

# — THE VILLAGE OF — SWANTON

April 26, 2021

## Public Hearing

Mayor Toeppe: Call the Public Hearing to Order at 7:04 p.m.

Roll Call:	Kathy Kreuz	Craig Rose
	David Pilliod	Tony Stuart
	Michael Rochelle	Dianne Westhoven

Mayor Toeppe: Statement of Purpose: “This is a public hearing to consider the request by Foertmeyer & Sons Greenhouse for an adjustment to the ERU multiple assigned to the property located at 420 N. Hallett, commonly known as Foertmeyer Greenhouse.”

Mayor Toeppe: “Council shall make a decision based on the evidence presented and the need to protect, preserve, and improve the village’s storm water drainage system, equal treatment of like properties, fairness to unique properties, and the health and welfare of village residents. Council may affirm, modify or reverse any decision of the Village Administrator. After consideration, the Village Council shall issue a written decision to the property owner which shall be the final decision of the village. A final decision on this request has yet to be made. That decision will ultimately be made by the Swanton Village Council and will take into account what is said at this hearing.”

### Presentation from Staff

In 2006, Village Council approved the creation of Chapter 54 of the Swanton Village Codified Ordinances. § 54.04 “Rate Structure” outlines what will be charged and why it will be charged:

- (A) A storm water service charge shall be billed monthly to the owner of each and every lot and parcel of land within the village that contains impervious area and contributes directly or indirectly to the storm water system of the village. This charge is necessary to pay for the repair, replacement,

*planning, improvement, operation, regulation and maintenance of the existing and future village storm water system. This charge is not related to water and/or sewer service and applies whether or not the premises are occupied. Property owned by the village shall be exempt from such charges.*

Further in § 54.04 it states: *(B) All properties having impervious area within the village will be assigned an Equivalent Residential Unit (ERU) or a multiple thereof, with all properties having any impervious area receiving at least one ERU as follows:*

*(2) All non-residential properties, as defined in § 54.01, will be assigned an ERU multiple based upon the properties' individually measured impervious area, in square feet, divided by 3,460 square feet ERU but in no event less than one ERU. This division will be calculated to the first decimal place and rounded according to mathematical convention.*

It is imperative to remember storm water service charge is not related in any way to sanitary sewer or water charges. The Village of Swanton's Long Term Control Plan is mainly centered on separating an existing combined sewer into a separate sanitary sewer and separate storm sewer. With that, the storm sewer system will need to be maintained. The storm sewer system is designed to carry rainfall and other drainage, untreated, to local streams. It is important to maintain the system for environmental reasons. The storm sewer charge outline in Chapter 54 of the Swanton Village Codified Ordinance is not novel to the Village of Swanton. Many communities throughout the State of Ohio, and beyond, charge a fee for operation and maintenance of the system.

The property at 420 N. Hallett is defined as a non-residential property (designated by Lucas County as a Commercial Agricultural Use Valuation (CAUV)) and includes impervious area. Impervious areas include areas that have been paved and/or covered with buildings and materials that do not allow natural infiltration, which include, but are not limited to, concrete, asphalt, rooftop and blacktop.

During a routine audit of accounts, it was discovered that the property at 420 N. Hallett was charged the residential rate (\$3) and not the non-residential rate as listed above. A work order was created to calculate the impervious area of the property to see if there was more impervious area than 3,460 sq. ft. (1 ERU= \$3). Each group of buildings was included in the calculation of impervious

The total impervious area was calculated to be 680,358 square feet. Therefore, the ERU multiple is 196.63. Further,  $196.63 * \$3 = \$589.89 / \text{month}$ .

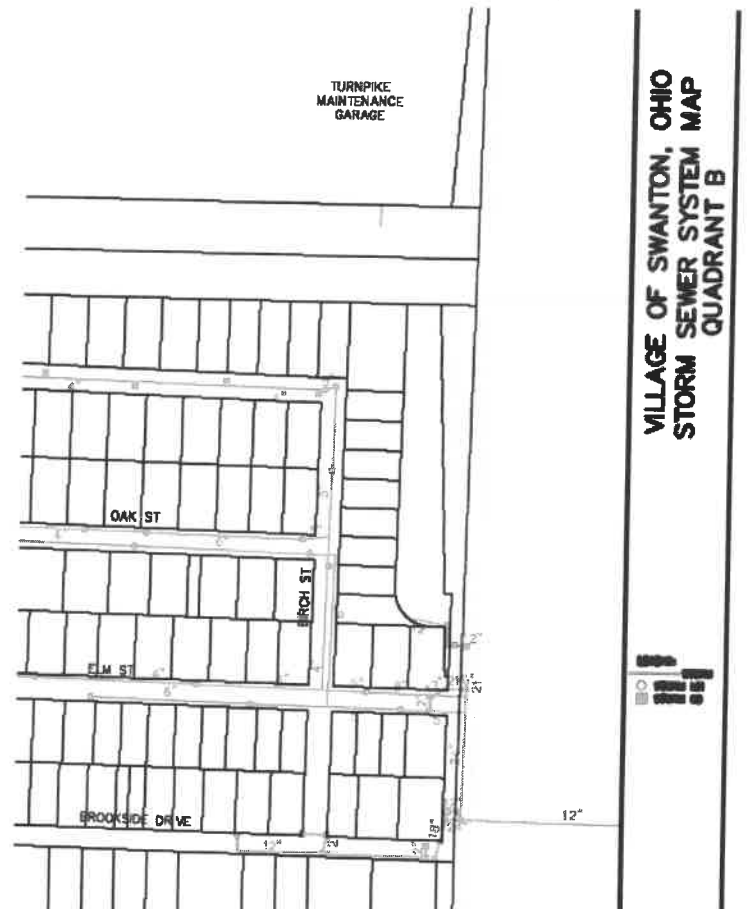
The owners of 420 N. Hallett requested an adjustment to the new rate. The Village Administrator reviewed, in compliance with § 54.08, and offered the maximum discount allowable per that section, 30% (see below for details). This brought the new rate from \$589.89 to \$412.92 per month.

The owner of a non-residential property may apply for an adjustment to the ERU multiple if the owner has taken certain actions that reduce the impact of storm water runoff to the storm water system. The maximum adjustment that may be made to the ERU multiple for any non-residential property is 30% consisting of any one or more of the following credit options:

- (1) Detention/retention ponds: 30%;
- (2) Forested (stream) buffer/grass filter strip: 10%;
- (3) Industrial NPDES: 10%;
- (4) Open-channel maintenance: 30%; and
- (5) Swales: 10%.

The Village Administrator also provided the owners with the information that if they were not satisfied with the adjusted rate they could request a public hearing before Village Council. Only non-residential property owners may challenge the ERU assigned to them with, first an appeal to the Village Administrator, and if not satisfied then with a public hearing before Village Council.

The property at 420 N. Hallett is used as a greenhouse with office space as well. The Village Administrator met with the representatives from Foertmeyer Greenhouse on March 2 to discuss the charges. They indicated the greenhouses, and surrounding areas, drain to tile and flow to the creek and therefore do not contribute directly to the storm water system of the Village. While there may be tile throughout the property, there is also a 12 in storm line extending from the parking lot of 420 N. Hallett to the main storm line on Hallett.



Also there was discussion of impervious area and what all is classified as impervious at 420 N. Hallett. The definition of impervious area, in the Codified Ordinances, does indicate buildings and materials that do not allow natural infiltration. Infiltration is defined, in the Codified Ordinances, *as a complex process of allowing runoff to penetrate the ground surface and flow through the upper soil surface.*

Overall, the property at 420 N. Hallett is unique in size and use compared to other properties within the Village. There is impervious area contributing to the storm water system. Discussion on quantity can be explored.

### Public Comments

*(Please give name, address, company represented (if applicable) and opinion for the record)*

During the window of public comment from the newspaper publications of the Public Hearing to the publication of this Public Hearing agenda (4.23.2021), the Village Administrator received ZERO calls or emails pertaining to this application.

Mr. Mark Foertmeyer spoke in support of the request and centered the discussion on how the property is built up. He indicated there is legit drainage from the parking lot to the road. However, the rest of the property drains to a culvert. He believes Hallett is the highest part and has hired a surveyor to provide documentation. He would like to see the two parties come to an agreement which is accurate and fair. He indicated that the tile drawings would be emailed to the Village Administrator.

Council discussed the situation and under the property is unique. Councilwoman Kreuz moved to table the hearing for a minimum of 45 days to allow for more information to be garnered, with Councilman Rose seconding. Roll Call vote. All YES. Motion passed 6-0

### Adjournment

  
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Neil Toeppe, Mayor

Attest:   
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Jennifer Harkey, Fiscal Officer