physical closing, the crossing of Ferry Street (A-34.7) with the main line railroad track of the Southern Pacific Company in the City of Martinez in such manner as is set forth on said drawings hereinabove referred to. The pedestrian crossing provided for therein shall be identified as Crossing No. A-34.7-D.
 - i. Southern Pacific Company, in abolishing said crossing, shall, at its own cost and expense, remove said crossing and its approaches, within the limits of its right of way, and erect suitable barriers, in such manner as effectively to physically close said crossing to prevent its use by vehicular traffic.
 - ii. The City of Martinez shall institute such action as is necessary to legally abandon and effectively close said Ferry Street crossing and within 90 days after the effective date hereof shall file with this Commission certified copies of its proceedings effectuating the same.
- (2) Applicant shall within 30 days thereafter, notify the Commission, in writing, of the completion of the installation of the Pine Street crossing, and of its compliance with the conditions hereof.
- (3) The authorization herein granted shall lapse if not

exercised within one year from the date hereof, unless further time is granted by subsequent order.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 15th day of January, 1952.

A. J. [Signature]
President
Justus J. Gallen
Harold Hule
[Signature]
Commissioners