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# After Fracking Ban, Denton Residents Ponder Next Steps

By JIM MALEWITZ TEXAS TRIBUNE • JUN 3, 2015

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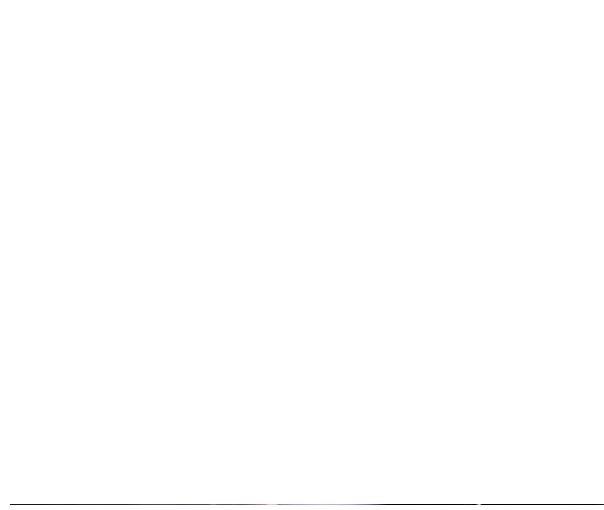
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Last November, Denton residents voted to ban fracking in city limits.

DOUALY XAYKAOTHAO / KERA NEWS



Frustrated and grasping for options that weren't apparent, Denton residents flooded a city council meeting Tuesday night to assess where things stand after state lawmakers smacked down an ordinance voters passed last fall to ban hydraulic fracturing within city limits.



The key question before the council: Should it remove the now-toothless ordinance from its books to stave off further legal trouble, or keep it to strike a symbolic blow for local control on the off chance that the law will prove useful again some day?

“We find ourselves today at a melancholy crossroads,” said Adam Briggie, a North Texas University philosophy professor and one of six advocates arrested since Monday for trying to prevent a gas company from resuming fracking operations. “It is certainly disheartening, and it’s confusing.”

Spending most of their time listening to constituents and asking questions, the council took no action on Denton’s next steps in a meeting that stretched into early Wednesday morning. But several expressed skepticism about defending the ban in court.

“The likelihood of us losing, and getting slapped down by the legal process is high,” said Councilman Dalton Gregory, who called the Legislature’s action “draconian.”

“Is it better to repeal the ban, or is it better to have a judge rule that it is illegal?” he asked.

Nearly 59 percent of Denton voters supported the fracking ban last November (<http://www.texastribune.org/2014/12/15/dissecting-denton-how-texas-city-banned-fracking/>), making the North Texas city of about 123,000 the first to outlaw the use of high-pressure water to shatter underground shale and release stored oil and gas.

The Legislature responded by passing House Bill 40, which pre-empts local bans on oil and gas exploration. Gov. Greg Abbott (<http://www.texastribune.org/directory/greg-abbott/>) quickly signed the bill into law.

Vantage Energy, a natural gas operator, on Monday resumed fracking operations inside the city, effectively negating an ordinance that Denton officials say they can no longer enforce.

On the first two days of fracking’s return, police arrested protesters – three each day – who tried to block the company’s access to its work site. On Tuesday afternoon, the company said it had not decided whether to press charges for criminal trespassing.

“We recognize and appreciate the rights of all citizens to peacefully assemble and to express their opinions openly,” Seth Urruty, the company’s vice president of development, said in a prepared statement. “We are grateful to the City of Denton Police Department for helping keep the protesters safe.”

The ban’s proponents called it a last-ditch effort to address noise and toxic fumes that spew from wells just beyond their backyards, saying loopholes and previous zoning decisions rendered changes to the city’s previous drilling ordinance unenforceable.

Opponents – including most Texas regulators and lawmakers – say the policy went too far, effectively halting all drilling inside Denton and keeping mineral owners from using their property.

The Texas Oil and Gas Association – the state’s largest petroleum group – and the Texas General Land Office each filed suits against Denton just hours after (<http://www.texastribune.org/2014/11/05/denton-fracking-ban-sees-first-lawsuit/>) the votes were tallied, calling the ban unconstitutional. Formally

repealing the ban might help resolve those disputes, which, according to Mayor Chris Watts, have cost the city some \$220,000 to defend.

And that strategy, some said, would protect Denton from an almost certain loss in court that could firmly enshrine HB 40 in Texas jurisprudence – with implications for cities across Texas.

“What we found out is, our aces got trumped,” said Councilman Greg Johnson. “The state of Texas overruled us. ... We’re not done fighting, but this is a very strategic fight.”

Briggle, president of the Denton Drilling Awareness Group, which spearheaded the anti-fracking campaign, said advice from his group's legal adviser squared with that idea, suggesting there might be better legal avenues to challenge the law.

By simply defending the ban in court, “we take a very serious risk of setting a ban precedence for other Texas communities,” Briggle said.

But some residents said repealing the ban – and further conceding defeat – would amount to a punch in the gut to the will of the voters.

“It is a bit dispiriting to see it not even being attempted to be enforced,” resident Jim McKinney told council members. “I do think symbolism is extremely important.”

Steve Everley, a spokesman for Energy In-Depth, which promotes the petroleum industry, called the Denton ban “the most expensive in the nation,” and suggested that taking it off the books should be a no-brainer.

“At this point, it’s the prudent thing to do for the taxpayers,” he said in an interview.

*The Texas Tribune provided this story. (<http://www.texastribune.org/2015/06/03/more-questions-answers-denton-ponders-next-steps/>)*


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