



Aquinnah tribe on Martha's Vineyard shows its hand

By **George Brennan**

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As most eyes focused on the Mashpee Wampanoag tribe after Gov. Deval Patrick signed legislation authorizing three casinos and one slot parlor, the Wampanoag Tribe of Gay Head (Aquinnah) quietly plotted its next move.

This week, the Martha's Vineyard-based tribe jumped into the casino race with both feet, announcing it has asked Patrick to enter into compact negotiations.

Meanwhile, Fall River officials said the Aquinnah tribe wants to build in that city.

The state has taken a hard-line stance that Mashpee and Aquinnah, both federally recognized tribes, don't have the same rights to open a casino. The state argues that in a 1980s deal with the state and federal government, the Aquinnah gave up sovereign rights in exchange for 460 acres of reservation land on Martha's Vineyard.

But a 1997 opinion by the federal Bureau of Indian Affairs contradicts that view and says the federal law that allows Indian casinos trumps the land agreement.

When the Indian gaming statute was created, Congress did so "favoring the strengthening of tribal self-government and disfavoring the implicit erosion of tribal sovereignty," then-acting Assistant Secretary of Indian Affairs Michael Anderson wrote in the opinion.

Anderson concluded that the Aquinnah tribe would be eligible to open a bingo parlor proposed at the time for Fall River, as long as they could meet the other requirements of Indian Gaming Regulatory Act. The bingo parlor plan eventually fizzled, however.

Anderson was writing in response to a strongly worded opinion by the Massachusetts attorney general's office that the "settlement act could not be clearer in preserving the commonwealth's authority to regulate or prohibit gambling both on tribal land in Gay Head and on any after-acquired site."

On Tuesday, the Patrick administration refused to comment on the Aquinnah tribe's request to open compact negotiations.

That's a far cry from the strong statements made while the gambling legislation was being crafted and after it passed. State leaders said then that the Aquinnah were "differently situated" than the Mashpee tribe because their federal rights had been waived in the Vineyard land deal.

In the past, state leaders have also pointed to a 2004 decision by the state's Supreme Judicial Court that the tribe was required to follow state and local laws in building a pier and shed on tribe land.

Federally recognized tribes are not usually required to follow zoning laws or pay taxes.

Aquinnah leaders have repeatedly denied they waived their rights and have quietly pursued their own casino deal.

On Monday, in separate letters, Aquinnah tribe Chairwoman

Cheryl Andrews-Maltais asked Patrick to enter into compact negotiations and asked Fall River Mayor Will Flanagan to schedule a referendum vote in that city where they hope to build an Indian casino.

The island tribe has provided no details on a specific location and has not identified its financial investors, Flanagan said in a telephone interview Tuesday. Flanagan is in the process of scheduling a meeting with Andrews-Maltais after having a phone conversation about the tribe's plans Monday night, he said.

"I'm willing to listen to them, but before I can support a casino, I need to know where it will be located and who the financiers are," Flanagan said. Andrews-Maltais told him they have several parcels under option and want to build a resort-style casino, he said.

Flanagan said he won't schedule a vote, a requirement of the state legislation, until he gets more information.

"I won't blindly support a proposal," he said. "It has to be beneficial to the city."

The Standard-Times of New Bedford reported today that the tribe also has asked Freetown and Lakeville selectmen "to schedule a vote for approval of the tribe's proposed gaming establishment" in their communities. No casino sites were specified in the communications with selectmen.

Freetown Town Administrator Richard Brown said that, based on his interpretation of the state's expanded gaming law, the Aquinnah request for a vote was premature.

"There's a whole host of other things that need to be done before we can do what's asked in the letter," he told the Standard-Times. While "we have some sites that might be appropriate" for a casino, Brown said, "we don't know what the site is; we don't know the scope of investment; we don't know the range of employment."

Andrews-Maltais did not return phone calls or email messages to the Cape Cod Times or the New Bedford paper Tuesday seeking more information.

John Hasenjaegar, a Walpole developer who had a deal to sell 230 acres to the Aquinnah in 2010, said he could not comment on whether the tribe still has interest in that land. Haenjaegar's land is located near the borders of Dartmouth and Westport and abuts the Watuppa Reservation.

Flanagan said the city has also talked to several commercial developers about bringing a casino to Fall River should proposals for Indian casinos not move forward. In 2010, the city had a deal with the Mashpee tribe for 300 acres that stalled, in part, because the land had a legislative stipulation preventing it from being used for a casino.

Under the state casino legislation, federally recognized tribes have until July 31 to meet several criteria, including a compact for payment in lieu of taxes, or the state gaming commission can put the license for Southeastern Massachusetts out to competitive bid.

Federal law prohibits casinos on land taken into trust after Oct. 17, 1988, unless that land is part of, or contiguous to, a tribe's reservation or it's deemed to be in the tribe's best interest.

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Aquinnah tribe pitches casino to Freetown and Lakeville as well as Fall River

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The Wampanoag Tribe of Gay Head (Aquinnah) has suddenly reached out to Fall River and two nearby communities, asking all three to schedule elections on the possibility of hosting an Indian casino.

In emails and certified letters sent Monday, tribal chairwoman Cheryl Maltais-Andrews asked Freetown and Lakeville selectmen “to schedule a vote for approval of the tribe’s proposed gaming establishment” in their community. No sites were specified in any of the letters.

In separate letters asking Gov. Deval Patrick to begin negotiations on a gaming compact, Maltais-Andrews said the tribe had “entered into an agreement to purchase a parcel of land for the proposed tribal gaming development,” although, again, no specifics were mentioned.

Maltais-Andrews did not respond to requests for comment. Tribe spokesman James McManus of Slowey/McManus in Boston said, “the tribe is not willing to say anything more” than what was in the letters.

McManus also declined to say whether the tribe had reached out to either of the two groups hoping to develop casinos in New Bedford.

Freetown Town Administrator Richard Brown said that, based on his interpretation of the state’s expanded gaming law, the Aquinnah request for a vote was premature.

“There’s a whole host of other things that need to be done before we can do what’s asked in the letter,” he said. Foremost among them would be for the town and tribe to negotiate a host agreement.

While “we have some sites that might be appropriate” for a casino, Brown said, “we don’t know what the site is, we don’t know the scope of investment, we don’t know the range of employment.”

Lakeville officials did not immediately respond to requests for comment.

The Mashpee Wampanoag, the state’s only other federally recognized tribe, last week announced plans to develop a tribal casino at the junction of Routes 140 and 24 in East Taunton.

The state’s new expanded gaming law gives federally recognized tribes an exclusive negotiating window through July 31 for the casino license reserved for the southeastern section of the state, but it could only go to one of the two suitors.

The state has maintained that the Aquinnah gave up their tribal gaming rights in a 1987 land agreement. Asked whether that would preclude negotiations with the state at this time, Jason Lefferts, a spokesman for Gov. Patrick, declined comment.

McManus said: “The tribe’s position has always been that they have retained their gaming rights all along.”

If an Indian casino were to go forward in Massachusetts, both the Mashpee and Aquinnah tribes would have to solve the problem of a 2009 U.S. Supreme Court decision.

That ruling questioned the authority of the Department of the Interior to take land into trust for tribes recognized after 1934; the Aquinnah were recognized in 1987 and the Mashpee in 2007.

Fall River Mayor William Flanagan said he was surprised by the letter from the tribe, who proposed a casino in his city near the Dartmouth and Westport lines in July 2010.

Maltais-Andrews “indicated to me that the Aquinnah had several pieces of land under option in Fall River and they had investors willing to finance the project,” Flanagan said. “I told her that even though I’m pro-gaming for the jobs and economic development it brings I cannot just blindly support any proposal. I need to know the details.”

Flanagan said he and Maltais-Andrews plan to meet next week.