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## **Tribe, town pact on hold**

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AQUINNAH - Voters want town and tribal leaders to spend more time negotiating an agreement that would coordinate the approval process for projects on tribal land.

In a 36-18 vote, special town meeting voters directed town officials to table a measure that would have adopted the Intergovernmental Agreement on Cooperative Land Use and Planning. The proposed pact is designed to reduce the chances of future court battles over tribal land use and establish a joint town-tribe review process for development on tribal lands.

"This is still in draft form," Donald Widdis, tribal council chairman of the Wampanoag Tribe of Gay Head (Aquinnah), said during discussions before last night's vote. "There are still some questions with the document."

Members of the tribe and Aquinnah residents alike appeared to agree more time was needed to draft a document that reflects the interests of both parties.

"I think it was the right decision," Carlos Montoya, an Aquinnah resident, said after the vote to hold off approving the measure.

Woody Vanderhoop, a member of the tribal council and the tribe's land-use board, said that because the agreement put forward by selectmen last night was not a final draft he didn't feel comfortable voting on it.

"I think people were beating around the bush," Vanderhoop said after the vote. "If it's not in a final form, we shouldn't vote on it."

The special town meeting vote is just one step to getting both town and tribe approval for the pact. The tribal council did not approve the agreement last week, but plans to revisit the measure at next month's tribal council meeting with the tribe's attorney.

Yesterday, before last night's special town meeting, Widdiss said the full tribal council still had questions to ask the tribe's attorney about the language in the agreement before voting on it. Widdiss said a tribal council vote could take place Sept. 9.

The Intergovernmental Agreement on Cooperative Land Use and Planning would reduce the chances of future court battles over tribal land use and establish a joint town-tribe review process for development on tribal lands.

Supporters say the pact would establish a dispute resolution process to resolve differences outside of the courts.

The centerpiece of the agreement is the formation of a planning advisory board consisting of

three members appointed by the tribe and three appointed by the town. The seventh board member would be a joint appointment.

The board would make recommendations to the tribe's and the town's land-use planning commissions and assist conflict resolution stemming from any land-related development issues. If necessary, an outside mediator could be enlisted to resolve a dispute.

The agreement also would require the tribe to adopt and enforce "substantially equivalent" zoning laws in accordance with town bylaws, with the tribe providing "reasonable access" to tribal lands to ensure compliance.

The proposed pact comes out of a lengthy legal battle over whether the tribe had the sovereign right to build a shed for the tribe's shellfish hatchery without seeking approval from town zoning board.

Though the tribe's zoning bylaws essentially mirror town regulations, the shed dispute landed in court as a legal duel over tribal sovereignty.

In 2003, a Superior Court judge ruled the town had no legal means to enforce town zoning bylaws on the tribe's hatchery property, known as the Cook Lands.

The ruling said the tribe had not explicitly waived its sovereign immunity in signing a 1983 settlement agreement with the town, five years before the tribe was granted federal recognition.

But the state Supreme Judicial Court took the case under direct review. In December 2004, the SJC nullified the Superior Court decision, ruling the tribe was not immune from town zoning regulations.

Town and tribal leaders hope the proposed land-use agreement will mark a new era of cooperation between both entities.

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