

ORIGINALDecision No. 6059.3

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion to determine whether or not a grade separation should be constructed at San Antonio at Public Utilities Commission Crossing No. E-34.0 (San Antonio Road) and if said grade separation is to be constructed, the proportions in which the expense of constructing and maintaining such separation shall be divided among the Southern Pacific Company and applicable public agencies.

Case No. 6475

Application of the CITY OF MOUNTAIN VIEW, for an order authorizing construction of a crossing at separated grades between San Antonio Avenue and the tracks of the Southern Pacific Company, sometimes referred as the "San Antonio Avenue Overpass".

Application No. 41467

A P P E A R A N C E S

Mr. Rodney R. Atchison, for City of Mountain View, Applicant; Mr. Taber Johnston, Jr., for City of Saratoga, Protestant; Mr. Anthony A. Lagorio, for City of Los Altos; Mr. John R. Kennedy, for County of Santa Clara; Mr. Thomas B. Inglis, for City of Monte Sereno; Mr. Frank Gillio, for City of Sunnyvale; Mr. John R. Nimocks, for City of Palo Alto; Mr. J. Rainey Hancock, for Town of Los Gatos; Mr. John A. Waner, for County of Santa Cruz; Mr. Robin D. Faisant, for Town of Los Altos Hills, Respondents; Mr. Randolph Karr, for Southern Pacific Company, Respondent and Interested Party; Mr. Warren P. Marsden, for State of California, Department of Public Works, Interested Party; and Mr. M. E. Getchel, for the Commission staff.

O P I N I O N

The City of Mountain View filed Application No. 41467 which seeks: (1) authority to construct a crossing at separated grades between San Antonio Avenue and the Southern Pacific Company's railroad tracks which now intersect San Antonio Avenue at grade, (2) authority for temporary vertical clearances during construction, (3) authority to close the crossing at grade when the proposed separation is completed, and (4) an order by this Commission allocating

the public agency portion of the costs of the grade separation between the applicant and the County of Santa Clara, the City of Palo Alto and the City of Los Altos, which are alleged to be "affected" public agencies within the purview of Public Utilities Code Section 1202.5.

Copies of the application were served upon the County of Santa Clara, City of Palo Alto and City of Los Altos, among others.

Prior to any public hearings in the matter, the City of Palo Alto filed a motion to have it dismissed from the proceeding. The City of Los Altos also filed a motion to have it dismissed as a party to the proceeding prior to hearing or, in the alternative to bring in other parties which it alleged are similarly affected.

On May 9, 1960, this Commission entered an order denying the motions to dismiss. Contemporaneously, this Commission on its own motion issued an Order Instituting Investigation in Case No. 6475 to determine whether or not a grade separation should be constructed at San Antonio at Public Utilities Commission Crossing No. E-34.0(San Antonio Road) and if said grade separation is to be constructed, the proportions in which the expense of constructing and maintaining such separation shall be divided among the Southern Pacific Company and applicable public agencies.

The Order Instituting Investigation named as respondents all the parties involved in Application No. 41467 as well as the following public agencies: The Town of Los Altos Hills, the City of Cupertino, the City of Sunnyvale, the City of Saratoga, the City of Monte Sereno, the City of Los Gatos, and the County of Santa Cruz.

The City of Los Altos filed a petition for rehearing from the order denying its motion to dismiss. Subsequent to the Commission's order denying the Palo Alto and Los Altos motions to dismiss, but before a public hearing was held in these matters, the City of Sunnyvale, City of Saratoga and Town of Los Gatos also filed motions to dismiss.

The Commission ordered Application No. 41467 and Case No. 6475 consolidated for hearing and decision. A public hearing was held in these matters before Examiner Donald B. Jarvis on June 13, 1960 at Palo Alto.

At the hearing the City of Mountain View, City of Palo Alto, City of Los Altos and County of Santa Clara entered into a stipulation which acknowledged the need for the particular separation of grade structure proposed by the City of Mountain View at the crossing of San Antonio Road and the Southern Pacific railroad tracks. It was further stipulated that the parties had entered into an agreement to allocate the public agency costs involved in the project as follows:

"The estimated cost of said project, including construction, land acquisition, property damages, detour roads in connection with construction of the separation, and frontage roads, is approximately Two Million Dollars (\$2,000,000.00). One-half (1/2) of said estimated cost, after deducting therefrom the contribution to be made by Southern Pacific, will be financed with funds allocated by Commission in accordance with Section 190 of the Streets and Highways Code of the State of California. The remaining estimated cost of said separation shall be allocated among the parties to this agreement as follows:

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|-------------------------|----------------------------|
| Los Altos | \$ 13,000.00 |
| Palo Alto | \$100,000.00 |
| County | \$585,000.00 |
| Mountain View | \$200,000.00 more or less. |

"The amounts hereinabove mentioned shall be maximum amounts, except as to Mountain View, which will bear any additional cost required to be paid as a result of the construction of said separation, and which is not otherwise provided for."

In the light of the aforesaid stipulation, the City of Los Altos withdrew its petition for rehearing from the order denying its motion to dismiss, and the City of Los Altos, City of Palo Alto, and County of Santa Clara withdrew any objections they may have interposed to the Commission's jurisdiction in these matters.

No evidence was produced at the hearing dealing with any other public agency named in the Order Instituting Investigation. In the light of this state of the record the City of Sunnyvale, City of Saratoga and Town of Los Gatos withdrew all their objections to the jurisdiction of the Commission in these matters and withdrew all motions heretofore filed by them.

It was further stipulated by all parties to the record that the matter could be determined without further hearing if an agreement was concluded between the public agencies here involved and the Southern Pacific Company for allocation of costs.

The hearing was adjourned subject to the filing of two late filed exhibits: (1) A copy of the formal agreement between the City of Mountain View, City of Los Altos, City of Palo Alto and County of Santa Clara, which was filed as Late Filed Exhibit No. 1 on July 5, 1960, and (2) Evidence indicating that an agreement for the allocation of costs had been reached between the aforesaid public agencies and the Southern Pacific Company, which was filed on August 8, 1960 as Late Filed Exhibit No. 2. This agreement provides that the Southern Pacific will contribute the sum of \$200,000 toward the construction of said grade separation.

In view of the stipulation waiving further hearing and the present posture of the record, the Commission finds that a further public hearing is not necessary.

Based upon the evidence of record herein, the Commission finds that:

1. The public safety, convenience and necessity require the construction of a grade separation over the tracks of the Southern Pacific Company at San Antonio Road in the City of Mountain View, Santa Clara County, California.

2. The structure proposed in Application No. 41467 is a reasonable and proper structure for said grade separation.

3. The agreement for the allocation of costs between the public agencies here involved entered into between the City of Mountain View, City of Palo Alto, City of Los Altos and County of Santa Clara is in accordance with law.

4. The memorandum of agreement between said public agencies and the Southern Pacific Company is in accordance with law. The parties should be ordered to file a formal copy of said agreement with the Commission within 180 days.

5. Grade separation for San Antonio Avenue has been established as Priority No. 6 for the year 1960 by Decision No. 59416 in Case No. 6344, pursuant to Statutes 1957, Chapter 2091.

O R D E R

A public hearing having been held and based upon the evidence of record in the aforesaid matters,

IT IS ORDERED:

1. The investigation on the Commission's own motion in Case No. 6475 is terminated and discontinued as to the following public agencies: The Town of Los Altos Hills, the City of Cupertino, the City of Sunnyvale, the City of Saratoga, the City of Monte Sereno, the City of Los Gatos, and the County of Santa Cruz.

2. The City of Mountain View is authorized to construct San Antonio Avenue at separated grades over the tracks of Southern Pacific Company, in the City of Mountain View, Santa Clara County, at the location as shown by map (Exhibit "B") attached to Application No. 41467, to be identified as Crossing No. E-34.1-A. Construction shall be substantially as indicated in the application. Clearances shall conform to the provisions of G. O. 26-D.

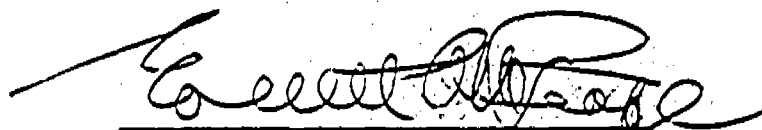
3. Construction and maintenance expense of the aforesaid grade separation shall be borne in accordance with (1) the agreement entered into between the City of Mountain View, City of Palo Alto, City of Los Altos and County of Santa Clara which agreement has been received in evidence in this proceeding as Late Filed Exhibit 1, and (2) the memorandum of agreement entered into between the Southern Pacific Company and the aforesaid public agencies, evidence of which has been received in evidence in this proceeding as Late Filed Exhibit No. 2. A copy of the formal agreement between the Southern Pacific Company and said public agencies together with plans of said crossing approved by Southern Pacific Company, shall be filed with the Commission within 180 days from the date hereof.

4. During the period of construction of Crossing No. E-34.1-A the City of Mountain View is authorized to create an impaired vertical clearance over Southern Pacific Company tracks of 20' - 0", and Southern Pacific Company is authorized to operate with such temporarily impaired clearance conditions provided it issue appropriate bulletins to train and enginemen advising them of the reduced clearance and forbidding trainmen to ride on tops of cars while operating beneath the structure.

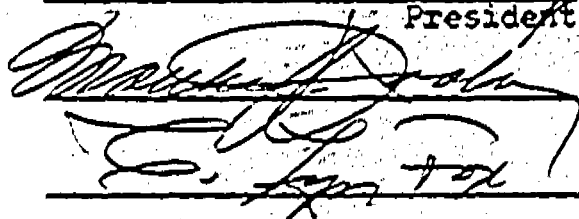
5. Upon completion of grade separation E-34.1-A, Crossing No. E-34.0 located about 270 feet westerly shall be abolished by physical closing by Southern Pacific Company.

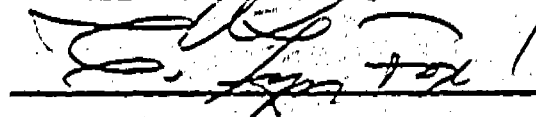
6. Within thirty days after completion pursuant to this order the City of Mountain View shall so advise the Commission in writing. This authorization shall expire if not exercised within three years unless time be extended or if conditions are not complied with. The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 23rd day of August, 1960.



President





Commissioners

Peter E. Mitchell
Commissioner Theodore H. Jenner, being
necessarily absent, did not participate
in the disposition of this proceeding.