

Winthrop Board of Health Meeting

February 14, 2023 at 6:30 pm

Harvey Hearing Room

Call to order: 6:37 pm

Roll call: Bill Schmidt, Chair; Jeanne Holgersen, Vice-Chair; Marianne Dalton, Member.

Review of minutes—January 10, 2023: approved unanimously 3-0.

Present: Bonny Carroll, Director of the Six City Tobacco Initiative; Hanan Tawfik, owner D and T Market; Samad Madkour, Loss Prevention Officer, Tony Depina, District Manager, William Maldonado, General Manager and Joseph Green, Director, Retail Strategy and Innovation, representing Energy to Go; Ali Usman, owner Lucky Corner; Hiral and Sadhana Patel, owners Thompson Liquors; Meredith Hurley, Director of Public Health and Clinical Services.

Public comment:

Cease and desist orders—Violations of Tobacco Control Act: Bonny Carroll, Director of the Six City Tobacco Initiative is present tonight. She states that the fines mentioned in are payable within 21 business days of receipt of order; Bill states that this time frame would place the deadline around the end of February.

D and T Market: The following letter was delivered by certified mail to D and T Market, and read into the public record:

This CORRECTION / CEASE AND DESIST ORDER is issued to: D and T Market 29 Shirley Street Winthrop, MA 02152 January 30, 2023 Please be advised that on Sunday, January 22, 2023, at 2:20

p.m., a compliance check was conducted on behalf of the City of Winthrop Health Department Tobacco Control Program. D and T Market violated the state law entitled "An Act to Modernize Tobacco Control" (St. 2019, c. 133) and 105 CMR 665.000, specifically 105 CMR 665.010(A), by selling a tobacco product: A Single Backwoods Cigar to a person under the age of 21. You are hereby ordered to cease and desist from violating An Act to Modernize Tobacco Control and 105 CMR 665.000. You are hereby ordered to pay the amount of \$1,000.00 by check or money order made payable to the Town of Winthrop within twenty-one (21) days of receipt of this order to the address below: Town of Winthrop Clerk's Office 1 Metcalf Square Winthrop, MA 021512 In addition, your business will incur a three-day suspension (date to be determined) of the license to sell tobacco and nicotine products. The business owner or representative is hereby summoned to the next Board of Health meeting on: You have a right to appeal both the fine and suspension at Board of Health Meeting. (Date and time listed above). If you wish to appeal, please call the Board of Health at 617-846-1740.

D and T Market representative has nothing to add to public comment.

Energy to Go: The following letter was delivered by certified mail to Energy to Go, and read into the public record:

This CORRECTION / CEASE AND DESIST ORDER is issued to: Energy To Go 2 Shirley Street Winthrop, MA 02152 January 30, 2023 Please be advised that on Sunday, January 22, 2023, at 2:10 p.m., a compliance check was conducted on behalf of the City of Winthrop Health Department Tobacco Control Program. Energy To Go violated the state law entitled "An Act to Modernize Tobacco Control" (St. 2019, c. 133) and 105 CMR 665.000, specifically 105

CMR 665.010(A), by selling a tobacco product: A Two Pack of Juuls Pods to a person under the age of 21. You are hereby ordered to cease and desist from violating An Act to Modernize Tobacco Control and 105 CMR 665.000. You are hereby ordered to pay the amount of \$1,000.00 by check or money order made payable to the Town of Winthrop within twenty-one (21) days of receipt of this order to the address below: Town of Winthrop Clerk's Office 1 Metcalf Square Winthrop, MA 021512 In addition, your business will incur a three-day suspension (date to be determined) of the license to sell tobacco and nicotine products. The business owner or representative is hereby summoned to the next Board of Health meeting on: You have a right to appeal both the fine and suspension at Board of Health Meeting. (Date and time listed above). If you wish to appeal, please call the Board of Health at 617-846-1740

Joseph Green, Retail Strategy and Innovation, representing Energy to Go, presents the strategy that Energy to Go is taking to remedy the above violation and prevent further occurrences in the future. He lists changing policy including to begin requiring ID for anyone purchasing tobacco, regardless of apparent age; new policy for training and notice to employees of consequences of violating this policy. Mr. Green expresses regret that the incident took place, and has already submitted the check for the fine.

Bonny acknowledges the apology and also states that per state law, presenting ID of all individuals purchasing tobacco is required already in Massachusetts.

Lucky Corner: The following letter was delivered by certified mail to Lucky Corner, and read into the public record:

This CORRECTION / CEASE AND DESIST ORDER is issued to: Lucky Corner 1 Pauline Street Winthrop, MA 02152 January 30, 2023 Please be advised that on Sunday, January 22, 2023, at 1:43

p.m., a compliance check was conducted on behalf of the City of Winthrop Health Department Tobacco Control Program. Lucky Corner violated the state law entitled "An Act to Modernize Tobacco Control" (St. 2019, c. 133) and 105 CMR 665.000, specifically 105 CMR 665.010(A), by selling a tobacco product: A 4 pack of Game Black Sweets Cigarillos to a person under the age of 21. You are hereby ordered to cease and desist from violating An Act to Modernize Tobacco Control and 105 CMR 665.000. You are hereby ordered to pay the amount of \$1,000.00 by check or money order made payable to the Town of Winthrop within twenty-one (21) days of receipt of this order to the address below: Town of Winthrop Clerk's Office 1 Metcalf Square Winthrop, MA 021512 In addition, your business will incur a three-day suspension (date to be determined) of the license to sell tobacco and nicotine products. The business owner or representative is hereby summoned to the next Board of Health meeting on: You have a right to appeal both the fine and suspension at Board of Health Meeting. (Date and time listed above). If you wish to appeal, please call the Board of Health at 617-846-1740.

A letter appealing the fine and correction/cease and desist order presented by Ali Usman, owner Lucky Corner, is read into the public record. The letter expresses the request to "remit the fine and waive the cease and desist order," citing past compliance and the fact that they are a "small family-owned retail business".

Mr. Ulman further expresses regret that this has occurred and presents a plea to waive both the fine and the cease and desist order.

Square Market: The following letter was delivered by certified mail to Square Market and read into the public record:

This CORRECTION / CEASE AND DESIST ORDER is issued to: Square Market 3 Bartlett Road Winthrop, MA 02152 January 30, 2023 Please be advised that on Sunday, January 22, 2023, at 1:30 p.m., a compliance check was conducted on behalf of the City of Winthrop Health Department Tobacco Control Program. Square Market violated the state law entitled "An Act to Modernize Tobacco Control" (St. 2019, c. 133) and 105 CMR 665.000, specifically 105 CMR 665.010(A), by selling a tobacco product: A Crave Disposable Electronic Cigarette to a person under the age of 21. You are hereby ordered to cease and desist from violating An Act to Modernize Tobacco Control and 105 CMR 665.000. You are hereby ordered to pay the amount of \$1,000.00 by check or money order made payable to the Town of Winthrop within twenty-one (21) days of receipt of this order to the address below: Town of Winthrop Clerk's Office 1 Metcalf Square Winthrop, MA 021512 In addition, your business will incur a three-day suspension (date to be determined) of the license to sell tobacco and nicotine products. The business owner or representative is hereby summoned to the next Board of Health meeting on: You have a right to appeal both the fine and suspension at Board of Health Meeting. (Date and time listed above). If you wish to appeal, please call the Board of Health at 617-846-1740.

No representative from Square Market is present tonight to respond.

Thompson Liquors: The following letter was delivered by certified mail to Thompson Liquors, and read into the public record:

This CORRECTION / CEASE AND DESIST ORDER is issued to: Thompson Liquors 253 Washington Avenue Winthrop, MA 02152 January 30, 2023 Please be advised that on Sunday, January 22, 2023, at 2:28 p.m., a compliance check was conducted on behalf of

the City of Winthrop Health Department Tobacco Control Program. Energy To Go violated the state law entitled "An Act to Modernize Tobacco Control" (St. 2019, c. 133) and 105 CMR 665.000, specifically 105 CMR 665.010(A), by selling a tobacco product: A Pack of Marlboro Red Cigarettes to a person under the age of 21. You are hereby ordered to cease and desist from violating An Act to Modernize Tobacco Control and 105 CMR 665.000. You are hereby ordered to pay the amount of \$1,000.00 by check or money order made payable to the Town of Winthrop within twenty-one (21) days of receipt of this order to the address below: Town of Winthrop Clerk's Office 1 Metcalf Square Winthrop, MA 021512 In addition, your business will incur a three-day suspension (date to be determined) of the license to sell tobacco and nicotine products. The business owner or representative is hereby summoned to the next Board of Health meeting on: You have a right to appeal both the fine and suspension at Board of Health Meeting. (Date and time listed above). If you wish to appeal, please call the Board of Health at 617-846-1740.

Hanan Tawfik, owner Thompson Liquors, expresses regret and states that they have already written the check paying the fine. She states that this is their first violation in 22 years and that employee who violated the law was new and in training. She asks if the cease and desist order can be waived.

Bill states that the Board does not have discretion about the fines or suspension, this is state law and non-negotiable. He clarifies that the 3-day suspension, when it occurs, only includes tobacco products.

Bonny states that the current tobacco laws were in response to the increasing use of vapes by children. She also states that the business owners can appeal the fines and cease and desist orders, but she

cannot tell the owners which courts to appeal to. This option is only open tonight; after this evening that option is no longer available.

Mr. Ulman asks if the 3-day suspension is negotiable. Bonny responds that state law gives a range of 1-30 days suspension, up to the discretion of local boards of health. The Winthrop Board of Health has voted to levy the 3-day suspension. This is not negotiable. Mr. Ulman expresses dismay that this penalty is imposed on small businesses.

Bill ask Bonny when the 3-day suspensions will take place. Bonny states that she will coordinate with the Board when the suspensions will take place. Bill states that if any of the business owners give notice that they want to apply to the courts for appeal, he will notify Bonny, who will then suspend the cease and desist order until the hearing is held and a decision is made by the court.

Past business: Al Legee, Commissioner of Inspectional Services is not present at tonight's meeting.

76 Sunnyside Avenue—Status: Al not present.

Mass DEP New Waste Disposal bans—textiles, etc: Wendy Millar-Page, Solid Waste and Recycling Manager is not present at tonight's meeting.

Board of Health town website: Marianne Dalton, Member has nothing to report on the progress of revising the BOH town website. Jeanne has submitted her biography for the BOH website.

Board of Health workplan for 2023: Bill has nothing to report on the workplan.

Covid-19—Town of Winthrop, Board of Health, Vaccinations, Tests, etc: Meredith Hurley, Director of Public Health and Clinical

Services reports vaccine clinic is slowing; she predicts that March and April will see an uptick in vaccine demand. Meredith states that her office will be starting a weekly drop in center in March. It will cover substance abuse and those who are impacted by substance abuse. She states that her office has been working with the provider network to strategize ways to close the gap in mental health services for kids and adults. She states that a part-time domestic violence case manager has been hired. She states that 4 positions are waiting to be filled in her department, all behavioral health jobs. She states that the new Behavioral Health Center on Porter St is now open, providing crisis, urgent and routine services, including detox. Meredith states that private pay services are more difficult to access, vs Mass Health, due to the larger number of providers that are contracted with Mass Health. Covid test kits are still available from Meredith's office, but they will be expiring soon.

Marianne Dalton, Member announces that she will not be seeking re-appointment when her term expires at the end of June. Bill asks Jeanne and Meredith to comb through their acquaintances for who would be willing to serve once Marianne steps down.

Commissioner of Inspectional Services update: Al is not present at tonight's meeting.

41 Putnam Street dumpster and dumpster regulation: Bill has sent a first draft of the dumpster regulation to fellow Board members who will review before the next meeting.

Grease trap regulation: Bill states that Sharon Sicurella, Clerk/Health Inspector is working on this regulation.

MRC update: Jeanne Maggio, Coordinator of Medical Reserve Corp (MRC) is not present at tonight's meeting.

Trash, recycling, and solid waste disposal regulation: Bill reports speaking to Anthony Marino, Town Manager, Town of Winthrop about redrafting an ordinance with the Town Council on solid waste, with emphasis on fees. Bill states that Tony will let Bill review once the draft is done.

Statewide Accelerated Public Health for Everyone Act (SAPHE 2.0): Bill reports he will be sending a letter to them in support of this piece of legislation.

Sain Visage: Jeanne reports receiving an email from Sharon stating that Maryellen Scardone is advertising that her shop Sain Visage is offering botox shots. Jeanne states that she researched the matter and found that both botox and filler are being offered there. Licensing and qualification of estheticians to perform botox injections need to be investigated at Sain Visage. Bill will look back to review how the Board handled the last few issues with botox offerings by salons in Winthrop, and then proceed accordingly.

Jeanne asks if monitoring of any of the businesses that have come before the Board has been done to see if they are in compliance. Bill points out that that Inspectional Services has limited resources to oversee ongoing compliance, and that when licenses come up for renewal that is when compliance should be checked.

Adjournment: 8:00 pm, approved unanimously 3-0.

Respectfully submitted,

Marianne Dalton, member