

**ORIGINAL**Decision No. 68729

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of SAN JOSE, )  
 California, for permission to con- )  
 struct Stokes Street at grade across )  
 existing tracks of the Southern )  
 Pacific Company. )

Application No. 45927  
 Filed November 1, 1963

Investigation on the Commission's )  
 own motion to determine whether or )  
 not a crossing at grade of Stokes )  
 Street in the City of San Jose with )  
 the track of the Vasona Branch of )  
 Southern Pacific Company should be )  
 constructed, and if said grade cross- )  
 ing is to be constructed, the pro- )  
 portions in which the expense of )  
 constructing such crossing shall be )  
 divided among the railroad involved )  
 and applicable public agencies. )

Case No. 7872  
 Original Hearing

F. P. Palla, City Attorney and Donald C. Atkinson, Assistant City Attorney, for the City of San Jose, applicant in No. 45927 and respondent in No. 7872.  
Joseph G. Schumb, Jr., Deputy Counsel and John R. Kennedy, Assistant County Counsel for the County of Santa Clara, respondent in No. 7872.  
Randolph Karr, for Southern Pacific Company, protestant in No. 45927 and respondent in No. 7872.  
Harry P. Cochran and M. E. Getchel, for the Commission staff.

O P I N I O N

Duly noticed public hearings were held on Application No. 45927 on March 13, 16, 30 and 31, 1964. That application was heard on a consolidated record with Case No. 7872 on April 21, 22, June 11 and July 14, 1964. All the hearings were before Examiner Power at San Jose. On July 14 the matter was submitted and as of August 11, 1964 is ready for decision.

The railroad track here involved is the Vasona Branch of Southern Pacific Company. At Stokes Street it is a single track. This branch formerly extended from San Jose via Campbell, Vasona and Los Altos to the San Francisco-San Jose main line double track at California Avenue. Now, however, it extends only to the station of Simla, 14.5 miles from San Jose. Its only present function is to switch cars to and from industries from Campbell to Permanente. The right of way between Simla and California Avenue stations has been transferred to the county of Santa Clara for an expressway. No passenger or through freight service is, or could be, rendered over this trackage. Four round trips (eight one way moves) constitute the rail traffic at Stokes Street. The railroad speed limit is 30 miles per hour.

Adjoining the Vasona Branch right of way on its easterly side is a street called Southwest Expressway. This presently is a two-lane street, but in the near future it is to be expanded to four lanes. Much of the property needed for this expansion has been acquired. Further expansion to six lanes is contemplated, but that is too remote to concern us here. Like the Vasona track, the direction of Southwest Expressway is a little west of due south to a little east of due north. Southwest Expressway originates near the core area of San Jose and will provide a convenient means of ingress and egress to and from that area.

Stokes Street is a due east and west street extending from Bascom Avenue eastward to the right of way of Vasona Branch. It extends also to the west of Bascom Avenue, but not to the immediate east of Southwest Expressway. It is proposed to construct this street east of the expressway at some indefinite future date, but this, also, is too remote for present purposes.

At the point of crossing it is proposed to turn Stokes Street slightly south so as to cross the railroad at right angles and form a T intersection with Southwest Expressway.

There is always an element of hazard in any grade crossing. However, where the usage of the rail line is as limited as is the case here, that hazard is greatly reduced. Moreover, the commercial importance of this trackage is small. It is merely a means by which certain industries can reach the stream of commerce.

Campbell Union High School District would be an immediate beneficiary of this crossing. The Del Mar High School of this district is bounded on the east by Vasona Branch and on the south by Stokes Street. Construction of the crossing will make it unnecessary for this district to render bus service to certain students who now receive such service. This will effect a substantial saving.

Southwest Expressway cuts in a diagonal through a rectangular area. This area is bounded on the north by Fruitdale Avenue; on the east by Meridian Avenue, on the south by Hamilton Avenue and on the west by Bascom Avenue. Just west of Bascom Avenue there is a large built-up area. The inhabitants of that area will benefit immediately and substantially from a Stokes Street crossing. It will give them a shorter and more direct route to the downtown area, and the San Jose State College. Moreover, the traffic is much more dense on Bascom Avenue than it is on Southwest Expressway, an added inducement to use the latter street. There are people east of the expressway that will find it convenient for travel to objectives west and northwest of the track.

There was evidence sufficient to indicate that there is a substantial volume of vehicular traffic moving about in the area. It would be speculative to draw any conclusions respecting the amount of this traffic that would use the Stokes Street crossing.

The railroad recommended that flashing light signals with automatic gates be installed at the proposed crossing. One City witness found this acceptable. There should also be traffic lights on Southwest Expressway which would halt traffic thereon so that vehicles traveling eastward on Stokes could use the expressway lanes to vacate the crossing when a train is approaching. This is necessary because of the limited space between the track and Southwest Expressway.

The final issue to be disposed of is the allocation of cost.

The original application requested that costs be allocated by agreement between the City and the Railroad. Case No. 7872 was instituted to bring in the County of Santa Clara. This was done because, conceivably, some evidence could have been presented which would impose some responsibility on this County for sharing in the financing of the Stokes Street crossing. No such evidence materialized during the hearings. Certain property over which the County exercises governmental powers lies in the vicinity of the proposed crossing. This property is now in agricultural use. Ingress and egress to it are readily available. The County neither supports nor opposes the City's application. There is no basis in the record for imposing any portion of the cost on the County of Santa Clara.

The usual practice of the Commission has been to allocate the total construction cost of a new crossing to the applying party. Nothing in this record would indicate any reason to make an exception here.

The record shows that the Southern Pacific Company will benefit negligibly, if at all, from the Stokes Street crossing. On the other hand, the City will benefit by having direct access to Del Mar High School from the south and east, where a large proportion of the school's total enrollment resides; the movement of automotive traffic in the area will be facilitated as Bascom Avenue, a major city street, will be relieved of congestion and the need for left turns on Bascom will be reduced; and the crossing will create direct access from Bascom Avenue to a residential area lying southeast of the Southern Pacific tracks. In light of the record, the City should bear total construction costs.

The Commission finds that:

1. Public convenience and necessity require that Stokes Street be constructed at grade across the track of the Vasona Branch of Southern Pacific Company.
2. Public safety requires that two Standard No. 8 flashing light signals equipped with automatic gate arms be installed at said crossing.
3. Public safety further requires that signals be installed on Southwest Expressway preempted so as to stop traffic in both directions on said expressway when the flashing light signal is in operation.

4. The City of San Jose is the principal beneficiary of the proposed crossing. It is reasonable to assess the total construction cost to the City.

5. It would be unreasonable to assess any portion of the costs arising from the construction of Stokes Street crossing to the County of Santa Clara.

The Commission concludes that:

1. Application No. 45927 should be granted as provided in the following order.

2. Signal protection should be provided and costs allocated as provided by the following order.

3. Pursuant to the policy of the Commission, the cost of maintaining protective devices at the crossings involved should be borne by the railroad.

O R D E R

IT IS ORDERED that:

1. The City of San Jose is hereby authorized to construct Stokes Street at grade across tracks of the Southern Pacific Company in Santa Clara County, at the location described in the application, to be identified as Crossing No. L-49.4. Applicant shall bear the entire construction expense, also maintenance cost of the crossing outside of lines two feet outside of rails. Southern Pacific Company shall bear maintenance cost between such lines. Width of crossing shall be not less than sixty feet and grades of approach not greater than 2 percent. Construction shall be equal or superior to Standard No. 2 of General Order No. 72.

2. Protection shall be by two Standard No. 8 flashing light signals (General Order No. 75-B) equipped with automatic gate arms, to be installed at said crossing. The City of San Jose shall bear all of the cost of installation of said signals.

3. The maintenance costs of the crossings between lines two feet outside rails and for the automatic protection installed at the crossing shall be borne by the Southern Pacific Company.

4. The City of San Jose shall construct traffic signals at the intersection of Stokes Street and Southwest Expressway which shall be interconnected with the crossing signals at Stokes Street crossing and preempted by train movements and a green clearance period provided by the traffic signals so that vehicles may be cleared from the track area.

5. Within thirty days after completion pursuant to this order applicant shall so advise the Commission in writing. This authorization shall expire if not exercised within one year unless time be extended or if above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

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

Dated at San Francisco, California, this 9th day of MARCH, 1965.

*We concur, except as to apportionment of signal maintenance cost. That issue should be decided on this record, not on the basis of the so-called "policy".*

*Fredrick B. Holhoff  
George T. Crover*

*[Signature]* President

*[Signature]*  
*[Signature]* Commissioners