

Without settlement, park future was in doubt

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Editor,

I must say, I was extremely disappointed to read the Jan. 22 Herald-Palladium editorial regarding the proposed settlement of the Jean Klock Park litigation ("The public is biggest loser in Jean Klock Park fiasco").

I think several facts deserve clarification.

First, and most importantly, contrary to long-held public belief, legal analysis by both sides in the case has disclosed that the original deed of gift from the Klock family in fact never has protected the park from development. That means that had the situation remained as it was at the beginning of the case, the whole park was legally available to the highest bidder - a process that was apparently beginning under this proposal. It was only through some very able and creative legal work by the team representing the plaintiffs that an alternative theory was developed. This argument proved persuasive to Judge Fields, who concluded as a preliminary matter that the property may have been protected by the city's own actions in accepting the gift. It is important to note that this theory is untested in Michigan law. Therefore, assuming that the plaintiffs in the case were able to prevail at a trial, success in an almost certain appeal is an open question at best. The downside risk, however, is clear. The price of failure in the legal battle would be the potential loss of the entire park.

Second, from the beginning it has been the position of the plaintiffs in the case that the overriding goal, regardless of anything else, was to find some way of protecting the park for future generations. The settlement arranged as a result of this litigation provides such unequivocal protection for all time in the form of a permanent court order.

This order cannot be challenged at any time in the future. In other words our children and grandchildren will not have to repeat this legal battle over and over again.

As your editorial correctly pointed out, the price of this protection is a very limited, controlled development along the northern fringe of the park. The parties went to considerable length to scale back the scope of the original proposal and to assure that the impact on the park and beach would be minimal. In addition, the plaintiffs insisted on other concessions that will once again ensure the public's meaningful access to the park and beach. Among other features of the settlement, these include the reopening of the beach boulevard and the removal of the penitentiary-style fence surrounding the park. The plaintiffs in this case believe that this tradeoff is very reasonable

compared with the assurance that the Jean Klock Park that we have enjoyed for the past 87 years will continue to exist for future generations. I wholeheartedly agree with that assessment.

I personally believe that the plaintiffs in this case, their legal team and their supporters deserve great credit for their recognition of the importance of this issue. Their willingness to sacrifice their time, energy and considerable financial commitment to the future welfare of this community is most commendable.

Ronald J. Taylor

Chief Trial Judge (Ret.)

Berrien County