

## GREENSPACE ACQUISITION AND PRESERVATION:

### A SHORT LEGISLATIVE AND OPERATIONAL HISTORY

In 1989, Peggy Reis and Mike Walton (as first-time candidates) were elected members of the three-member Board of Township Trustees of Anderson Township, located in the southeastern corner of Hamilton County, Ohio, between the Little Miami and Ohio Rivers. They ran for election on a platform which included a free market approach to preservation of existing green areas.

The Township's population had increased from 10,339 in 1950 to 34,510 in 1980; in 1990, it reached 39,939, and is about 45,000 at present. In terms of population, Anderson is the fourth-largest political subdivision in Hamilton County, behind the City of Cincinnati, Colerain Township, and Green Township. In terms of area, Anderson Township is the third largest political subdivision in the County, behind Cincinnati and Colerain Township. Its area is 31.16 square miles, and it is traversed by I-275, the circle freeway connecting I-75, I-74, and I-71. Anderson's population density, as of 1990, was only 1,282 people per square mile, placing it 38<sup>th</sup> among Hamilton County political subdivisions.

While the Township had several parks (it currently has about 1,500 acres of park land), the parks' focus was (and is) primarily active recreation. Peggy and Mike foresaw that as subdivision and commercial development continued, the Township's remaining undeveloped green areas would tend to disappear, except where the terrain hampered building. The laws of Ohio, however, did not then permit townships to buy land for preservation, nor to finance the cost of doing so.

Peggy and Mike contacted Jacquelyn O'Brien, the member of the Ohio House of Representatives whose district includes the Township, and explained their vision and the need for new legislation. Representative O'Brien saw to passage of House Bill 717, effective June 28, 1990, which permitted Ohio townships to acquire — *without* exercise of the power of eminent domain — ownership interests in land, water or wetlands, and to restore and maintain land, water or wetlands, all for the purposes of preservation and protection. House Bill 717 also permits townships to submit to the voters a real estate tax levy of up to five years to finance such activities.

After a grass-roots volunteer campaign, featuring yard signs and flyers, the Township's voters approved a 9½% of a mill five-year greenspace levy at the November 6, 1990, general election, by a margin of 10,137 to 5,683. (Parenthetically, at the general election on November 7, 1995, the voters renewed the levy for five more years by a vote of 5,949 to 3,959.) In February, 1991, the Board of Township Trustees launched the greenspace program by borrowing \$1,325,000 against the \$2,654,000 expected to be provided by the levy over five years. No state or federal funding for the program was sought or received.

The Township Trustees appointed a volunteer Greenspace Advisory Committee, initially chaired by Margo Rebar, a biologist by education and a teacher, to develop criteria and methods for greenspace purchases, to identify critical and desirable parcels, and to recommend particular parcels to the Township Trustees for purchase. Ms. Rebar has been succeeded as Chair by Ron Edgerton.

Upon receipt of a recommendation from the Committee for purchase of a particular parcel — and such recommendations typically include a suggested maximum purchase price — the Board of Township Trustees, meeting in executive session as

permitted by Ohio's Sunshine Law, evaluates the proposal. If it decides to make a purchase offer, it returns to public session and authorizes and appropriates a sum of money — which sometimes covers more than one parcel — without identifying the parcel or parcels in question.

Then, the Township's real estate negotiator approaches the owner to attempt to negotiate price. The Township's standard purchase contract includes three basic contingencies:

- *A satisfactory Phase I environmental audit, to check for the presence of hazardous substances;*
- *A survey, to produce a new legal description if necessary, to check for encroachments, and to facilitate placement of greenspace boundary marker stakes; and*
- *A title search*

Sixty days are typically allowed for satisfaction of these contingencies. In one case, the Township had to contract for a Phase II audit, after an unidentified substance was found oozing from the ground. It never *was* identified, but it was determined to be non-hazardous.

In another case, the parcel's boundaries could not be reconciled with those of an adjoining parcel, and the transaction did not go forward.

The reason we do not typically encounter environmental problems in the program is that virtually none of the greenspace parcels purchased by the Township has ever been developed.

Subsequent to acquisition of a parcel, an application for real estate tax exemption is filed with the State Tax Commissioner. Such applications are routinely granted, resulting in the parcel's being removed from the tax rolls for the following year. This is, of course, the greenspace program's most significant negative, not just for the Township, but for the County and the overlapping school districts. However, the greenspace parcels are appraised for tax purposes as undeveloped land, and property taxes on undeveloped land are relatively low. In addition, it may well be the case that parcels abutting greenspace see their valuations increased because of that proximity.

Acquired greenspace parcels are managed — or *not* managed — under a [Use and Maintenance Policy](#) developed by the Township Administrator in 1991, with the assistance of the Greenspace Advisory Committee, and revised in 1998. The Policy is fundamentally one of benign neglect, with a notable exception for the occasional dangling tree limb which could cause injury if it fell.

Under [House Bill 336](#), effective November 12, 1997 — another bill whose passage was obtained by Representative O'Brien at the request of the Anderson Trustees — townships acquired the right to use the word "greenspace" in notices of election and on ballots, and the right to borrow against a levy at any time during its life, instead of only prior to the first tax collection date.

Peggy Reis and Mike Walton are now serving their third terms as Township Trustees. In 1995, they were joined on the Board by Russ Jackson, another strong greenspace advocate. The Township's original greenspace real estate negotiator, Ken Dietz, was

elected Township Clerk in 1995. In that capacity, as the Township's fiscal officer, he keeps track of greenspace tax levy receipts and expenditures, and reports regularly to the Greenspace Advisory Committee on dollars available for purchases.

Anderson's program was the first (and is, we believe, so far the only) township-sponsored greenspace program in Ohio. We hope and expect that it will furnish a worthy model for townships, towns, cities and villages in Ohio and elsewhere.