

## Council Goes Into Closed Session During Heated Ward Suit Debates

By NANCY CROSTA LANDALE  
Specially Written for The Westfield Leader

The air was thick with partisanship and innuendo on Tuesday night as the town council questioned its appointed attorney, Ronald J. Riccio, Esq., about his actions in the Ward Commission suit. Mr. Riccio appeared at the conference meeting at the council's request after concerns were raised at the February 26, 2002 regular meeting over actions, including a possible settlement, which may have taken place on Westfield's behalf without the council's knowledge or consent.

The Ward Commission suit is an action pending in New Jersey Superior Court, challenging the 2001 re-drawing of Westfield's ward boundaries. At its regular meeting on January 29, 2002, amid much discourse and controversy, the council passed a resolution for the town to intervene in the suit by a 5 to 4 vote along party lines. The resolution directed the town to retain a separate attorney, Mr. Riccio of Morristown's McElroy, Deutsch & Mulvaney, at a capped fee of \$17,500.

In addition to his private practice for 32 years, Mr. Riccio is the former Dean of Seton Hall Law School and remains a professor there, teaching Constitutional Law, Business Associations and Civil Procedure.

On Tuesday, immediately after Mr. Riccio introduced himself and his associate, Nancy McDonald, Second Ward Councilman Rafael Betancourt asked: "Why have you not communicated with the council? What took so long for you to come?"

Mr. Riccio explained that he received the resolution appointing him as council for the town at the end of January, and thereafter had been in touch with Third Ward Councilman Kevin Walsh and former mayor Thomas Jardim, who represents the Ward Commission plaintiffs, to gather information. He then sent a letter to Town Administrator James Gildea and the Mayor on February 11, which included an offer to meet with the council.

Mr. Riccio stated: "We understood our mandate to be intervention based on the wording of the resolution. No one from this body sought to talk to me."

Mr. Betancourt responded: "Wouldn't your marching orders come from this body because it is your client? Is it my obligation as your client to contact you, or yours as attorney to contact your client?" Mr. Riccio replied: "It's a mutual obligation. I sent a retention letter. We had a resolution mandating intervention. My plan was to contact someone, probably Kevin Walsh, before intervening and have a meeting to discuss the situation."

Mr. Walsh then asked Mayor Gregory McDermott why Mr. Riccio's February 11th retention letter was not distributed to the council. Mr. Gildea also revealed that he had not seen Mr. Riccio's letter prior to the February 26th public meeting. Mayor McDermott advised that he had put the letter aside, thinking he would hear further from Mr. Riccio. Thereafter, he stated, he simply forgot about the letter.

Mr. Walsh then summarized: "(before the resolution retaining Mr. Riccio was passed), I told Mr. Riccio that we had an alleged case of racial gerrymandering and may have consensus among the council to right this wrong. After the resolution passed, I faxed it to Mr. Riccio. Mr. Riccio then sent a retention letter which came in and sat on the Mayor's desk."

First Ward Councilman Carl Salisbury asked about the status of the town's intervention in the suit. Mr. Riccio stated that, based on his research, he concluded there were additional claims that could and should be asserted against the Ward Commission to obtain the relief the town council wanted. He advised the Ward Commission of the claims, and this prompted settlement talks between the plaintiffs and the Ward Commission. Mr. Riccio also urged: "Any settlement would be between the plaintiffs and defendant. The town is not even in the case yet. Nothing has happened. I'm missing what the problem is."

In response, Mr. Betancourt retorted: "The problem is I don't read minds. I'm glad you're here but I was in the dark for three weeks. If we spend tax dollars to fund litigation,

we're used to our attorneys coming forward to explain the situation."

Mr. Riccio responded: "I undertook representation of the town because the case interested me. I have been involved in other re-districting matters. I did the necessary preparatory work to be prepared to file the motion for intervention. In the normal course of events, I would be having a meeting at this juncture, but not in such an accusatory manner."

Fourth Ward Councilman Lawrence Goldman added: "I want to clarify something about these statements concerning tax dollars. The town got started in this mess, because in the early 1980s, the town council presented a plan with a piece of the Third Ward moving to the Second Ward. The council also suggested moving the Fourth Ward to the First Ward and that section was inhabited by African Americans. Twenty years later it is perfectly appropriate for a new town council to examine what was done in the past and rectify the wrong, perpetrated, using the auspices of this town. The argument of taxpayer moneys should not mask the real issue."

Addressing the main theory of the suit, Councilman Walsh said: "I think the people of Westfield are entitled to know what went on with the Ward Commission decision of 2001. What were the constitutional infirmities of what the Ward Commission did?"

Mr. Riccio explained: "The Ward Commission, when it made the decision to adopt proposal number 2, did so without citation or reliance on any traditional redistricting principles. Proposal number 2 succeeds in moving a population of approximately 85 percent African American people from Ward 3 to Ward 2. At least three U.S. Supreme Court decisions say that in the absence of any citation to traditional redistricting principles, moving a racial group from one district to another is racial gerrymandering."

Looking at the draft complaint written by Mr. Riccio, Mr. Betancourt questioned whether Mr. Riccio's analysis applied to both the October 2001 and 1980 findings of the Ward Commission, asking: "Are you going back 20 years, and saying that was wrong?"

Mr. Riccio responded by stating that his potential claim in this regard was based on information and belief, and is contained only in a draft complaint not yet filed in court.

A barrage of remarks were then traded between Mr. Riccio and First Ward Councilman Peter Echausse as well as Second Ward Councilman Matthew Albano. It culminated with Mr. Albano's motion to move the discussion to a closed session to avoid further airing of "dirty laundry." The motion was quickly seconded and the discussions were moved to closed session. The closed session discussions likely involved litigation and settlement strategy protected from disclosure by the attorney-client privilege.

In comments after the meeting, Mayor McDermott clarified that his handling of Mr. Riccio's February 11th letter was based on his assumption that there would be further contact by Mr. Riccio and, in any event, had no practical effect on the outcome, since, as Mr. Riccio explained, the motion to intervene was not filed and no actions adverse to the town had occurred.

Also, after the meeting, a notice was circulated by Town Administrator Bernard Heeny advising of a special meeting to take place on Friday at 9:30 a.m. "for the purpose of holding a public hearing at which formal action may be taken" with regard to the Ward Commission suit.

The 2002 Operating and Capital Budgets were also presented on Tuesday, though their importance was overshadowed by the Ward Commission discussion. According to documentation prepared by Mr. Gildea, the Operating Budget incorporates an increase of 4.5 cent, per \$100 of assessed property value.

The proposed budget includes spending increases of \$216,244 for the UCIA Lease Program, \$190,000 for health insurance, \$127,000 for the library, and \$90,000 for social security.

According to Mr. Gildea, state aid has been estimated at the same amounts realized in 2001, and the state has advised that it will provide certified numbers for 2002 in late March.

The Capital Budget for 2002 is \$1,609,398. The budgets will be formally introduced at the next regular meeting of the council.

In other matters, the council entered  
CONTINUED ON PAGE 10

## WF Planning Bd. Approves Development Variances, Public Objects To Antennae

By JAMES M. FOERST  
Specially Written for The Westfield Leader

Development of existing properties and construction of additional homes continues in Westfield with the recent approval of two applications heard before the Westfield Planning Board at the March meeting. The Planning Board approved an application to construct new cellular phone antennas on the roof of a residential building located near downtown. The Board also approved the construction of a new two-family home on the south side of town, which did not comply with the Westfield Land Use Ordinance.

The Planning Board met this past Monday to hear the application of Westfield Prime Properties, L.L.C., a local property development company, requesting approval to create two non-conforming lots from a single non-conforming lot, a practice known as "shoe-horning." The proposal called for rehabilitation of the existing two-family home located at 574 Cumberland Avenue



DISCUSSING THE WINNING STRATEGY...Westfield Police Chief Bernard Tracy, center, discusses the winning strategy prior to the charity basketball game against the Westfield Fire Department. It worked! The "finest" defeated the "bravest", 58-53 on March 1 at Westfield High School.

## BOE Gives Calendar First Reading; Previews Budget With Tax Increase

By LAUREN S. PASS  
Specially Written for The Westfield Leader

On Tuesday, the Westfield Board of Education approved the public school calendar on first reading, with a start date of Wednesday, September 4, for the 2002-2003 year. Final approval of the calendar will

occur at the school board's Tuesday, April 2 meeting. The board rejected the previously proposed 2002-2003 calendar, which would have had the school year begin on Monday, September 9.

Several of the board members, as well as Superintendent of Schools

Dr. William Foley, mentioned the many e-mails, letters and telephone calls they had received in protest of the September 9 opening.

The proposed delayed start of the school year was to accommodate construction at Westfield High School. Construction is scheduled for completion on Saturday, August 24.

Parents were on hand to speak out against the September 9 opening at Tuesday's meeting. Merry Wisler, President of the school district's Parent Teacher Council, spoke in favor of a September 4 opening, telling the board that two thirds of the children in town do not attend the high school.

"I'm distressed that construction companies are dictating the start date," added Susan Devaney.

Dr. Foley stated that it was the architects who suggested leaving the extra time for construction delays. "The high school project is complex. The people you are paying a lot of money to are saying, 'leave a little elbow room,'" he noted.

The calendar that was presented on first reading on Tuesday night now calls for a September 4 start date, with June 20, 2003 as the last day of classes and June 23 as the date of graduation.

The calendar also includes the following vacations: December 23 to January 1, February 17 and 18, March 31 to April 4, April 17 and 18, as well as two built-in snow days.

Should construction at the high school fall behind schedule and the school cannot open on September 4, high school students will have to attend classes on February 18, December 23 and June 23. These dates are subject to revision depending on how many days the construction is delayed.

The new calendar will be available for reading for the next 30 days.

The board also previewed the 2002-2003 school budget, which includes an 8.6 percent tax increase. If approved, this would amount to a 24-cent increase per \$100 of assessed home value.

The increased spending anticipated by the school system must come from increased property taxes, as no increase in state aid will occur this year for Westfield. About 90 percent of the school spending is funded by taxes from property owners. Approximately 7.4 percent of the proposed budget is scheduled to come from state aid.

The proposed budget reflects an 8 percent increase in operating expenses and a 39 percent increase in debt service. The school board budget proposes to increase the operating spending by \$4.2 million. Construction at Westfield High School has caused the increase in the debt service.

"This year, we feel the full impact  
CONTINUED ON PAGE 10



EXCHANGING IDEAS...Congressman Michael Ferguson and United States Senate candidate Diane Allen spoke with members of the Fanwood Republican Club Monday. Pictured, left to right, are: Ms. Allen, Fanwood Council President Joel Whitaker and Congressman Ferguson

### INDEX

Business .....	Page 15	Social .....	Page 6
County .....	Page 2	Sports .....	Page 11
Editorial .....	Page 4	Education .....	Page 9
Obituary .....	Page 8		
Religious .....	Page 7		

## Council Goes Into Closed Session During Heated Ward Suit Debates

CONTINUED FROM PAGE 1

tained comments by Planning Board member Bob Newell and Zoning Board member Vince Wilt concerning a draft resolution for front porches to be exempted from property coverage limitations so that residents with porches can more readily incorporate additions to their homes. Currently, for the majority of town properties, an owner may have up to 20 percent of the lot covered by structures. A standard back deck may occupy an additional 2 percent of the lot. Under the proposal, the coverage limitation would increase from 20 percent to 28 percent for homes with unheated, roofed, open porches.

Mr. Newell advised that, from the Planning Board's perspective, some type of regulation should be established to save porches. By excluding porches from building coverage, Mr. Newell said, the visual appearance of the town's neighborhood may be preserved and enhanced.

Councilman Albano said: "There's not anyone up here that doesn't want to see this pass. The biggest concern is the adverse effect on the intent of the zoning ordinance."

A lengthy discussion ensued during which Mr. Wilt revealed that virtually every such case brought before the zoning board was successfully concluded, to the satisfaction both of the property owner and zoning board, by allowing a proposed addition to occupy space amounting to half of the total coverage of the porch area.

Ultimately, both Mr. Newell and Mr. Wilt endorsed formulation of an ordinance to formally incorporate this practice, yet allow the zoning board to retain discretion.

Agreeing, Mayor McDermott asked Town Attorney Robert Cockren to work with Mr. Wilt to draft the appropriate language for this purpose.

In parking news, Mr. Betancourt, Chair of the Transportation, Parking & Traffic Committee, advised that

he and Mr. Gildea met with Board of Education representative Kim Rhodes to discuss parking at the high school. Mr. Betancourt reported that the prevailing sentiment is to go ahead with the construction of parking at the armory. He also advised that while construction takes place at the high school, the armory would allow up to 25 cars to park in front of its property.

While the Board of Education would like the town to relax parking restrictions on Rahway Avenue and Dorian Road during the construction, this may not be necessary since, according to Mr. Betancourt, most of the trucks will be parking on the grass.

Mr. Gildea reported that the Rahway Avenue traffic calming measures would be complete before construction begins.

Finally, concerning the Edgar Reeves house, Councilman Echausse, Chair of the Building & Town Property Committee, reported that he and other committee members recently performed a "walk-through" of the house. By way of history, the recent death of Mr. Reeves resulted in a possible deed transfer of his historical home to the town based on an agreement signed in the mid-1980s. Under the agreement, the town may accept the Reeves house "so long as the property is used for 'charitable, municipal or other non-profit use'". Due to an estimate that funds in excess of \$400,000 would be necessary to renovate the home to meet public building codes, the committee was charged with informally inspecting the home and reporting its findings to the council.

Mr. Echausse advised that the condition of the house seems to be good, with the exception of water damage to the walls. Third Ward Council member Claire Lazarowitz remarked: "It was far better than expected. Once you walk in and see it, you realize its importance."

Mr. Echausse stated that the committee is unanimous in its opinion that, while the house has no use for municipal purposes, it does have historical significance and an attempt should be made for its use by a non-profit corporation with a strong presence in Westfield. The council agreed with the Westfield Historical Preservation Commission's plan to analyze the feasibility and cost of renovations and then consider leasing the property to the Commission for a nominal amount.

## NEIGHBORS EXPECTED TO GIVE TESTIMONY MARCH 27

### Fanwood Board Hears Application For Pleasant Avenue Subdivision

By SUZETTE F. STALKER  
Specially Written for The Westfield Leader

FANWOOD -- The Fanwood Planning Board heard opening testimony last week in a subdivision appeal for a Pleasant Avenue property that has roused concern among neighbors, who are expected to present their arguments later this month.

Toby Two Realty, L.L.C. is the contract purchaser for 76/80 Pleasant Avenue, currently a single, 100-foot-wide lot located in an R-75 zone. The South Plainfield-based company hopes to subdivide the property into two, 50-foot-wide lots.

A single-family home already exists on the site, with another house earmarked for the new, second lot to be developed if the Planning Board grants the applicant minor subdivision approval.

Toby Two Realty is seeking seven bulk variances in connection with its appeal, dealing with minimum lot size, minimum lot width, minimum side yard setbacks and maximum improvement coverage.

During an initial two-hour hearing on February 27, the applicant's attorney, Peter J. Wolfson, of the Morristown firm of Dillon, Bitar and Luther, called several witnesses, who described for the board and a crowd of residents how the planned subdivision would enhance the Pleasant Avenue site.

Despite the large turnout, public testimony was held over until the hearing is continued on Wednesday, March 27. Board Chairman Gregory Cummings apologized last week to the audience for the postponement, but cited the lateness of the hour and the amount of public testimony expected to be heard.

Among the witnesses called by Mr. Wolfson last week was Craig Stires of Stires Associates in Somerville, Toby Two Realty's project engineer. He said the subdivision would result in one lot, where the current home is located, measuring 5,087 square feet, and the other lot measuring 5,074 square feet.

Additional testimony was provided by John Sisto of Westfield and Donald Sisto of Basking Ridge, principals with Toby Two Realty, which has built residential and commercial structures in Westfield and Scotch Plains for the past 15 years.

They presented a diagram and photographs of a two-story, four-bedroom Center Hall Colonial home that they are building on Scotch Plains Avenue in Westfield.

Donald Sisto said this is the type of dwelling they have proposed for the new lot on Pleasant Avenue, adding that "there is a demand" for such homes in the area.

Plans call for several alterations to be made to the portion of the property occupied by the existing house. These include razing a detached two-car garage and replacing it with a single garage, plus removal of a patio and driveway area to reduce the amount of impervious surface coverage.

While maintaining the project wouldn't negatively impact drainage of the area, Mr. Stires said the applicant nevertheless would be willing to install a drywell -- a sub-

## Scotch Plains Property Tax Rise Expected to Accelerate

By FRED ROSSI  
Specially Written for The Westfield Leader

SCOTCH PLAINS -- With the dire straits of state government finances threatening future state aid to municipalities and schools, along with increased spending for public schools, county government and improvement bonds, Scotch Plains property owners should expect a higher than normal property tax increase this year and in the future.

The municipal portion of property taxes is about 17 percent of the total property tax. Municipal prop-

erty taxes have increased modestly over the last decade. However, the rate of increase is likely to go up over the next few years.

Over the past 11 years, the average tax increase for local government purposes and the reserve for uncollected taxes on the average assessed home in Scotch Plains has been \$36 annually, according to Township Manager Thomas Atkins.

In a letter to the Township Council, in the midst of the local government's discussions on this year's budget appropriations and

the property tax levy to finance those outlays, Mr. Atkins said that the \$36 average annual tax increase from 1991-2001 "will not be matched over the next several years, without question," for several reasons.

"State government finances are not in good shape. Therefore, the future of state aid is questionable and troublesome," Mr. Atkins said. "It appears obvious that there possibly will not be any increase in state aid."

In addition, Mr. Atkins said future tax increases will likely be higher than in the 1990s because of "the volatility of the health insurance market, the interest arbitration law for uniform personnel, the machinations that have taken place with our required pension payments, the demands of our citizens for more services without increasing taxes (and) the requests of our departments, boards, commissions for greater sums of money than the taxpayers can afford to pay."

Mr. Atkins added that several services areas in the township government are requesting additional personnel, "which is always extremely costly."

The council is likely to introduce its 2002 budget at its Tuesday, March 26, meeting, with a public hearing held in late April or early May.

Mr. Atkins has already expressed some concern about local government finances, especially in light of the economy and a lower level of investment income resulting from the sharp drop in interest rates last year.

## LaPolla Named Executive Director of Turnpike

By FRED ROSSI  
Specially Written for Westfield Leader

Union County Manager Michael LaPolla has been appointed by Gov. James McGreevey to be the new Executive Director of the New Jersey Turnpike Authority. Mr. LaPolla, who resides in Westfield and has served in his position since 1997, will begin his new duties on March 18.

It looks as if Deputy County Manager George Devaney will succeed Mr. LaPolla, although no formal announcement has yet been made by the Board of Chosen Freeholders, which will ultimately appoint a new manager. Mr. Devaney has served in his post since July 1997. The County Manager serves as chief executive and administrative officer responsible for the county's day-to-day operations and delivery of services to the 21 municipalities.



Michael LaPolla

"I'm ready for a change," Mr. LaPolla told *The Westfield Leader* and *The Times of Scotch Plains-Fanwood* in explaining his decision to accept his new position, where one of his immediate concerns will be the popular, but financially-troubled EZ-Pass toll system. "I've been here almost five years, and I'm looking forward to the challenge."

For much of the past 20 years, Mr. LaPolla, 47, has been involved in Union County politics and administration. He served two terms on the Freeholder Board, from 1983 to 1989, and was Chairman in 1988. He then served briefly in the administration of former New Jersey Gov. Jim Florio before a stint as State Director for U.S. Sen. Bill Bradley. In 1991, he returned to Union County as First Assistant Prosecutor under County Prosecutor Andrew Ruotolo, and served until 1997. In June of that year, Mr. LaPolla was named County Manager.

## BOE Reading Previews Budget

CONTINUED FROM PAGE 1

of the high school bond," Dr. Foley explained. "Even if we had no increase in the budget, it would cost you six cents."

Other proposed spending hikes include a \$1.46 million increase in personnel costs; a \$1.37 million increase in insurance costs, and a \$799,772 increase in special education tuition and services.

The budget also proposes additional spending for increased teacher training; a ninth grade humanities program; a pilot program for gifted and talented students in kindergarten through grade 8; computer replacements for the intermediate school special education and the Advanced Learning Program; improvement of athletic fields; updated sixth grade mathematics; a new elementary social studies program; Westfield High School foreign language curricula and new text books.

"(The) intent is to lay this out for the board members and the public (to view). Nothing is set in stone here," Board President Arlene Gardner said. "We may hear from the public that every item is important. We're actually in a lot better shape than most school districts because we don't get a lot of money from the state."

Although the budget maximum mandated by the state is not yet known, a possible second increase in spending of \$783,601 has been proposed by the school board to include elementary world language, elementary guidance, eighth grade sports, new staff and wireless computers at both intermediate schools.

Board member William Wallace pointed out that although there may be two questions on the ballot, it is still one budget.

"I understand that this is a difficult tax year. Some communities will choose to make substantial cuts. We need some dialogue; we need to hear from people," Dr. Foley stated.

The proposed budget is open for public discussion until Tuesday, March 26, and there will be a work session meeting on Tuesday March 12, for the board to further discuss and make changes.



**DISTINGUISHED SERVICE...**Specialist Tony Boscia, the son of Joe and Sue Boscia of Westfield, was recently named "Soldier of the Month" for January for the 2nd Battalion, 34th Armored, 1st Infantry Division at Fort Riley, Kansas, where his parents were also stationed. He serves as a gunner on an M-1 Abrams tank in that unit. The soldier graduated from Holy Trinity School in Westfield, St. Joseph's High School in Metuchen and the University of Scranton. He previously served for eight months with the peace-keeping force in Bosnia.

## Will you be audited?

You can determine your chances of being audited by the IRS.



See "Tax Planning" on our Internet home page. It is totally free and it's nontaxable!

[www.neilschembrecpa.com](http://www.neilschembrecpa.com)

Neil F. Schembre, CPA

"For All Your Personal & Business Tax Preparation Needs!"

266 North Avenue  
Fanwood, NJ 07023  
(908) 322-6066 • FAX (908) 322-2994  
e-mail: SchemCPA@aol.com

**SCHMIEDE SCHMIEDE**  
TREE EXPERT CO.

- Pruning
- Spraying
- Feeding
- Removal

Modern Equipment  
State Certified  
Immediate Service  
Insured For Your Protection

**233-TREE**

## WESTFIELD POLICE BLOTTER

**WEDNESDAY, FEBRUARY 27**  
• A Hyslip Avenue resident reported an unknown individual or persons stole jewelry from a closet in her home.

**THURSDAY, FEBRUARY 28**  
• Julio Ayala, 22, of Plainfield was arrested and charged with shoplifting a man's sweater, valued at \$59.50, from a North Avenue store. He was released on his own recognizance with a summons.  
• It was reported that \$60 was stolen from a pocketbook in the lunchroom of an office on North Avenue, West.

**SUNDAY, MARCH 3**  
• A Prospect Street resident reported that someone attempted to make \$223 worth of purchases on her Mastercard, for delivery to a Brooklyn address.

• Natasha N. Bishop, 26, of Brooklyn was arrested and charged with shoplifting \$328 worth of clothing from a North Avenue store. She was released on her own recognizance with a summons.

• A motorist operating a Subaru Wagon was seen reaching out and breaking off the gas tank cover on a 2001 Saturn owned by a Westfield resident. The incident occurred in a municipal lot located off of Central Avenue. No one has been charged in connection with the case.

• Mark A. Szarszewski, 27, of Edison was arrested and charged with driving while under the influence at Rahway Avenue and Lamberts Mill Road. He was later released on his own recognizance with a summons.

**GREAT DRIVERS STOP HERE.**

IF YOU HAVE AN EXCELLENT DRIVING RECORD AND ARE CURRENTLY INSURED WITH STATE FARM, AIG OR LIBERTY MUTUAL, CHANCES ARE I CAN SAVE YOU SOME MONEY.

**RON BANSKY**  
908 301 0711  
715 CENTRAL AVENUE  
WESTFIELD, NJ 07090

**Allstate.**  
You're in good hands.

Subject to availability and qualifications. Allstate New Jersey Insurance Company, Bridgewater, New Jersey © 2001 Allstate Insurance Company