

Flat

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many seats were in that restaurant on May 8 when the application was signed. If they violated their mercantile license, they should have been charged with something else in Section 310-9 of the city code, but they weren't."

Kaufmann also argued Stewart's had never been charged with a violation of the state fire code, municipal construction code or city Planning Board regulations.

City Prosecutor Marian Ragusa said the city had proven Stewart's was in violation of the municipal code and should have its license revoked, based on Code

Enforcement Officer John Queenan's review of the documents and physical counts of the seating in the restaurant in June and July.

"They intentionally violated the ordinance and it continued for months," Ragusa said. "It's no coincidence that on those dates, nearly a month apart, there were still 113 seats available."

The mercantile license revocation came on Aug. 29, a day after Dougherty and Stewart's of Cape May were ordered to pay fines after a municipal court hearing. The fines were stayed pending an appeal within 20 days.

Stewart's was fined \$176 on three counts plus an addition-

al \$72 in court fees for a total of \$600, after being found guilty of violating Section 310-15 of the municipal code, relating to exceeding the maximum seating capacity.

At the Sept. 17 special meeting and administrative hearing, Mayor Ed Mahaney said council made their decision to affirm the city clerk's revocation based on Queenan's testimony. Queenan, the only witness called to the stand, testified that Stewart's mercantile license, as certified by the city on May 8, allowed 48 seats.

In addition to the mercantile license fee, the restaurant paid an additional \$336, or \$7 per seat, the standard rate according to city code.

Queenan said as the City Code Enforcement Officer, he makes random visits to businesses, such as restaurants, to see if they are in compliance with their mercantile licenses. However, Queenan testified that he went to Stewart's on June 18 because of a complaint made against the establishment. Queenan said when he went to Stewart's he found they were operating with 113 seats - 65 over the number permitted by the license.

At that point, Queenan issued two summonses for both Dougherty as the principal owner and Stewart's of Cape May, LLC, which he said is standard procedure. He gave the summonses to

the manager on duty.

When Queenan returned on July 13, he discovered the restaurant was still operating with 113 seats. He said he issued two more summonses, but for this violation sent them via certified mail.

Queenan then returned for a third time on Aug. 14 to take photos of the seating in Stewart's. On that day he counted a 90 seats, with 56 on the first floor and 34 on the second floor. Stewart's is a two-story restaurant with tables and chairs, booths and a counter with stools on the bottom floor and tables and chairs on the top level. Queenan said he judged the number of seats at each booth

using state fire code regulations, which he calculated to be four persons at every booth. He said the regulations state one booth seat is 24 inches across, based on average shoulder width.

Despite city council's decision to uphold the revocation of the license, Stewart's of Cape May, LLC, may appeal to a Superior Court. If the license revocation is upheld there, the principal owners will need to reapply to the city for another license.

JIF

Continued from page A1

which provide networking opportunities. Miola said all the member municipalities are committed to safety and risk management because they have a vested interest.

"You are paying everyone's claims with everyone's money," he said.

Miola said the real power in the JIF emanates from the municipalities, with each town having its own fund commissioner. He said it was very important to note that the JIF is locally controlled and operated, and locally is where they attempt to control expenses and risks.

Risks open up a municipality to litigation, and litigation is expensive.

"We live in a litigious soci-

ety, and New Jersey is one of the most litigious states in the union. It's the world that we live in and we have to deal with it," Miola said.

Miola said people trip and fall, for example, and sue the municipality, so they talk to their members about risk avoidance. One way to do that is to transfer the risk. Miola gave the example of a fireworks display contractor putting on a July 2 fireworks display. He said the municipality should require the contractor to assume the responsibility for insuring the event. However, he said risk transfer works both ways, and the contractors' lawyers are telling them to transfer the risk onto their customers.

Miola said there are various risk transfer tools, such as

a hold harmless agreement, indemnification, and specific insurance clauses.

"We ask members if going to permit groups to have events, make them have insurance or sign a hold harmless agreement," Miola said.

Miola told of a school district that didn't use enough foresight to protect itself against liability. He said the school district hired a contractor to cut down a tree and one of the contractor's employees was severely injured. There was a workers compensation clause in the contract and a court later deemed the school district to be the employer. Miola said a hold harmless agreement can keep a municipality from being dragged into court.

Another way to reduce risk

is to have a party carry its own insurance. However, the JIF was able to pick up on a case where a circus tried to pass with a policy that covered tent erection.

Miola referred to a case that took place in Cape May, where the city rented a building to a storeowner. A person tripped and was injured in the store, and the city referred the injured party to the storeowner's carrier. In a case in Ocean City, a person was injured during an activity on First Night, but the city required insurance from First Night Ocean City, which is a separate entity from the city.

Another example was from West Cape May, in which the borough did not require vendors to provide indemnity or have a hold harmless agree-

ment. The wind kicked up and a tree limb fell and injured a vendor. The case is still in the Appellate Division, and the borough has spent \$50,000 in defense costs so far.

"Local government is viewed by the public as having unlimited resources, however local government is under budget pressure to control costs," Miola said.

He said the JIF continues to offer the lowest cost insurance. He said when Cape May Point joined the JIF in 2001 its assessment was \$45,476. In 2012, Cape May Point was assessed at \$35,915. A quote from a private firm in 2012 was over \$95,000.

"That is the benefit of JIF," Miola said.

Miola said the danger with self-insurance is complacen-

cy. He said members need to be committed to safety, cost reduction and following guidelines. He said when something goes wrong the member municipality should notify the JIF immediately and take advantage of immunities.

JIF Attorney David DeWeese said some of the smallest municipalities are paying some of the biggest assessments because they're not following the guidelines.

A bit of comic relief followed when Cape May Point Clerk/Administrator Connie Mann was gesturing while speaking and accidentally threw her pen across the table in DeWeese's direction.

Social

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your business, including downloading your logo and consistent use of your busi-

ness colors.

She said the next thing you is engaging content, suggesting you address what your customers are asking

you about on a daily basis. Beyond that, Pocher Woody recommended providing

information, tips, and practical advice. She also advised pumping up your font size and shortening the length of entries. Good practice for that would be using a Twitter account, which can also be linked to your webpage. Twitter only allows 140 characters per entry.

Once you have set up a Facebook business page, there is a share bar on the top of their pages that will allow them to share your content.

"Facebook has 901 million members and more than 50 percent of them log in every day," Pocher Woody said. "The average Facebook

member spends 405 hours per month on Facebook."

Pocher Woody said 78 percent of products sold on Facebook are consumer recommended. She said if two people tell two people about your product, in a matter of minutes the information could get out to 20 million people.

She said once you reach 30 fans on your Facebook business page, you will be allowed to tap into "Insights," where you can find out what you should be doing more of or less. She said it's important to gauge what your customers want.

"You might have 20,000 fans, but if you are not engaging your fans they are not seeing you," she said.

Please see Social, page A3

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**FINDING NEMO 3D G 2:20, 4:40, 7:00, 9:25
**RESIDENT EVIL: RETRIBUTION 2D R 12:25
**RESIDENT EVIL: RETRIBUTION 3D R 2:40, 5:15, 7:35, 9:50
POSSESSION PG-13 12:30, 2:55, 5:05, 7:15, 9:30
QUEEN - HUNGARIAN RHAPSODY PG-13 (SUN. 9-23 ONLY) 2:00
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Signs

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Roberts said safety will be increased at the intersection when the bike path project is completed. West Cape May received a \$180,000 grant through the NJDOT for new bike paths throughout the borough. Leaming and Park are both included in the project. Roberts said signage will be put up to warn motorists about the bicycle traffic as part of the project, which he believes will slow traffic down at the intersection. Public Safety Commissioner Ramsey Geyer, who attended the meeting via telephone, said he initially wanted the intersection to become a four-way stop, but agreed signage warning motorists of bicycles could improve the intersection.

Roberts said there is also a relatively blind corner on the right side when approaching Park on Leaming coming from Cape May. Roberts said the site area will be cleared enough to improve motorists' field of vision at the intersection.

Kaithern said there were no reports of a motor accident at the intersection last year and prior to that, there was one accident per year on average. Roberts said a four-way stop would likely be more of an inconvenience than a safety improvement.

TIDES SEPTEMBER 2012 Eastern Standard Time

	High	Low		
	A.M.	P.M.	A.M.	P.M.
19	10:54	11:13	4:21	5:04
20	11:47		5:11	6:02
21	12:09	12:46	6:07	7:05
22	1:14	1:53	7:09	8:12
23	2:27	3:03	8:19	9:20
24	3:42	4:12	9:29	10:24
25	4:50	5:14	10:36	11:21
26	5:49	6:09	11:36	

Moon Phase
Last Quarter, Sept. 8
New Moon, Sept. 15
First Quarter, Sept. 22
Full Moon, Sept. 29
Apogee, Sept. 29
Perigee, Sept. 18