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# Democracy & despair: Riots, economic development, and an emergency manager in Benton Harbor, MI

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**Democracy & despair**  
**Riots, economic development, and an emergency manager in Benton Harbor, MI**

by

Tyler Christian Reedy

A thesis submitted to the graduate faculty  
in partial fulfillment of the requirements for the degree of

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Iowa State University

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DEDICATION

For Amelia, my beloved wife.

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## ABSTRACT

Michigan's emergency manager law raises many questions about the nature of American democracy. The law specifically targets financially troubled municipal governments for state take over. The demographics of the cities where an emergency manager has been installed have been overwhelmingly poor and overwhelmingly African American. Using a qualitative approach to analyze scholarly books and articles, local media accounts, legal rulings, and personal interviews, this thesis seeks to contribute to a more nuanced understanding of what democracy looks like in the United States by focusing on one particular city that has been subjected to the emergency manager law. By analyzing and comparing events that occurred over a ten-year period in Benton Harbor, this study can provide a glimpse into what democracy looks like in an extremely poor and nearly all black community. This thesis specifically examines three episodes of democratic import that occurred between 2003-2013: a riot, the construction of a luxury golf course and resort, and two years under the emergency manager. These episodes reveal the tenuous nature of the democracy in Benton Harbor, Michigan.

*Keywords:* Democracy, Riots, and Emergency Manager

## CHAPTER 1

## INTRODUCTION

At a conference in 2011, the one-time mayor of Pittsburgh, Tom Murphy, said, “We have too much democracy in America (Berman, 2011).” In the eyes of many, that was the underlying idea behind Michigan Governor Rick Snyder’s emergency manager law, officially titled Public Act 4 of 2011. The law allowed the state to appoint a technocrat imbued with almost unchecked power. Under the law, an emergency manager was able to sell city property and assets, renegotiate contracts with service providers and unions, and suspend the authority of locally elected officials (Act No. 4, 2011). The law does not affect everyone of course, as the name suggests, “An Emergency Manager can only be put in place if local elected officials fail to take the steps necessary to prevent a financial emergency (State of Michigan).” Highland Park, Benton Harbor, Ecorse, Flint, and Pontiac have all had Emergency Managers installed. All five cities were once vibrant industrial towns whose economic engine was manufacturing and often related to the auto industry, and all five towns watched their large employers downsize or outsource most of their jobs over the course of several decades. Now, they are all broke and they are all predominantly black (U.S. Census Bureau). Perhaps what Mayor Murphy and Governor Snyder are implying is that America has too much democracy for some people.

The recent enactment of the emergency manager law in the state of Michigan raises a variety of questions about democracy in the United States such as: What are the limits to self-governance in the U.S.? Does a long record of economic failure disqualify

a city from being able to make democratic decisions? How should states react to municipalities that are unable to reverse long-term, severely negative economic trends? What have other states done to assist impoverished communities? How is the emergency manager law different? How do impoverished communities engage the democratic process? How do institutions respond to the engagement?

This thesis seeks to explore these questions. Put more succinctly, this thesis hopes to answer the question of what democracy looks like for those living in chronically poor communities. To find the answer to this question, it will examine the City of Benton Harbor, which has experienced widespread, chronic poverty for several decades. Three different episodes that have occurred in the city in the past ten years will help illuminate the answer to this question.

The first is a race riot that occurred in 2003. Exactly how democratic a small, violent mob can be is debatable, but what is not is the response of the community, state, federal agencies, churches, and other nonprofits. The resources, houses, and employment opportunities that came as a direct result of the riots led some in the community to conclude that informal and illegal activities such as a riot were preferable and more profitable than official ways of engaging public, private, or social sector institutions. Although these riots did seem to result in some immediate, short-term gains, they also threatened long-term progress by scaring potential residents, employers, and investors away from the community. How the community and other institutions responded to the riots will say a lot about how democracy functions for people in Benton Harbor. To highlight what is unique about how Benton Harbor residents and society responded to

the 2003 riots, this thesis will chronicle the numerous race riots and the various reactions to each.

The second episode is a luxury golf course and resort community built, in part, on a public park owned by the City of Benton Harbor. Billed as a one-shot, magic bullet to all of the economic woes of the city, Harbor Shores opened its doors in 2010 after years of controversy and legal battles. The posh resort, which includes a Jack Nicklaus Signature Design golf course with individual membership fees in the thousands, is well out of range for the average denizen of Benton Harbor (Annual Fees). Further, the golf course now sits on what was a public park. In exchange for the large unified park, the city received a patchwork of land that connected with trails. Unfortunately, most of these parcels contain dangerously high level of contaminates from decades of the application of industrial waste (Lam, 2007). The Harbor Shores development also came into conflict with a 100-year-old family-owned, small manufacturer. This conflict raises questions about urban landscapes, democratic economic development, and collective identity. The story of Harbor Shores highlights the role of action, apathy, money, and political connections in modern American politics.

The final episode is the emergency manager law of 2011. After decades of economic hardship and fiscal mismanagement, the state of Michigan decided to send in an Emergency Financial Manager in 2009 under the orders of then Governor Jennifer Granholm. This precursor to the Emergency Manager had significantly fewer powers. Most notably, the Emergency Financial Manager did not have the power to renegotiate union contracts or suspend the authority of elected officials. In effect, the use of the



Emergency Financial Manager was a particular kind of fiscal receivership, not unlike what has happened to numerous other cities across the country. A series of whistleblowers and federal audits that occurred in the mid-2000s provoked the installation of the Emergency Financial Manager. With the passage of Public Act 4 this Emergency Financial Manager's title was changed to Emergency Manager and the position was imbued with vastly more power. The response to this law by the community of Benton Harbor, unions, and ultimately the voters of Michigan says a lot about how people feel about democracy for the poor in the United States. The voters overturned Public Act No. 4 with a referendum in November of 2012. Then the state legislature passed a law in December of 2012, which in effect reinstated the voter-overturned law, which reveals a lot about how democracy works in a state that is facing difficult financial times (Christoff, 2012).

### Methodology

The format and methodology of this thesis is straightforward. First, it provides a description and basic historical background of the City of Benton Harbor followed by an examination of the implications of the three episodes listed above – the riots, the establishment of Harbor Shores, and the appointment of the Emergency Manager. Finally, there will be a summary and conclusion section.

The analysis will be qualitative and based primarily on three types of data. These include first person observations made when visiting Benton Harbor, interviews with people who live or work in the community, and documents of both the primary and secondary nature. Given the relatively small size of the town, scholars have not done

much research on Benton Harbor. There is one academic law article, Michelle Wilde Anderson's "Democratic Dissolution: Racial Experimentation in State Takeovers of Local Governments (2012)," about the emergency manager situation, which offers helpful insights into the matter. This study will also examine the scholarship on related topics such as race, segregation, riots, post-industrialism, poverty, urban planning, economic development, and state receiverships. Additionally, it will draw on some primary documents such as deeds, political memos, letters, legislation, and court rulings. Finally, given the local nature and heavy role history plays in this study, newspapers provide a considerable portion of the analyzed data.

#### "This Is Hell"

For nearly half a century, Benton Harbor has been one of the poorest and most dysfunctional cities in the state of Michigan. This small town of about 10,000 people, of which approximately 90% are black, is often in the national news, but rarely for anything positive (Benton Harbor, U.S. Census, 2013). In 1989, *Money* magazine labeled the town "the worst place to live in America," citing the 35% unemployment rate as the main reason (Eisenberg et al., 1989). According to *Al Jazeera*, the town still deserved the title of "'worst' U.S. city" as of May 2012. The news outlet cited the gross mismanagement of the city's limited tax funds, which resulted in the "overdraft fees from \$80,000 to \$100,000 a year" and the repossession of Benton Harbors' police vehicles (Herdren, 2012). The current poverty rate is at 47.6%, three times the state's average (Benton Harbor, U.S. Census, 2013). In 2003, *The New York Times* reported,

“Half the residents lack a high school education,” and, “two-thirds of the men ages 17 to 30 have a felony record (Wilgoren, 2003).”

Benton Harbor, like many other cities in Michigan, is what The American Assembly, a public policy think tank founded by Dwight D. Eisenhower and located at Columbia University, calls a “legacy city” (The American Assembly). It is one of the cities with “rich historical heritages and valuable resources for this nation’s future that are experiencing severe population loss (The American Assembly).” As *The Detroit News* put it Benton Harbor is one of the industrial Midwest’s many “cities of memory, hobbled by laws and presumptions that have dramatically changed (Berman, 2011).” There are many active community leaders and occasionally a riot or a big political issues will engage dozens or even hundreds of the towns residents, but most of the time most of the town’s residents are disengaged from issues of social concern. Apathy is pervasive. Those who are engaged are constantly trying to disentangle the truth from the wide variety of conspiracy theories that circulate the community. In Benton Harbor, the infrastructure is crumbling, the housing stock is shot, the factories are abandoned, and there are only a couple of retail stores and restaurants. These few stores are an improvement according to Mayor James Hightower, who said, “At one point the only restaurant in town was the soup kitchen (Herdren, 2012).” There is an old sign as you enter the town, presumably built to welcome visitors to town and present a positive image to outside world. The faded sign calls Benton Harbor the “port of opportunities.” Someone added in spray paint, “This Is Hell (Huffstutter, 2004, p. A1).”

### “The Other Side of the River”

Widespread chronic poverty and all its trappings, crime, deficient education, political dysfunction, and an ever-shrinking population are only part of Benton Harbor’s story. The other part, perhaps the other half, is the contiguous neighbor city of St. Joseph. Only the narrow St. Joseph River separates the two towns, which locals refer to as the “twin cities.” They have other nicknames as well. People in Benton Harbor refer to St. Joseph as “St. Johannesburg,” while the people in St. Joseph refer to Benton Harbor as “Benton Harlem” (Anderson, 2012). The two towns are near mirror images of each other. St. Joseph is slightly smaller, with a population of around 8,500 and is nearly 90% white. The median household income in St. Joseph is more than \$50,000 a year, several thousand more than the state average (St. Joseph (City), U.S. Census, 2013). In Benton Harbor, it is under \$18,000 a year, less than half of the state average (Benton Harbor, U.S. Census, 2013). Throughout the 1970s and 1980s, when outsourcing eviscerated Michigan and the rest of the industrial Midwest, Benton Harbor saw its factories leave one by one, and with the factories went a major portion of the population and almost all of the supporting commerce. St. Joseph, on the other hand, managed to maintain most of its economic vitality throughout this difficult period, since its primary industry was tourism catered toward the wealthy of Chicago.

The distrust and racial tension between the two cities features in every national story on the area and saturates its history. In 1998, award-winning journalist Alex Kotlowitz wrote *The Other Side of the River: A Story of Two Towns, a Death, and America’s Dilemma*. The book chronicles the author’s attempt to solve the case of a 16

year-old black male named Eric McGinnis, whose body was found floating in the St. Joseph River after a night of partying at a club in St. Joseph, dancing with a white girl, and breaking into a car to steal \$44. People in both towns drew opposing conclusions. The whites in St. Joseph claim a black gang member killed McGinnis. The blacks in Benton Harbor claim it was the white cops or a racist white civilian who did not like the fact that a black man was dancing with one of “their” women. The book draws no conclusions, and no one has yet solved the case. The themes of the book – infinite suspicion and the Benton Harbor/St. Joseph relationship as a microcosm of America – are touched on in nearly every national news report that mentions either town. One can also read about the suspicion and mistrust in the minutes of the city commission meetings, and they are present in many of the conversations had around town.

#### Before Hypersegregation

Benton Harbor has not always been as poor and as ‘hypersegregated’ as it has been for the past few decades (Wilkes and Iceland, 2004; Massey and Denton, 1989, 1993). Benton Harbor City first appeared in the Census of the State of Michigan in 1884; before that, the census considered it Benton Harbor Village and had recorded it as part of Benton Township starting in 1854 (U.S Census Bureau). In 1884, 3,692 people lived in the small town, census takers labeled 136 of them “colored.” By the 1930s, Benton Harbor had grown to the 15,434, of which 928 were “Negros.” The town was by then a tourist destination. People came to enjoy the sand dune beaches of Lake Michigan and the many hotels and amenities built to accommodate the travelers. The Israelite House of David, an end-times religious communal society, had established itself near the edge of

town around the turn of the century (Adkins, 1990). The collective group, under directive of its leaders Benjamin and Marcy Purcell, built an amusement park and baseball team that drew huge crowds (Adkins, 1990). Along with tourism, the city boasted a large farmers' market centered on the tremendous amount of apples grown in the area (U.S. Census Bureau). In the early part of the twentieth century, Lou Upton invented an electric washing machine with "motorized agitation." His company grew into the Whirlpool Corporation, the world's largest home appliance maker. Its headquarters is still located in Benton Harbor (Mahler, 2011).

The city's official website states, "Beginning in the 1960s, Benton Harbor started to decline (Our History)." It had grown more diverse by 1960 with the Census Bureau labeling 4,817 people "negroes" out of a total population of 19,136. By the 1970 census, Benton Harbor had become a majority black town with 9,687 "Negroes" out of 18,481. It had also started its population decline.

As with many cities across the country during the 1960s, racial conflict animated the population, drove the politics, and affected the economy. The civil rights movement and black power era had shaken up the longstanding racial hierarchy in U.S. society. The civil rights movement had given African Americans hope and a belief that change was possible, but hope turned to frustration and sometimes violence, as the change was slow in coming and the conditions for most black Americans, especially those in depressed Northern cities, remained unbearable. In Benton Harbor, widespread, racially motivated violence occurred in 1963, 1966, 1967, and 1971. When a small but destructive race riot occurred in one of the Benton Harbor High Schools, the schools saw a dramatic flight of

most of the remaining white students. The community found itself increasingly segregated from the neighboring, all-white communities. By 1980, Benton Harbor had lost another 5,000 people, almost all of whom were white. There were now only 14,707 people, and nearly 13,000 were black (U.S. Census Bureau).

### Deindustrialization

Although white flight played a significant role in Benton Harbor's depopulation, the loss of manufacturing jobs due to automation and outsourcing also played a major role. The first half of the 20<sup>th</sup> century saw the creation of numerous manufacturing opportunities in Benton Harbor. The city made die cast metal parts, processed foods, appliances, containers, and a variety of plastic goods, just to name a few. During the 1980s and 1990s, a few factories closed, and many more downsized. Even while the rest of the country enjoyed the relatively strong economic times that defined most of the mid-1990s through the 2000s, Benton Harbor continued to be besieged with plant closings and the loss of manufacturing jobs. In 1999, PR & D Casting Corporation closed up shop, causing 45 people to lose their jobs (Eliasohn, 1999). In 2001, Tobian Metals Co. went under, putting 70 people out of work (Aiken, 2004). A year later, it was United Die Cast and their 13 employees (Swindwa, 2004). Twenty more people were laid off when Silgan Containers ended production in 2003 (Eliasohn, 2003). When Dean Specialty Foods left Benton Harbor in 2004, 130 people found themselves unemployed (Eliasohn, 2004). The closing of Weil-McLain in late 2005 put 22 workers out of work (Eliasohn, 2005). Three years later, 150 workers were let go when the Modern Plastics factory closed (Swidwa, 2008). Finally, in 2010, Whirlpool left 216 workers without

jobs when it closed its last factory in Benton Harbor (Swidwa, 2010). With each passing year, the few economic opportunities available to the residents of Benton Harbor narrow even further.

This study starts with a riot that occurred in 2003. By this point in time, the city's many problems were deeply set. Multiple generations had been born since the decline of Benton Harbor began in the 1960s. The State of Michigan, along with developers associated with the Whirlpool Corporation, would label the 2003 riot the nadir of Benton Harbor's history. Many of the residents would label it an insignificant, overblown embarrassment. In either case, the 2003 riot set in motion a series of events over the next ten years that illustrates the tenuous nature of democracy in Benton Harbor.



## CHAPTER 2

## RIOTS: MINDLESS MAYHEM OR ‘DISORGANIZED POLITICAL PROTEST’

The riot that occurred in Benton Harbor in July of 2003 and the subsequent response it elicited from the community, state, federal government, and private entities reveals a lot about how democracy works for people of marginal status in the United States. This chapter will examine several components of the riot and its aftermath. It will start with a review of the existing scholarship on riots. This will provide some of the key ideas that will help clarify the 2003 Benton Harbor riots. Then there will be a description of precipitating events and the riot itself. This study proffers alternative narratives for how the participants viewed the riots in the immediate aftermath, followed by an exploration of how public, private, and social sector institutions responded to the event. In order to give the 2003 riot proper context, this study then examines the previous Benton Harbor race riots. Finally, the chapter will conclude with an attempt to discern what, if anything, about a riot is democratic and how the various responses to the numerous riots help or hinder the people of Benton Harbor’s ability to self-govern.

## The Causes and the Dissidents

Riots are fascinating and significant anomalous events that have drawn the attention of a number of scholars from a variety of disciplines. There are competing definitions of what constitutes a riot. For purposes of this study, riots are defined in the broadest sense as: spontaneous uncoordinated violence against property, people, or animals committed by a group of people. The phrase “race riot” applies to riots that are substantially motivated by racial animus. There is a considerable subset of riot scholars

who focus on U.S. race riots. They have studied several aspects of riots including the underlying antecedent conditions, the actions of law enforcement (Bergesen, 1982; Wilkinson, 2009), the economic and social impact (Matheson and Baade, 2004; King, 2003), symbolism (Turner, 1994), riots as political protest (Paige, 1971), public opinions toward riots (Erskine, 1967-1968), and much more. One of the most significant debates in the literature is over the underlying conditions that foster racial minority “instigated” race riots in the United States (Olzak and Shanahan, 1996). These scholars study the elements of the social milieu that are conducive to rioting rather than the particular events that spark riots. In this debate, there are two main camps: the “deprivation” camp and the “competition” camp. The following section will focus on this debate over the causes of U.S. race riots and riots as political protest.

The most widely held position on the causes of race riots in the United States is the “deprivation” theory (Olzak and Shanahan, 1996). This theory argues “persistent poverty, segregation, and isolation in minority communities causes racial minorities to riot. In this view, collective violence by blacks is driven by the persistence of racial disparities in income, education, housing, and other economic opportunities (Olzak and Shanahan, 1996).” W. R. Morgan’s and T. N. Clark’s article “The Causes of Racial Disorders: A Grievance-Level Explanation” offers support for the deprivation theory. Working off Seymour Spilerman’s quantitative models (1970, 1971) but ruling out several of Spilerman’s conclusions, Morgan and Clark argue that grievances relating to economic and social inequality are far better predictors of rioting than city size, percentage of population that is black, or size of the police force (1973). Numerous other

scholars have used different models to demonstrate similar findings (Grimshaw, 1960; Lieberman and Silverman, 1965; Bloombaum, 1968).

In 1967, President Lyndon Johnson appointed former Illinois Governor Otto Kerner to chair a commission tasked with studying the large number of race riots that occurred in several major cities throughout the nation during the mid-1960s (U.S. National Advisory, 1967). The central conclusion of this commission, officially named the National Advisory Commission on Civil Disorders, was in line with the ideas of deprivation theorists. The commission's report argued that causes of the riots stemmed from the "reservoir of unredressed grievances and frustration in the ghetto," which resulted from severe disadvantages, unresponsive local government, and a federal government whose programs had "not yet reached a significantly large portion of those in need (p. 136)." The idea that sufficiently poor and disadvantaged people occasionally erupt into violent mobs is nothing new in scholarship, popular thought (The Economist, 1992; Le Bon, 1895; Hoffer 1967), or government reports. Indeed, the Kerner Commission report quotes a scholar named Kenneth B. Clark as saying,

I read that report... of the 1919 riot in Chicago, and it is as if I were reading the report of the investigating committee on the Harlem riot of '35, the report of the investigating committee on the Harlem riot of '43, the report of the McCone Commission on the Watts riot.

I must again in candor say to you members of this commission—it is a kind of Alice in Wonderland—with the same moving picture reshowing over and over again, the same analysis, the same recommendations, and the same inaction.

Those scholars who argue against the deprivation theory hold to the “competition” theory. They are smaller in numbers, but their critique is worth noting. They simply point out that poverty and inequality alone cannot determine whether or not a city will riot, since cities that have had riots do not always riot and many cities that have incredible poverty and inequality have never rioted. As S. Olzak and S. Shanahan wrote in “Deprivation and Race Riots: An Extension of Spilerman’s Analysis,” “If poverty were directly related to unrest, then the stability of race relations in America’s cities would indeed be in peril (1996).”

Competition theorists argue that the deprivation theory is incomplete and that there must be some additional variables present to set the stage for a race riot. They claim racial unrest is more likely when “conditions favorable to group mobilization—namely, solidarity and competition [are present] (Olzak, Shanahan, and McEneaney, 1996). These conditions are only present in times of population growth matched with insufficient growth in the labor market. When this occurs, the “competition for increasingly scarce resources such as jobs and housing... produce civil unrest (Olzak and Shanahan, 1996).” Racial tensions rise when people in one racial group view themselves as competing for jobs with members of another racial group. Another key component of this theory is growth. The increasing population is often associated with real or perceived increased economic opportunities. It is also “consistent with collective action theories that [emphasize] that formerly disadvantaged populations protest when conditions are improving rather than declining (Tilly 1978) (Olzak, Shanahan, and McEneaney, 1996).”

Another important piece of the existing scholarship on riots is J. M. Paige's 1971 article "Political Orientation and Riot Participation." For this article, Paige surveyed 237 black males who self-reported as participating in the 1967 Newark, New Jersey riot. To better understand Paige's research, a brief sketch of the 1967 Newark riots would be illustrative.

The Newark riot of 1967 was one of the largest to occur during the late civil rights and black power era. The 1967 Detroit riot was the largest riot in terms of the number of people killed, more than 40, and total property damage of more than \$50 million (Riots in Detroit). Due to their level of destruction, the Detroit and Watts riots are most commonly associated with the times, but the 1967 Newark riot that ended just a week prior to the start of Detroit's was also extremely destructive and deadly. When two white police officers reportedly "physically attacked" a black taxi driver who they later charged with "assault and battery, and resisting arrest" (Mumford, K., 2007, p. 98), the city of Newark erupted into riots.

The rioting lasted for six days, more than 20 people were killed, and more than \$10 million in property damage was caused (Mumford, K., 2007, p. 98-148). A black sniper shot and killed a white fire captain on the fourth day of fighting and "terrorists" fired machine guns in downtown Newark, a distance from the "ghetto" (Bigart, 1967). The riot helped raise the stature of black power advocates and black nationalists like Amiri Baraka who "rose to prominence in the aftermath of the rioting (Mumford, K., 2007, p. 184)."

From his research on Newark, Paige concluded that in some cases, rioting was a form of “disorganized... political protest (1971).” He starts with research that suggests people who feel like they lack efficacy in political matters will begin to feel alienated or apathetic, which has a high potential of leading to radicalism, but he notes the work of Almond and Verba (1965) and Gamson (1968), whose work calls into question the connection of radicalism to alienation and apathy. Paige focuses his work on the issue of trust of the government and official social processes. Previous “indices of political efficacy (Campbell *et al.*, 1954, p. 187-188; Milbraith, 1965, p. 156-157) usually combine items expressing feelings of political powerlessness and ignorance with... distrust of existing political arrangements and suspicion of government intentions (Paige, 1971).” By separating powerlessness and ignorance from distrust and suspicion, Paige was able to show that the Newark rioters were not alienated or apathetic people who felt ignorant and powerless, but rather the near opposite. They felt engaged, passionate, informed, and capable of changing their situation. However, given their lack of trust in the government, they felt that formal means of seeking redress were not available to them, so they turned to the informal means of rioting. As Paige put it,

If the government is regarded as untrustworthy and there is a feeling that something can and should be done about it, radical actions aimed at changing the system are likely to result. The more extreme the distrust, the more radical the response (1971).

Paige concludes that any society with a population that feels high levels of efficacy (i.e. powerful and informed) and low levels of trust (i.e. less willing to participate in formal

governmental processes) is inherently unstable (1971). He also labels those who feel highly efficacious and highly distrustful as “dissidents (1971).”

Elements of some of these theories are directly applicable to the 2003 Benton Harbor riots, as well as all of the previous riots in the community. The following description of what occurred in Benton Harbor during the summer of 2003 will provide a case study, which will shed light on how these ideas compare to real life examples. In particular, Paige’s idea of rioters as dissidents who feel powerful and informed but distrust the officially sectioned avenues of reform will be used to analyze the community’s actions during all earlier riots, 2003, and the community’s understanding of the riots now, nearly a decade later.

#### June 2003

For decades, large sections of the Benton Harbor community and law enforcement have been at odds. Like many predominantly black communities, there is a widespread belief that the police department is an inherently white institution aimed at brutalizing and oppressing the black population rather than protecting it (Brown and Benedict, 2002; Yung-Lien and Jihong, 2010). Numerous events offered support for this belief. In the 1990s, Benton Harbor gained national notoriety for the death of Eric McGinnis and spent the decade debating who caused the death. Then, the dramatic death of seven-year-old Trent Patterson during a police chase, a few years before the 2003 riot, added to the gulf between the police and the community. A man fleeing from the police ran over the child (Pierre, June 20). Tensions rose even further when police strangled to death Arthur Partee as they were bringing him into custody in late spring of 2003

(Wilgoren, 2003). Two months after the death of Partee, law enforcement in neighboring Benton Township attempted to pull over 27-year-old motorcyclist Terrance “T-Shirt” Shurn on June 16, 2003. The chase resulted in Shurn entering Benton Harbor, where he died after crashing into a vacant building at more than 100 miles per hour (Mumford, 2004).

Terrance Shurn was born, lived, and died in Benton Harbor. He was, as the *Chicago Tribune* put it, “no angel” (Quintanilla and Mastony, 2003). Shurn had an extensive criminal record. He pled guilty to his first felony drug charge in 1993, less than two months after his eighteenth birthday (Michigan Criminal History). Two years later, the government charged him with misdemeanor domestic violence; again, he pled guilty (Michigan Criminal History). Then in February of 2003, he received another felony drug charge. He pled guilty and had the charges reduced to misdemeanor status (Michigan Criminal History). Shurn was still on probation for this drug charge at the time of his death (Michigan Criminal History). Given his record, the local police would have most likely been familiar with Shurn when they attempted to pull him over on that June evening.

Shurn spent most of his adult life working odd jobs, when he worked, and having run-ins with the law, but he also had a 2-year-old son named Taequan and plans to leave Benton Harbor. In fact, he enrolled in a motorcycle mechanic school in Florida that started on July 1, 2003 (Romig, 2004). He was two weeks away from leaving Benton Harbor. After his accident, police found a small bag of marijuana on his person (Moskos,



2003). Had he stopped for the police, he would have probably ended up back in prison instead of Florida.

The death of Terrance Shurn ignited intense passions in Benton Harbor. Some people, who agreed with Bonita Bulger when she said, “We’re just tired, we’re sick of them killing us (Wilgoren, 2003),” turned the city into “a scene from Beirut (Romig, 2003).” They attempted to “avenge” Shurn’s death by going to “war” against the authorities as well as much of the property and any bystanders they encountered in the process (Romig, 2003). Over a period of three days, the hundreds of rioters who took to the street (AP, 2003) “overturned vehicles,” “tossed small firebombs into houses,” and “shattered windows with bottle and rocks (Wilgoren, 2003a).” They burned 27 buildings (Piet and Malavolti, 2004), “caused \$40,000 in damage to two of the city’s fire engines (Wilgoren, 2003a),” and they fired at law enforcement. “We had gunfire. They shot at our trucks, they shot at the captain of police, ran barricades,” said Samuel Harris, the chief of police at the time (Goldenberg, 2003). The riotous crowd also “pulled civilians out of cars and beat them (Goldenberg, 2003).” The Associated Press reported that “about a dozen” people were beaten or stabbed (2003).

For the first night of rioting, the local police attempted to quell the uprising by themselves but lost control of the situation and eventually called the state for reinforcements. The first sign of the situation slipping out of the local authorities’ control took place less than 24 hours after Shurn died. When mourners started to gather at the site of the motorcycle accident, the “police moved in to break up the vigil,” and the mourners responded by attacking the police with “bricks and bottles (Goldenberg,

2003).” The outnumbered police withdrew (Goldenberg, 2003). This empowering event started the three-day melee, but the group that was in control quickly changed.

Michigan’s Governor, Jennifer Granholm, declared a state of emergency and sent in the National Guard to restore order to the situation. All told, approximately 250 police and military personnel were ordered to the Benton Harbor riots (Wilgoren, 2003). They came equipped with riot gear, including tear gas and batons, and they rode in “armored vehicles” (Wilgoren, 2003). Authorities arrested at least a dozen people (Wilgoren, 2003). The swelling police and military presence, along with a night of hard rain, put an end to the riots after three days (Aiken, 2003).

This is the story of the 2003 Benton Harbor riot – white cops engage a young, poor, black man, the dies, the city burns – but this is also the story of countless riots that have occurred in any number of poor, predominantly black communities. It is the story of Harlem, Watts, Detroit, Newark, Philadelphia, and many other cities that have responded to real or perceived police brutality by rioting. In one sense, it is undeniably true that the death of Terrance Shurn sparked the 2003 Benton Harbor riot, but the underlying conditions that allowed a spark to consume a town are something altogether different. A return to the scholarship should help to illuminate the issues at hand.

The 2003 Benton Harbor riot seems to support the deprivation theory and make a case to argue against the competition theory. That the citizens of Benton Harbor lacked in education, income, housing, and nearly all opportunities for upward mobility seems clear. In addition, nearby affluent white communities, most notably St. Joseph, served as a constant reminder of the relative deprivation. Furthermore, the additional variables

present in the competition theory were simply not present in Benton Harbor in 2003. The population of the town was not growing but instead shrinking consistently and had been for several decades before the 2003 riot, nor was there any significant racial group in competition for the available jobs. The total population boasted so few non-blacks that racial group competition would have also been almost non-existent. Employment options were nearly non-existent and had been for decades. Chronic unemployment was simply part of life in Benton Harbor in the early 2000s. One could argue that the additional variables (growing population and racial group conflict) of the competition theory were present if you look beyond the city limits of Benton Harbor. However, even if one included all of Southwest Michigan or the entire state of Michigan, the conditions were still absent. The state of Michigan was the only state in the union to lose population between 2000 and 2010 (Guarino, 2010), and there is nothing to suggest that competition for economic opportunities between the blacks of Benton Harbor and the whites of the surrounding communities had changed in any way before the summer of 2003.

#### The Dissidents and the Shame

Not everyone who lives in Benton Harbor participated in the riots. Indeed, if the news reports are correct and a couple hundred people participated out of a total population at the time of more than 11,000, only a small fraction of the community was directly involved. This means that well over 95% of the residents chose not to join in the riot. There are no polls available on how the community at large felt about the event, but given the news reports and letters to the editor at the time, it is clear that the community did not completely agree on what to think about the event.

Most of the public records, as found in the local newspapers, condemn the riots. One letter to the editor titled, “Rioters Set Back City Decades with Stupidity” harangued the rioters for “acting incredibly ignorant for the whole world to see (Stackhouse, 2003).” Laura Stackhouse, the author, who grew up in Benton Harbor but read about the riots from her home in Ann Arbor, rejected the idea that the riots were about Terrance Shurn, telling the rioters, “When you reacted to a death with violence, you made it about yourselves (2003).” Marcie Morrow, a lifelong resident of Benton Harbor, wrote in her letter titled “Embarrassed by riots in the city” that, “People are afraid to come to our city now. That will definitely affect our businesses and our property values. Who will want to live in our city when our own people will destroy our homes?” Others joined in rejecting the actions of the rioters. A resident of the nearby community of Berrien Springs wrote a letter titled, “Most of the blame lies with rioters” (Bruce, 2003). Leon Delorme from St. Joseph targeted Terrance Shurn in his letter, “Motorcyclist was responsible for his death.” Delorme lambasted the editorial board of the area’s leading paper, *The Herald-Palladium*, for “give[ing] aid and comfort to those in our community who refuse to take responsibility for their actions or hold others accountable for their actions (2003).”

By comparison, *The Herald-Palladium* ran no letters to the editor speaking out in favor of the riots, nor did any slightly sympathetic or reluctantly condemning letters appear in the paper. This might prove a misleading fact, however. There are several reasons why the rioters or the supporters of rioters would not take to the letters to the editor page of *The Herald-Palladium* to voice their opinions. The most obvious reason is

fear of legal repercussions. Most of the activities that occur in riots are illegal, and publicly voicing one's support for such activities might make some people who already have a contentious relationship with law enforcement a bit too nervous. Whom *The Herald-Palladium* serves is also an issue. The paper's tagline is "The Newspaper for Southwest Michigan," and it serves twelve communities in four counties (*The Herald-Palladium*). Even if everyone in Benton Harbor had agreed with the actions of the rioters, the people living in the eleven other communities would still have outnumbered them. Further, writing letters to the editor might not be the first thing one would expect from supporters of the riot. The riots occurred in the poorest part of the town, and most participants were young. Given the community's low rates of high school graduation, along with the weakening influence of newspapers, especially among the young, penning a letter to the editor is an unlikely activity among riot participants and supporters.

Another and perhaps the most significant reason why the riot supporters' words were not read in *The Herald-Palladium* could be due to a widely held view in Benton Harbor that the paper is not to be trusted. This distrust of the paper as a part of the system, as part of something to circumvent rather than something to utilize, fits perfectly with Paige's notion of the rioter as dissident. Distrust of official organs of social control and reform such as the media, police department, elected officials, and corporations is ever-present in Benton Harbor. Charlie Ammeson, a local attorney, told a reporter for *The Guardian* shortly after the 2003 riots that, "The fear, the distrust, that develops just gets blown out of proportion (Goldenberg, 2003)." On the second day of the riot, *The Herald-Palladium* editorial board wrote a scathing piece titled "BH: Rumor, Mistrust

Help Fuel Senseless Street Violence (2003).” The editorial claims, “some residents are more than willing to substitute conjecture, and at times out-and-out nonsense, in lieu of hard facts (2003).” It also states that, “It is this kind of disconnect and mistrust that helped lead to the violent confrontations on the city’s streets (Editorial Board, 2003).” They conclude with a warning: “One man is dead, perhaps a victim only of his poor judgment. Compounding his death with violence, felony offenses, and hate-filled invectives is not a solution, but a recipe for further mistrust and in the worst case, tragedy (Editorial Board, 2003).”

Although the lack of trust as an animating element of the riots is present in the words of both the editorial board and the local attorney, they seem to be implying unwarranted distrust rather than reasoned distrust. The distinction is critical to Paige’s idea of the dissident. There are two types of relevant meanings of distrust that need to be distinguished. One is the type of distrust that comes from experience and the weighing of the available evidence. This type of distrust occurs after someone or an institution has demonstrated it is not worthy of trust. It is rooted knowledge. The other type of distrust comes from not knowing enough about a person or a situation. It is rooted in ignorance. It is important to note that the distrust based on experience and available evidence can be passed down from generation to generation. Children could be born into a milieu that distrusts certain institutions, even though the institutions may not have demonstrated in the children’s lifetime that they are unworthy of trust.

Given the dearth of media coverage sympathetic to the rioters at the time, recently conducted interviews will be used in order to determine which meaning best

captures the distrust that, in part, fueled the 2003 Benton Harbor riots. Were the rioters people who acted out of distrustful ignorance, or were they acting out of a conscious understanding that legitimate means of seeking redress were unavailable or ineffective?

### The Response

How the state responded to Benton Harbor after some of its residents resorted to rioting to seek redress instead of utilizing the existing official institutions of democracy reveals a lot about how democracy works for those at the bottom of the socio-economic scale in the U.S. For three days, a small number of citizens of Benton Harbor engaged the military and law enforcement in violent protest. In response, the State of Michigan, U.S. agencies, and numerous churches and non-profits made contributions to try to ameliorate some of the suffering and frustration felt in the city.

Joseph Tyson, a 25-year-old Benton Harbor resident said, “The riot was a cry for help. It was not to avenge Terrance Shurn’s death,” but he “wonders if anyone heard that cry (Swinda, 2004).” It appears as if someone did because immediately following the riots, the State of Michigan set about developing programs and coming up with funding for Benton Harbor. Governor Granholm visited the city four times in the year following the riots (Piet and Malavolti, 2004). She also established a task force run out of the Department of Civil Rights to study, recommend, and help implement programs to help the city. A 2009 report by the task force states,

The... objective of the 2003 Task Force was to work closely with Benton Harbor leadership to stimulate innovation, creativity, and a more inclusive democratic process.

The coalition hoped to involve a more diverse group of citizens in community

improvement efforts and encourage residents to believe in themselves as real agents of change (Wesaw, *et al.*, 2009).

The 2009 report also listed the specific state allocations Benton Harbor received because of what the report refers to as the “civil disturbance of 2003 (Wesaw, *et al.*, 2009).”

Benton Harbor Workforce Transformation, a job-training program, received \$8 million (Wesaw, *et al.*, 2009). A service that helped former prisoners acclimate to life in the general population received \$2 million (Wesaw, *et al.*, 2009). The state also transferred another \$1.2 million to develop “workplace literacy and vocational training (Wesaw, *et al.*, 2009).” In addition, \$300,000 went to “job readiness and attitudinal training programs” and \$330,000 went to “dropout prevention programs (Wesaw, *et al.*, 2009).” With a focus on keeping the working age youth population busy during the hot summer months, the state has repeatedly made streams of funding available, with additional financial support coming from the community, in order to produce six-week jobs programs every summer since the riots (Wesaw, *et al.*, 2009; West, 2004).

The federal government led the charge on improving the housing stock in Benton Harbor, and non-profits contributed. The Department of Housing and Urban Development provided \$15.9 million to “assist in the demolition of old public housing and the development of new homes (Prichard, 2004).” The Michigan State Housing Development Authority also provided funding for Community Housing Initiative Inc., a non-profit, to build four new homes to replace those destroyed in the riot (Prichard, 2004). Community Housing Initiative Inc. was not the only non-profit that received additional funding to work in the community. The Kellogg Foundation committed \$5



million to help the city with a variety of projects (Meenan, 2004). The foundation dedicated the grants to “neighborhood revitalization, job creation, economic development, and youth programs (Prichard, 2004).”

The schools and the police department also received support. A few months after the riots, the school district voters agreed to raise property taxes for the first time since 1991 with the hope of raising around \$1.3 million over five years to repair the crumbling schools (Schools Downplay Riots, 2004). The Whirlpool Corporation donated \$500,000 to law enforcement to “hire more officers and to buy more patrol cars (Piet and Malavolti, 2004).” Another \$25,000 came from the United Way, allowing the department to purchase “new helmets, shin guards, gloves, chest protectors, elbow pads, 36-inch batons and shields (Meenan, 2004).”

With the newfound support and funding, the residents of the city felt hopeful for the first time in decades, or at least that is the image portrayed in the media. A year after the riots, Irene Langley, a city employee, expressed how she felt about the new attention when she said, “I don’t see anybody in the state of Michigan trying to help anybody as much as they are trying to help these kids in Benton Harbor (Meenan, 2004).” One time city commissioner, Henry Griffin, said, “There’s an old saying that when you sleep on the floor, you don’t have to worry about falling out of bed. Benton Harbor has been at the bottom and there’s nowhere for us to go but up, and things are looking up. People have hope. People are inspired (Prichard, 2004).”

It has been nearly ten years since the 2003 riot, and many people now view the riot with much less optimism. In fact, what looked at the time to be a glimmer of hope

with the announcement of a post-riot assistance package is now viewed as the moment the city entered an emergency state. The added attention from the state, which started primarily as economic aid, quickly morphed into a concerted effort from Lansing to build the Harbor Shores development and then to install the emergency manager. For many in the community, this is an extreme overreaction.

People in Benton Harbor rarely refer to the 2003 incident as a riot. The small disturbance, some argue, was nothing more than a couple of kids throwing rocks. One witness to the riots admitted that the teens burned down one or two abandoned houses but claimed to have seen at least one landlord burn down his own property, presumably for the insurance money (Activist #1, personal communication, March 20, 2013). Some residents argue that the sensational media unwillingly played into the hands of Whirlpool and Lansing by exaggerating the severity of the incident. The state's use of armored vehicles, viewed as tanks by local residents (Religious Leader, personal communication, March 18, 2013), and military personnel served to produce dramatic photographs that could then later be used to argue for stricter control of the city. Residents do not claim that Whirlpool or state officials orchestrated the 2003 incident. They do claim that Whirlpool and state officials exploited the incident.

#### Past Riots

The 2003 riot was not the only riot in Benton Harbor's history. A brief examination of previous riots might help to establish a pattern in the town's history of protest. After all, if a child grew up hearing stories of a riot that his or her parent or grandparent had participated in and that was presented as a viable means of bringing

about social change, it seems reasonable to conclude that child might be willing to pursue their ends via riotous means. Furthermore, understanding previous riots might help to explain the action of the state and other entities that responded with an influx of funding and compassion. Since history provided these decision makers with numerous examples of how others responded to riots in Benton Harbor, they had the advantage of seeing the relative benefits of the various sticks and carrots used by previous decision makers.

An article in *The Herald-Palladium* ran on the third day of the 2003 riots, and the headline read, “Violence Brings Back Bad Memories for Some (Ast III, 2003).” The story recapped the town’s previous instances of “urban violence.” One section stated, “The city also experienced riots in 1960, 1966, 1967, and 1990. Many news clips from those days are eerily similar to news accounts this week (Ast III, 2003).” The second part is correct; articles about each of the riots are “eerily similar” to the articles about the 2003 riots. However, the first part is incomplete. There was also a riot in 1963, and, in 1971, a small riot with large and lasting effects occurred at the Benton Harbor High School.

Each riot is slightly different, but the essentials are the same. In August of 1960, “80 white youths and an undetermined number of Negro youths” got into a fight at Jean Klock Park (Jean Klock Park). The racially motivated fight spread to throwing rocks and bottles. Several cars received damage, and the hospital admitted one youth for injuries (Jean Klock Park, 1960). Three years later, another violent conflict occurred. When white police arrested two black youth for fighting with three white men, a gathering of

500 African Americans threw rocks and bottles, or as the headline had it, “Negroes Flare Up in Night (1963).” For three days in the summer of 1966, hundreds of Benton Harbor’s black community rioted after white police “served a crowd of loitering [black] youth hanging around outside the Sheeley Roller Rink (Police Disperse Rock).” Governor George Romney sent in “more than 300 Michigan National Guardsmen” (Area Police Guard, 1966) to suppress the crowd that threw rocks through windows and at authorities, smashed up cars, and fired shotguns (Police, ‘Peace Squads, 1966). The next year, as racial tension across the country was reaching a fever pitch and during a week when seven Michigan cities were “embroiled in racial violence (Homes Burned, 1967),” a group of less than two dozen black youth started to smash storefront windows, damaged a car, and fired a gun in the air (BH Police Search, 1967).” These actions started to gain momentum as up to 100 black youth started to gather but were quickly thwarted by local police who dispersed the crowd (BH Police Search, 1967).

In 1971, less than three years after the death of Martin Luther King Jr., “75 students went on a rampage” (Vandals Shut Down, 1971) at the high school. They injured “12 students, six guards from a private security agency, three policemen, and one teacher (Vandals Shut Down, 1971).” They also destroyed trophy cases and other pieces of glass and overturned three cars (Vandals Shut Down, 1971). This all occurred on January 15, Martin Luther King Jr.’s birthday. The students, who wore black armbands in remembrance of Dr. King, issued a list of seven demands after the riot. The first six dealt with immunity from punishment for the riot. The seventh demand was to make January 15 a national holiday commemorating the life and work of Martin Luther King

Jr. Following the incident, a large portion of the black community, led by the NAACP, started a boycott of the school that lasted for weeks (Attendance at BHHS, 1971). The boycotters sought amnesty for all involved in the school riot and drove the school attendance down to 56% (BH Boycotters Face, 1971; Attendance at BHHS, 1971). The boycott eventually broke but not before someone shot at the principal's house and large portions of the white student body transferred to nearby, predominantly white schools (Attendance at BHHS, 1971; BHHS Principal, 1971).

According to *The Herald-Palladium* article that ran after the 2003 riots, a 1990 incident could have resulted in a riot of equal scale. The story claimed that in March of 1990, "Police in riot gear moved in to take control... after a crowd of several hundred youths gathered for a second night (Ast III, 2003)." The 300 to 400 people started throwing bottles and blocking traffic. In response, police officers from 10 local departments came in to Benton Harbor to break up the disturbance (Ast III, 2003). It is unclear if anyone was injured or if any property received any meaningful damage. The throwing of bottles can certainly be a destructive violent act. However, it does not have to be violent. If, for example, bottles are thrown at a brick building or up in the air so they come crashing down on the street, no permanent damage would be done, and nobody would be hurt. In effect, this dramatic act might serve to rally the crowd to violent action, but if the crowd did not become violent, it would be difficult to view this type of bottle throwing as much more than littering. This might raise the question as to whether or not this incident qualifies as a riot. Given the vague available description of

the event, it may or may not qualify. It is important to mention it though, as some in the community, including those at the *Herald-Palladium*, remember it as a riot.

Benton Harbor experienced six riots in a span of 43 years. On average, that is more than one riot every six and a half years. Of course, these riots did not occur on a regular basis. Most occurred during the civil rights and black power era, a time when racially motivated conflict was a relatively common occurrence. Recent scholarship has shown that violence as a means of reaching greater racial equality for African Americans has a long history (Wendt, 2007.) Speeches by Malcolm X and the actions of groups like the Black Panthers are widely viewed as a later corruption of the peaceful, southern civil rights movement. S. Wendt's book, *The Spirit & the Shotgun: Armed Resistance and the Struggle of Civil Rights*, challenges that view by examining the ubiquitous undercurrent of support for the use of violence (2007). If Wendt and Paige are correct, then the 1960, 1963, 1966, 1967, and 1971 riots of Benton Harbor could have been the work of people who consciously chose to reject official means of democratic engagement for violence instead of an ignorant mob hoping to slake their vengeance for one particular injustice.

The school riot of 1971 offers the strongest example of this. The students had planned to all attend school on a Dr. King's birthday wearing black armbands; then, after the riot, they released a list of demands that directly related to at least one political goal, namely the establishment of a national holiday. Members of the black community, including leaders of the NAACP, legitimized this plan, not official government institutions. This riot, as well as all of the riots before it, occurred during a time of great promise for black people in the United States.

The riots that occurred in 1960, 1963, 1966, 1967, and 1971 happened within different political climates from the 2003 riot and therefore garnered different political responses. During the 1960s and early 1970s, racial conflicts, often in the form of riots, occurred all over the United States. One of the primary goals of the federal government during the Kennedy and Johnson administrations was the alleviation of racial discrimination and animus and the amelioration of poverty, particularly urban poverty. The central finding of the Kerner Commission was that the widespread rioting was caused by white racism and deprivation. The Civil Rights Act and the Voting Rights Act aimed to address the racial discrimination, while a number of other programs were devised to improve the lives of the poor. In 1964, the Johnson Administration declared a “War on Poverty.” It created the Jobs Corps, Volunteers in Service to America, Head Start, Upward Bound, the Model Cities Program, Medicare, Community Action Program, and Food Stamps, among others. All aimed to eliminate poverty.

The social and economic conditions of Benton Harbor are different from most communities in the United States and have been so for the past half-century. These unique conditions and the historical lessons learned by the black community have produced a unique way of engaging in the democratic process. Drawing on a long tradition of rioting against perceived injustice, residents of Benton Harbor who participated or supported the riots in 2003 and prior can be seen as engaging in disorganized political protest. This is not necessarily true about everyone who joined in the riots. Many probably joined in for the joy of destroying things. Others, however, wanted society to change and turned to rioting as a means of bringing that change about.

The 2003 riot set in motion a series of events that would change Benton Harbor but not in the way that anyone could have predicted.



## CHAPTER 3

## HARBOR SHORES, PUBLIC SPACES, AND ECONOMIC DEVELOPMENT

The tens of millions of dollars that flooded into the city after the 2003 riot helped the stagnant economy, but it was not enough to overcome Benton Harbor's structural economic problems. High unemployment, poverty, and all of the accompanying social ills persisted throughout the mid and late 2000s. The state of Michigan, along with the city, which describes itself on its website as having a "Pro Business Environment," has taken several steps in an attempt to spur growth. In 1986, the state designated the city as an "Enterprise Zone" (Mossberger, 2000, p. 20) allowing it to reduce or eliminate business and housing development taxes. In 1996, the state offered even more tax abatements when it reclassified Benton Harbor as a "Renaissance Zone" (Renaissance Development). Further programs include MEGA (Michigan Economic Growth Alliance) Credits, which are tax credits designed to support job creation, steep cuts in property tax rates, and "The Single Business Tax," which "provides a capital acquisition deduction for real and personal property used in the production process which may be carried forward for up to ten years" (Tax Exemptions). These programs had little to no effect on economic growth, and the reduced tax rates did little to help the city's balance sheet. Some thought the creation of a Jack Nicklaus Signature Design golf course and luxury resort community named Harbor Shores could help turn things around for Benton Harbor. Unfortunately, the developers behind this plan needed a crucial piece of land to

make the project viable, the city's lakefront Jean Klock Park, which possessed the iconic sand dune of Lake Michigan.

This chapter focuses on a more typical example of democratic activity, namely the public negotiations about a community's economic development and public possessions. At times, the negotiations became very contentious as they played out in town hall meetings, courtrooms, and the media. They involved powerful corporations, impoverished citizens, the Governor and Attorney General of Michigan, and the city commissioners. The plans for the development were in the works since the 1980s, and the public conflict surrounding the use of the city park for its purposes took the better part of a decade to play out. The Harbor Shores developers are also in conflict with an existing 90-year-old manufacturer, New Products, which is currently Benton Harbor's largest employer. The exact happenings of these fights offer valuable insights into what democracy actually means for a poor community of minority racial status like Benton Harbor.

Understanding how decisions are made in this community and who gets to make them could be helpful in better understanding the widespread distrust of the official avenues of democratic engagement. For many people involved in the effort to stop the construction of Harbor Shores on the grounds of Jean Klock Park, a process that ultimately resulted in the project being developed, shows that engagement in democratic process is futile. The system is designed to fulfill the desires of the wealthy and well connected – who are, they might add, almost always white. Others would strongly protest, pointing out that beggars cannot be choosers, and that Harbor Shores would

bring in tax revenue, jobs, and a brand new world-class resort that the community could be proud of, even if most could not afford access to it. In the end, with the eventual approval and completion of Harbor Shores in 2010, all would agree that the small community of Benton Harbor would change forever.

### The Park

Hundreds gathered on the rolling beachfront dunes of Lake Michigan on May 7, 1917 to witness the dedication ceremony of the new Jean Klock Park (Klock Family Legacy). John Nellis Klock and his wife, Carrie Klock, sold the 90-acre piece of land to the City of Benton Harbor for one dollar and a promise that the land would be used for “public use” in “perpetuity” (Appendix A). They also required that no one ever “allow, suffer, or permit any intoxicating liquors or drinks to be manufactured, sold, or given away upon said premises” (Appendix A). In the letter to the city officially requesting the transfer of possession, the Klocks stated, “It is our wish that the lake frontage may always be preserved in its natural state and be a playground for the children and a bathing beach for all the people” (Klock, 1917). The city, in its resolution accepting the transfer, officially named the park “Jean Klock Park,” in honor of the Klocks’ daughter who died in infancy (Resolutions Accepting Gift). At the dedication ceremony, Mr. Klock said,

Perhaps some of you do not own a foot of ground, remember then, that this is your park, it belongs to you. Perhaps some of you have no piano or phonograph, the roll of the water murmuring in calm, roaring in storm, is your music, your piano and music box... The beach is yours, the drive is yours, the dunes are yours, all yours. It is not so much a

gift from my wife and myself, it's a gift from a little child. See to it, that the park is the children's (Friends of Jean).

According to his autobiography, John Nellis Klock was born "of poor parents" in 1865 in Bier Hill, New York (1932, p. 3). He married in 1890 and moved to Benton Harbor in 1885 where he spent the rest of his life (1932). He quickly purchased, ran, and sold the town's newspaper. Using the proceeds from the sale of the *News-Palladium*, he involved himself in a variety of other commercial ventures that brought his family considerable wealth. Again in his autobiography, he wrote,

There is little joy in piling up money that you do not need, and so the majority of my earnings have been spent in providing beaches, parks, churches and schools. Our first major gift was Jean Klock Park, a half mile of Lake Michigan frontage, which was given to the city of Benton Harbor. I say "our" for my wife was very anxious to give this park to the city in memory of our little child. Her untimely death made possible the giving to other children the share of our earnings which belonged to her, but which she could not use (Klock Family's Legacy).

The park is Benton Harbor's only lakefront property, and it offers just over half a mile of shoreline. By comparison, St. Joseph's shoreline is over four miles. This is because the great mass of Benton Harbor sits directly behind St. Joseph in relation to Lake Michigan, the sole exception being Jean Klock Park. For nearly a hundred years, the park was, as the Klocks requested, "preserved in its natural state." Few human products existed in the park. There was a bird-watching tower, a bathhouse for the beach, a few benches, a basketball court, and some playground equipment (Master Plan). Most of the park was untouched nature. The park had virtually no commercial value.

The primary purpose of the park for decades was that of most public parks: recreation and leisure. People went there to swim, hike, bird watch, and sunbathe.

Supporters of the Harbor Shores development plan saw the park differently. They saw a neglected, trash-filled, waste of prime real estate. They argued that the only people who used the park were drug addicts, prostitutes, and gang members. There were even allegations of the park being used for dog fighting (Street, 2007). To some, the general population largely avoided the park because it had long been a place of illegal and lascivious activities.

### The Development

Harbor Shores is a luxurious premier resort community. It has a Jack Nicklaus Design golf course, which has already hosted two PGA events since opening in 2010 (Golf). There is a restaurant, boating and fishing amenities, and a real estate development. Harbor Village is a \$114 dollar project that includes,

... *The Harbor Village Inn*, a boutique hotel with full service, extensive amenities and conference facilities; *Harbor Village Inn Residences* luxury condominium suites... ; *Harborage*, slips and dockage for 100 boats; *Harbor House Condominiums*, offered with a rental management program option; *ShipWatch*, luxury condominium residences and *Harbor Village Cottages*, sites for custom designed individual cottages (Harbor Village).

Harbor Shores offers a “beautiful new community” that “celebrates [a] grand lifestyle,” and is ensconced in a “quiet corner of the world... home not only to thriving agribusinesses, bustling villages, and international companies, but also to a growing number of wineries, farmers markets, and sailing regattas (Lifestyle).”

The average resident of Benton Harbor cannot afford most of the amenities offered by Harbor Shores. An annual membership pass at the golf course costs \$4,500 (Annual Passes), nearly 50% of Benton Harbor's annual per capita income of \$9,568 (Benton Harbor, 2013). The average residential property in Benton Harbor is valued at \$53,000 (Benton Harbor, 2013); the homes at Harbor Shore cost quite a bit more. On the low end, the "Trailside Cottages" range from \$199,000-\$350,000, and on the high end, the "Fairway Signature Homes" range from \$450,000-\$850,000 (Harbor Village). Furthermore, most people do not own their homes in Benton Harbor. In fact, 63% of residents rent, nearly double the state average (Benton Harbor, 2013). Most residents would find participation in the growing number of sailing regattas out of their price range.

Harbor Shores does offer a number of tangible benefits available to even the poorest citizen in Benton Harbor. The primary concern for many local residents and a major talking point for Harbor Shores is the creation of new jobs. Exactly how many new jobs the development will create is a topic of dispute. The local paper reported the promise of 3,300 construction jobs needed to build the resort and Harbor Shores along with 1,400 permanent jobs (Burch, 2007). However, this is a considerably more optimistic assessment than the estimates presented in the economic impact study conducted by the W.E. Upjohn Institute for Employment Research and commissioned by Harbor Shores. That 2008 study shows that at most, by the year 2020, Harbor Shores will have created 705 permanent tourism jobs and would have created during the peak of construction 939 temporary jobs (W.E. Upjohn Institute, 2008). The Upjohn Institute

study estimated numbers far below those that had been part of the public discussion since the mid-2000s, but the study still suggested more than 1,600 new jobs. The study also estimated these jobs would produce a total of \$40.5 million in personal income by 2020 (W.E. Upjohn Institute, 2008).

Harbor Shores has made considerable modifications to Jean Klock Park. The most obvious change is the creation of three golf holes that occupy a considerable portion of the park. Beyond that, Harbor Shores has spent more than \$2.7 million to upgrade the public bathhouse, bird-watching tower, and trail system (Our Side). The trail system is more than twelve miles long (Facts and Figures, 2010). Harbor Shores pays \$120,000 a year in maintenance fees to ensure public access to the park, and for the first time in 25 years, the city was able to collect \$40,000 in entrance fees from non-Benton Harbor residents. This is a large change for the park, which had only been receiving \$25,000 a year for maintenance and improvement from the City of Benton Harbor (Our Side).

Harbor Shores provides the community with additional benefits beyond employment and resort facilities. It offers its golf course to both the Benton Harbor and St. Joseph high school golf teams (Facts and Figures, 2010). It has provided \$7 million for new facilities for the Benton Harbor Boys & Girls Club and the First Tee, in addition to the \$1 million raised annually for the organizations' daily operations (Facts and Figures, 2010). The development also removed 150,000 tons of solid waste, including the building debris of over 3 million square feet of abandoned buildings (Facts and Figures, 2010).

Even with all of these benefits, many people still opposed the creation of Harbor Shores. For some, it was about losing the park. It was giving up an almost untouched piece of nature that anybody, regardless of income, could enjoy. Mr. Klock summed up the sentiment behind the opposition for some people in 1917 when he said, “Perhaps some of you do not own a foot of ground, remember then, that this is your park, it belongs to you.” For others it came back to trust. Steelworker Dave Heinz said at a town hall meeting, “We trusted corporate America to take care of our towns all these years. Should we trust them again (Melzer, 2008)?” Like many people in Benton Harbor, Heinz did not trust those behind the development, especially Whirlpool, whose outsourcing of jobs was a major contributor to the economic decline of Benton Harbor and the state of Michigan.

## The Fight

### **Prior Park Issues**

The use and control of Jean Klock Park fueled controversy in Benton Harbor since its 1917 bequeathal. In 1920, there was talk about giving control of the park over to the state in order to defer the cost of maintenance and upkeep, but the public outcry stymied the effort (Give Jean Klock, 1920). The city lost some park acreage in the 1950s when the state built Michigan Highway 63, and it repurposed part of the park for the construction of a water plant (Aiken, 2003). Before Harbor Shores, the most contentious city action regarding the park occurred in 2004 when the city sold 4.04 acres for “an estimated \$3 million” (Strode, 2004) to the Grand Boulevard Renaissance Development



Project. The selling of even this small sliver of parkland drew the ire of many in the community and ended up in court. When the court allowed the city to sell, some feared a dangerous precedent had been set. The selling of 4.04 acres was the start of the developer's successful efforts to acquire more and more of the park's land. After all, a story ran in *The Herald-Palladium* just a year before claiming the developers had more meager goals. The headline read, "Developers say they only want 3.8 acres of Klock Park property (Steven, 2003)."

The reassurances by developers that they were only interested in a few acres did little to assuage many residents' fears, adding to the distrust. The city made its intentions about developing the park clear nearly two decades before the Grand Boulevard Development. In 1986, the city commission approved a Downtown Development Authority (DDA) plan in an attempt to repopulate its nearly completely vacant storefront. A DDA "provides for a variety of funding options including tax increment financing mechanism, which can be used to fund public improvements in the downtown district and the ability to levy a limited millage to address administrative expenses (Downtown Development Authority)." Benton Harbor's DDA included Jean Klock Park (Ast III, 1986). This decision by the commissioners was a harbinger for things to come. The state's Attorney General's opinion stated that land in the DDA must be contiguous, a criterion not met by the park.

The city's attorney pointed out another legal problem that would eventually bring the city, the developers, and opposition groups to the Michigan Supreme Court. John Crow, the city attorney in 1986, pointed out that the deed said the park "shall at all times

be open for the use and benefit of the public” (Ast III, 1986), and that a development would be “contrary to the intent” (Ast III, 1986) of the gift. This would not only endanger future gifts to the city, but it would also likely be rejected by the courts. The city was already in communication with a group of people who were considering a “hotel-resort development” on the parkland. The potential developers said that, “hotels and restaurants can be considered public use (Ast III, 1986).” The headline of the article announcing the DDA plan was correct as it read, “Battle Lines Forming as BH Approves Plan for Jean Klock Park (Ast III, 1986).”

### **Supporters of the Park**

On one side of the “battle lines” there was an organization formed in 1986 (Burch, 2007) dedicated to preserving and improving Jean Klock Park aptly named the Friends of Jean Klock Park. Life-long local residents Carol Drake and Clellen Bury led the organization at the time of the Harbor Shores controversy. Defense of Place, a nationwide environmental watchdog organization that partners with local groups, also got involved in the fight. With the support of its parent organization the Resource Renewal Institute, Defense of Place joined with the Friends of Jean Klock Park in many of the legal and political battles (Defense of Place).

### **Supporters of the Development**

On the development’s side of the “battle lines,” there was Harbor Shores Community Redevelopment, Inc (HSCRI). As a non-profit, HSCRI was “formed to serve as master developer for the Harbor Shores Project (Harbor Shores Fact).” Three other non-profit entities – the Whirlpool Foundation, the Alliance for World-Class

Communities, and Cornerstone Alliance – own HSCRI (Harbor Shores Fact). The Whirlpool Foundation is the charitable giving division of the Whirlpool Corporation (Whirlpool Foundation). The Alliance for World-Class Communities “is a nonprofit group of Southwest Michigan residents working to remove barriers to diversity with inclusion as well as barriers to economic prosperity in the region” that was established in “January 2001 [by] Whirlpool then Chairman and CEO David R. Whitwam (Diversity and Inclusion).” The Cornerstone Alliance is the name of the chamber of commerce in the Benton Harbor/St. Joseph area (FAQs). The Whirlpool Foundation provides 50% of the funding for the Cornerstone Alliance (FAQs).

The Harbor Shores project had other key supporters beyond the official owners. Two of the most important of these supporters were located in Lansing, Michigan. Governor Jennifer Granholm was an outspoken advocate of the development. In a letter sent to Jeff Fettig, the Chairman and CEO of Whirlpool, in May of 2006, the Governor praised the corporation for the Harbor Shores development and promised the state’s full support (Granholm, 2006). She committed to providing technical assistance, state “funding as available,” and to solicit funding and the efforts of federal agencies (Granholm, 2006). The Michigan Attorney General Bill Schultes was also a supporter of the project. When Harbor Shores found itself tied up in the courts, Schultes filed an amicus brief showing his support for the development (Schuette, 2011). For the Attorney General, the support was mutual. The law firm Miller Canfield Paddock and Stone contributed \$35,000 to Schultes’ campaign, and they also represented the City of Benton Harbor, which was a co-defendant with HSCRCI in the case in which Schultes filed the

Amicus brief (Noteworthy Contributor). Fettig was also a supporter of Schultes. In fact, he and his wife hosted a \$500-per-couple fundraiser for Schultes when he was only a candidate for Attorney General. The fundraiser took place at the newly constructed Harbor Shores Golf Club (Fundraiser Invitation, 2010).

### **Democratic Conflict in City Hall and the Bureaucracy**

When the Benton Harbor City Commission voted to establish the Downtown Development Authority, which opened the park up to development by non-government agencies, the fight over the use of Jean Klock Park began in earnest. An immediate lawsuit over the Grand Boulevard Renaissance Project and the resulting settlement agreement and the consent judgment led members of Friends of Jean Klock Park to believe that the loss of 4.04 acres had secured them an “additional layer of protection against further privately owned or commercial development in the park (Litigation History).” The court decision was clear enough when it said,

“The Court permanently enjoins the City from using any portion of the property depicted as “Jean Klock Park” in Exhibit C to this Consent Judgment for any purpose other than bathing beach, park purposes, or other public purposes related to bathing beach or park use, except for recreational vehicle campsite... The restrictions in this paragraph 3 shall run with the land and shall be binding upon the City and its successors (Bury v. City of Benton Harbor, 2004).”

The developers, however, viewed Harbor Shores as related to “park use” and proceeded on pace.

Opponents of Harbor Shores turned to a variety of other non-litigious means to prevent the private entity from developing the public park. They focused on three main

areas where they thought HSCRI violated or could violate the law. These areas were environmental destruction, lack of public input, and public health concerns. From 2005 to 2008, the Friends of Jean Klock Park and its supporters worked through various governmental bureaucracies and the media to galvanize the public's opposition to the Harbor Shores development (Litigation History).

There are a number of environmental concerns when it comes to construction in Jean Klock Park. The rare and geographically isolated sand dunes create an ecological setting that is home to many different birds and animals. Particularly striking to one resident was the amazing number of monarch butterflies that lived in the park (Activist #2, personal communication, March 18, 2013). The birds, animals, and butterflies that made their homes in the sensitive sand dune environment did little to grab the attention of regulators who had the ability to approve or deny the Harbor Shores project. Then the Friends of Jean Klock Park discovered a 100-year-old rose-pink (*sabatia angularis*) (Endangered Rose Pink). The delicate flower was a threatened species, and Jean Klock Park was home to Michigan's "largest and most viable population" (Endangered Rose Pink). Opponents of the Harbor Shores briefly believed that this discovery might prohibit the development's construction. It did not. The DNR required that all steps be taken to reduce the impact of the development on the rose-pink, but construction was not stopped (Hogrefe, 2007).

A lack of public input into the entire Harbor Shores development process caused great frustration among many people involved, and a failure to comply with the legally required public comment periods caused the development to briefly delay. Since Harbor

Shores had been in the works for nearly twenty years before it came to the attention of the public, many felt the entire project was untrustworthy and the work of a few powerful elites who drew up their machinations behind closed doors. This is not entirely fair, as developers openly discussed the idea of using the park for a resort development with the local media ever since the idea's inception (Ast III, 1986) and they stated clearly that the idea was conceived in the 1980s on their website (History of Harbor). It is understandable though, since most people do not read every article, and a community rarely gives much thought to a possible development that could be built at some point in the future, especially after twenty years of no visible progress.

The National Park Service turned down Harbor Shores' initial proposal due to a failure to provide a thirty-day period for public comment (Gathings, 2008). On April 17, 2008, when the developers met with the public at a town hall meeting as part of their public comment obligation, more than 300 people showed up (Gathings, 2008) for the two-hour meeting where more than 60 people spoke on the record (Aiken, 2008). Comments came from both sides of the issue, with supporters of the development outnumbering the opponents at least two to one (Aiken, 2008). Many comments spoke to the lack of options the impoverished community had at hand. One man said, "I don't care where the money comes from... I haven't heard one person tonight step up to the mic with a better plan (Aiken, 2008)." One 86-year-old woman said, "the city has no money to keep up the park 'but Harbor Shores does... For the first time, I see some real hope for my city (Aiken, 2008).'"

Another major concern revolved around the health issue connected to the 38 acres

that Harbor Shores gave the city in exchange for the 22 acres of parkland. The developers gave the mitigation acres in an attempt to neuter the claim that Harbor Shores was a land grab. With the mitigation acres, Harbor Shores could now tout that it was in fact increasing the size of the park. Critics were not assuaged. For starters, the 38 acres were in seven separate parcels that would need to be connected by a nearly 12.8 mile trail in order to be accessed. A park of this nature would be qualitatively different from the 22 contiguous acres found in Jean Klock Park. LuAnne Kozma, the Michigan Director of Defense of Place, called it a “hodge-podge of stuff that is not as valuable as park land,” and “land nobody else wants (Allen, 2008).” Carol Drake from Friends of Jean Klock Park thought that developers were “offering the land just to avoid paying taxes (Allen, 2008).” Moreover, after years of industrial waste dumping by numerous companies, including Whirlpool, the land was dangerously contaminated. According to a 2010 report commissioned by the City of Benton Harbor and Harbor Shores, the land contained more than 20 different chemicals, including “lead, 1,3,5,-trimenthylbenzene, anthracene, pryrene and polycrylic aromatic hydrocarbons (McClure, 2012; find report).” Many of these chemicals were at levels “above standards intended to protect people in residential settings (McClure, 2012).” In at least one area, Harbor Shores had to remove the topsoil and put down 12 inches of sand as an “exposure barrier” in order to protect people who use the park from the harmful chemicals (McClure, 2012).

### **Democratic Conflict and the Courts**

Friends of Jean Klock Park eventually returned to the courts as a way of protecting the park from privatization. The group had already gone through a legal battle

including mediation and court rulings in 2003 and 2004 over the Grand Boulevard development project. During the 2004 Berrien County Circuit Court Ruling, the judge attempted to clarify the status of the park in case of future disputes. When the Klocks deeded the park to the city, they stated the park, "...shall forever be used by said City of Benton Harbor for bathing beach, park purposes, or other public purposes (Appendix A)." The section stating "other public purposes" provided the justification of the sale and development of the Grand Boulevard project. The judge's clarification of this section read,

The Court permanently enjoins the City from using any portion of the property depicted as "Jean Klock Park" as depicted in Exhibit C to this Consent Judgment for any purpose other than bathing beach, park purposes or other public park use, except for recreational vehicle campsites (*Bury v. City of Benton Harbor*, 2004).

The "clarification" did next to nothing, since Harbor Shores would argue all the way to the State of Michigan Supreme Court, that a privately leased luxury golf course was a "public use." In 2008, the Friends of Jean Klock Park filed suit again Harbor Shores.

For three years, the case made its way through the court system and on January 21, 2011, the Michigan Supreme Court heard the case. The Harbor Shores attorney argued that the Jean Klock Park was merely leasing the park land and not buying it, and that the Klocks did not adequately define what "public purpose" or "park purpose" meant. A golf course that is open to the public is that same as a tennis or basketball court that is open to the public, in terms of being a public amenity and not in terms of cost per use (Genellie, 2011). The attorney for the Friends of Jean Klock Park argued that the golf course is privately owned and operated and is therefore private. He likened the



situation to “Burger King [and] Walmart” (Genellie). Both are privately owned and both are open to the public, but nobody would consider Burger King and Walmart establishments with a public purpose (Genellie, 2011). The judge did not see it that way. Harbor Shores won the case, which allowed them to maintain control of Jean Klock Park. It would be less than a year before Harbor Shores found itself facing another legal challenge about land use. This time it would be facing a challenge from Benton Harbor’s largest employer, New Products.

#### New Products vs. Harbor Shores

On the Harbor Shores website there is a brief background given for the development. It states, “The Benton Harbor community... saw an exodus of manufacturing employment in the 1980s. Over one 18-month period, on a tract of land encompassing 600 acres at the intersection between the cities of Benton Harbor and St. Joseph, 6 manufacturing concerns closed their doors resulting in a loss of over 5,500 high-wage low-skill jobs (History of Harbor).” Many of the manufacturers left the area between 1980s and 2010, but not all.

One small manufacturer named New Products Corporation has made precision zinc and aluminum products in Benton Harbor since its doors first opened in 1922 (About Us). Walter Miller founded the company along with now closed Modern Plastics and four other companies (Kobriger, 2008). New Products employs 100 people and is a certified woman-owned small business (New Products Corporation, 2011; About Us). It is also currently suing Harbor Shores for building on its land.

Harbor Shores built one of its fairways across land that New Products claims to have owned since the mid-1950s. This land grab is at issue in New Products' lawsuit, but more important to the small manufacturer is Harbor Shores' long-term strategy. A copy of the maps that lay out the development's grand plan showed a luxury condo development in the location where New Products was located (HS Development Plans, 2013). The rendering was drafted in 2005 and showed the development's plans to remove New Products, at least from its current location (HS Development Plans, 2013).

In the eight years since Harbor Shores drew up their plans, which entailed the acquisition of New Products' land to include its offices and production facilities, Harbor Shores has made no effort to buy out the company. Harbor Shores did, however, build a golf cart path under the guise of a sidewalk through New Products' property (Golf Cart Path, 2011). This has drastically increased the liability of New Products as the numerous trucks that enter and leave the New Products plant every day now have to watch for the many golf carts, possibly driven by intoxicated golfers, that cut through the property.

New Products also faced problems from the city's emergency manager. In 2012, the emergency manager attempted to change the zoning status of New Products from "heavy industrial" to "mixed use" (City-Wide Zoning, 2012). This change would not allow New Products to make any structural repairs or improvements to its facilities (City-Wide Zoning, 2012). This is more important now than ever for the small company that is located in a flood plain, since Harbor Shores breached the berm that had protected the manufacturer for the past couple of generations. To make matters worse, the actions of the emergency manager spiked the water rates in the City of Benton Harbor,

increasing New Products' annual water bill by as much as \$40,000 (Spiking Water Rates, 2012). These actions by both Harbor Shores and the emergency manager all served to put more pressure on New Products while at the same time helping to fulfill Harbor Shores' plans. Residents of Benton Harbor point to these facts and conclude that the purpose of the emergency manager is to ensure the completion of the Harbor Shores development (Activist #1, Activist #2, Religious Leader, etc., personal communication, December 17-19, 2012 and March 18-21, 2013). This apparent conspiracy will be addressed later.

#### The Once and Future Resort Town

Herald Lasswell famously thought that politics is the method people use to decide who gets what, when, and how (Lasswell, 1935). In a democracy all, or nearly all, the people rule, and they decide who gets what, when, and how. Many scholars, using a variety of measures and methodologies, have ranked the United States as one of the world's most democratic nations. This may hold true using aggregate national data, but does the principle of majority self rule hold up in a town as poor and disempowered as Benton Harbor? Does everyone, or nearly everyone, have a more or less equal say in public matters? Specifically, did nearly everyone have an equal say in the decision to transfer part of the public land in Jean Klock Park over to the private Harbor Shores development? What about New Products? Is the dispute between New Products and Harbor Shores a simple disagreement? Maybe this is simply the result of the free market? Alternatively, does Harbor Shores yield a disproportional amount of power that

allows them to influence the emergency manager, thereby controlling the entire municipal government?

It is tempting to simply answer with an unequivocal “no.” This is, after all, what much of the national media did with the story (Wolf, 2011). The storyline is clear, provocative, and true. A few rich white men who wanted to have a local place to golf, dine, and sail plotted for twenty years to take control of a public park owned by a town full of poor black people. After funding the right political candidates and buying local support with charitable programs, these titans of industry got exactly what they wanted, and the people of Benton Harbor lost their park and a piece of history. All of this is true.

There is another way of looking at the Harbor Shores episode, though. It can and should be seen as a model case of democracy, as opposed to the oligarchic tale portrayed in the media. Viewed from this perspective, the narrative looks completely different. A few rich white men, primarily connected to Whirlpool – Jeff Fettig, David R. Whitman, Fred Upton, Al Psholka – wanted the luxury amenities that other executives had in other cities around the world, so they made a plan with which they approached the elected representatives of Benton Harbor. They offered to lease a portion of the park for a substantial amount when all of the direct payments, taxes, in-kind park improvements, increased value of surrounding area, and tourist money and taxes are considered. The basics of the plan, though not every detail, appeared in the local paper as early as 1986 and periodically ever since. This allowed the public to debate and consider the pros and cons of the proposal. Elected officials at the city level gave the approval to establish the DDA and to then lease the park to Harbor Shores. The Governor and the Attorney

General, both elected officials, both supported the development. In Michigan, people elect the judges, giving even the extensive court battle an element of democratic rule. When the public was given the chance to voice their opinion of the development project, their response was one of overwhelming support (Aiken, 2008). A 2012 article claims that 1,500 people signed a petition opposing the development (McClure, 2012). Although the proposal had been floating around for twenty years, the specific Harbor Shores project was only an issue of public concern starting in the early to mid-2000s. This means that over the course of nearly half a decade, the opponents of the development were only able to garner signatures from just over ten percent of the population.

The wealthy and well connected had the upper hand in this public decision making process, and some people did not get what they wanted. These realities seem inevitable in any society with any inequality, that is to say all human societies thus far. If the goal of a democracy is to afford all members a close to equal say, then equalizing institutions must be in place. To what extent institutions leveled the differences in power and influence of the wealthy relative to the poor is difficult to measure, not only because of the methodological challenges that such an undertaking would pose, but also because of the apparent community support for Harbor Shores.

None of this suggests that Harbor Shores could not have been completed without using Jean Klock Park or the land that New Products now occupies. Nor is it true that the typical democratic process means the Harbor Shores developers were always candid about the precise details of their plan or the best stewards of the environment or

concerned about the greater wellbeing of the people of Benton Harbor, but democratic self-rule does not require any such thing.

In the end, the developers, the City of Benton Harbor, and the majority of the citizens in the city got what they wanted. Perhaps if the city or its residents had more development options, they would have preferred something else, but their dire economic situation convinced the majority of the community to not oppose the project. The opening of the Harbor Shores golf course in 2010 demonstrates the people of Benton Harbor's ability to govern themselves and make sweeping changes in their community, for better or worse, on their own. The democratic legitimacy of Harbor Shores was called into question less than a year after its opening when the state appointed the city an emergency manager, rendering the city commission's resolutions in opposition to Harbor Shores meaningless (Goodenow, 2010).

## CHAPTER 4

## EMERGENCY MANAGER OR DICTATOR

On March 16, 2011, Michigan's Public Act Number 4, officially titled the "Local Government and School District Fiscal Accountability Act," took effect (2011). The bill allowed for the appointment of a "Chief Administrative Officer" who was endowed with substantial powers including the ability to make all financial decisions for the municipality or school district to which they were appointed (Local Government, 2011). This included the ability to unilaterally rewrite union contracts (Local Government, 2011). It also allowed the "Chief Administrative Officer," from here on referred to as the emergency manager, to strip the local elected officials of all meaningful power. Mayors, city commissioners, and school board members could keep their titles and still hold meetings, but their decisions were no longer binding (Local Government, 2011).

The replacement of the locally elected officials with a state appointed technocrat offers numerous insights into how democracy actually works for the people of Benton Harbor and similar communities. This chapter will explore the implication of this policy on the lives of those affected by it. It will first cover Anderson's paper on "Democratic Dissolution," which will provide a cogent framework from which to understand the emergency manager law. Next, there will be a section on typical ways to approach municipal insolvency, namely receivership. Then the chapter will shift to looking at the financial manager law that served as the precursor to the much more aggressive emergency manager law. Next the chapter explores an overview of the arguments for the emergency manager, followed by the arguments against it. The arguments against it will

raise important questions about race that will warrant further examination. In particular, this section will examine the role that fair skin plays in the black community. Then, in order to understand the actual impact the emergency manager has had in Benton Harbor, the chapter will include an examination of several key decisions made by Mr. Harris. After that, there will be a section that looks at the 2012 state referendum that overturned the emergency law and the law that immediately took its place. Finally, there will be an analysis of the evolution of the emergency manager law and how the various versions can help explain how democracy actually works for the people of Benton Harbor.

Michelle Anderson's article, "Democratic Dissolution: Racial Experimentation in State Takeovers of Local Governments (2012)," questions the necessity of the emergency manager laws, pointing out that traditional forms of state receivership had so far been adequate. Anderson prefers to refer to the emergency manager law as "democratic dissolution." Rejecting the label of "financial martial law" ascribed to the legislation by one of its sponsors, Anderson centers the focus on the loss of democratic self-rule (Anderson, 2012). He describes democratic dissolution as follows:

...changes that suspend local democracy, even though the city remains a legal entity. For an unbounded period of time, a city's corporate status is held in place while its charter and system of government are replaced by a single official acting with unprecedented authority, discretion, and autonomy. This... dissolves democratic self-rule for the city, but not in a way that changes the taxable land base of the city or the service needs of its population. In other words, local power is absorbed by the state but the local budget is not – the struggling city must continue to sustain the costs of an independent municipal government (including the emergency manager's salary, staffing costs, and



administrative expenses) through revenues collected locally. Whereas a true dissolution removes a locality's borders and thus merges its land base and people with a larger county or township government...(2012).

Anderson distinguishes three different ways a state could deal with a city in "fiscal meltdown" (2012). The first occurs when the court compels the city to address its debt issues by requiring it to raise taxes, known as judicial receivership. The second is a Chapter 9 bankruptcy, though not every state allows their cities to pursue this option. The third approach to municipal financial intervention "may be ad hoc or provided for under general municipal insolvency legislation," which is "commonly called a state receivership" (Anderson, 2012).

According to Anderson, state receivership comes in a variety of forms, none as draconian as democratic dissolution. The traditional form of state receivership was a simple and "familiar carrot and stick formula – bailout funds or loans tied to mandatory reform (2012)." The quintessential example of this method of fiscal salvation occurred in the 1991 in Chelsea, Massachusetts. Here the city commissioners and the mayor also assumed an advisory role, but the city officials requested this demotion. They asked the state for assistance and voluntarily, temporarily relinquished control of the city. Indiana, another industrial state, adopted a similar policy, which also allowed distressed cities to petition for a state overseer to temporarily assume the power of the local officials (2012). These democratically sound alternatives to the emergency manager law have worked well, according to Anderson, in "dozens of cities, both large and small, since 1970 (2012)." Traditional state receivership has always allowed city elected officials to

choose what course of action they want to take, even if that meant relinquishing control of the city temporarily. Michigan's emergency manager law is different in that the state makes the decision to dissolve the local democracy.

Perhaps these types of lighter footprint approaches simply did not work in Michigan. The problems may have been too deep and too all embracing. After all, the state did start the first emergency financial management program in 1988 with the passage of Public Act 101. This act retained the local elected official's autonomy and was a traditional form of state receivership (7 things, 2011). Furthermore, legislators designed the bill to pertain to only one community, Hamtramck: a small city in the Detroit area (7 things, 2011). In 1990, the state extended this law to cover other communities when they passed Public Act 72 (7 things, 2011). During the economic boom times of the 1990s and the reasonably strong economic times of the early and mid 2000s, struggling cities across the state had their finances kept in order by the relatively gentle guidance of the emergency financial managers empowered by Public Act 72 (7 things, 2011). In this system, the state and the locally elected officials worked together to solve the city's problem. The cities of Flint and Highland Park worked under the guidance of a state-appointed emergency financial manager for around a decade (7 things, 2011). Benton Harbor, by comparison, did not have an emergency financial manager appointed to it until 2010. With the election of a new Governor and legislature in 2010 and subsequent passage of Public Act 4 in 2011, the status of all appointed emergency financial managers changed. With Public Act 4, the state-appointed

managers did not simply focus on guiding the financial actions of a city. With a new title, these emergency managers controlled nearly all aspects of city government.

There were many reasons why the state appointed an emergency financial manager (which eventually became an emergency manager) to Benton Harbor in 2010. The population and economic activity, and therefore the tax base, had been shrinking for years in Benton Harbor. The city was broke, and the worldwide financial meltdown that occurred in the fall of 2008 did not help. Things were bad, and they were getting worse, but that had been true about Benton Harbor's economic situation for decades. Things changed when the state did an audit and found that the city's budget was almost entirely useless due to fiscal mismanagement. The city also had nearly \$10 million deficit, which resulted in up to \$100,000 a year in overdraft charges (Herdren, 2012). It also had approximately \$5 million in unfunded liabilities, including contributions to employees' retirement accounts (Our Side). This is the equivalent of every single resident of Benton Harbor owing \$1,163 (Our Side).

It appeared to some as if the mayor and city commissioners of Benton Harbor were incapable of running the city honestly and competently. In fact, a poll of 400 registered voters in Benton Harbor conducted shortly after Public Act 4 took effect showed that 60 percent of respondents "thought the emergency manager would better balance the city's budget deficit, compared to 14 percent who thought the city commission and mayor would do a better job (Martin, 2011)." The manager-director of the Genesee County Road Commission, John Daly, was "impressed" with the emergency manager law after attending an informational meeting on the topic (Egan, 2011). He

said, “The previous law for financially distressed local units provided fewer possible solutions (Egan, 2011).” Others wanted more. Sreenivas Cherukuri, a former city of Detroit chief information officer, told *The Detroit News* he had concerns as to “whether even the emergency manager’s power will be sufficient to address the financial problems of some local governments (Egan, 2011).”

Others immediately condemned the emergency manager law as akin to a “dictatorship.” Benton Harbor city commissioner Dennis Knowles put it bluntly: “This is a dictatorship, plain and simple (Davey, 2011).” Reverend Wendall Anthony, a Detroit pastor, said, “This is a question of democracy,” adding, “It’s an American issue (Williams, 2012).” The unions, facing the unilateral “renegotiation” of labor contracts, joined the fight. They took up the same line of attack by calling for more local decision-making, not less. As a Detroit AFL-CIO union leader put it, “When times are tough, it is especially important that decisions are made democratically and locally (Conger, 2013).”

Opponents of the emergency manager law also focused on matters of race. The real or perceived disenfranchisement of a predominantly African American community, such as Benton Harbor, drew the condemnation of civil rights activists and black leaders from across the country. John Conyers, the Congressman who represents Detroit and is a founding member of the Congressional Black Caucus, called the law unconstitutional (Schultz, 2011). The Reverend Jesse Jackson, who visited Benton Harbor a few months after the emergency manager law took effect, said, “We think Benton Harbor is to voting rights protections what Selma, Alabama, was to secure the right to vote in the first place (Genellie, 2011; Schultz, 2011). A year after Jackson’s visit, Nation of Islam leader

Louis Farrakhan came to town and suggested the emergency manager law was tantamount to a land grab by Whirlpool. He said the bill passed “because Whirlpool might want this side of town. They make it sound good, like they’re going to save the city. The devil promises only to deceive. You should know that by now. It started with 40 acres and a mule (Genellie, 2012).” A few months later, President Obama’s former minister, the Reverend Jeremiah Wright, spoke in Benton Harbor. He condemned the emergency manager law and overall conditions in Benton Harbor as a product of a nation that started from a foundation of racism. He said that during the American colonial time, “The laws were outright racist. All of them (Genellie, 2012).”

The emergency manager law in and of itself was not the only reason those sensitive to racial issues were upset; it was also the application of the law. The majority of the towns subject to the law have been predominantly black. With the recent inclusion of the city of Detroit to the list, eight out of the nine cities taken over by the state have majority black populations (U.S. Census Bureau). The current list of cities that are under emergency manager laws includes: Allen Park, Benton Harbor, Detroit, Ecorse, Flint, Inkster, Highland Park, Pontiac, and Rouge River (Emergency Manager Information). Allen Park is the only city that is not predominantly African American (Allen Park, 2013). The residents of these nine cities account for 49.7% of all African Americans living in the state of Michigan (Christoff, 2011). This fact prompted the liberal website, Daily Kos, to label the emergency manager law “a non-racist law with a widely racial impact (2013).”

In Benton Harbor, long-standing race related concerns also played a role in the daily workings of the emergency manager. Joseph Harris, the city's first emergency manager, is a light-skinned African American. For many in the community, this fact increased their level of distrust, and, in some cases, distain for Harris. A member of Benton Harbor's religious community referred to Harris as "the lightest black man in the world (Religious Leader #2, personal communication, December 19, 2012)" An unemployed man who attended a public meeting that Harris attended, said "Harris is so white, I wouldn't even consider him black (Public Meeting Attendee, personal communication, December 18, 2012)." Conversations about Harris often include the epithet "Uncle Tom"; how frequently this term is used because of his position compared to how frequently it is used because of the color of his skin is unclear. What is clear is some people in Benton Harbor viewed Harris as an outsider and a sellout, someone who came into town to carry out oppressive orders.

In a 1982 essay, *If the Present Looks like the Past, What does the Future look Like?*, Pulitzer Prize winning author Alice Walker presented the now commonly used concept of colorism. According to Walker, colorism is "prejudicial or preferential treatment of same-race people based solely on their color (1983)." Popular works like the *Autobiography of Malcolm X*, Toni Morrison's *The Bluest Eye*, and Spike Lee's film *School Daze* address this phenomena. These popular works and the work of numerous scholars in a variety of fields (Forster-Scott, 2011; Viglione, Hannon, & DeFina, 2011; Charles, 2011; Bodenhorn, 2006) illustrate the perceived and often very real benefits of being a lighter-skinned person of color. Lighter-skinned African Americans have

historically received and continue to receive preferential treatment from the white community, while darker-skinned blacks usually receive less favorable treatment. This difference in treatment has bred resentment and produced hostilities among African Americans of different skin tones, with lighter-skinned blacks often being accused of trying to pass as white.

The existence of colorism serves to cause additional friction between the governed and the government in Benton Harbor. This additional friction presumably would not exist if the emergency manager was an elected official or if the elected officials of Benton Harbor (i.e. mayor and city commissioners) requested assistance from the state in the manner of a traditional state receivership. The problems caused by the light color of Harris's skin were only exacerbated by the fact that his three assistants, all of whom lived outside of Benton Harbor but drew their salaries from the city of Benton Harbor, were each white. These types of insensitive actions may have contributed to the public dislike of the emergency manager law, which led to its temporary overturning by ballot initiative in 2012.

#### The Times and Fall of Joseph Harris

Politics at the local level can often be just as much about personalities as it is about official power. Joseph Harris was widely disliked in Benton Harbor because he was the state-appointed emergency manager and for some people, because he was born with light skin. Because of his personal style of management, which at times made him appear as if believed he was an actual dictator, many people in Benton Harbor found it difficult to work with Joseph Harris. His approach was straightforward and unapologetic.

He made comments such as, “There are no restrictions to my ability [in Benton Harbor],” (Genellie, 2010), which is true in that he had all of the powers once possessed by the elected officials of Benton Harbor, but even the elected officials had some restrictions. Public Act 72 required that the elected officials be consulted about what the emergency financial manager was doing. The commission suggested this meant Harris should talk to the board about the decisions he was making. When the local paper asked Harris what he thought consent meant, he replied, “It means I let them know. The act does not require that I take into consideration what they think (Genellie 2010).”

The commissioners had few nice things to say about Harris. Indeed, they drafted a resolution that stated, “Harris is perceived to be a deliberate assignment to a city with a population of 92.1 percent African-Americans.” It then claimed that Harris told a city commissioner, “I am not one of those head-scratching, tap-dancing uncle toms (Genellie, 2011).” Harris adamantly denied saying such a thing, adding, “There’s nothing I can do about their paranoia (Genellie, 2011).”

Harris’s contentious relationship with the elected officials of Benton Harbor and his ability to act without being challenged by anyone else may have caused him to make decisions he later had to reverse or correct. One example of this happened at Jean Klock Park. In July of 2011, a year after the Harbor Shores golf course opened its doors, the hours of operation for Jean Klock Park, which now consisted of a smaller central portion and a series of trails that connected several disparate parcels, changed from 7 a.m. – 11 p.m. to 10 a.m. – 10 p.m. The posting of two contradictory signs that stated the hours made matters worse (Paul, 2011). When the activist group The Friends of Jean Klock



Park convinced the local reporters to cover the confusing change in hours, Harris immediately reversed his decision to change the hours of operation (Genellie, 2011c). This did not quell the controversy, though. A few months later, the sign that listed the hours had tape placed over the second digit of the closing time so that the sign read 7 a.m. – 1 p.m. People still did not know the park's actual hours of operation (Klund, 2012). Furthermore, Harris ordered that the gate at the entrance of the park remain down. When residents complained that a closed gate gave the impression there was a closed park, Harris told reporters, "It's not closed to cars. Cars are simply being driven around the gate which is perfectly fine (Klund, 2012)." The hours of operation of a city park might seem trivial in almost any other community, but for residents of Benton Harbor, in the context of the emergency manager, it represented much more. As one resident said, "The people of Benton Harbor have already lost their right to be represented by the public officials. Now, they're being stripped of their privileges to use their public land (Paul, 2011)."

Harris made another decision involving the park that both upset people and he later had to correct. When the city sold part of Jean Klock Park in 2005 in order to develop Grand Boulevard, they received an equal amount of land spread out in several smaller parcels. Some of these parcels eventually became part of the trail system that resulted from the Harbor Shores development, but a few of them did not. These parcels were unconnected and undeveloped. Signs marked these parcels that read, "City of Benton Harbor open for public use (Genellie, 2012)." Harris sold one of these small parks to Liberty Dialysis, "a \$1.8 million outpatient hemodialysis treatment center,"

without the permission of the DNR and in violation with the court-ordered mitigation agreement relating to the Grand Boulevard development (Genellie, 2012; Bury v City of Benton Harbor). Since nobody noticed the oversight until construction of the dialysis center began, the city of Benton Harbor had to find new land to replace the park. This “bungled” the deal also brought about the threat of legal action from the DNR and the possible disqualification of Benton Harbor for future DNR grants (Genellie, 2012). The DNR did not engage in either action.

Many of Harris’s actions as the emergency manager involved water, though many of the actions were without alternative. Benton Harbor’s neighbor, Benton Township, broke ground on a new water plant in July of 2010, only a few months after Harris took on the powers of the emergency manager (Matuszak, 2010). The residents of Benton Township had comprised over a third of the customers of a water plant run by the water plant owned and operated by Benton Harbor. The Benton Harbor water plant had been “mismanaged in the past” (Wrege, 2011). In fact, the city’s water department had a leakage rate of 40%, and since the city could only charge what actually makes it to the customers to use, the city was only paid for 60% of the water that was produced (Genellie, 2011). Then in 2007, the state of Michigan deemed the city’s water plant “deficient” (Matuzak, 2010). The state mandated an \$11.5 million upgrade to the facility, which scared the comparatively more affluent residents of Benton Township, who thought they would end up footing the bill since Benton Harbor lacked the resources to fund the overhaul (Wrege, 2011). This massive loss of customers, coupled with the state-mandated upgrade to the Benton Harbor water plant, required Harris to

raise the water rates by at least 18% (Genellie, 2011). Thing got even worse in May of 2012, when Benton Township sued Benton Harbor for half a million dollars over unpaid water bills (Genellie, 2012).

As previously mentioned, the increase in the water rates hurts the New Products Corporation the most, as it is the city's largest consumer of water due to the process used to make the zinc and aluminum parts that the company manufactures. Furthermore, in order to complete the Harbor Shores development, the New Products and vacant Modern Plastics facilities would have to be completely demolished, but since New Products is still in operation, that does not look possible any time soon. This has led some to believe that the emergency manager was established and assigned to Benton Harbor to ensure the completion of Harbor Shores.

The belief that an emergency manager runs Benton Harbor to ensure the completion of Harbor Shores is widely held and needs some further explanation. At first, it sounds like any of the other conspiracy theories that are ubiquitous in Benton Harbor, but this particular theory is so prevalent it deserves some examination. First, it is an idea that reaches well beyond Benton Harbor ever since MSNBC host Rachel Maddow floated the idea on her primetime television show (Wolf, 2011). A wide range of people in Benton Harbor from CEOs to the unemployed, black and white, male and female, old and young all believe that the emergency manager was installed to support Harbor Shores. Who believes a given claim has no bearing on the truth of that claim, of course, but it does show that many people find the claim believable.

The basic argument goes like this: a few wealthy white males who were long time, close friends wanted a nice golf course, fine dining, and a place to go sailing, so they made plans to develop Harbor Shores. Everything was going according to plan, as the city agreed to lease Jean Klock Park to the developers, but then a legal battle that made it to the Michigan Supreme Court and a change of opinion by the city commissioners threatened to stop the entire project. In response, the developers decided to send in a “dictator” until the project was entirely complete. According to Rachel Maddow, there are only a few key players and they are all wealthy, white males who have been long time, close associates. The state representative who wrote the emergency manager law was Al Pscholka who, prior to being elected as the state representative, worked for the Cornerstone Alliance and Congressman Fred Upton (Al Pscholka). Congressman Upton is the heir to the Whirlpool fortune and has sway with both Whirlpool and the Republican Party, of which he and Pscholka are both members.

Pscholka won election in 2010 when the Republican Party took control of the Michigan House of Representatives, Senate, and Governorship (Al Pscholka). He took his oath of office on January 1, 2011, and by March 16, 2011, Benton Harbor had an emergency manager. Whether or not Representative Pscholka, with support from Congressman Upton, pushed the emergency manager bill primarily as a way to ensure the completion of Harbor Shores may be undeterminable. However, it is highly improbable that they would not have at least noticed the that the emergency manager law could serve to directly ensure the protection of an investment made by their former professional associates and personal friends at the Cornerstone Alliance and the

Whirlpool Corporation. On the other hand, nearly eight other cities received emergency managers, but none of them had a development in any way similar to Harbor Shores.

Regardless of the motives of those who helped pass the emergency manager law that brought Joseph Harris to Benton Harbor, his time in the position ended on January 31, 2013. The Michigan Treasury Department sacked Harris after his mishandling of a property tax millage renewal that brought roughly \$1 million per year into the Benton Harbor coffers (Genellie, 2012). Approximately half of the city's tax revenue came from an ongoing millage; voters periodically renewed the other half. The emergency manager law did not empower Harris to raise taxes without a vote of the people, but it did require him to deal with the consequences of losing half of the city's revenue if the voters rejected the tax. Harris warned that without the millage renewal, he would have to eliminate the public safety department altogether (Genellie, 2012). In other words, if the residents of Benton Harbor did not vote to maintain their rate of taxation, their tax rate and the city's tax revenue would drop, which meant they would have to eliminate the police and fire protection services. The measure appeared on the November 2012 ballot and was defeated (Genellie, 2012).

The failure to pass the millage renewal resulted in the loss of \$1.4 million in revenue for the city, which Harris proposed to make up for by passing a 15-mill special assessment. The rate of 15-mill was 5-mill higher than the rate would have been if it had passed in November. Throughout the month of December, Harris and his staff held three public hearings in order to rally support of the citizens of Benton Harbor who would have to show democratic support for one of Harris's proposals by giving him the votes

he needed to pass the special assessment. One of the hearings took place on the evening of December 17 in a community building. Harris started the meeting off by speaking for no more than five minutes. He told the community that if they did not vote for and pass the special assessment, then he would have no other choice but to eliminate the public safety department. He reminded them of the importance of police and fire protection in a community that has a higher than average rate of crime and fire. Then he took his seat at the table in the front of the room where his three assistants sat. All four spent the next two and a half hours staring stoically at the crowd. The standing room only crowd of several hundred people poured out into the hall. Nearly a dozen uniformed public safety officers attended, and half a dozen reporters covered the event. The rest of the crowd was entirely African American, with the exception of fewer than ten white attendees. The contrast could not have been sharper between the emergency manager staff and the crowd. The staff consisted of four people, three white and one black, all impeccably dressed in expensive, professional clothing. The staff appeared as a near mirror-opposite of the crowd in terms of both racial makeup and attire.

After Harris's opening remarks, the crowd took to the microphone. Each speaker received two minutes to make his or her point, but as with all public forums, the speaker universally violated the rule. Only a couple of people voiced opposition to the special assessment. The rest supported the plan but asked that the rates return to 10-mill. Some people took the opportunity to publically support the work of the public safety officers when they urged the passing of the special assessment at 10-mill. The overwhelming

majority used their few minutes at the microphone to yell, insult, condemn, and rebuke Harris, his team, and the entire concept of the emergency manager.

The next day, Harris told *The Herald-Palladium*, “They made a deal and I’m gone (Genellie, 2012).” The Mayor and two of the city commissioners contacted the State Treasurer, Andy Dillion, and told him they would support the special assessment at 10-mill when it came up for a vote and would urge the community to do the same if Harris was replaced (Genellie, 2012). In less than 24 hours, Harris was fired. Again speaking to *The Herald-Palladium*, Harris said, “I was told [by State Deputy Treasurer Roger Fraser] that they would want a letter of resignation this week, for my resignation, effective Jan. 31.” He said his responded with, “To give a letter of resignation would imply I’m resigning, and I’m not. You’ll just have to let me go.” Fraser obliged, and in a twist of ironic fate, Harris lost his position as the “dictator” of Benton Harbor by the actions of elected officials who brokered a deal based on an important vote.

#### Michigan Proposal 1

The replacement of Joseph Harris as the emergency manager may have made the daily operations in Benton Harbor more cordial, but it did nothing to restore the residents’ local democracy. That would take the repeal or modification of Public Act 4 and with the same governor and legislature that passed the bill still in power in Lansing, some turned to a statewide referendum as a way of restoring local democracy to the state. In March of 2011, the Maurice & Jane Sugar Law Center in Detroit joined with a the legal counsel of American Federation of State, County, and Municipal Employees (AFSCME), the Michigan & Detroit National Lawyers Guild (NLG), and the National

Association for the Advancement of Colored People (NAACP) to do just that (SLC's Work). The Sugar Law Center filed a constitutional challenge of Public Act 4 in 2011, but the courts would not take the case. In May 2011, the small law firm "dedicated to defending the rights of working people and their communities" set about getting a referendum to repeal Public Act 4 on the November 2012 election ballot (SLC's Work).

On the way to the referendum, the Sugar Law Center and their allies encountered a few problems. By February 2012, citizens had gathered more than "200,000 valid signatures - about 40,000 more than required" to put the referendum on the ballot (Egan, 2012). Then Citizens for Fiscal Responsibility challenged the petition drive, claiming that the petition did not use a 14-point font on its title as required by law (Egan, 2011). The challenge was first heard by the State Board of Canvassers. The board was made up of two Republicans and two Democrats. One of the Republican members, Jeffrey Timmer, was a partner at The Sterling Corporation, which shared its business address with Citizens for Fiscal Responsibility (Smith, 2012). The head of Citizens for Fiscal Responsibility, Bob LaBrant, was also a partner at The Sterling Corporation (Smith, 2012). The petition was not approved by the State Board of Canvassers.

The petition for a referendum to overturn Public Act 4 did receive a tied vote from the State Board of Canvassers and therefore passed on to the Michigan Court of Appeals. The appeals court ruled the law was in "substantial compliance," meaning it technically did not meet the state's requirements, but that any violation was trivial (Egan, 2012). This ruling was immediately appealed to the Michigan Supreme Court. The Supreme Court upheld the approval of the petition, but on the inverse of the appeals



court decision. They found the petition to be in compliance with the exact requirement of the law and threw out the entire idea of “substantial compliance” (SLC’s Work), which had been the reigning paradigm in Michigan law for more than a decade (Egan, 2011).

The referendum made it to the November 6, 2012 ballot. For the first time, the citizens of Michigan had a chance to vote to overturn the emergency manager law, which they did. The total vote count came to 2,370,601 opposed to the emergency manager law, while only 2,130,354 supported it (State Proposal 1). In other words, 54% supported overturning the emergency manager law, and 47% supported maintaining the law (State Proposal 1). With the repeal of the Public Act 4, the state reverted back to Public Act 72, which Public Act 4 had amended (SLC’s Work).

#### Public Act 436

It only took 37 days for the legislature to pass and the governor to sign an emergency manager law that replaced the one repealed by the voters of Michigan (Egan, 2012). Some people were offended by the idea of replacing a bill that the voters rejected with a similar bill. As Greg Bowens of Stand Up For Democracy said, “This one, in many aspects, is just as onerous and dictatorial as the last one (Egan, 2012).” The new law, Public Act 436, is different in at least one key aspect; it allows local elected officials to choose from a list of options. If a state review team finds that a municipality is in a financial emergency, then “those communities can request and emergency manager, ask for a mediator, file for bankruptcy, or introduce a reform plan with the state (White, 2012).” This is much closer to a traditional state receivership, but it still has its critics. Al Sharpton’s National Action Network and several unions have already filed

suit over the new law (Helms and Guillen, 2013). They point out that since the new law retains the emergency manager option, it allows people to be disenfranchised because they are poor. Incidentally, a majority of the poor people who are having their votes nullified by emergency managers are African Americans.

The citizens of Benton Harbor may have a chance to regain some local control over their city when the new law takes effect in April 2013 (Fisk and Christoff, 2013), but until then they will be dealing with Harris's replacement, Tony Saunders II (Smith, 2013). Saunders is a 26-year-old, light skinned African American, with experience working in Detroit and Highland Park. He is also taking a different tactic when it comes to dealing with the people of Benton Harbor and the city's elected officials. He told the local television station, "There are no secrets. Everything will be completely open." He also expressed concern about returning control of the city back over to the residents and quickly as possible when he said, "...if we don't work fast, that means the longer I'm there, which means the longer the local government there isn't in control of their own destiny (Smith, 2013)".

#### "Corporate Paternalism"

The fact that the emergency manager law passed in Michigan, the center and capitol of the "rust belt", is important. Residents across the state view the law as a tool for business interests to have free reign in cities around the state. Some people see it as a way for business to circumvent the unions and the will of the people. One lifelong resident of Detroit who worked on the referendum campaign to overturn the emergency manager law, said, "I grew up hearing what is good for GM is good for America. I call it

corporate paternalism. The corporations say, 'Let us run things; if it's good for us, it's good for everyone else.' In Benton Harbor, it may be Whirlpool. In Detroit, it's GM. The idea is the same. The people need to get out of the way and let the corporations do what they want (Referendum activist, personal communication, March 20)."

With the installation of the emergency manager under Public Act 4, the State of Michigan dissolved Benton Harbor's local democracy. The mayor and city commissioner got on the ballot, ran for, and won their offices. The residents voted for and elected the mayor and city commissioners. The State of Michigan effectively nullified all of those actions when it installed a technocrat that was not accountable to Benton Harbor residents and only indirectly accountable to the residents of the state. The expressed reason for the elimination of local democracy in Benton Harbor was the city's lack of money. The town was broke so the residents were disenfranchised at the local level. The indirect consequence of the emergency manager law was the local level disenfranchisement of more than half of the state's African American population. To add insult to injury, when the voters rejected the emergency manager law, the legislature immediately replaced it with a very similar law.

## CHAPTER 5

### CONCLUSION

In the paper “Democratic Comprise: A Latent Variable Analysis of Ten Measures of Regime Type,” authors Daniel Pemstein, Stephen Merserve, and James Melton note that there are at least “10 measures of democracy” commonly used (2010). Most of these measurements rank the United States relatively high (if the measurement includes a graduated scale) in terms of democracy. These researchers base their quantitative models on data sets that include factors common to most nations. This provides invaluable information that allows them to analyze democracy from 30,000 feet and make useful generalizations about the relative democratic nature of each nation.

Unfortunately, these types of broad studies almost necessarily miss the finer details of any given democracy. For example, all democratic countries restrict their voting to those citizens who have reached adulthood. Accepting the premises that children should be restricted from voting, there are still many perennial problems with determining a universal standard for who is a voting eligible adult citizen, which is required to define in order to make many of these studies meaningful. It is easy to design a study that disqualifies countries from being located on the democratic side of the spectrum if that country rules ineligible large blocks of the populous based on features like race, religion, gender, class, sexual orientation, or ethnicity. For example, if a country had a minority population that accounted for only 10% of the total population, and members of that minority acquired enough political power to disenfranchise the 90% majority population, many would hesitate to categorize that county as being a

democracy. If only 10% of the adult population lost the vote, instead of 90%, would the slide away from the democratic side of the scale be as great? Should it be? Denying someone an equal say in self-governance based on an arbitrary feature of birth such as race or gender seems to be undemocratic and somewhat anachronistic to the modern western scholar. Things are less clear when it comes to conditions that occur or arise some time after birth such as brain injuries, mental illness, or senility. These issues as well as mental retardation and other disabilities all manifest themselves in degrees of severity. There does not seem to be a universal standard as to what lines are drawn and where when it comes to these populations and their voting rights.

If these features cannot be considered when determining which adults are allowed to participate in a democracy, what features can be considered? The nations of the world seem extremely far from any sort of consensus on this. When does adulthood start? What actions are required to be a qualified citizen? Does one have to serve in the military or perform some other sort of national service? Does one have to register for the draft? Is it democratic to require different actions from different groups of people based on features such as race, religion, gender, class, or ethnicity? Can someone lose his or her right to participate in the democratic process? If so, what actions can legitimately cause the loss of voting rights? Can someone have his or her voting rights restored? If so, what must he or she do in order to restore them? If 10% of a country's adult population was ineligible to vote due to the violation of one of that country's idiosyncratic standards of citizenship, would that country be considered less democratic? What if 50% of the population fell into that category? How about 90%?

This is not to say that researchers should stop conducting broad statistical comparisons of democracies. Researchers need to continue to carry out these studies and refine their methods. At the same time, other researchers need to examine how democracy works at the micro level. How does it work in particular times and places? How does it work for individuals or groups of people? How do certain socioeconomic or historical factors produce different results for different groups of people in different times and places? What does democracy mean to different populations, and how does that affect the outcome?

This thesis has been an attempt to produce one of these case studies. It has focused on the manifestations and processes involved in democratic self-governance in the small community of Benton Harbor, Michigan. On one hand, Benton Harbor offers one of the extreme examples of the limiting of democracy in the United States. On the other hand, it also offers a typical example of a poor, predominantly black community suffering from deficient schools, post-industrial economic depression, and hyper segregation, all of which are features of places like East St. Louis, Illinois, Camden, New Jersey, and Detroit, Michigan. By examining three significantly different democratic episodes, which occurred over the course of a ten-year period, this thesis has highlighted the uncommon, typical, and unprecedented nature of the democratic experiences of the people of Benton Harbor.

The riots that occurred in the summer of 2003 in the city of Benton Harbor represent an uncommon expression of democratic participation on the part of the city's rioting residents. The seven riots that have occurred in the city since 1960 have all been

riots best described by the deprivation theory and that do not align with the competition theory espoused by scholars like Olzak and Shanahan. As the deprivation theory predicts, Benton Harbor is a prime staging group for racial minority-instigated riots. The lack of adequate housing, schools, medical services, and economic opportunity coupled with the ever-present reminder of the inequitable quality of life experienced by their affluent, white neighbors in St. Joseph breed resentment that makes rioting more likely. The required conditions of the competition theory, increasing population that exceeds the rate of job creation along with direct competition for those jobs with members of other racial groups, have not been present Benton Harbor for decades.

For some in Benton Harbor, riots are an extra-democratic expression of dissent. As Paige explained, in certain circumstances, riots are effectively disorganized political protest (1971). Informed citizens who feel they can and should change society, but who decide to circumvent the official democratic means of reform and instead utilize riots as a form of dissent stand in contrast to the idea that riots are mindless acts of mob violence. Some people viewed some of the many riots in Benton Harbor's recent past as legitimate tools of reform.

The process by which the Harbor Shores development went from idea to reality is a paradigmatic example of democratic self-governance. The Harbor Shores development episode serves to highlight the power differentials within Benton Harbor between those connected to power interests like Whirlpool and everyone else. This power differential may lead to outcomes that many are not happy with, and it may lead to outcomes that are shortsighted, destructive, or flawed in any number of other ways. In

and of itself, the process that established Harbor Shores was emblematic of American democracy. Moreover, Harbor Shores demonstrates that major changes can happen in Benton Harbor through normal democratic means. The continuation of the Harbor Shores lease and therefore the competition of the entire resort community cannot be considered democratically supported as long as the emergency manager is in place.

Benton Harbor's experience with the state-imposed emergency manager, as manifested under Public Act 4, offers a look at American life after the abolition of local democracy. This nearly two-year experiment denied people a democratic say in their local governance, caused conflict in the community, and failed to correct the city's fiscal problems. It also drew the ire of activists, union members, and concerned citizens who overturned the law. Then, it was replaced with Public Act 436, which is much closer to the traditional form of state receivership that has been used across the country since the Great Depression. Whether or not Public Act 436 will survive its constitutional challenges is yet to be seen.

Further research on the democratic experiences in Benton Harbor (and similar communities) are needed in order to build a more robust understanding of democratic life in poor, minority-dominated areas as well as the United States as a whole. There are at least two areas of investigation that could enhance future studies of this sort. The first is the role of apathy in Benton Harbor. The second is the role of conspiracy theories. More research on both would contribute to a fuller understanding about how and why Benton Harbor citizens decided to join or condemn the riots, oppose or support the Harbor Shores development, or resist or accept the emergency manager.



Apathy is pervasive in Benton Harbor, as it would be in any community that had experienced decades of economic decline, drugs, violence, and a crumbling infrastructure. That many people in Benton Harbor feel hopeless, disengaged, and apathetic is not surprising, and is reflected in breathtakingly low voter turnout. As *The New York Times* pointed out, one of the city commissioners won his seat by receiving a total of 84 votes (Marler, 2011). However, there are a couple of reasons why the official voter turnout might not be as high in Benton Harbor as it is in less troubled communities, one reason being the extraordinarily high felony rate that disqualifies a larger percentage of the population from voting as compared with other communities. The other reason relates to Paige's idea of rioter as dissident. People in Benton Harbor could care just as much about their community, the government, and society as a whole as people in any other U.S. city, but they may choose to participate in the official processes at a lower rate due to a lack of trust. People may discuss the city's happenings while at a restaurant, church, or barbershop instead of at city hall, Democratic or Republican central committee meetings, or the board of supervisors meeting. Further research into the role apathy plays in Benton Harbor could be fruitful.

Conspiracy theories also play a major role in the formation of Benton Harbor's democratic processes. Future research on the community should explore the causes and impacts of these theories. Many residents hold to "mainstream" conspiracy theories that are widely disseminated on the Internet and are not particular to Benton Harbor. These include ideas about secretive organizations like the Illuminati, Free Masons, the Knights Templar, and the Skull & Bones Society. People believe these groups to be the behind

the scenes puppet masters, making all decision makers ranging from the President of the United States to the city commissioner mere puppets. It is also common in Benton Harbor to hold similar beliefs about Whirlpool. There is a reflexive attitude among some residents to blame Whirlpool for problems in the community. For example, in December 2012, an abandoned, previously fire-damaged home caught on fire and burned to the ground. Several witnesses saw a young teenager run out of the building moments before it went up in flames, and many assumed it was the same arsonist responsible for a recent rash of abandoned home burnings. Instead of simply attributing this action to the mischievous child with a penchant for fire, at least half a dozen people who gathered to watch the fire believed that Whirlpool was in some way behind the incident. When pressed to provide a possible motive, one man simply said, “You never know with those people. They’re always up to something (Bystander, personal communications, December 18, 2012).”

Conspiracy theory thinking has obvious deleterious effects on democratic self-governance. If nothing is as it seems and someone else is dictating everyone’s actions, whether that is Whirlpool or the Illuminati, then there is no foundation for trust. This is not to say that the people of Benton Harbor do not have legitimate reasons to be suspicious of Whirlpool, politicians, non-local residents, or anyone one else for that matter. The exploitation of poor, uneducated, and black populations fill the pages of history. Whirlpool has polluted, lied, and exploited the residents of Benton Harbor on numerous occasions throughout the past century. It is understandable that people are suspicious. Unfortunately, this suspicion, born out of self-defense, has mutated into

widespread near-paranoia that is extremely destructive to many aspects of life in Benton Harbor, including democratic participation. There is existing scholarship about the prevalence of conspiracy theories among African Americans in general, which future researchers of Benton Harbor could expand. Researchers interested in Benton Harbor or conspiracy theories would benefit from studying the panoply of original and local conspiracies.

This thesis set out to answer the question: What does democracy look like in Benton Harbor, Michigan? Like any good research question, there is no simple answer – no discreet number or fact, no clear yes or no, that will answer the question. Perhaps a state of constant flux is the best answer. The city has been in a state of emergency for nearly half a century. The residents, the business community, non-profits, and the government at all levels have tried, and continue to try, to revive this once-thriving community. This has sometimes meant using extra- democratic means such as rioting. Other times it has meant anti-democratic means as in the emergency manager law. Most of the time, however, the community struggles to grow using typical American democratic means, which tend to favor the wealthy and politically well connected. Democracy for the people in Benton Harbor is demonstrably different from the democracy experienced by those living in more stable communities across the country. Further study of exactly how and why these differences exist for Benton Harbor and similar communities will help contribute to a more robust understanding of how democracy in the United States is experienced.

## APPENDIX A

## JEAN KLOCK PARK DEED

THIS INDENTURE, Made this 4<sup>th</sup> day of May in the year of our Lord one thousand nine hundred Seventeen, BETWEEN J. N. Klock and Carrie E. Klock, husband and wife, of Benton Harbor, Michigan, of the first part, and City of Benton Harbor, Berrien County Michigan, of the second part, WITNESSETH, That the said parties of the first part for and in consideration of the sum of One Dollar and other valuable consideration, to them in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, have granted, bargained, sold, remised, released, aliened and confirmed, and by these presents do grant, bargain, sell, remise, release alien and confirm unto the said party of the second part, and to its assigns, FOREVER all that certain piece or parcel of land situated and being in the Township of Benton in the county of Berrien and State of Michigan, and described as follows, to-wit: Commencing at the Northwest corner of Lot 113 in the Plat of Long Beach, thence Easterly along the Northerly line of Lots 113 and 116, Long Beach, Westerly line of Grand Boulevard in plat of Higman's Michigan Park, thence South-easterly along the Southerly and Westerly line of said Grand Boulevard on a line which at every point is Sixty-six (66) feet distant from the Northerly and Easterly line of said Grand Boulevard to the intersection of the Southerly line of said Grand Boulevard with the North and South line running through the center of Section 13, Town 4 South, Range 19 West: thence South along the East line of the Northwest Quarter of said Section 13 to the Paw Paw River; thence Westerly and Southerly down along said River to a point where the Westerly

shore of said Paw Paw River intersects with the Southerly line of the Northwest Quarter of Section 13; thence Westerly along the Southerly line of the Northwest Quarter of said Section 13 produced to the low water mark of Lake Michigan; thence Northeasterly along the low water line of Lake Michigan, to the point where the North line of Lot 113 in Plat of Long Beach produced Westward intersects the low water mark of Lake Michigan; thence East along said line to the place of beginning. The above description includes all of Block 29 in Higman's Michigan Park and all the Plat of Long Beach, except Lot 115 and land West of said Lot and between same and Lake Michigan. The aforesaid lands and premises are granted and conveyed upon the express conditions that said grantees, their heirs, legal representatives or assigns shall not allow, suffer, or permit any intoxicating liquors or drinks to be manufactured, sold, or given away upon said premises (said covenant shall be construed as running with the land); that any violation of said conditions, or either of them, may be enjoined by said grantors by any court of competent jurisdiction without notice to the then owner of said premises, or any tenant thereof. The said premises above described are also conveyed subject to the rights of the public in the streets and alleys in the Plat of Long Beach. Said lands are also conveyed subject to the rights of A. P. Sibley Irven Spencer and Edward C. Hegeler, under leases to build and construct private boat houses along and upon the Lagoon. The covenant of warranty herein does not apply to the portion of the above described lands lying between said Section 13 and Lake Michigan, it being understood that said first parties convey and quit-claim only such title as they may have to the parcel of land laying between said Section 13 and Lake Michigan, included in above description. Said

lands and premises and conveyed to said City of Benton Harbor upon the express condition, and with the express covenant that said lands and premises shall forever be used by the said City of Benton Harbor of bathing beach, park purposes, or other public purposes; and at all times shall be open for the use and the benefit of the public, subject only to such rules and regulations as the said City of Benton Harbor may make and adopt. Together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining; and the reversion and reversions, remainder, remainders, rents, issues and profits, thereof; and all part, either in Law of Equity, of, in and to the above bargained premises, with the hereditaments and appurtenances, TO HAVE AND TO HOLD the said premises as above described, with the appurtenances unto the said party of the second part, and to its assigns, FOREVER. And the said parties of the first part, for their heirs, executors, of the second part, its assigns, that at the time of the ensembling and delivery of these presents they are well seized of the premises above described as of a good, sure, that the said lands are free from all incumbrances whatever and that the above bargainits assigns, against all and every person or persons lawfully claiming, or to claim, IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered )	<u>J. N. Klock (L.S.)</u>
)	
In the presence of )	<u>Carrie E. Klock. (L.S.)</u>
)	
<u>Humphrey S. Gray.</u> )	
)	
<u>W. P. Harvey.</u> )	
)	
State of Michigan. )	
) SS	



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