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### **Town and Tribe Pledge Era of Cooperation**

By IAN FEIN

With expressions of solidarity and a common eye on the future, leaders from the two governments in Aquinnah agreed this week to work together toward a shared vision for their town.

The pledges of support came during a rare joint meeting between some 20 officials from both the town and Wampanoag Tribe of Gay Head (Aquinnah), who gathered on Wednesday in the old town hall for an open forum marked by laughter and levity, and occasional moments of outspoken honesty.

"It is our responsibility to make this a place where we can live together - to share each other's philosophies, each other's goals and each other's futures," said Kristina Hook-Leslie, a member of the tribal council and the town community programs committee. "And I do truly believe that we have shown in some small ways that we can come together and benefit one another - but the only way that can happen is by telling the truth. We've had a pretty bumpy road, and in order to smooth that out, we must work together."

The summit meeting this week was not the first such gathering between the tribe and town - and it likely will not be the last.

The two governments in July 1999 met with a facilitator to improve communications; a follow-up meeting was planned but never scheduled.

Town and tribal leaders on Wednesday assured that this time they are committed to seeing the process through, and they scheduled a second meeting for March 8.

"At this point we must commit to it, and not miss the next meeting because we have something else to do," said tribal council chairman Donald Widdiss. "This is too important; this is way too important."

Board of selectmen chairman James Newman agreed.

"I don't think we have an option," Mr. Newman replied. "This is something we must do - and will do."

While town and tribal leaders on Wednesday at times spoke more generally about issues of trust and respect, they also acknowledged that they must specifically resolve disputes over land use permitting issues.

Lingering tension about the still-pending lawsuit over tribal sovereignty surfaced during the meeting this week. The case began in 2001 when the tribe built a small shed on the Cook Lands near its shellfish hatchery without a town building permit.

"We're dancing around the fact that down the road there is a material shed - probably smaller than my bathroom - that has cost everybody here hundreds of thousands of dollars and has created whole lots of terrible words, and terrible feelings," said Ms. Hook-Leslie. "This meeting is to deal

with the fact that neither government can afford financially to deal with that should it ever happen again. And we're dancing around that horrible dispute like it didn't even happen."

The Massachusetts Supreme Judicial Court ruled one year ago that the tribe must abide by state and town zoning rules, reversing a lower court decision that found the Wampanoags could not be sued because of sovereign immunity. The state's highest court found that the tribe waived its right to sovereign immunity over land use issues when it signed the 1983 Indian land claims settlement agreement, which led to federal recognition in 1987. The Aquinnah Wampanoags are currently the only federally recognized tribe in the commonwealth.

After the tribe last summer decided not to appeal the case to the U.S. Supreme Court, it was remanded back to Dukes County Superior Court, where it awaits resolution.

Tribal leaders expressed some confusion on Wednesday about the status of a draft memorandum of understanding that was released earlier this winter. The 11-page document proposed an untested joint regulatory venture as a way to avoid future litigation over intergovernmental land use disputes. The summit meeting this week was called in response to the document, which met with criticism when made public.

Mr. Newman asserted on Wednesday that the document - though off the table at the moment - has not been discarded. He characterized it as a work in progress, which could be either fine tuned or completely rewritten in the months ahead.

Some town officials who criticized the document last month toned down their comments this week. They praised some of the concepts spelled out in the document - such as joint site visits, joint hearings and mandatory mediation before a dispute goes to court - but still opposed the process by which it was drafted.

"It was not that the end result was wrong," selectman Camille Rose said on Wednesday. "But the way of getting there was."

Town officials asked the tribe to share details about the permitting process currently in place for projects on tribal lands. Tribal members explained that while their land use ordinances in most cases mirror town and state regulations, they feel strongly that their own permitting authority - the tribal land use commission - should be the body that oversees such projects.

Tribal leaders assured that they are not trying to subvert town and state laws. "It's just a matter of who is doing the review," said tribal land use commission member Durwood (Woody) Vanderhoop.

Ms. Rose, who is also the longtime town planning board chairman, said since many of the tribal ordinances were adopted from the 1983 town zoning bylaws, she believes the town and tribal regulatory boards would nearly always agree. She praised the 1983 bylaws as the product of prescient tribal elders.

"They were the ones who wrote those regulations, they were the ones who ran the town, and they did a wonderful job," Ms. Rose said. "What they chose was incredible, and was the basis for what we have now. It's like the U.S. constitution - it has evolved and worked beautifully."

Ms. Rose said she was optimistic about the possibility of parallel permitting processes. "Maybe all this business about conflict is totally unnecessary," she said. "I think we're a lot closer than anyone thinks."

Town conservation commission chairman Sarah Thulin echoed the remarks. She said when the town and tribe come together for a common cause, they both become stronger in the process.

"There were one or two conservation commission meeting this last year that were fabulous meetings, because the tribe was notified beforehand as an abutter," Mrs. Thulin said. "Tribal members came out in force for those meetings, and I will tell you it was great. It was the town and tribe together."

Mr. Widdiss said the two governments more often than not share common goals; he explained that the tribe considers itself a steward of the entire town, and not just the 400-plus acres of tribal land.

He also said the tribe's sovereignty should not necessarily put the governments at odds.

"Most people don't understand what sovereignty is," Mr. Widdiss said. "All that it means is the governments make decisions that are in the best interest of the people they represent - nothing more and nothing less. And meanwhile, negotiation is a constant," he continued.

"This is a point that a lot of tribes never get to, quite frankly - and that's a plus for us," Mr. Widdiss said. "I'm optimistic."

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