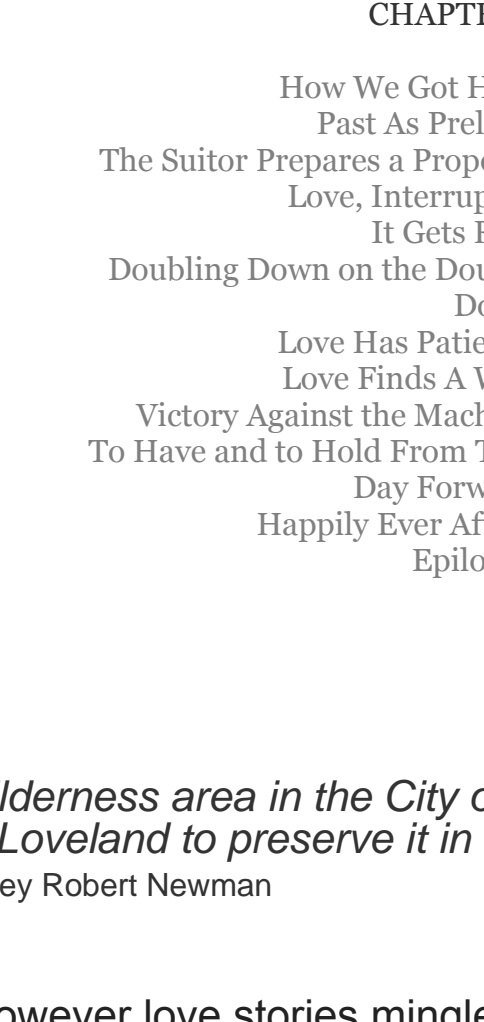
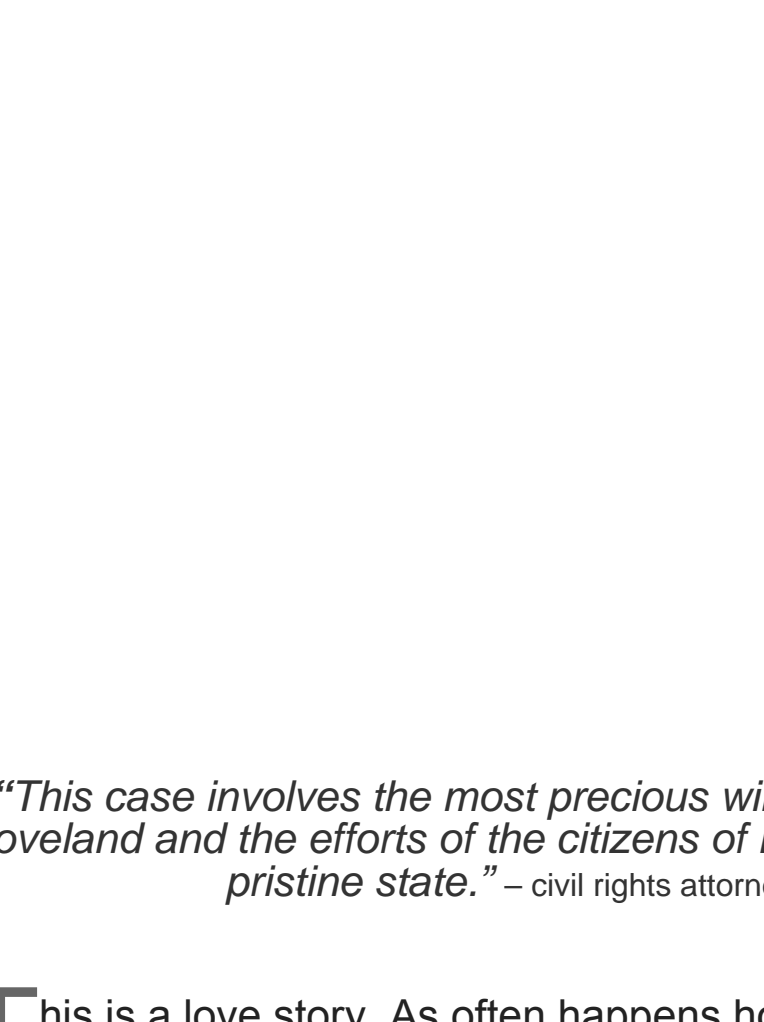


HOW 27-YEARS AGO THE SIMPSON FARM IN LOVELAND WAS PRESERVED IN ITS PRISTINE STATE AND IN PERPETUITY

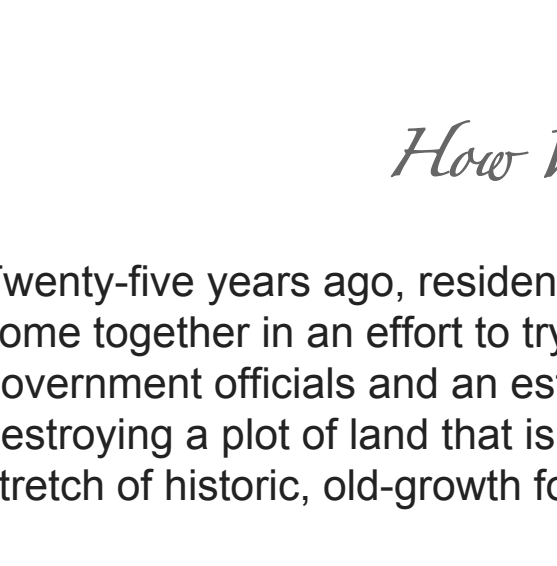


CHAPTERS

How We Got Here
Past As Prelude
The Suitor Prepares a Proposal
Love, Interrupted
It Gets Real
Doubling Down on the Double
Down
Love Has Patience
Love Finds A Way
Victory Against the Machine
To Have and to Hold From This
Day Forward
Happily Ever After?
Epilogue

"This case involves the most precious wilderness area in the City of Loveland and the efforts of the citizens of Loveland to preserve it in its pristine state." – civil rights attorney Robert Newman

This is a love story. As often happens however love stories mingle with their nightmares and the familiar sleepless nights.



A songbird chirps as another two, then three, then ten sing back and forth, echoing off the maples, oaks, and sycamores that overlook the slow-falling creek water in the valley.

Flourishing moss, a home to tiny mushrooms and a sprawling array of ants, lives symbiotically with the base of the hundred-year-old oak it covers. Hints of a deer family are left beside flowering native plants on the ground while an owl's deep hoot silences the symphony of small-winged singers high above. All of this life thrives just an 11-minute stroll away from the vibrantly busy heart of Historic Downtown Loveland, Ohio, and within the center of a city that is seemingly always balancing growth with the preservation of its long history.

Part of the Simpson Farm was recently designated by the Old Growth Forest Network as an old-growth forest, which was discovered through aerial imagery from 1932 that shows 10 acres of mature, hundred-year-old forest.

Found in the Simpson Farm Conservation District in Loveland, an eastern suburb of the Greater Cincinnati area, the life within this forest was almost lost forever when the City sold it to a developer in the late 90s.



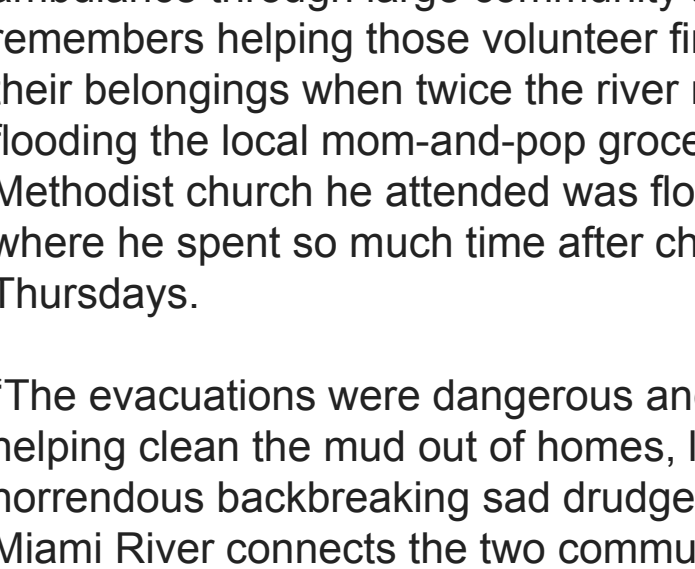
This flyer passed out by the citizens before election day.

How We Got Here

Twenty-five years ago, resident David Miller recruited the community to come together in an effort to try to prevent their elected City government officials and an established development company from destroying a plot of land that is now recognized as the last remaining stretch of historic, old-growth forest within City limits.

On November 9, 1994, the *Loveland Herald* reported that the Simpson Farm, a 41.064-acre stretch of forest within City of Loveland limits, was expected to be purchased on behalf of the City by then-City Manager Wayne Barfels from the Simpson family for \$650,000.

"City Manager Wayne Barfels said the city is buying the land to expand Phillips Park and will be used for a combination of active and passive recreation," the *Loveland Herald* wrote. The City also bought the land to run the sewer and water lines to the newly built Loveland High School, which is in Symmes Township, rather than buying easements along the adjacent roads.



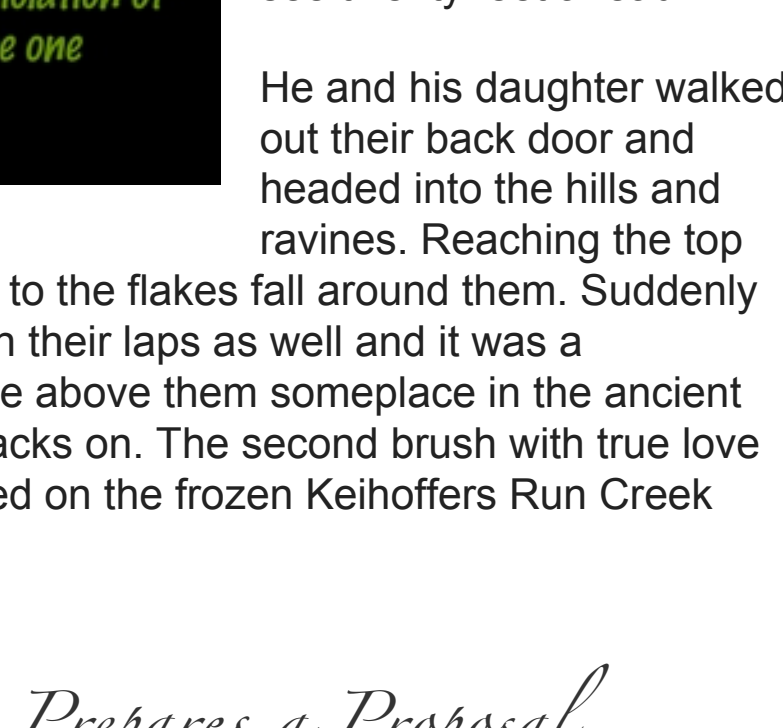
David Miller says his love for the natural world can probably be traced back to when as a child his mother would take him and his two brothers and any neighbor children who wanted to tag along on hikes straight up the middle of the two tributaries to the Little Miami, Todds Fork, and First Creek in Morrow, Ohio. "My mother was raised on the west side of Cincinnati and I don't believe she had chances to do exploring like this as a young girl, so she was also fascinated by the wildlife, fish, frogs, tadpoles, and what was to be discovered underneath the creeks' large flat rocks." (A portrait of Miller painted by Elizabeth Murphy in 2001.)

David Miller, the founder, and co-owner of *Loveland Magazine* has lived with the trees and animals of the Simpson Farm just 400 feet beyond his home since 1974. He now works out of the historic 104-year-old Simpson farmhouse, now the home of the newspaper he founded in 2004. Miller and his wife Donna still live in their 78-year-old home on Wall Street where they raised their two daughters.

In an interview on Tuesday, July 13, 2021, Miller talked about how before the

matriarch of the Simpson family, Hattie, passed away, and before the property was sold to the City, he always wanted to approach her to figure out a way to preserve her land forever — and avoid it being sold to developers.

"I always envisioned it being a bird sanctuary," he said. Though he never felt comfortable approaching Mrs. Simpson, who he knew well, to tell her about his plan to preserve her land because he didn't want to imply that she was near the end of her life. "I knew there were provisions in state and federal law where under tax regulations a family could trade the development value of the real estate if it would be placed under a conservation covenant," Miller added.



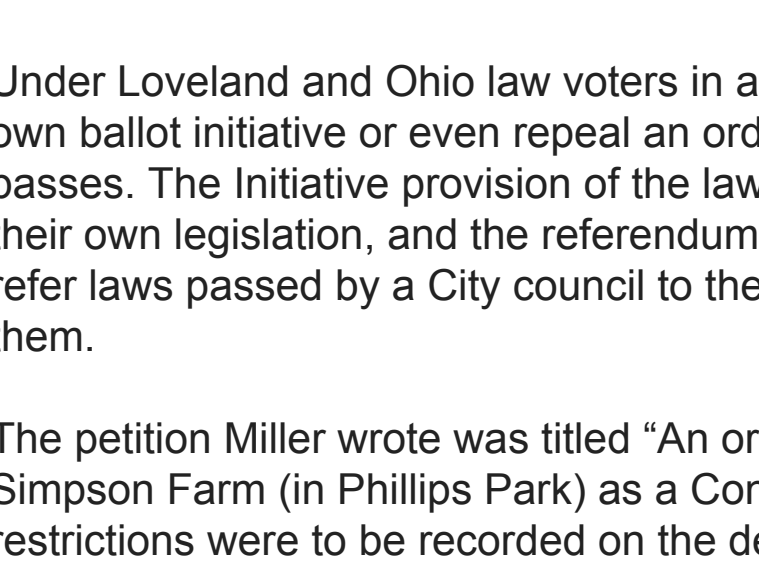
After the Supreme Court quoted to not hear the case, David Miller was quoted in the Cincinnati Enquirer as saying: "I feel like I'm floating face down in a sea of political corruption and corporate greed."

Past As Prelude

Miller says that his sense of community service stems from his father being a volunteer firefighter in the nearby village of Morrow, Ohio. His mother and father moved to Morrow, Ohio from Vine Street in Cincinnati in 1950.

He remembers helping the firefighters raise the money to buy their first ambulance through large community auctions and pig roasts. He also remembers helping those volunteer firefighters evacuate families and their belongings when twice the river roared through the tiny town flooding the local mom-and-pop grocery stores and butcher shops. The Methodist church he attended was flooded as well as the town library where he spent so much time after children's choir practice on Thursdays.

"The evacuations were dangerous and exciting for the teenager, but helping clean the mud out of homes, libraries, and churches was horrendous backbreaking sad drudgery," Miller remembers. The Little Miami River connects the two communities of Loveland and Morrow. David and his wife Donna moved downstream to Loveland when David returned from a combat tour in Vietnam and they were married.



Robert Newman in his brief to the Supreme Court of Ohio:

"There can no more extreme violation of the right of initiative than the one presented by this case."

"Falling in Love with the Simpson Farm," says Miller. He talks about discovering its beauty on a rather warm winter evening when quarter-size snowflakes were coming down so furious you could barely see twenty feet ahead.

He and his daughter walked out their back door and headed into the hills and ravines. Reaching the top

of one they sat down to listen to the flakes fall around them. Suddenly they had wood chips falling on their laps as well and it was a woodpecker carving out a hole above them someplace in the ancient tree they were resting their backs on. The second brush with true love was when the family ice skated on the frozen Keihoffers Run Creek one January.

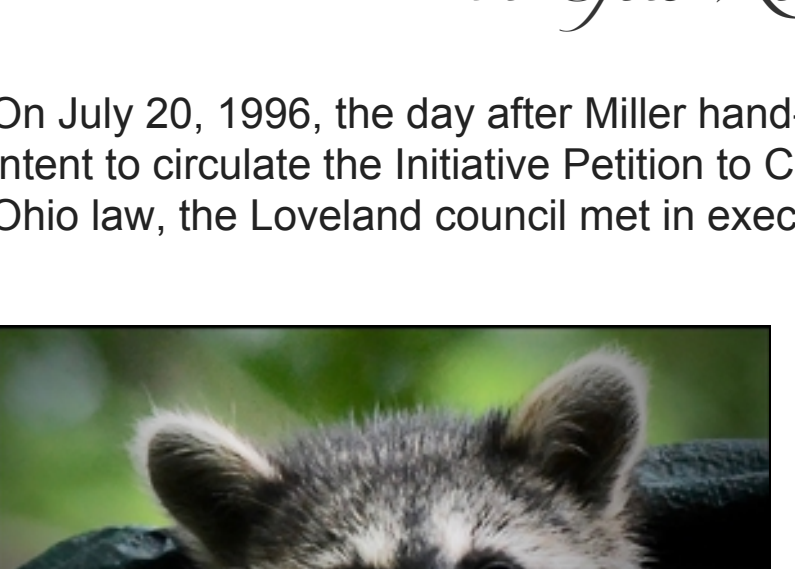
The Suitor Prepares a Proposal

As Miller began researching the exact language of a covenant that might establish a conservation district for the Simpson Farm that would allow Mrs. Simpson's inheritors to receive tax incentives for preserving the land rather than direct money from developers or the City in a sale, the inheritors decided to sell the property to the Loveland Taxpayers.

"Once the taxpayers owned it, that's when the lightbulb went off," said Miller. "I thought, 'Well, it's out of the family's hands now because she gave it to her family, the family sold it to us residents. Now it's up to us who own it to determine what its future could be.' I started in earnest writing a preservation covenant that might preserve the farm property."

Love, Interrupted

However, the sanctuary of Miller's love affair now had an unwelcome suitor when in June 1996, the Simpson Farm was advertised for sale by then-City Manager Mark Fitzgerald. Towards the end of the month, the City received multiple proposals to purchase the property, including a \$1,014,200 proposal from The Drees Company, a Kentucky-based development company that proposed to cut down about half of the forest and build 71 condominiums ranging in price from \$195,000 to \$290,000 (1996 dollars), while deeding back half of a fragmented forest.



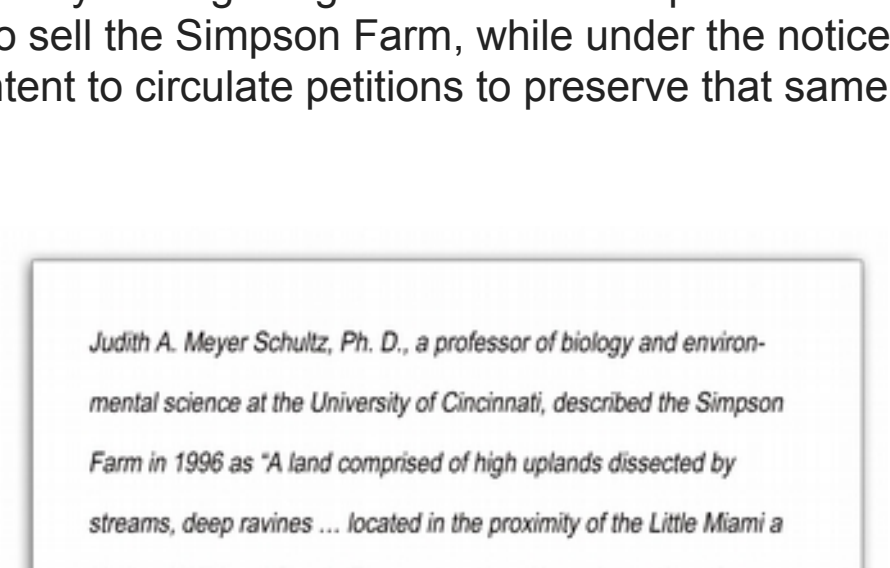
The Keithoff Run pool at the "Farm" where the Miller family ice-skated when his two daughters were very young. Hattie Simpson allowed the family to always explore and have fun there. (Photo circa 1994)

By July 19, a "Notice of Intent to Circulate Initiative Petitions" was delivered to City hall by a committee of five Loveland residents, including David and Donna Miller, Ellen Mershon, and Dean and Sharon Niemeyer. Along with the notice was an initiative ordinance proposing the dedication of the Simpson Farm as a conservation district, in an attempt to petition the fate of the forest to the ballot for voters to decide in the upcoming November election.

Under Loveland and Ohio law voters in a community can write their own ballot initiative or even repeal an ordinance their government passes. The Initiative provision of the laws means citizens can initiate their own legislation, and the referendum process means citizens can refer laws passed by a City council to the ballot in hope of overturning them.

The petition Miller wrote was titled "An ordinance dedicating The Simpson Farm (in Phillips Park) as a Conservation District."⁵ The deed restrictions were to be recorded on the deed to the land at the Hamilton County Recorder's office. The restrictions couldn't be removed, without a further vote of the people of Loveland.

Miller attributes this sense of political know-how to his father who served on Morrow, Ohio's village council. He knew men of great integrity who were among the "Greatest Generation," many having served in World War II or the Korean Conflict. He attended an occasional village council meeting at a very early age, and also now and then sat at a bar stool with his dad and brothers as local politics and elections were hammered out by the adults. More often it was the men and their wives surrounding someone's modest 1940s kitchen table.



Ellen Mershon on the "Farm" during the early days of the struggle. Her passion and political shrewdness were instrumental in the fight to keep the bulldozers at bay. Mershon, a folk musician and songwriter remains passionate to this day about making Loveland a good place to raise a family. "She is a living breathing, walking sound-bite when she is passionate about something," said David Miller.

Miller wanted to ensure that if his ordinance was approved by voters that a future council could not change it on a whim, and that voters would always have the ultimate last say. "After many months of research, I found a similar covenant in California with that all-important language," Miller said.

The covenant Miller drew up described a property known as the Simpson Farm, a part of Phillips Park, a conservation district authorized in order to enhance the natural beauty of the property in its natural, scenic, and open-space condition. It encourages hiking and backpacking, bird and wildlife watching, primitive camping, and scientific and scholarly study. It lists activities that are encouraged and acts such as building trails or structures and cutting trees or underbrush that are permanently declared illegal.

The covenant specifically encourages exploration and scientific study of Simpson Farm.

"In the end, I wanted the land protected solely for the benefit of the mammals, birds, and other creatures," Miller says. If people go there I want them to explore it as my children and I did in the 1970s in an "untouched" by human hands way where one might envision that they were the first to discover its natural beauty and learn how forests and wetlands evolve in their own way and in their own time. "The wildlife could live at peace," Miller added.

The covenant would also ensure protection for the forest by prohibiting the cutting of trees and underbrush, changing of the topography of the land, and the sale of the property, as well as the change or termination of the covenant, unless such is first approved by a majority of voters of the City of Loveland in a future election.

It Gets Real

On July 20, 1996, the day after Miller hand-delivered the notice of intent to circulate the Initiative Petition to City hall, which is required by Ohio law, the Loveland council met in executive session after the

Ellen Mershon in a guest column in the Loveland Herald on March, 22, 1997:

"I know one thing: this issue may have been swept under the rug, but the lump is still there and every one will continue to trip over it no matter where it is moved."

adjournment of a regular evening session to discuss the sale of the Simpson Farm property to The Drees Company. Three days later, on July 23, the City council conducted another executive session, this time a special, rare, and unusual, Saturday session, which resulted in passing an "emergency" ordinance, called Ordinance 1996-48, with a 7-0 vote, authorizing the City manager to immediately

enter into a contract with Drees.

The reasoning for the ordinance, as stated in the City document's first section states "that the said Simpson property is hereby declared as excess to the City's needs." The City ordinance said in the fourth section, "is an emergency measure necessary for the immediate preservation of the public peace, health, safety, morals and welfare ... the reason for said "emergency" is to allow the planning and zoning process to proceed without delay, thus enabling both the construction of tax generating improvements and the deposit of sale proceeds into the City treasury at the earliest opportunity."

Miller said in a guest column about the council declaring an emergency sale of the farm in the *Loveland Herald* on March 26, 1997:

"Where's the flood? Did we have a tornado? Is the sky falling? We had neither an emergency or fire – we only had a fire sale. If you're the Loveland Mayor or the Drees Company, you've seen the emergency; the voters are coming."

On the same night, shortly after the passage of the emergency ordinance, the Loveland City manager signed a real estate purchase agreement with Drees to sell the Simpson Farm, while under the notice of citizens' immediate intent to circulate petitions to preserve that same land.

The City agreement provided that the City of Loveland and the Drees Company may complete the transaction after a set of conditions were met, including a thirty-day period for site evaluation, as well as 180 days for Drees to accept property conditions and obtain appropriate zoning approval, allowing up to seven months until any money is transferred in the deal.

After all conditions were met, a closing date would be mutually agreed upon between the City of Loveland and the Drees Company, followed by Drees returning 21 acres to the City in a deed. Drees was given the deed shortly after the council meeting, yet Fitzgerald never required Drees to write a check for the nearly \$50,000 required downpayment.

The *Enquirer's* Cliff Radel observed the great value Drees was getting when he wrote on September 25, 1996, "The land sits next to Phillips Park, the City's emerald gem of ball fields to play on, trails to wander and trees to hug."

Nearby resident Elizabeth Murphy said in a guest column in the *Loveland Herald* on May 4, 1997, "Council responded by beginning a legal mud wrestling match with its constituents. These council

members continue to sound an expensive, disharmonious legal raspberry in the face of the Loveland citizens."

Rob Weisgerber who sat on City council at the time of the

The entrance to the Drees' "gated" subdivision was planned to be through the entrance of Phillips Park on Rich Road adjacent to Loveland High School and Miller surmised why Drees so coveted the Farm land:

"What a great selling point for Drees. Some real 'value added'. A condo owner could come home from work, watch their child play a sport at Loveland High School, pick up another child from the YMCA, also planned for inside Phillips Park, or a child playing on the playground provided by the City, continue the drive through a manicured park, drop off a child to play soccer or baseball, or take swim lessons and continue to their gated community. On the way out to face the real world in the morning, the owner could stop at the Y for a workout, racketball for a business meeting, eat breakfast, drink a cappuccino, and take a shower."

emergency sale to Drees recently said in an interview for this story, "I don't remember if I knew [about the petition to stop the sale] at the time, I don't know that it would have mattered. There's an adage that time kills deals. ... Whether or not somebody says they're going to do something or they're in the process of doing something, more power to them."

When asked if the City was aware of the citizens' petition to prevent the sale of the Simpson Farm, Weisgerber said, "We had the legal mechanism in place to allow the residents to put a referendum on the ballot, but the question is, 'Can I predict what everyone is going to do?' No. It wasn't about trying to undermine or do anything to anybody, there was a plan to move forward, and we got to keep moving forward and if something happens in the background, then we'll deal with it as it comes."

When Ohio law only required 344 signatures, 598 signatures on thirty petitions were turned into City hall about a week after the sale. They were then transmitted to the Hamilton County Board of Elections.

A month passed as the City and Drees progressed their deal into fruition, and the citizens awaited the Hamilton County Board of Elections to certify the signatures on their petition for the November 5, 1996 election. In the meantime, the Simpson Farm story became a mixed diet of headlines, catcalls, and applause in *The Cincinnati Enquirer's Hometown East* section, *The Community Press*, *The Loveland Herald*, *The Cincinnati Post*, and *City Beat*.

"Residents seek to preserve land," — "Loveland condos boost tax revenue," — "Loveland Condos Opposed," — "Sale to Drees may stop vote," — "City wants petition off ballot, signers disagree," — "Lawsuit looms after property sold," — "Loveland issue to go on ballot."

On September 9, the petition was certified by the Board of Elections in the three counties of Loveland: Clermont, Hamilton, and Warren. Meanwhile, then Loveland Solicitor Richard Melfi was requesting the Hamilton County Board of Elections to remove the initiative from the ballot.

Melfi claimed the emergency sale to Drees rendered the initiative's language incorrect, as the initiative stated that the Simpson farm was owned by the City. "Because the City of Loveland no longer is the owner of the property ... the entire purpose of the proposed initiative has been rendered moot," Melfi wrote in his letter to the election Board.

When those who supported Drees said there was no waterfall on the "Farm" and that the photo used in campaign flyers was fake, local residents identified its exact location.

On Wednesday, September 18, both sides had something to say in the *Cincinnati Enquirer's Hometown East* newspaper as the article's sub-headline stated, "Citizens' group takes first step toward litigation."

Because of Melfi's subterfuge and attempt to disenfranchise voters, less than two months before voters made their way to their polling locations, a lawyer for Citizens Organized to Save Phillips Park, the group led by Miller and Mershon, sent a letter to City Manager Fitzgerald, informing him of their intent to go into a court of common pleas to file a lawsuit against the City and Drees to overturn the sale.

"We're not going out without a fight here," Mershon said at the time. After notification of the impending lawsuit, the City still did not take any action to invalidate the sale to Drees. The citizens would now have to face off against three prestigious Ohio law firms because Drees also dragged along their financier, 5/3rd bank.

Doubling Down on the Double Down

Looking at the behavior of their elected officials attempting to remove their ordinance from the ballot, residents hired renowned Cincinnati civil rights attorney, Robert Newman, and decided to file a lawsuit against the City hall to ensure their right to vote.

The citizens formed a political action committee, another requirement of Ohio law. "Citizen's Organized to Save Phillips Park" began their "Vote Yes" campaign and again hit the streets knocking on doors and passing out campaign flyers.



When supporters of the condos in Phillips Park saw this flyer they sent it to the National Enquirer and their lawyers wrote the residents a cease and desist letter.

The Selling of Phillips Park

The City of Loveland purchased approximately 40 acres of land adjacent to Phillips Park known as the Simpson Property for recreational use.... NOW THEY ARE SELLING IT TO DEVELOPERS!!

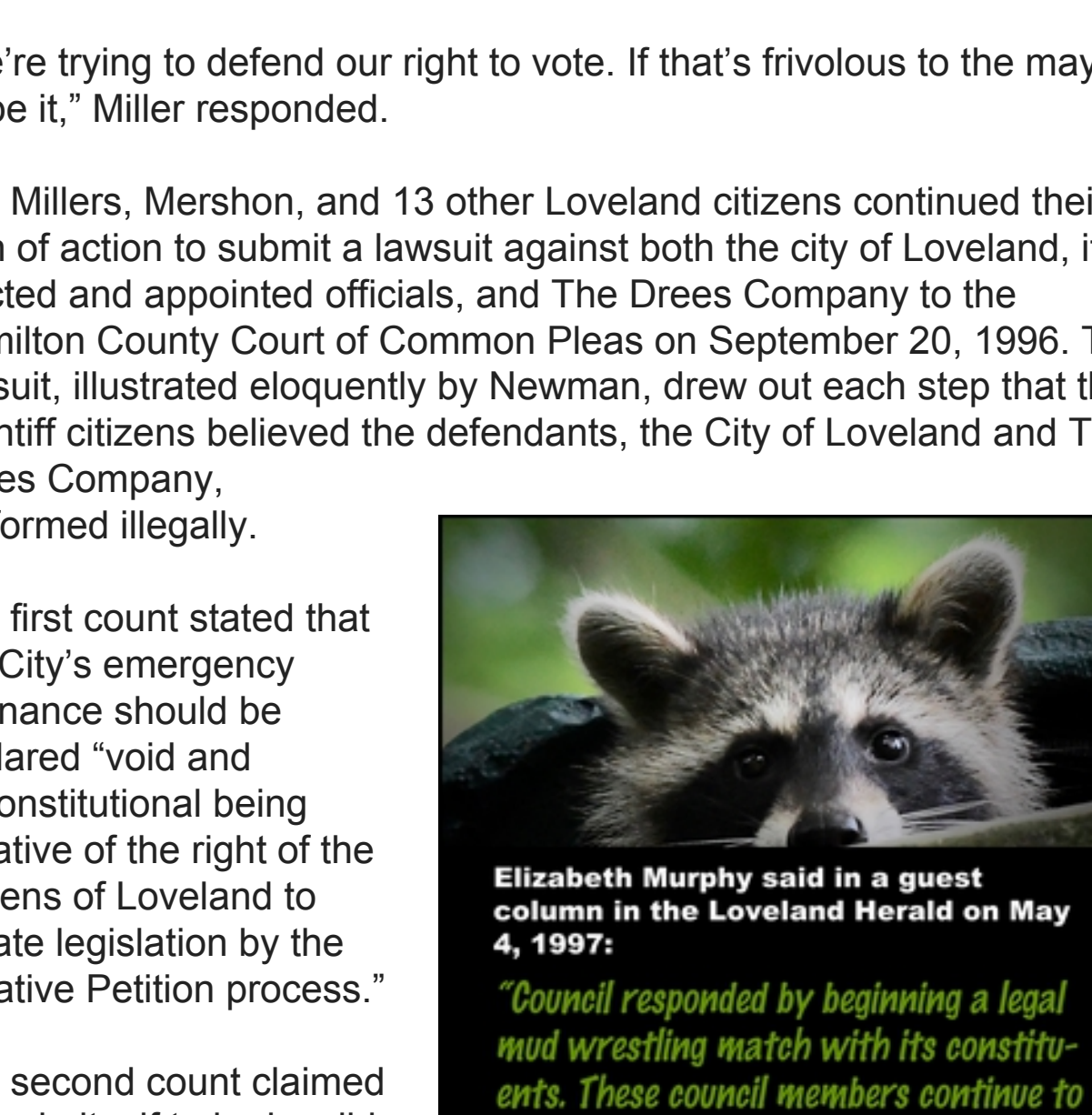
This land with it's rolling hills and cascading creeks is quite similar to Symmes Township Park, a place which most of us enjoy. Unfortunately this land will soon be excavated when the property is sold. This is the last piece of property in Loveland that truly represents our past, including the support of many species of animal and plant life.

IS THIS WHAT YOU WANT?

The City's current plan is to sell the property for development. This property was bought with your money, do you wish to finance land acquisitions which enrich developers at your childrens expense?

WHAT CAN YOU DO?

Go to council and tell them you don't want this! Council Meetings are 8P.M. the 2nd and 4th Tuesday of every month. Go early and register to speak, voice your opinion MAKE THEM ACCOUNTABLE! If we don't we'll be losing this...



Citizens Organized to Save Phillips Park (COSPP)
For information call Dave Miller @ 683 7195

"It is my understanding they have absolutely no legal basis for the proposed lawsuit. Mr. Miller is filing frivolous lawsuits against the City," said Loveland Mayor Lee Skierkiewicz at the time.

"We're trying to defend our right to vote. If that's frivolous to the mayor, so be it," Miller responded.

The Millers, Mershon, and 13 other Loveland citizens continued their plan of action to submit a lawsuit against both the city of Loveland, its elected and appointed officials, and The Drees Company to the Hamilton County Court of Common Pleas on September 20, 1996. The lawsuit, illustrated eloquently by Newman, drew out each step that the plaintiff citizens believed the defendants, the City of Loveland and The Drees Company, performed illegally.

The first count stated that the City's emergency ordinance should be declared "void and unconstitutional being violative of the right of the citizens of Loveland to initiate legislation by the Initiative Petition process."

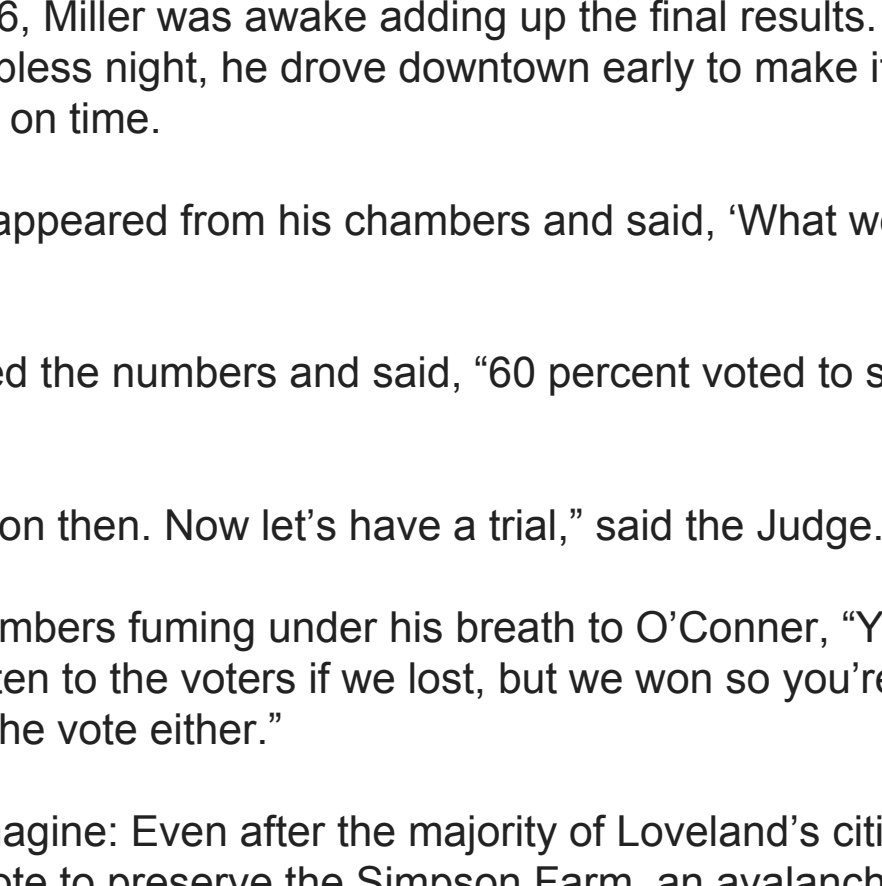
The second count claimed the sale itself to be invalid and fraudulent, because "the sale of the Simpson Farm property was undertaken for the purpose and with the effect of depriving the electors of Loveland in exercising their right to vote on the question of whether the Simpson Farm should be a conservation district and whether the trees, terrain, wildlife, and water resources on the farm should be preserved in their pristine state in perpetuity."

"There was a summit moment in court when the Judge [O'Connor] said, 'Okay Loveland, you have an election and come back the morning after with the final results,'" Miller recollected. "That's when I thought: okay, if we win, he's going to rule in our favor, he'll rule that the sale was invalid, and the emergency was invalid and all that."

On Wednesday, October 9, the *Hometown East* edition of the *Cincinnati Enquirer* reported that the Hamilton County prosecutor's office had issued an opinion that despite Melfi's attempt to strike the issue from the ballot, voters should be allowed to vote on it on November 5.

As reported in the same edition of the newspaper, during a council meeting on Tuesday, October 8, 1996, "Several residents held cardboard cutouts of a smile face with a piece of tape over the mouth in protest of council action that month."

As the lawsuit was paused, the citizens' initiative remained on the ballot. On November 5, the voters of Loveland passed the initiative by a vote of 2,927 to 1,976 as 60% of voters supported preserving the Simpson Farm as the city's only conservation district, rather than having a cluster of condominiums in the heart of the City's oldest forest.



The Judge instructed Miller, "Come to my chambers at 9 AM the day after the election and tell me the official results."

On the night of November 5 and into the early morning hours of November 6, Miller was awake adding up the final results. After a long, nearly sleepless night, he drove downtown early to make it to the courthouse on time.

The judge appeared from his chambers and said, 'What were the results?'

Miller recited the numbers and said, "60 percent voted to save the Farm,"

"OK, you won then. Now let's have a trial," said the Judge.

Miller remembers fuming under his breath to O'Connor, "You were only going to listen to the voters if we lost, but we won so you're not going to respect the vote either."

Can you imagine: Even after the majority of Loveland's citizens in a landslide vote to preserve the Simpson Farm, an avalanche, the City Manager still refused to return the forest back to the people. He overruled that the City's emergency sale of the Simpson Farm occurred and therefore preceded the citizen's abundance of signatures and majority vote.

Unfortunately for the citizens of Loveland, their lawsuit in the Hamilton County Court of Common Pleas fell short, when a summary judgment was awarded to the City and Drees. O'Connor said, "Who am I to determine what is and what isn't an emergency in Loveland?"

This led the citizens to submit an appeal to the Hamilton County Court of Appeals, First Appellate District on November 27, 1996.

The next day, on Thursday, November 28, the *Hometown East* newspaper shed a light on the initial court's summary judgment about the 16 residents' lawsuit that challenged the sale of Simpson Farm's 41 acres:

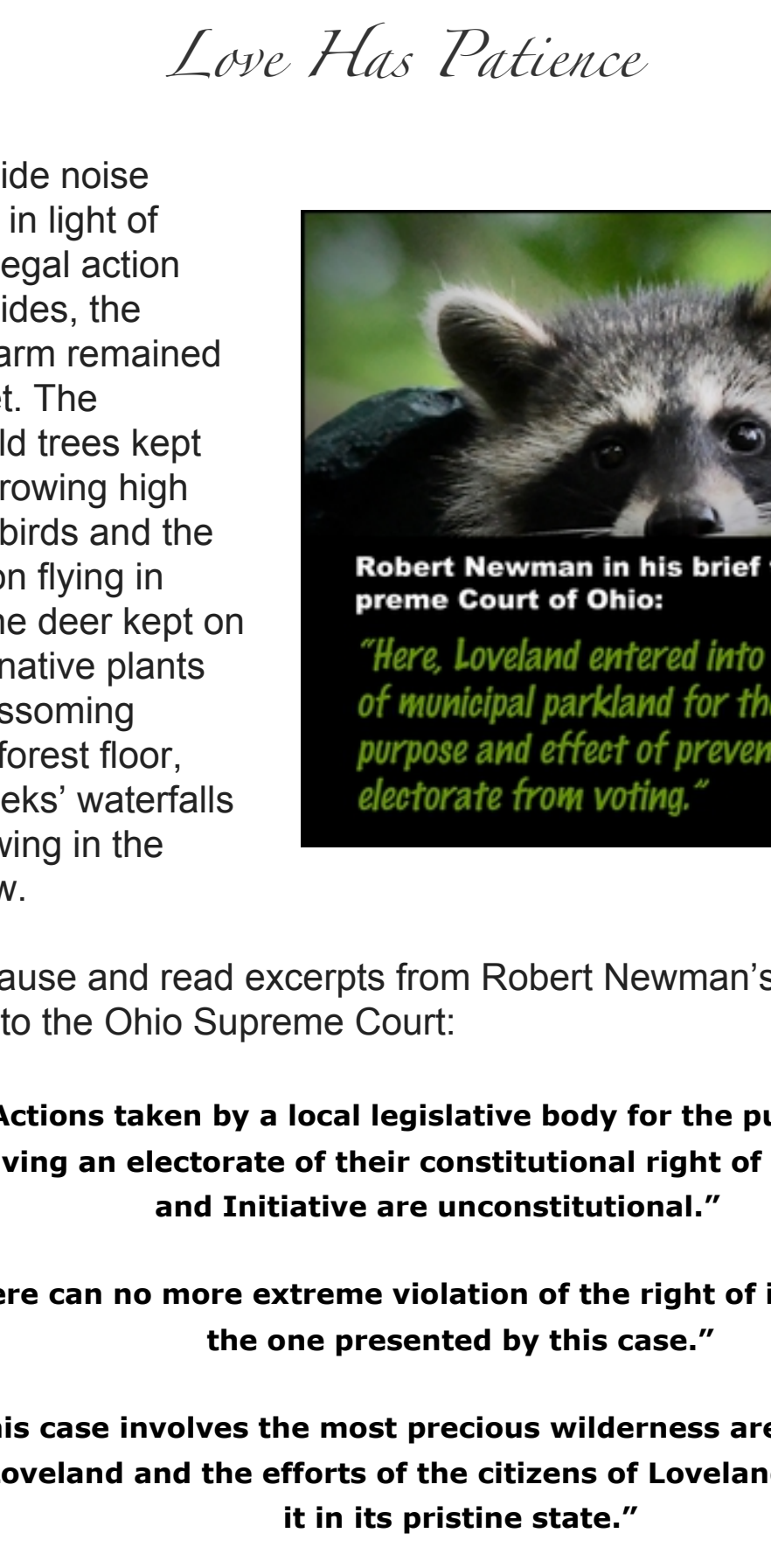
"My position ... is to make a judgment on whether or not what they did was constitutional," Judge O'Connor said in his decision. "It's not my job to decide whether it was the right thing to do or not."

The judge's decision was based on the fact that, although through a controversial emergency ordinance, the transfer of the deed to the Simpson Farm from to Drees did occur prior to the delivery of the petitions. The proposed conservation district covenant also included verbiage about the property belonging to the City, which it technically did not anymore according to Judge O'Connor.

"Justice was served," City Manager Mark Fitzgerald said.

While the slow-burning legal process continued, Mershon was quoted in the same November 28 article calling for Loveland residents to pay closer attention to City Hall. "They need to question the Council. They are partnering with developers and they are selling the City right down the river. The reason people moved here will no longer exist in five years," she said at the time.

The appeals court affirmed the City and Drees' victory on April 11, 1997, leading to the citizens trying one last time with Newman appealing to the Ohio Supreme Court on their behalf in May of 1997. The State's highest court declined to take the case despite amicus (Friends of the Court) briefs being filed from many of the most prestigious environmental and conservation groups around Ohio.



There were now five law firms involved. These groups felt the Loveland citizens' cause had implications that would be felt all over Ohio, not only for environmental causes but for any citizen of the State wanting to challenge their local government at the ballot box. So much so, that the organizations hired lawyers to write their court filings.

Love Has Patience

As the outside noise heightened in light of social and legal action from both sides, the Simpson Farm remained mostly quiet. The centuries-old trees kept on slowly growing high above, the birds and the bugs kept on flying in between, the deer kept on grazing as native plants kept on blossoming across the forest floor, and the creeks' waterfalls kept on flowing in the valley below.

It pays to pause and read excerpts from Robert Newman's written arguments to the Ohio Supreme Court:

"Actions taken by a local legislative body for the purpose of depriving an electorate of their constitutional right of Referendum and Initiative are unconstitutional."

"There can no more extreme violation of the right of initiative than the one presented by this case."

"This case involves the most precious wilderness area in the City of Loveland and the efforts of the citizens of Loveland to preserve it in its pristine state."

"It was conceded, as conceded here, that the sale of the property was undertaken for the purpose and with the effect of depriving the electors of Loveland in exercising their right to vote on the initiative petition."

"Here, Loveland entered into a fire sale of municipal parkland for the admitted purpose and effect of preventing the electorate from voting."

"A municipality cannot close the door of the polling place to prevent the outcome of a vote."

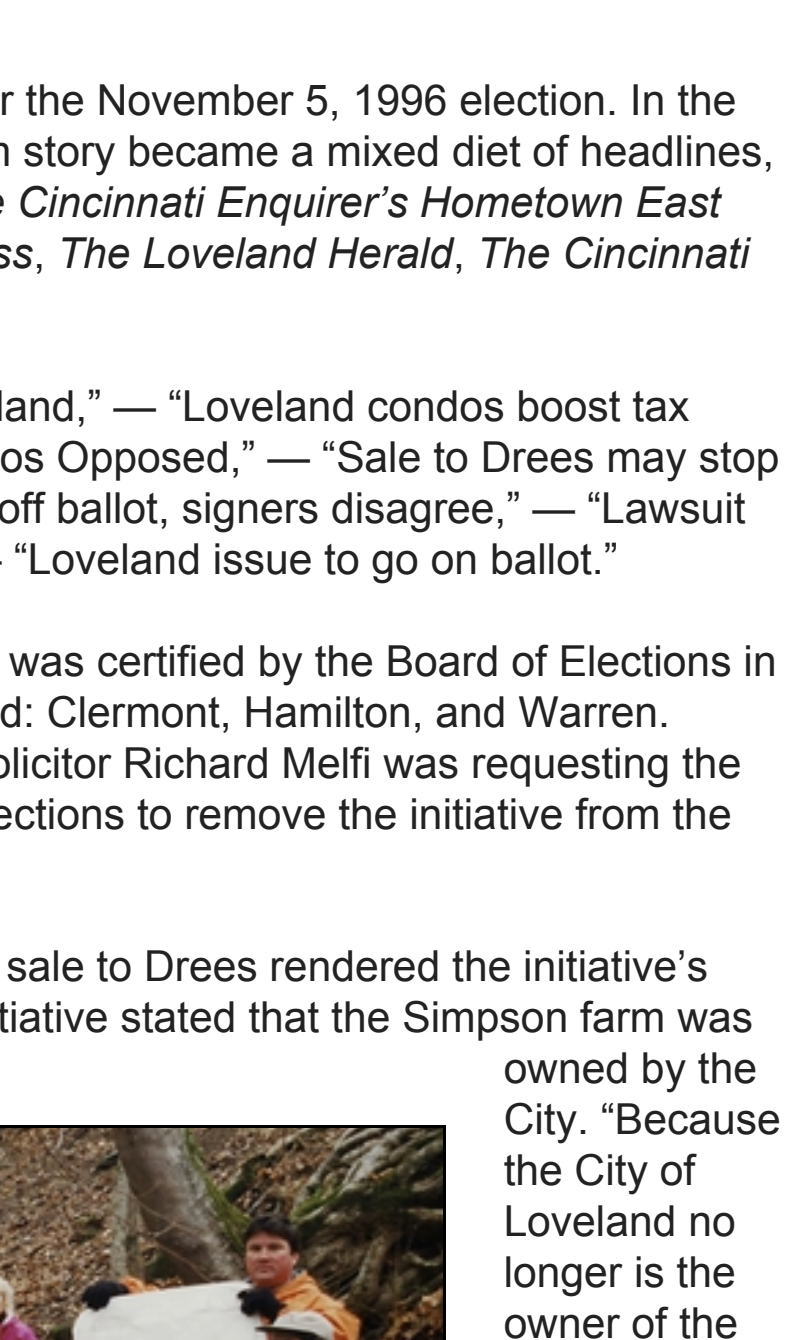
After the Supreme Court decided to not hear the case Miller was quoted in the *Cincinnati Enquirer* as saying, "I feel like I'm floating face down in a sea of political corruption and corporate greed."

"Angry neighbors, preferring a park to condos, say the city's honchos can only see greenbacks where there should be a greenbelt," said columnist Cliff Radel in the *Cincinnati Enquirer*.

"This case involves one of the constitutional rights which is basic and fundamental to this State's entire system of government. The Ohio

judiciary should intervene when municipal officials conspire with private interests to deliberately undermine the initiative and referendum process. The case before the court has obvious sweeping statewide implications,"

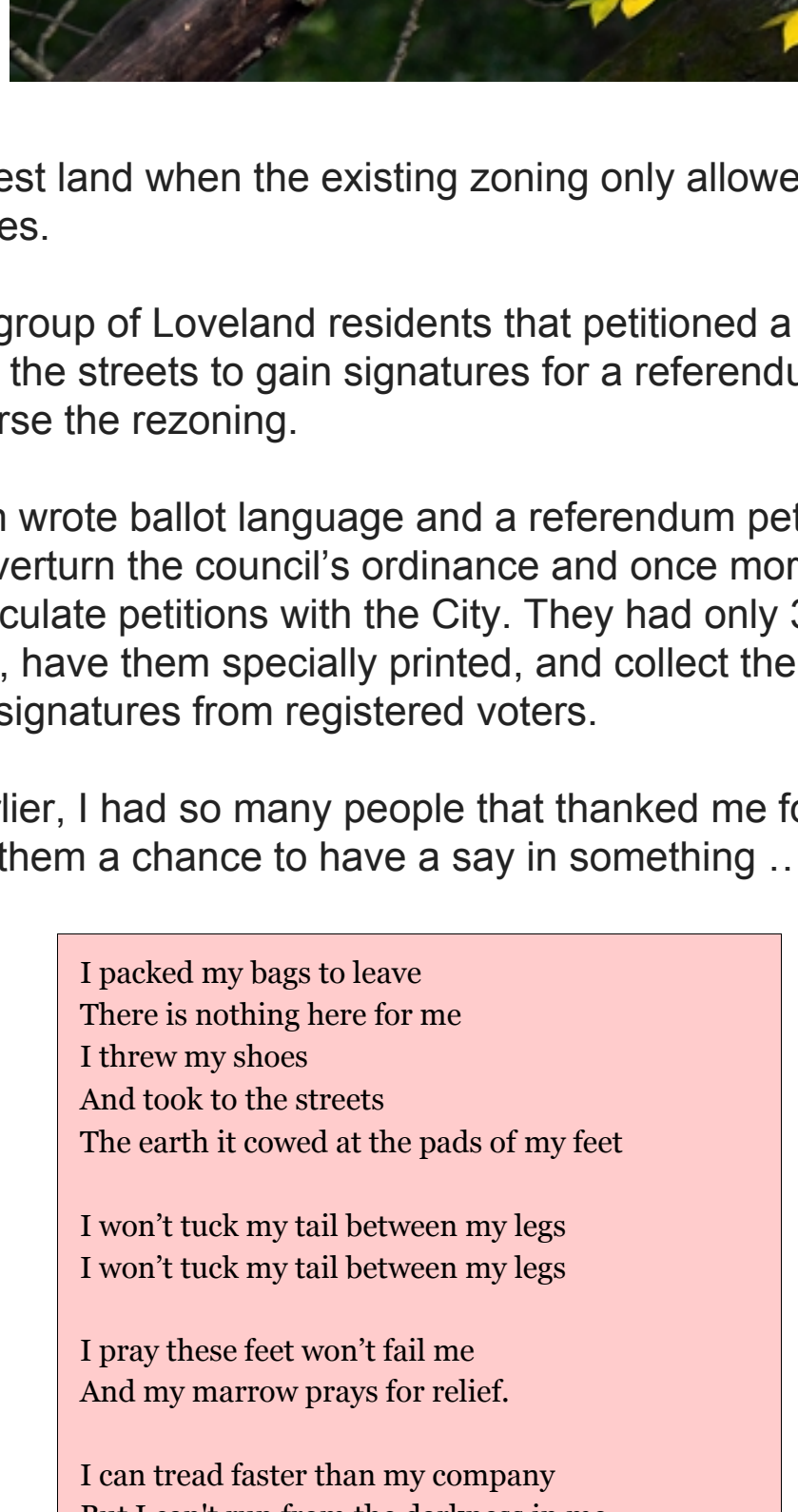
Dennis Muchnicki, Dublin, Ohio attorney representing The League of Women Voters of Cincinnati, and the Ohio Division of The Izaak Walton League of America told the Ohio Supreme Court.



“This case is one of great general interest, because if it can happen in Loveland, it can and will happen in any municipality in this State,” wrote Cincinnati Attorney Steven Black in his Amicus brief filed on behalf of The Ohio Environmental Council, League of Ohio Sportsmen, and Little Miami, Inc.

Love Finds A Way

When the Ohio Supreme Court rejected the legal turnover of the forest back to the citizens, residents shifted their focus toward letting their voices be heard on the re-zoning Drees needed to build their planned condos. In March of 1997, the City of Loveland passed a Special Planning District (SPD) zoning that would allow 71 condominiums on



cleared forest land when the existing zoning only allowed for single-family homes.

The same group of Loveland residents that petitioned a year earlier set back out to the streets to gain signatures for a referendum petition that would reverse the rezoning.

Miller again wrote ballot language and a referendum petition with hopes to overturn the council's ordinance and once more submitted an intent to circulate petitions with the City. They had only 30 days to write the petition, have them specially printed, and collect the required number of signatures from registered voters.

“A year earlier, I had so many people that thanked me for being there and giving them a chance to have a say in something ...

I packed my bags to leave
There is nothing here for me
I threw my shoes
And took to the streets
The earth it cowed at the pads of my feet

I won't tuck my tail between my legs
I won't tuck my tail between my legs

I pray these feet won't fail me
And my marrow prays for relief.

I can tread faster than my company
But I can't run from the darkness in me

I won't tuck my tail between my legs
I won't tuck my tail between my legs
between my legs

— Little Tybee (2016)

They really felt appreciative and grateful that somebody was asking their opinion that possibly could actually mean something,” said Miller. “I remember how hard it was for me to go around with a second set of petitions and the embarrassment that I felt because we lost in court. I got over that because after knocking on their door again, so many greeted me with ‘Thanks for coming back.’”

This time the group delivered 640 signatures, 291 more than the 349 needed, to City Hall. “These were easy signatures to get,” Miller noted in the *Loveland Herald* on June 4, 1997. “The SPD they passed didn't include provisions to protect the environment ... we tried to get them to put in some restrictions so that the park would be protected. There's a waterfall on the property that wasn't even acknowledged. This is just a bad deal all around,” said Miller at the time.

The rezoning petition had more than double the number of signatures required. “If I remember correctly we collected enough in one weekend,” Miller said. “But we kept knocking on doors getting more than needed because we were energized and so were the voters after they opened their homes to us.”

Jimmy and Ellen Mershon found peace and quiet on the “Farm” during the heated battle with City Hall.

The Citizens' zoning referendum made it to November 5, 1997 ballot, and electors voted to reject the SPD for Simpson Farm by an even larger victory margin than the first vote: 1,752 to 771.

“The property will just go back to single-family zoning, but it's going to be developed one way or the other,” City Manager Mark

Fitzgerald said in the Wednesday, November 5, 1997, issue of the *Cincinnati Enquirer*. “With the overturning of the agreement, [voters] lose 21 acres to be preserved. They lose control of a planned unit development. With the [agreement], you negotiate a compromise, and voters won't have that.”

Fitzgerald proved to be right about voters declining to compromise. Although the sale of the Simpson Farm would have earned a profit for the City — and Drees had agreed to give 21 of the 41 acres it bought back to the City — voters didn't want to let go of any of their forest land. A majority of Loveland wanted all 41 acres declared as a conservation district, not just 21 acres, as 60% of voters had expressed in the election just a year earlier, and 69% of voters expressed the same sentiment only louder on their second trip to the ballot box.

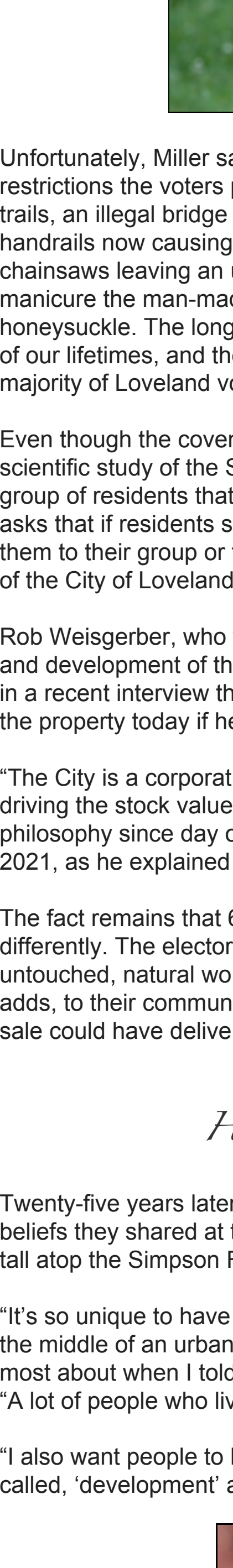
Victory Against the Machine

Once the Loveland voters elected to reject the zoning allotment proposed in the original plan the developers decided to give up the land and return the deed to the taxpayers. After a long stretch of back and forth between City Hall, the developers, and the courts, the electors of Loveland reached their goal of saving their community's forest.

Within the next two months, headlines and news stories now proclaimed: “Drees bows out of development,” — “Drees dumps property,” — “Loveland retrieves 41 acres,” — “Simpson farm safe — for now,” and finally, “Simpson added to park.”

To Have and to Hold From This Day Forward

Ever since 2000, a restrictive covenant establishing a conservation district has protected the Simpson Farm. Upon entering the forest from the top of the ridge in the back of Phillips Park, or at the bottom of the floodplain at Wall Street, an abundance of natural life thrives practically untouched.



“This whole matter has been a case study in democracy,” Councilmember Brad Greenberg (now a Common Pleas Court judge) said in the January 28, 1998, issue of the *Loveland Herald*. “I think we've all learned a lot about listening to the voters.”

Mark Fitzgerald, the former City Manager of Loveland who orchestrated the sale of the Simpson Farm to Drees, did not reply to

phone calls or a mailed letter in multiple requests to comment on this story.

Dave Kennedy, the current City Manager, replied for comment about the City of Loveland's view of the property on Monday, July 13, 2021.

“The City has a lot of respect for the greenspace that [the Simpson Farm] gives the City,” said Kennedy. “It blends itself perfectly into Phillips Park ... it is a beautiful piece of land. I think the City has a lot of respect for what happened.”

“We have respected every aspect of the covenant,” said Kennedy in the interview. “Ultimately, I feel that I am responsible for assuring the covenants are followed,” replied Kennedy when asked about who is responsible for ensuring the protection of the Simpson Farm despite apparent current violations of the covenant.



But that's not quite how it is playing out.



Unfortunately, Miller says, City Hall isn't respecting the deed restrictions the voters put into law: “City hall has developed illegal trails, an illegal grading over one of the five streams, and stair-steps with handrails now causing erosion. Fallen timber is being cut with chainsaws leaving an unnatural look. The underbrush is being cut to manicure the man-made trails under the guise of removing honeysuckle. The long history of the forest dates back further than any of our lifetimes, and the future of the forest will live on as long as a majority of Loveland voters decide the covenant should remain active.”

Even though the covenant specifically encourages exploration and scientific study of the Simpson Farm, currently there is a self-appointed group of residents that has formed a vigilante, posse so to speak, that asks that if residents see anyone walking off their illegal trails to report them to their group or the Loveland Police. The group has the backing of the City of Loveland Tree and Environment Committee at City Hall.

Rob Weisgerber, who was on Council at the time, supported the sale and development of the Simpson Farm, and after all these years, said in a recent interview that he would make the same decision to develop the property today if he could.

“The City is a corporation, it's not just some public entity. It's all about driving the stock value... this is my philosophy and it's been my philosophy since day one,” said Weisgerber on Saturday, August 7, 2021, as he explained his mindset behind the decisions he made.

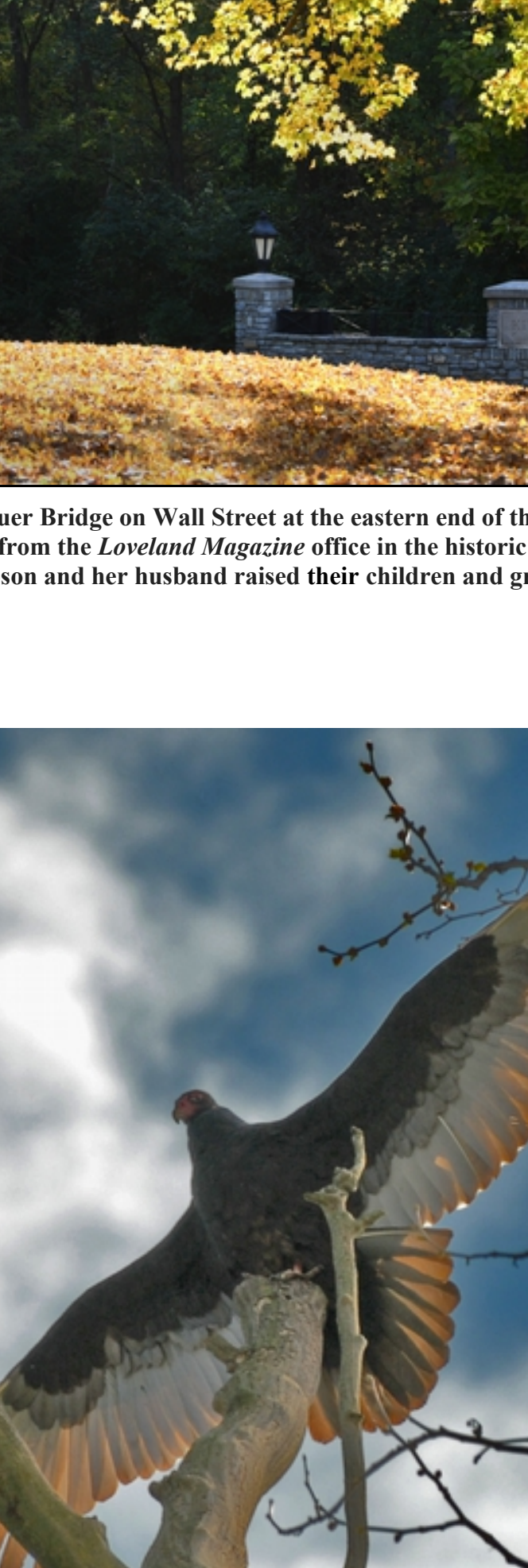
The fact remains that 69% of the City of Loveland's voters decided differently. The electors of Loveland, in one way or another, valued the untouched, natural wonder that the Simpson Farm added, and still adds, to their community more than what potential monetary benefit its sale could have delivered.

Happily Ever After?

Twenty-five years later, Mershon and Miller stand their ground on beliefs they shared at the time, just as the old growth oaks still stand tall atop the Simpson Farm.

“It's so unique to have this 41-acre, pretty much-untouched plot here in the middle of an urban area, that's the thing I've always marveled the most about when I told people about it,” said Miller of Simpson Farm. “A lot of people who live here don't know about it.”

“I also want people to know that you can challenge City Hall and so-called, ‘development’ and achieve successful results. Our greenspaces



A 2021 photo taken at the Simpson Farm House.

and historical places can be preserved for future generations,” Miller added.

Miller said that the City of Loveland has much less green space than it did twenty-five years ago. “When I think about the foresight of the people who preserved Central Park in New York City or Eden Park in Cincinnati, I know that we did the right thing here in Loveland when we preserved the Simpson Farm.”

Miller said, “The protective Conservation District covenant, recorded on the deed of the Simpson Farm, is perhaps unique to the State of Ohio and perhaps the nation in that it permanently protects publicly owned land and vests the future of the parkland only at the ballot box, by future voters.”

“If there is a park around that truly belongs to the residents it is the Simpson Farm. Residents spent two years and more than \$20,000 saving the land from the bulldozers and a proposed condo project,” Miller added.

Mershon, a retired contracting professional for Johnson and Johnson, folk musician, and songwriter, still lives less than a mile away from the Simpson Farm.

“The overarching theme to me regarding this whole thing is that people really need to consider local governance, it is the purest form of democracy we have, with the least visibility... Do we really know what our local city government does?” said Mershon in an interview for this story on June 29, 2021. Looking back at when citizens walked door to door to gather signatures for their petition to preserve the Simpson Farm, she said, “People didn't know this was happening... people were surprised, then they were angry.”

Stillness remains within the Simpson Farm after all this time and the conflict it has faced. The trees are tall and wide, and the expansive mass of plant life is a lush green. As this story goes back in time a quarter of a century to document the recent history of the City of Loveland's last known old-growth forest, there's a much longer, natural history that remains within those 41 acres and the centuries-old trees that call the Simpson Farm their home.

The love story continues and efforts to preserve the Farm and the protective covenant continue today.

Epilogue



The historic Simpson Farm House at 243 Wall Street is now the home of *Loveland Magazine*. Miller said that when he moved the office there 4 years ago that it was a divine closing of a circle, and he has hopes of spending the rest of his days working from the “Farm House” where the back deck is a perch for the continued protection of the Simpson Farm Conservation District. “I've been allowed to come home to roost and be with my girlfriend.”

Years after the dust had settled, when a culvert-type bridge on Wall Street was going to be built over Keihofters Run, Miller proposed something more attractive and traffic-calming. His initiative to further enhance the historic nature of the Farm led to the lighted stone bridge you see today near Kiwanis Park.



The Cecil D. Bauer Bridge on Wall Street at the eastern end of the Simpson Farm as viewed from the *Loveland Magazine* office in the historic farmhouse where Hattie Simpson and her husband raised their children and grandchildren.



Photo By David Miller/Loveland Magazine © 2012

Joe Timmerman was commissioned to do research and the original draft of this story in 2021. Further editing, fact-checking, proofreading, and an interview with David Miller were done by Cati O'Keefe, Fran Hendrick, Donna Miller.