

ENVIRONMENTAL RACISM

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Park plan: Whirlpool gets golf, public gets toxins
Developers kept facts of toxic stew from federal agency

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GRAND RAPIDS — Citizens from the impoverished and 93 percent Black Benton Harbor revealed to a federal judge Aug. 28, that property the city received for giving up 22 acres of pristine beach front is toxic.

Whirlpool Corp., the world's largest manufacturer of washing machines, with its international headquarters in neighboring Benton Twp., kept the dirty secret from the U.S. Corps of Army Engineers and from the public, residents' attorney Terry Lodge told Judge Robert Holmes Bell during a hearing in U.S. District Court.

Whirlpool-backed Harbor Shores Development obtained a 106-year lease of 22 acres of Jean Klock Park to develop as a Jack Nicklaus Signature golf course with views of Lake Michigan. Klock Park is the city's major park used by residents for reunions, baptisms, picnics, swimming, concerts and play on Lake Michigan.

Harbor Shores convinced the city commission to give up the park for the sake of economic development. In return Benton Harbor got a golf course. But residents sued August 2008 claiming the golf course violated the Land and Water Conservation Act and the Environmental Protection Act.

"Contrary to what was disclosed to the public for scrutiny ... in early 2008 by the Michigan Dept. of Natural Resources (MDNR), the Dept. of Environmental Quality, and the City of Benton Harbor, we now know that all but one of the seven conversion mitigation parcels swapped for JKP [Jean Klock Park] land are contaminated," Lodge wrote to the Army Corps in March 2009.

Arsenic and lead are two major poisons in the "alphabet stew" of poisons.

Lodge explained to Judge Bell that his clients discovered that toxins existed only after extensive Freedom of Information filings and searches. Had the public known of the toxins, public comments would have been different, they argue. Had the oversight agencies known, their due diligence requirements would have been greater, Lodge argued before the court.

"We had to go through boxes at the DNR before we discovered this information," Julie Weiss, a plaintiff said following the hearing. She said none of the information was available to the public either online or in hand-outs during the public comment time. Nor did the Corps of Engineers have it.

In asking the court to rescind the golf course permit, Lodge related to Judge Holmes what the toxins meant to the residents.

People must stay on the wooden walkways that have been constructed over the former industrial sites that serve as park land in compensation for the loss of the Lake Michigan beach front dunes, Lodge said.

"There can't be any strolls or hikes over the dunes, they are gone, he said. "They now have a wooden walkway." The walkways traverse former industrial sites and are located a distance from Lake Michigan.

The soil in these parcels cannot come in touch with the skin, Lodge said. If there is a break in the walkway it must be repaired within 30 days, so people will not have contact with the soil. Signs must be posted warning visitors to stay on the walkway.

The revelation of toxins was not the only new information presented to the court at the Aug. 28 hearing.

Whirlpool has decimated the beachfront property. Lodge described how developers have removed eight acres of forested land; taken up nearly four acres of the beach with a relocated parking lot; are hauling away 18,000 cubic yards or 900 truck loads of dunes sand to immobilize the dunes with top soil; and have cut down 80 to 90 cottonwood trees along the famed beach front drive.

Sand dunes are shifting, live features of lake front environment, Lodge said. Removing the sand and piling on top soil stops the shifting to provide stability for a golf green, a major reconstruction.

"This is major federal activity," Lodge argued. As such the project requires more extensive environmental review than has been provided. Citizens did not realize the extent of the disruption, plaintiffs say.

Approximately 45 acres have been "massively transformed," Lodge argued, noting that Harbor Shores had not "stayed within the lines" it drew on a map when presenting the plan to the government.

In securing approvals, developers argued to federal and state agencies that the course will provide recreation for city residents. However, it costs \$75 to play the nine holes now open and when all 18 holes are ready, it will be \$175 per round. According to census data, per capita income for Benton Harbor was \$8,965, the lowest in Michigan.

Sitting in the courtroom Friday was former Whirlpool CEO and current Harbor Shores Chairman David R. Whitwam.

Whitwam is one of the supporters of the golf course. He shares his views of the project on the Harbor Shores web site.

"It is a very exciting time for the Harbor Shores project. As you drive throughout the project area, you can begin to see physical signs of progress. Much work remains. Yet, it is truly fulfilling to begin seeing the transformation taking place."

The golf course is one part of a 530-acre project involving St. Joseph, Benton Harbor and Benton Township. Part of the land Benton Harbor claims in the project is being leased for 20 years from St. Joseph and after development will return to St. Joseph ownership and tax collections.

Arguing that all environmental assessments had been adequate and appropriate were four attorneys representing the two federal agencies, the city and Harbor Shores.

Harbor Shores has retained the law firm of former mayor and GOP stalwart Rudy Guiliani.

According to one of the plaintiffs, Scott Elliott, politics have driven the project since it was first rejected by the Park Service as not in the public interest. Developers came back with a "lesser plan that had the full force of Gov. Jennifer Granholm and U.S. Representative Fred Upton pushing it," Scott said. Upton is a Whirlpool heir.

Judge Bell told the parties they had seven days to file additional briefs.

Jean Klock Park was a gift from J.N. and Carrie Klock in memory of their daughter Jean who had

passed away. In dedicating the property to the children of Benton Harbor, Klock said, "Perhaps some of you do not own a foot of ground, remember then, that this is your park, it belongs to you ... The beach is yours, the dunes are yours, all yours"

For more information see, www.protectjkp.com.

And www.harborshoresdevelopment.com