

Belmont Still May Appeal

Judd Asks To Switch His Vote

BELMONT -- If 3 and 2 still make 5, the Belmont City Council will appeal the injunction against the city's trucking ordinance after all.

Charles L. Judd, who originally voted against the appeal in a 3-2 decision, told his fellow councilmen Monday night that he wants to switch.

"I have changed my mind," he said.

Judd asked that the council revote the matter immediately and he so moved.

But neither Mayor Wallace Benson nor Warren Mendel, the only other councilmen present, would second the motion.

"A delay until the 23rd would cause no problem," Benson said, so he asked City Administrator John L. Watts to put it on the agenda for the next meeting.

Benson, who resigned as mayor about three minutes later, said he preferred to have the full council present for the vote.

In the original vote, Benson and L. C. Reynolds were for the appeal, Mendel, Judd and Victor G. Wandmayer against. All three opponents said they thought the eight-ton load limit restriction, an initiative ordinance, was bad law.

But Judd said he had been doing some checking. He said that he had learned from City Attorney Samuel J. Whiting Jr. that the city by not appealing would lose all jurisdiction over the control of trucks on Ralston Avenue.

The injunction was slapped against the city's eight-ton ordinance by Judge Arthur L. Mundo in his decision favoring the plaintiff in the case of Skyline Materials, Incorporated, vs. the City of Belmont.

Judge Mundo based his judgment on the case of Neary vs. Los Altos Hills, which specified that a city must provide an alternate route in restricting truck weight limits.

Whiting has maintained since the original opinion was handed down by Judge Mundo that the Neary decision by the District Court of Appeals is "inconsistent with the law."

He has advised the council that there is good ground for an appeal, especially if it could be brought before the Supreme Court of California.

He said the council still has more than 50 days before the period allowed for appeal has expired. For this reason, he said, there was no hurry. It could be put over to Nov. 23 without endangering the chance of filing in time.

If the other members of the council vote as they did before, the outcome will be 3-2 favoring the appeal.

If this happens, it will relieve a sharp pressure being brought against the council by a group of citizens who have accused the city fathers of robbing them of their rights by voting against the appeal.

An intervening party, Nathan D. Jacobson, had threatened to take up the appeal over the council's vote.

Whiting said an appeal would cost the city about \$3,500.

11/12/59



WALLACE BENSON
... Steps down

Benson Resigns As Mayor

BELMONT — Wallace Benson resigned as mayor of this city Monday night.

"I have had it," said Benson in what may be the shortest resignation speech in history.

After he rapped the gavel ending the meeting, Benson told reporters the job was taking too much of his time. He intends to serve out his remaining 3½ years on the council, however.

He set forth such familiar phrases as "pressure of business," and "more time for my family."

"Let some other member of the council be on the hot seat for awhile," he said.

Benson has been in the middle chair since last April, the same month he was elected to the council. He had been the top political figure in the city twice before, in 1953 and 1955.

Benson, of 1914 Hillman Ave., is the only Belmonter to serve as mayor three times.

Since Benson asked that his resignation be effective "as of tonight," the council will have to act quickly in picking a new mayor.

One likely candidate for the job is Victor G. Wandmayer who actively sought the position last April. The decision probably will be made at the study session next Tuesday.