

# Vineyard Gazette Online

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## Sovereignty Issue Looms in Aquinnah

By JULIA WELLS

Voters in Aquinnah are set to gather next week for a relatively routine special town meeting, but as a swirl of discussion heats up in this tiny town over the Wampanoag tribe's court case on sovereign immunity, the meeting may prove to be not-so-routine.

Five months ago a superior court judge ruled that the tribe could not be sued because of sovereign immunity.

Last week the three Aquinnah selectmen deadlocked over whether to appeal the court case. The deadlock (one yes vote, one no vote and one abstention) means that the town will not participate in the appeal of a case that has potentially far-reaching implications for every town on the Vineyard.

Two other parties in the case — the Gay Head Taxpayers Association and the Benton Family Trust — will appeal. The deadline for filing an appeal is Dec. 12.

This week a petition began to circulate in town that urges the selectmen to reconsider their decision when they meet on Tuesday afternoon.

The regular selectmen's meeting is at 5 p.m.; the special town meeting begins at 7 p.m. on Tuesday.

As the petition circulated this week, there was also talk in town about whether to call for a nonbinding discussion during the special town meeting.

There is no article on the warrant that speaks directly to the court case, but the town meeting moderator has the latitude to allow discussion and expressions of sentiment from the voters — and there is some precedent for this in Aquinnah.

Longtime town moderator Walter Delaney said this week that he has been approached about the idea of allowing a discussion, and he said he is open to the idea.

"I've been called," said Mr. Delaney, who is known for presiding over town meetings with a steady hand and his own unique style. Mr. Delaney said the discussion could take place either at the beginning or at the end of the town meeting, as long as it is strictly outside the confines of the regular warrant.

"It's possible that we could do this — if somebody makes a motion and there is a simple majority vote that wants to have a discussion, then we could do that," Mr. Delaney said. "It is also possible that the selectmen might speak to me and ask for a discussion. And I would allow that, too," he added.

Aquinnah is the second smallest town in the commonwealth, with just over 300 registered voters and a required town meeting quorum of 37. The Wampanoag Tribe of Gay Head (Aquinnah) is the only recognized federal tribe in Massachusetts.

The case, which ultimately is expected to be decided by the Massachusetts Supreme Judicial Court, centers on the question of whether the tribe must comply with local zoning rules, as it agreed to do under the terms of a historic 1983 Indian land claims settlement agreement. The agreement later led to federal recognition for the tribe.

The role of the selectmen in the court case has come into sharp relief in recent weeks, in part because two of the selectmen have relationships with the tribe. Selectman Carl Widdiss is a member of the tribe, and board chairman Michael Hebert's wife works for the tribe. Last week Mr. Hebert voted against the appeal and Mr. Widdiss abstained. Selectman James Newman voted in favor of an appeal.

Official business facing voters on Tuesday night includes an array of housekeeping requests. In one article, voters will also be asked to approve an emerging plan for the old Edwin Vanderhoop homestead.

Purchased earlier this year by the town and the Martha's Vineyard Land Bank in a joint acquisition, the homestead includes six acres and a historic house in the area known as the Circle near the famous clay cliffs.

Plans for the homestead are still in the early stages, but a group of town residents and tribal members is working on a proposal to lease the homestead to the Aquinnah Cultural Council for use as a seasonal Native American museum.

The plan has been endorsed by the selectmen. A series of public meetings have been held to discuss plans for the homestead, including one last week in the Aquinnah town hall.

The museum idea was the central topic of discussion, but one town resident cautioned the group that the plan might run afoul of public bidding laws because the cultural council is a private entity.

"I don't disagree with where you are going with this concept, but you cannot take public land and turn it over to a private enterprise — I can tell you that is patently illegal," said Russell Smith, an Aquinnah resident who is also the Vineyard legislative liaison.

Mr. Smith said because the homestead was purchased with public money, any lease arrangement would have to go through a public bidding process.

"I'm a little surprised — this is the first time I have heard of this," said Berta Welch, who is chairman of the cultural council.

"I think there is a process for this, I think we're not just quite there yet," said Mary Elizabeth Pratt, a town resident who, along with Derrill Bazzzy, has spearheaded the effort to preserve the homestead and plan its use.

The plan also calls for a fund raising campaign to help defray the cost of "gently" renovating the

old home — currently estimated at about \$200,000.

Some townspeople have said they would like to see the homestead used as a year-round community or cultural center, but members of the town community preservation committee say that cost and regulatory red tape are insurmountable obstacles — at least for now.

Mr. Bazy and Ms. Pratt both said they expect the homestead plan will be subject to some kind of request for proposals (RFP), and they said town counsel Ronald H. Rappaport will be consulted about how best to approach the process.

“We are of course going to turn this all over to Ron pretty soon,” Mr. Bazy said.

There are few discussions in Aquinnah these days that do not stray into the area of tribal sovereignty, and last week was no exception.

“Why can’t you just do this as a government-to-government relationship?” said Jackie Brown.

Ms. Welch said the cultural council is incorporated as a separate charitable organization and is not a tribal entity.

The town meeting article on the Vanderhoop homestead is expected to spark more discussion about the museum plan.

“I think it might be an interesting meeting,” Mr. Delaney concluded.

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