



Clellen Bury
555 Edwards Avenue
Benton Harbor, Michigan 49022

Re: Jean Klock Park and Order No.: 11-11

Dear Mr. Bury:

I write in response to your letter dated June 7, 2011, regarding Jean Klock Park (the "Park") and Order No.: 11-11 of the Emergency Manager of the City of Benton Harbor (the "Order").

In your letter, you correctly note that the Order established a May 1 through September 30 annual season for the Park, and daily hours of operation from 10:00 a.m. to 10:00 p.m. You contend, however, that this Order conflicts with the Klock Deed, the City's Charter and the Lease Agreement between the City and Harbor Shores. I disagree. The Klock Deed specifically states that the public's right to use the Park is subject to "rules and regulations" set by the City. Section 2.04 of the Lease likewise provides that the Park is subject to such "rules and regulations as the City of Benton Harbor may make or adopt." The city charter does not establish hours of operation for the Park.

Nevertheless, the Order has been replaced by Order No.: 11-28 (copy enclosed), which provides for daily access to the Park and sets new park hours. These changes had been considered by me even prior to your letter due to interest in use of Park before 10:00 a.m. The daily park hours set forth in Order No.: 11-28 are consistent with the Klock Deed and the Lease, and are within my authority as Emergency Manager.

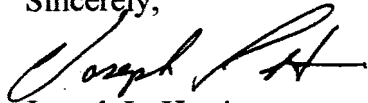
You also expressed concern about public use and access to the Park during two upcoming scheduled sporting events, namely the Whirlpool Ironman 70.3 Steelhead Triathlon on August 14, 2011, and the 73rd Senior PGA Championship at the Golf Club of Harbor Shores from May 21 through May 27, 2012. Neither event will interfere with the public's ability to use and enjoy the Park. Concerning the triathlon, the Park is simply the finish point for the 1.2 mile leg of the swimming course. The biking and running legs of the course then take the triathlon completely outside of the Park, with a finish at the Whirlpool Corporation Campus. The public will be able to enjoy the Park at all times during the triathlon, with the added benefit of being able to watch a brief part of the race, and participate in other events planned at the Park in connection with the event. With respect to the PGA event, the Park will remain open to the public without any interference. The public will also have the opportunity to enjoy this unique tournament as spectators. These events do

not violate the Klock Deed, the Consent Judgment entered in 2004, or the Lease. The Director of Public Safety and our planning committee are cognizant of the sand dunes as well as other issues that must be taken into consideration in the process of planning the event.

Finally, you express a concern that I may close or sell the Park. First, I am unaware of any circumstances that have necessitated the closing of the park in the past, and I have not contemplated any such future circumstances. Second, as you accurately note in your letter, I have already stated publicly that I do not intend to sell the Park.

Thank you for your continued interest in the Park and the City of Benton Harbor.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph L. Harris". The signature is fluid and cursive, with a prominent initial "J" and a long, sweeping tail.

Joseph L. Harris
Emergency Manager

**EMERGENCY MANAGER
CITY OF BENTON HARBOR
BERRIEN COUNTY MICHIGAN
ORDER NO.: 11-28**

**ORDER TO AMEND SECTION 28-29 OF THE BENTON HARBOR CODE
OF ORDINANCES REGARDING JEAN KLOCK PARK: PARK
CLOSING**

WHEREAS, pursuant to Act 4 of the Public Acts of Michigan, 2011, being MCL 141.1501 *et seq* (the "Act"), Joseph L. Harris has been appointed as the Emergency Manager (the "EM") of the City of Benton Harbor, County of Berrien, Michigan (the "City") and charged with the power to take actions with respect to the City, including the power to exercise solely for and on behalf of the City the authority and responsibilities of the Mayor, as the chief administrative officer of the City, and of the City Commission, as the governing body of the City, concerning the adoption, amendment and enforcement of ordinances or resolutions of the City as provided in the Home Rule City Act, Act 279 of the Public Acts of Michigan, 1909, as amended, being MCL 117.1 *et seq*; and

WHEREAS, Section 28-29 of the City's Code of Ordinances (the "Code") has previously been adopted, providing hours of operation for Jean Klock Park (the "Park") in the City; and

WHEREAS, the EM has determined that it is in the best interest of the City and necessary to accomplish the purposes of Act 4 to remedy the local financial emergency and ensure the provision of necessary public services, including public safety services, to amend Section 28-29 of the Code to revise the hours of operation for the Park and establish seasonal hours for the Park.

NOW, THEREFORE, BE IT ORDERED BY THE EMERGENCY MANAGER OF THE CITY OF BENTON HARBOR, PURSUANT TO ACT 4:

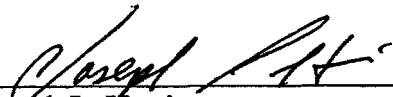
1. Section 28-29 of the Code is hereby amended to read in its entirety as follows:

Jean Klock Park and beach shall be open daily to the general public from May 1 through September 30 between the hours of 7:00 a.m. and 10:00 p.m., and from October 1 through April 30 between the hours of 7:00 a.m. and 8:00 p.m. All persons and vehicles in this area are to leave at closing time unless they have obtained a special use permit from the city clerk upon approval by the city manager. Otherwise, no person shall be in Jean Klock Park after closing hours. Any vehicle found to be in violation of this section may be towed at the owner's expense and/or ticketed in accordance with the appropriate city ordinances.

2. All orders of the EM, ordinances and resolutions of the City Commission of the City, and all parts of orders, ordinances or resolutions in conflict with this Order, including Order No. 11-11, are hereby repealed to the extent of such conflict.

3. This Order shall become effective immediately.

SO ORDERED this twenty-sixth day of July, 2011.



Joseph L. Harris
Emergency Manager