

Town of Windsor

Memorandum

April 20, 2021

TO: The Honorable Mayor and Town Council

FROM: William G. Saunders, IV, Town Manager WGS IV

SUBJECT: Windsor Town Center Memorandum of Understanding

Background

For an extended period of time, the Windsor Town Center Memorandum of Understanding has worked its way back and forth between Isle of Wight (IOW) County and Town of Windsor staff and the Windsor Town Center Advisory Board (WTCAB) with various iterations of the agreement developing over that time.

The Mayor and Town Manager of the Town of Windsor were before the Isle of Wight Board of Supervisors at the Board's April 15, 2021 meeting where the Board expressed dissatisfaction with the version of the MOU that Council adopted on April 5, 2020. A revised, draft MOU has been received since then from the IOW County Attorney.

Specifics

The changes since the adopted version relate to the following:

1. Capital Improvements The new changes raise the minimum cost of a capital repair, replacement, or improvement that would be shared from \$5,000 to \$25,000. It also takes them out of the MOU document and requires a separate negotiation and agreement for cost-sharing on them.
2. Operational Costs The new changes add the word 'routine' before cleaning, in the operational costs for which the Town is responsible. The County also agreed to enter into the rental/use agreement so that they are bound to the requirement of cleaning up after their uses of the facility.

It is hoped that the MOU can be adopted by the Town Council prior to the Board of Supervisor's April 14th meeting, so that it can be presented to them then in order to further the roof replacement conversation.

Enclosures

Revised, draft MOU

Recommendation

Adopt the MOU

MEMORANDUM OF UNDERSTANDING

Between
ISLE OF WIGHT COUNTY,
And
THE TOWN OF WINDSOR

Parties. The parties to this Agreement are the Town of Windsor, Virginia, a Virginia municipal corporation, and Isle of Wight County, Virginia, a political subdivision of the Commonwealth of Virginia.

Purpose. The purpose of this Agreement is to establish expectations concerning the staffing and operations of the Windsor Town Center.

Responsibilities

Isle of Wight County

Isle of Wight County will provide:

1. staffing for the facility, at no cost to the Town of Windsor, during any time that Isle of Wight County Parks and Recreation (herein known as P&R) has a program utilizing the facility. Current hours are 12:00 pm to 8:00 pm Monday through Friday, but should **P&R** hours increase, Isle of Wight County will provide necessary staffing.
2. Damages that occur during, or as a result of, P&R functions shall be the responsibility of Isle of Wight County.
3. Isle of Wight County staff shall abide by the Town of Windsor's rental policies when booking events.

Town of Windsor

The Town of Windsor will provide:

1. an office for P&R staff
2. will cover all utilities, **routine** cleaning, refuse & recycling, insurance, supplies, maintenance, and **all repairs which do not fall under the "Capital Expenditures" paragraph which follows below**, for the facility.
3. will provide a staff person for times when the facility is rented outside of normal P&R programming activities.

Capital Expenditures

The Parties agree that all capital repairs, replacements and all future capital improvements, which shall not include ordinary maintenance and repairs to the facility, which costs exceed \$25,000 shall be shared by both Parties equally, providing that a separate agreement and negotiation for such items are done in advance, in good faith, of said capital repairs, replacements and improvements.

Use of Facility

Isle of Wight County staff may make use of the facilities for official governmental functions or meetings, and such events shall be exempt from rental fees if the facility is otherwise available.

Insurance

Both parties agree to add the other as an additionally insured party on their respective insurance policies.

Modification

This Agreement forms the entire agreement among the Parties and supersedes any and all understandings, agreements, letters of intent and negotiations between the Parties relative to the subject matter. This Agreement may not be modified or amended except in writing signed by all Parties.

Assignment

The rights and obligations under this Agreement may not be assigned by either Party hereto without the prior written consent of the other Party.

Non-Discrimination

The Parties agree that at no time it shall discriminate against any person on the grounds of race, religious affiliation, color, national origin, disability, age, or gender.

Counterparts

This Agreement may be executed in counterparts, and any number of counterparts signed in the aggregate by the Parties will constitute a single, original instrument.

Waiver

The failure of either to insist upon strict performance of any obligation in this Agreement shall not constitute a waiver of said Party’s right to demand strict compliance therewith in the future.

Governing Law and Severability

This Agreement shall be deemed to be a Virginia contract and shall be governed as to all matters whether of validity, interpretations, obligations, performance or otherwise exclusively by the laws of the Commonwealth of Virginia, and all questions arising with respect thereto shall be determined in accordance with such laws. Regardless of where actually delivered and accepted, this Agreement shall be determined to have been delivered and accepted by the Parties in the Commonwealth of Virginia. The Parties further agree that any legal action or proceeding arising out of this Agreement shall be commenced and tried in the Circuit Court of Isle of Wight County, Virginia to the express exclusion of any otherwise permissible forum.

If any portion of this Agreement shall be adjudged invalid, illegal or unenforceable, no other provision shall be affected in any way.

Termination

The terms of this Agreement will remain in effect until terminated by any party. Termination may only occur after providing one hundred eighty (180) days written notice.

Execution

The foregoing Agreement was duly adopted, accepted and approved by the Board of Supervisors and Town Council at regular meetings held on the _____ day of _____
_____ 2021 by the Board of Supervisors of Isle of Wight County and on the

_____ day of _____ 2021 by the Town Council of the Town of Windsor.

Town of Windsor

By _____ Date _____
Mayor

Attest:

Clerk

Approved as to form:

Town Attorney

Isle of Wight County

By _____
Chairman

Date

Attest:

Clerk

Approved as to form:

County Attorney