

# The Record Local

## QUOTES OF THE WEEK

**"People are not spending frivolously ... only on what they need, but they do want to pay garage-sale prices for expensive items, which is not going to happen."**

— **David Gafner** of A-1 Liquidators, which is running a tag sale at the former Saddle River home of Russell and Kimora Simmons featuring a \$200,000 bed once owned by late designer Gianni Versace.

**"Our position is not to go into the woods and look for him."**

— Bergenfield Police Capt. **Thomas Yurkin**, after police searched for a young bear that was seen wandering along a stream abutting the Knickerbocker Country Club.

# Zisa sues union to cover legal costs

By **MONSY ALVARADO**  
STAFF WRITER

**HACKENSACK** — Deposed Police Chief Ken Zisa has filed a lawsuit seeking to have the police union pay the legal costs associated with defending criminal and administrative charges against him.

In the civil suit, filed in state Superior Court in Bergen County, Zisa claims that as a member of Policemen's Benevolent Association Local 9 he is entitled

to coverage of his legal defense and related expenses in "criminal, civil and administrative proceedings." The suit claims he was "wrongfully denied" those benefits when he sought them.

A hearing on the matter has been scheduled for Aug. 27 before Superior Court Judge Robert Wilson. The judge's "order to show cause" states that union representatives show why the court

should not order the defendants to provide coverage.

The suit names the New Jersey State PBA and Local 9 as defendants.

Zisa and his attorney, Richard Malagiere, could not immediately be reached for comment on Friday.

**Local says dues unpaid**

Hackensack Police Officer Anthony

Ferraioli, president of the local, said union officials were served with the suit on Friday. He said that when Zisa became chief in 1995 he stopped paying membership dues and had not contributed money for the legal protection plan.

"As far as we are concerned, our local, he's not entitled to this benefit, because he didn't pay," said Ferraioli.

But in a certification supporting Zisa's claim for coverage, which was filed by Malagiere and attached to the suit, the attorney states that Zisa was "current in all of his obligations to pay dues or other fees attendant with membership in Local #9."

Representatives of the state PBA could not be reached for comment Friday. In a May 27 letter to the law firm that is representing Zisa in his criminal case, Kevin Lyons, the administrator of

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# 9 years for 'dirty cop'

## Ex-NYPD officer had role in Rutherford shakedown

By **KIBRET MARKOS**  
STAFF WRITER

A former New York City police officer was sentenced Friday to nine years in prison for conspiring to shake down a suspected drug dealer in Rutherford three years ago.

"You are a dirty cop, and you will be punished accordingly," Superior Court Judge Patrick J. Roma said to Hector Alvarez in the Hackensack courtroom.

When Alvarez was given the opportunity to speak minutes earlier, he angered Roma by saying that he was convicted because his case was "misconstrued," and that "the truth shall set me free."

Despite a detailed, videotaped confession in which Alvarez admitted to the shakedown, he maintained at the trial that he and his former partner, Miguel Castillo, went to Rutherford only to conduct an investigation in their capacity as NYPD officers.

"If you are going to give me this fairy tale ... then keep it," Roma said to Alvarez. "You were found guilty. There is nothing misconstrued about it."

Alvarez later backed down from his earlier statement and said, "I am sorry for everything that happened. I am mortified."

Prosecutors said Alvarez and Castillo, both of them former Marines, received a tip from a New York City man named Victor Sandoval that a drug dealer in Rutherford kept more than \$500,000 in cash at his home.

The three men agreed that Alvarez and Castillo would rob the man, Luis Algarin, and that they would split the money three ways, prosecutors said.

Wearing dark suits and bulletproof vests, the two men went to Rutherford on May 18, 2007, and confronted Algarin with a fake warrant, they said. The plan failed when Algarin refused to let them into the house, and the ensuing scuffle attracted neighbors' attention.

The two men left but were arrested while driving back to New York City. Both of them gave detailed confessions within hours, and were fired the same day from the NYPD.

Castillo later took a plea deal from prosecutors and testified against Alvarez, receiving a five-year prison term in return.

Algarin was later convicted of money laundering. Sandoval remains a fugitive.

Alvarez's attorney, John Weichsel, asked the judge at the sentencing on Friday to impose a shorter prison term, saying his client served in the Marines, worked in protective services in several American embassies and studied criminal justice.

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KEVIN R. WEXLER/STAFF PHOTOGRAPHER

Hector Alvarez, a former New York City police officer, heading back to prison on Friday after Superior Court Judge Patrick J. Roma sentenced him in Hackensack.

# Xanadu alcohol permits to cost less

## Vendors not subject to \$500G borough license

By **JOHN BRENNAN**  
STAFF WRITER

Prospective restaurants and bars at Xanadu must apply for \$2,000 concessionaire permits to sell alcohol on the site, instead of being required to purchase East Rutherford liquor licenses that could cost \$500,000 or more, a state appellate court panel affirmed Friday.

The three judges agreed with a 2005 decision by Jerry Fischer, director of the state division of Alcohol Beverage Control, who held that concessionaire permits are the proper instrument because the entire Meadowlands Sports Complex is on state land.

The New Jersey Restaurant Association, Hartz Mountain Industries and several Meadowlands restaurants had countered that while the land is public, Xanadu is a private project.

The judges said that even though the developers own the buildings for the life of a 75-year lease, the state would take over the buildings after that — evidence that the state controls the site.

"This is certainly an important decision not only for the Xanadu project, but because the appellate court clarified the legal right of the state to issue special concessionaire permits for tenants on state-owned property," said William Harla, a partner in the DeCotiis, FitzPatrick and Cole law firm who argued for Xanadu and the Benihana restaurant chain.

Fischer reached his conclusion regarding Xanadu establishments in 2005, and Benihana applied for a concessionaire's permit in 2007. But a variety of legal challenges followed until Fischer issued Benihana the first Xanadu concessionaire's permit in December 2008.

The plaintiffs then sued, in part because they said Fischer was biased in favor of the developer and should have recused himself. But the appellate panel found no evidence of bias, while granting "deference" to Fischer's decisions as the leader of a state agency.

The court also dismissed the claims of the restaurateurs that they might be economically hurt by Fischer's ruling. At least a dozen concessionaire's permits are expected to be issued to Xanadu bars and restaurants if the project can get nearly \$1 billion in additional financing.

"Appellants cannot predict the future nor contend with any degree of certainty that Benihana's sale of alcoholic beverages on its property will negatively impact their businesses," the panel wrote. "More importantly, even if they could establish such an impact, that negative effect is irrelevant in deciding whether Benihana is qualified to receive a special concessionaire permit."

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# Lautenberg pushes school aid bill

By **KERI ANN FLACCOMIO**  
STAFF WRITER

U.S. Sen. Frank Lautenberg was in North Jersey on Friday to reaffirm his battle in Washington for federal aid to revenue-starved local schools and his taste for some Garden State home cooking.

The Democratic legislator's backing of a \$26 billion bill created to fund the hiring and retention of teachers drew an appreciative reception from school officials at Paramus High School and at the Clifton Farmers' Market.

The bill was passed by a Senate vote of 61-39 on Thursday and is headed to the House of Representatives next week.

"[Thursday] was a victory for our country, gaining funds for families here in Paramus and across the state and the country," said Lautenberg, a former Para-

## Urges House passage to help hire teachers

mus resident.

Joseph Lupo, assistant superintendent of schools in Paramus, described the bill at the press conference as an effort to lessen the impact of the financial crisis on the children of New Jersey. Free public education, he said, "remains a cornerstone of the American democracy."

Cuts in funding have left schools to operate with larger classes, fewer experienced teachers and fewer amenities. Bergen County Executive Dennis McNerney cited an expected loss of 1,300 teachers in the county because of fluctuations in state aid, with property taxes still rising incrementally.

McNerney urged the House to ap-

prove of the bill, with the expectation that President Obama would sign it.

"We believe that this funding should carry through and support the most important thing that people live here in Bergen County for — education," McNerney said.

Lautenberg said he hoped to encourage people to believe that Congress can do better to support the education system.

"We don't want America to be turned into a Third World country by bad decisions and lack of incentives for youngsters to make progress," Lautenberg said. "I call on all of New Jersey's representatives to put the interests of the children ahead of the politics of 'No, no, no.'"

Lautenberg said the bill is designed to take money from sources that don't need

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LESLIE BARBARO/STAFF PHOTOGRAPHER

U.S. Sen. Frank Lautenberg, right, and Howard Henderson of the U.S. Agriculture Department visiting the Clifton Farmers' Market on Friday.

# Bergenfield to contest OPRA ruling

By **ASHLEY KINDERGAN**  
STAFF WRITER

## Says it didn't keep copy of contract sought

**BERGENFIELD** – The borough plans to appeal a judge's decision that its clerk violated the Open Public Records Act by not providing a resident a copy of a state contract through which the borough purchases its cellphones and service.

The council voted 4-2 this week to appeal part of Superior Court Assignment Judge Peter Doyne's June decision. The judge ordered the borough to pay resident John Hickey's legal fees, request a copy of the phone contract from the state and give it to Hickey.

"There seems to be only one conclusion which can be drawn from these facts," Doyne wrote. "Bergenfield avoided providing Hickey with the relevant information concerning where or who had possession of the contract or was remiss in fulfilling its duties as suggested by the philosophy of OPRA."

If the state will not provide the borough with a copy of the contract, Doyne wrote, Hickey's demand for the record will be dismissed.

Borough Attorney William Betesh said Bergenfield did not keep the state contract in its own files, and therefore shouldn't have to provide it under OPRA.

"The borough's position was, we searched our files on two separate occasions and we couldn't find the document that Mr. Hickey had requested," Betesh said. "The actual location where this document would most likely be held would most likely be with Nextel or the state of New Jersey, and the borough of Bergenfield doesn't have control over either of these two entities."

The judge said the borough did not tell opposing counsel or the court that the contract was a state contract until June 3.

Borough Administrator Frederick Mc-

Garril said the state contract is available online. The borough does not keep any of the state contracts through which it purchases equipment or services in its own files, he said.

### Mayor disappointed

Mayor Timothy Driscoll, whose borough cellphone records were at the heart of a separate part of the case, said he was disappointed in the ruling.

"We just feel that he's stretched the limits of OPRA beyond the intent of OPRA, and we're concerned about that," Driscoll said. "We certainly did not stonewall."

Doyne said in his opinion that he ruled on a narrow set of facts particular to Bergenfield and did not intend to set a precedent for what records municipalities have to provide outside their own files.

Hickey's lawyer, Steven Muller, said the

borough tried to withhold public information.

"It's just obstructionist, that's all it is," Muller said. "It all goes back to what are they hiding?"

Hickey also sued for access to Driscoll's unredacted cellphone records. The borough gave him cellphone bills that had phone numbers redacted.

The borough had argued OPRA specifically exempts unlisted telephone numbers, and that it would be impossible to separate listed and unlisted numbers.

The judge said Hickey had not argued against the borough's motion to dismiss that count in the case or addressed the borough's assertion that a ruling in a previous case exempted phone records of public officials.

Two council members on the all-Democratic council voted against pursuing an

appeal.

"It just becomes a political battle at the borough's expense," said Councilman Christopher Tully. "I don't feel it's the borough's interest to continue with something that's become a political issue."

Hickey ran an unsuccessful campaign in this year's Democratic primary for council. Driscoll favored a slate of candidates called the Real Bergenfield Democrats that ran against Hickey and his running mate.

The Real Bergenfield Democrats took control of the borough's Democratic committee in the primary.

The borough has filed a notice of intent to appeal with the Appellate Division, but the court clerk said in a letter last week that the borough must first finalize the issues of the legal fees and providing the contract.

Betesh said the borough plans to write a letter explaining their position and the nature of the appeal.

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LESLIE BARBARO/STAFF PHOTOGRAPHER

Sen. Frank Lautenberg buying produce in Clifton. From left, Stephanie Garcia, Alejandra Castillo and Amy Burzynski.

## Lautenberg: Stops in Clifton, Paramus

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it "so we'll not add a penny to the deficit."

Wendell Steinhauer, vice president of the New Jersey Education Association, attended the event and credited Lautenberg for persistence in backing the bill. It will provide, he said, \$268 million to New Jersey to hire back more than 10,000 public school teachers and employees.

"Since 1982 when he was first elected, Senator Lautenberg has been a true champion of public ed-

ucation and working families," Steinhauer said. "Once again, he has done the right thing at the right time."

Referencing his victory in a battle against stomach cancer this year, Lautenberg concluded the press conference saying, "The hair may be gone, but the fight is not."

### Sampling the fare

Following the press conference, Lautenberg headed to the Clifton Farmers' Market for a taste of the local offerings.

According to Caley Gray, communications director, Lautenberg pledged to participate in the Eat Local Challenge during National Farmers' Market Week, which ends today.

Admiring the quality of the fresh produce and dessert selections – everything from Jersey tomatoes and corn to homemade muffins and shoofly pie – Lautenberg commended the efforts of interns and staff from City Green, a non-profit organization working to bring environmental education to urban

youth.

"It's great that he can help spread awareness about what we're doing," said Clifton intern Rosemary Soto, 18.

Lautenberg was met with applause at the Paramus press conference and firm handshakes at the Clifton Farmers' Market. The former Clifton resident said he came to visit because of his history with the city and its representation of a "mix of New Jersey."

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## Facebook requests get hostile reception

### Recipient supports McNerney's rival

By **MICHAEL GARTLAND**  
STAFF WRITER



McNERNEY

A former Bergen County corrections officer who is suing the Sheriff's Office for discrimination said Friday that County Executive Dennis McNerney is "freaking [him] out" with friend requests on Facebook.

Mark Aromando said he received at least two requests from McNerney's account shortly after posting comments on the Facebook page of County Clerk Kath-

leen Donovan, McNerney's Republican opponent in this November's county executive race.

"I just find it creepy," Aromando said.

"This guy's got nothing better to do? He should be running the county."

Aromando filed a lawsuit against the Sheriff's Office and Undersheriff Allen Ust last August, alleging that they discriminated against him and harassed him on the job from 2007 to 2009. Aromando said he retired in April 2009 as a result of an in-

jury. McNerney is not named in the lawsuit.

McNerney "knows who I am, obviously," Aromando said. "Why would he want to be my friend on Facebook?"

Aromando said he supports Donovan's run for county executive because of political patronage that occurred while Democrats controlled the county. On Donovan's Facebook page, Aromando praised her run and has complained to Donovan directly about McNerney's entreaties.

Donovan declined to comment Friday. Her spokesman, Alan Marcus, described McNerney's re-

quests as "bizarre."

"Dennis can't find enough of his own friends, so he's trying to find Kathie's friends," Marcus said. "It's creepy."

Jason Dale, a spokesman for McNerney, said that the executive's staff has been given access to his Facebook account to "spread the word about good government."

"There's a couple of us," Dale said. "I post pictures sometimes."

Dale said he does not make friend requests through McNerney's Facebook account and was not sure which staff members did.

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## Pension trustee accused of scam

Feds say eatery owner took \$260,000

By **PETER J. SAMPSON**  
STAFF WRITER

The former owner of a string of Burger King restaurants in New York was arrested Friday by federal agents on charges of stealing more than \$260,000 from an employee retirement plan and using some of the money to pay for sprucing up a Demarest home.

Steven M. Zavidow, 51, of Hillsdale was accused of writing six checks to himself in 2006 that effectively wiped out the pension plan covering 129 employees.

Wearing a white T-shirt and blue jeans, his hands and ankles bound in shackles, Zavidow appeared in Newark before U.S. Magistrate Judge Madeline Cox Arleo, who advised him of his rights.

Finding that he lacked funds to retain a lawyer, the judge appointed a public defender to represent Zavidow and released him on \$150,000 unsecured bond, co-signed by his sister. The attorney, K. Anthony Thomas, declined to comment.

A criminal complaint, sworn out by an agent of the Department of Labor's Office of Labor Racketeering and Fraud Investigations, charged Zavidow with six counts of embezzling money from an employee benefit plan.

Zavidow owned and operated 11 Burger King franchises in New York, according to the complaint. He and his father, who was not charged, set up the Zavco Industries Retirement Trust in 1984 as a pension plan into which Zavidow's companies made annual con-

tributions on behalf of employees.

In 2006, Zavidow became the plan's administrator and trustee, a position that required him to act solely in the interests of the beneficiaries and barred him from using the plan's assets for his own personal benefit, authorities said.

Between March and August of that year, Zavidow allegedly embezzled \$263,000 from the retirement plan by writing six checks to himself and depositing three of them in his wife's bank account, one in his mother's business account in Florida, and cashing the remaining two at a check-cashing store in Paterson.

Neither his mother, nor his now-former wife, a real estate attorney, is named as a defendant in the complaint.

A day after the first check, for \$130,000, was deposited in his wife's account, nearly \$96,000 of that money was used to pay remodeling costs for a Demarest home held solely in her name, the complaint said. Several days later, a \$6,775 American Express credit card bill was paid from that account.

Assistant U.S. Attorney Anthony Moscato would not disclose what happened to the rest of the money but noted the investigation is continuing.

The retirement plan has about 129 participants, of whom 29 are eligible to collect benefits. But the plan currently has a zero balance.

If convicted, Zavidow could face up to five years in prison and a \$250,000 fine on each count.

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## Police charge Passaic man with sexual assault of girl, 8

**GARFIELD** – A Passaic man has been arrested, accused of having repeated sexual contact with a girl over a four-year period starting in 2001, when she was 8 years old, authorities said.

Sebastian Aragon, 40, was taken into custody Friday after the girl reported the alleged abuse to her parents, who notified the Garfield police, said John L. Molinelli, the Bergen County prosecutor. Molinelli declined to give a detailed account of the alleged abuse, saying only that it occurred on several occasions at locations in Garfield, Wallington and Wood-Ridge. The pattern of "in-

appropriate sexual conduct" ended in 2005, when the girl was 12, the prosecutor said.

Aragon, who is known as Juan, is employed in the shipping and receiving department of the New York Public Library, Molinelli said. He was charged with aggravated sexual assault, sexual assault and endangering the welfare of a child. He was being held at the Bergen County Jail in Hackensack on Friday with bail set at \$500,000. He was ordered to surrender his passport and to have no contact with the girl.

— William Lamb

**JUST ONE THING**

If you've picked up a sandwich or a beverage when you're on the go, try not to throw your small trash away in a public trash can. Many of these trash cans are either overflowing or knocked over, leaving debris strewn throughout the streets and possibly into our waterways. Trash that is properly contained at home in a trash bag — and properly collected and managed at a landfill — is really the best way to go.

— Danny Seo, eco-expert



## A weekend of food, games, rides and music in Fort Lee

Far left, George Kessler and Stephanie Ingrassia enjoying hearty sandwiches Friday at the 81st Annual Saint Rocco Feast in Fort Lee. At left, Riley Fucci goes for a spin on the Flying Bug ride. The festival continues today and Sunday in honor of the patron saint of the Saint Rocco Italian American Mutual Aid Society.

STAFF PHOTOS BY ROY CARATOZZOLO III