

## **Informational Summary for Voters**

### **Article 11 Acquire Fitzwilliam Village Water District (FVWD)**

This document is intended to provide clear, factual information regarding Article 11. It incorporates legal guidance provided by Town Counsel and is presented to support informed decision-making by voters.

This document is NOT intended to persuade voters to take any specific action at the continuation of Town Meeting for the reconsideration vote.

### **Article 11: Acquire Fitzwilliam Village Water District**

To see if the Town will vote to:

- 1) authorize the Select Board to acquire the water system and the real and personal property of the Fitzwilliam Village Water District (“Water System”);
- 2) establish and operate the Water System as a Town water precinct as provided by RSA 38;
- 3) authorize the Town to assume the District’s bonds and notes with the State of New Hampshire Department of Environmental Services Drinking Water and Groundwater Trust (“DES”) for the acquisition and construction of improvements to the Water System;
- 4) raise and appropriate the total sum of \$1,721,000 (gross budget) by the issuance of not more than \$1,301,000 in bonds or notes in accordance with the provisions of the Municipal Finance Act (RSA 33) for these purposes; with a sum of \$420,000 to be provided from grants the DES Drinking Water & Groundwater Trust Fund; and
- 5) authorize the Select Board to accept and expend additional grant funding and unanticipated revenues; and
- 6) take such other actions as reasonably necessary for the above purposes.

This article shall be subject to and contingent upon the completion of both the following conditions:

1. Adoption of one or more Warrant Articles by the Fitzwilliam Village Water District to dissolve and to authorize its District Commissioners to convey its real and personal property to the Town; and
2. The execution and delivery of an agreement upon terms acceptable to the Select Board and the Fitzwilliam Village Water District Commissioners, to transfer of the District’s operations and real and personal property to the Town, or, to otherwise dispose of the same.”

A 2/3 majority vote is required per RSA 38:4.

(Recommended by the Board of Selectmen, not recommended by the Budget Committee)

## **What we know about the Fitzwilliam Village Water District (FVWD)**

- The FVWD includes approximately 115 properties, of which about 50 are currently connected users.
- The system comprises three separate water systems: Laughner, Massin, and Prigge.
- It was created in the 1950's to meet the Village's need for water resources. The wells and easements were donated, and the owners receive no compensation.
- The Prigge system is served by the Prigge well, located behind the Prigge residence, and serves 12 residential customers.
- The Massin system is served by the Massin well, located behind the Massin residence, and serves 18 customers.
- The Laughner system is served by the Wittenborg and Block House wells and serves 25+/- customers (residential, municipal?). The Wittenborg well is located on the Wittenborg property and is no longer available for use. This well was the highest-producing well according to a report from Lewis Engineering in January of 2023. The Block House well is located on the front side of the Block House.
- The Prigge system stands alone. The Laughner and Massin systems are interconnected; however, during normal operations, the interconnection is shut off.
- To replace the Wittenborg well, Horizons Engineering submitted a proposal to the FVWD dated February 1, 2024, in which it evaluated the systems and made recommendations for the preliminary test well. They proposed investigating 6 to 7 sites, narrowing the list before completing 2 test wells and issuing a report on a permanent well to feed the system. The estimate for that work was \$29,100 at the time the proposal was submitted.
- There is more detailed information regarding the lines connecting the systems and the treatment of the water being harvested that is not included here. This information is available to the necessary parties should the Town vote to acquire the District.
- In August of 2024, the FVWD was awarded a DES grant of up to \$741,000 for drinking water system improvements. This grant money was funded from two accounts: the Water Infrastructure Improvements for the Nation (WIIN) in the amount of \$321,000, and the Drinking Water and Groundwater Trust Fund (DWGTF) in the amount of \$420,000.
- They were also awarded a loan agreement in the amount not to exceed \$980,000 to finance drinking water system improvements.
- No work has been performed since these funds were awarded, and the WIIN grant of \$321,000 is currently unavailable. The available funding from the combined grant and loan, including a 30% loan forgiveness, totals 1,700,000. Only \$980,000 would need to be repaid by the District.
- In 2025, the FVWD had no District clerk, moderator, or treasurer. The remaining chairperson and commissioner have stated that they are resigning following the vote on this article. No one else has volunteered to hold any of these positions for the FVWD.
- On March 3rd, the FVWD voted to move forward with the water system transfer. We are still awaiting the minutes from this meeting to verify whether the vote passed. The District's warrant article will not take effect, even though the voters passed it, unless the Town's warrant article also passes.

**Contingencies of Approval** - These are what need to happen for the Article to take effect if it passes:

- The FVWD votes to dissolve and transfer assets (this occurred on March 3rd - still waiting for a copy of their minutes to verify), **and**
- An agreement acceptable to both the FVWD and the Select Board is executed

If either of these conditions is not met, the article will not take effect.

If the vote on April 16th fails, the article will not take effect.

If the vote on April 16th passes and an agreement is executed:

- The water system would be operated by the Town as a water precinct under RSA 38
- The Select Board would act as the governing body unless otherwise structured under the agreement
- The system would function as a separate enterprise within the town, consistent with statutory requirements

Based on **Guidance from Town Counsel** and applicable statutes:

- The intent is for the water system to be funded through:
  - User fees (water rates), and/or
  - Assessments on properties receiving the defined special benefit (the ability to connect to the system) as permitted under RSA 38:27 and RSA 38:28.
- Water system revenues would be maintained in a separate water fund in accordance with RSA 38:29
- All expenditures after this fiscal year remain subject to appropriation requirements under RSA 32. (This is because Article 11, if passed and effective, would “authorize the Select Board to accept and expend additional grant funding and unanticipated revenues,” but the law does not allow this to go beyond this year.
- Borrowing associated with the project is subject to voter authorization under RSA 33.

Based on the **Legal Guidance** provided to the Town:

- The Town may acquire and operate a water system only with 2/3 voter approval under RSA 38
- The Select Board does not have unilateral authority to:
  - Acquire the system without such approval, or
  - Expend funds outside of appropriations approved under RSA 32 (except for this year per Article 11)
- Financial Authority in New Hampshire municipalities is shared:
  - The town meeting approved appropriations and borrowing
  - The Select Board administers and implements those decisions

If the Article does **NOT** pass:

- The control of the FVWD is unknown because no one will be overseeing the District
- The Town does not acquire the system or assume its debt

If the District is unable to operate effectively in the future, potential outcomes could include:

- Restructuring of the District
- Court involvement and/or regulatory action from DES

The specific outcome in such a scenario cannot be predicted in advance due to the number of variables.

Voters may wish to consider:

- The local control associated with Town's operation to repair and restructure infrastructure vs State involvement
- The structure and oversight of governance under a town-operated system
- The differences between Town operation and continued District operation (if District operation is a possibility)
- The potential economic impacts to the town if the District becomes defunct (devaluation, interruption of service to municipal buildings and businesses)