

BOARD MEETING MINUTES: November 13, 2023 ABC Headquarters

Call Meeting to Order at 9:02 a.m.

AtAttendees

Board Chair Tim Hugo
Board Member William Euille
Board Member Mark Rubin
Board Member Bob Sledd
Interim Chief Executive Officer and Chief Law Enforcement Officer, Tom Kirby
Chief Government Affairs Officer John Daniel
Chief Retail Operations Officer Mark Dunham
Chief Administrative Officer David Alfano
Chief Information Officer Paul Williams
Chief Digital Branding Officer Vida Williams
Deputy Secretary Chris Curtis
Office of the Attorney General Jim Flaherty
Director of Finance Doug Robinson
Director of Real Estate Susan Johnson
Project Support Specialist Linda Phelps
Senior Paralegal Helen Gordon
Director of Community Health and Engagement Katie Crumble

Absent

Board Member Gregory Holland, Executive Assistant Kathleen LaMotte and Director of Research and Planning Mike Berman.

Welcome

Board Chair Hugo opened by welcoming the New Interim Chief Executive Officer, Tom Kirby and thanking him for stepping up. The Chair also reiterated his thanks for the service given by Travis Hill to the Authority as CEO.

Interim CEO Tom Kirby thanked the ABC staff and Board for the opportunity and chance to serve.

Approval of Minutes

Board Chair Hugo asked if there were any questions or comments regarding the minutes from the last Board meeting of September 15, 2023. No questions or comments were raised. The Chair made a motion to approve the minutes. The motion was seconded by Vice-Chair Sledd. Roll call was taken by the Chair. Board Member Holland was the only one not in attendance today. The motion was carried, and the minutes were unanimously approved.

New Business

Commending resolution (Tom Kirby)

Interim CEO Tom Kirby presented a Commending Resolution for outgoing CEO Travis Hill for all to sign. The Chair asked if there were any comments. There being none, the Chair commended Mr. Hill for his years of service to the Commonwealth. Board Member Euille made a motion to sign the Commending Resolution. The motion was seconded by Board Member Rubin. Roll call was taken and all approved.

Revised Regulations

Tom Kirby stated that the original agenda for this meeting did have approval of the revised regulations but after much discussion and questions that had been raised, the decision had been made to possibly consider this approval before the January 3rd deadline, so this topic had been removed from today's agenda. Mr. Kirby went on to say that there are multiple steps to the regulatory approval process, and we do have some time before the regulations need to be uploaded to Town Hall.

Mr. Rubin noted that the Board had been given copies of these regulations at the last Board meeting, and that the public comment period is over on Town Hall. After hearing complaints about the process for approving regulations for 25+ months, why should we now delay this process further for another month or month and a half at least, noting that he had not heard any complaints. Mr. Rubin went on to say that he felt like we needed to get this ball moving and that he may make a motion to move forward after reviewing the concerns that other members have received.

The Board Chair agreed that public notice had been published but that the Administration seemed to be unaware of what we were doing, and they wanted time to look over the changes. The Chair went on to say that Senators and Delegates have called him directly about wanting to review these regulations before anything is passed; senior members of the House and Senate as well as the Black caucus are calling with questions. The Chair suggested a virtual meeting in December.

Mr. Kirby stated that a public announcement was made on Wednesday about the removal of the vote on regulatory changes and an amended agenda was sent out on Thursday. However, due to some internal personnel issues, the binders were updated on an emergency basis this morning. Mr. Kirby apologized if Mr. Rubin's agenda had not been updated but noted that some speakers were not in attendance today because they had been notified that the regulatory changes were not being discussed today. Mr. Kirby apologized further saying that he would make sure to let all of the Board know ahead of time if an item had to be removed from the meeting agenda.

Mr. Rubin reiterated that there is a process, there are opportunities for everyone to comment on these changes. The Authority process contains numerous opportunities for everyone to comment on the regulations. These last-minute questions mean that there is no process. Member Rubin noted for the record that there is a process that is already really long, and we need to abide by the process. In addition, changes to the Board agenda need to be discussed with the entire Board before they are implemented.

The Board Chair thanked Mr. Rubin for his comments.

Annual Reports (Tom Kirby)

ABC Annual Report

Acting CEO Kirby stated that the annual report was mailed to the Board members as well as provided in digital format. Mr. Kirby noted that there are teams still going over this document for grammatical errors and any necessary tweaks, but the theme of the report will not change. As such, he is currently seeking approval of the annual report from the Board.

The Board Chair asked if there were any questions from the Board. There being none, Mr. Sledd made a motion to approve the annual report. Mr. Euille seconded. The Chair took roll call. All approved the annual report.

Virginia Higher Education Substance Use Advisory Committee Annual Report (VHESUAC)

Acting CEO Kirby asked Katie Crumble to come forward to present the VHESUAC report. Ms. Crumble stated that in 2021, the Governor's Office for Substance Abuse was given to ABC and was renamed, Virginia's Office for Substance Abuse Prevention.

VHESUAC is a two-tier statewide collaborative group that focuses on substance use prevention, education, treatment, and recovery. One of the reports this group develops is an annual report on youth substance abuse. Another one is overseen by VOSAP; which accumulates information from all higher education locations to keep track of substance abuse in these areas. Ms. Crumble noted that as such, large sections of these reports are prepared by other committees.

Mr. Euille asked how these reports were distributed.

Ms. Crumble said they are submitted to Legislative Services by December 1 of each year, and they are also added to our website. Only those organizations linked to us are on the list to receive a copy of these reports as well as other organizations tapped into us.

Mr. Sledd asked how Ms. Crumble felt this task was going. What did she think was working and not working?

Ms. Crumble stated that the youth prevention program has been in effect longer and has become more of a strategic endeavor, i.e., creating more of a strategic plan for the state. The higher education program is in its infancy. Some universities have been extensively involved in the program, while others are not as completely involved. The group is hoping to recognize those colleges that are submitting information to them as a carrot to others to submit their information. The group has created a grid with strategies that colleges can use based on their size and demographics; the strategies are ideas that have been proven through research as workable. Some colleges are really doing great things and Virginia schools, on the whole, are very good at addressing these issues.

Mr. Sledd asked what we are able to do with youth in high school.

Ms. Crumble stated that, for that age group, we are able to use the Virginia Youth Risk Behavior survey to track things like bullying, obesity, child abuse, etc.

Vida Williams asked Ms. Crumble to discuss Youth Alcohol and Drug Abuse Prevention (YADAPP).

Ms. Crumble said that her group works with the leadership of the schools through YADAPP to help prevent substance abuse.

Mr. Sledd asked if we are able to track statistics by school.

Ms. Crumble said we are not able to track by schools but track by the surveys.

Chair Hugo asked how many participate in YADAPP.

Ms. Crumble said prior to Covid, there were normally seventy-five schools participating. Since everything had to close down for Covid and we are now just starting back up, we only had thirty schools participate this past year.

Chair Hugo asked if there were a certain number of participants allowed per school.

Ms. Crumble said there was no particular number set per school; just those who were interested applied.

Mr. Rubin thanked Ms. Crumble for the important job she does.

Chair Hugo asked what was being done about opioids as he did not feel youth really understood the effect of them.

Ms. Crumble agreed that youth feel invincible at this age. She stated that they know that when parents provide barriers and have protective factors in place, it helps tremendously. So, her group is trying to build a community around the parents and children to help with teaching them not to use these substances.

Chair Hugo asked how that was going.

Ms. Crumble said that honestly there always seems to be a new thing, i.e., alcohol, then marijuana, etc., so they have to keep watching for what will be next.

Chair Hugo stated that losing 80-100,000 youth per year is something that has to stop.

Ms. Crumble noted that she could accept changes and edits to this report for the next week but will need to post it by December 1.

Chair Hugo thanked Ms. Crumble for her report and work.

Mr. Rubin made a motion to approve this report. Mr. Sledd seconded the motion. There being no further discussion, roll call was taken by the Chair. All approved of the report as written.

The Chair added to please thank all of Ms. Crumble's staff for working to prevent more deaths of youth.

Virginia's Office for Substance Abuse Prevention Annual Report (VOSAP)

Interim CEO Kirby noted that this report is the same as the previous one, just compiled of data from higher education institutes.

Mr. Euille made a motion to approve this report as written. Mr. Rubin seconded the motion. Roll call was called by the Chair. All approved of the report as written.

Real Estate

Interim CEO Kirby stated that this report begins on page 34 of the Board's notebooks. There are four store renewals for this period: stores 74, 286, 330 and 363. There was also one store conversion to discuss. As the Board is aware, the Board voted previously to convert Store 361 from a self-service store to a counter store. Local police have now requested that Store 110 also be made into a counter store. We do have some concerns that this could potentially drive down revenue, but we are seeing an increase in retail theft in our self-serve stores in the Portsmouth area as well as in other areas. What we propose to do is to convert this store, as we did Store 361 as they are close to each other and use them as test stores to determine the extent, if any, that counter stores have on revenue. Mr. Kirby then stated that he would turn over this discussion to Susan Johnson and her real estate team to aid with anything else the Board may need. Mr. Kirby went on to say that the estimates for converting these stores were high, but that Ms. Johnson and the real estate team have been able to get those costs down a bit.

Mr. Sledd asked Mr. Kirby if he would walk the Board through their analysis of this situation and what the timeline is to see what the test results are.

Mr. Kirby replied that Store 361 has been closed for a year. As a result, we saw that a lot of sales moved to the three closest stores. We are trying to track those sales that may be totally lost; for example, customers that go to a grocery store instead to purchase some other type of alcohol other than spirits. We have no way to track whether or not sales went to the other three stores or if the new casino in that area accounted for the increased sales. There is a significant amount of foot traffic around Store 361 so a closure here means most may go to the grocery store because they do not have the ability to drive to another store. I do not, however, want this to be a knee jerk reaction and to set up counter stores in all stores that have retail theft increases.

Mr. Hugo asked if Enforcement and Retail had looked into the specific product being stolen. Mr. Kirby said that the type of product stolen is being considered as well.

Mr. Rubin added that he knew that a considerable amount of time was spent talking to businesses and legislators about Store 361.

Mr. Kirby added that he knew local law enforcement had also been spoken to.

John Daniel stated that we had not yet had the same in-depth conversations with legislators about Store 110 as we had for 361.

Mr. Hugo stated that he believed the first store had been a safety concern; a shooting. Mr. Kirby replied that that was correct. Mr. Hugo asked if there was also a safety concern with this new store. Mr. Kirby said there was not a safety concern in this particular case but that the impetus to try this test arrangement came from the fact that this store is close to Store 361 and because the local law enforcement wants this to occur. Mr. Kirby added that he believes we need to try this approach but made it clear that counter stores are not necessarily ideal resolution every time and it could, in fact, push theft to other stores.

Ms. Johnson stated the glass should come in in December for Store 110 but suspects they will not be able to have Store 361 up and running until after December.

Mr. Kirby said that we unfortunately do not have a lot of customer data that we can look at.

Mr. Hugo said that safety is a definite priority, but the big test will be the second store. Mr. Euille made a motion to approve the report and the test opening of Store 110 as a counter store. Mr. Sledd seconded the motion. No further discussion was heard. The Chair called roll, and all approved the motion.

Closed Session

Chair Hugo made a motion to move into closed session. Member Rubin seconded this motion. The Chair called roll, and all approved the motion. The Board entered closed session at 9:48 a.m. to discuss a personnel issue pursuant to Virginia Code §A 2.2 37.11(A)(1). Attending the closed session were Chair Hugo, Vice Chair Sledd, Member Rubin, Member Euille, Office of the Attorney General Jim Flaherty, Chief Government Affairs Officer John Daniel, Interim CEO Tom Kirby and Deputy Secretary Chris Curtis.

Appeal Hearing

Sweetwater Tavern

At 11:06 a.m., Chair Hugo moved to certify that to the best of his knowledge nothing was discussed in the closed session except what was covered in the motion to go into closed session, and that only public business matters lawfully exempted from open meeting requirements were discussed. Mr. Rubin made a motion to substantiate the objection of Sweetwater Tavern in the previous appeal hearing. Mr. Euille seconded the motion. With no further discussion, the Chair called roll. The motion unanimously passed.

Financial Report (Dave Alfano)

Mr. Alfano handed out an additional financial reporting sheet for the month of October. The sheet notes that revenue is \$1.6 million dollars below budget as of now (see fiscal year report for October 2024). There was, however, 1.5% growth in October. There are also some concerted efforts being spearheaded for greater revenue performance.

CEO Kirby stated that larger revenue meetings are occurring with various employees and second small group meetings are occurring with the Governor's CTO office and ABC to discuss analytics from stores. We had a large one-day drop a few Saturdays ago and there are various discount drops occurring.

Mr. Rubin asked what the CTO's role is in these discussions because there have been discussions in the past but without the CTO.

CEO Kirby stated that these meetings are with himself, retail, marketing, analytics, Deputy Secretary and the CTO or deputy CTO and an analyst. One of the big benefits from having the CTO group in the mix is that they are able to assist in the analytics portion. ABC provided the CTO with sales data from 399 ABC stores, and they analyzed the data, looking at it from the lens of red, yellow, and green. Green stores are good, i.e., meeting, or exceeding revenue goals.

Mr. Rubin asked if the CTO had analytical tools that we do not have.

CEO Kirby said it is not so much that the CTO has tools we do not have but more that there was a need for some speed because revenue was falling behind. We needed a team to standardize how we look at the data. The majority of the effort is done by ABC, but the CTO helps with the analysis of the data.

Mr. Rubin said he was glad that ABC has the benefit of the CTO's help, but that the Board needs to be kept abreast of what is going on.

CEO Kirby said he would be more than happy to share the data with the Board.

Mr. Sledd asked about the number of bottles sold on page 62.

Mr. Alfano agreed that we are seeing that people are trading down. However, the number of bottles sold is increasing. Two of the big drivers for this when you see increasing bottle sales but decreasing profits, are smaller bottle sizes and de-premiumization.

Mark Dunham added that a lot of people are starting to come down in premiumization. The industry is changing. Even the top tequila manufacturers have lowered their prices.

Chair Hugo added that this is a national trend per National Alcohol Beverage Control Association (NABCA).

Mr. Alfano stated that our target still has not changed; 5.2% growth, despite seeing a change in the industry overall. We still have to produce ways to increase our sales.

Mr. Dunham added that wallets are tight right now, but the flash sales do help with keeping customers coming back into the store.

Mr. Alfano stated that they estimate the change in sales is about 2% due to inflationary reasons.

CEO Kirby added that as we see the revenue decreasing, we are looking at ways to decrease costs. Reviewing significant expenditures, reviewing positions as to whether a position needs to be filled or not. Responsible retailing and selling and regulations are the three most important prerogatives of our business.

Mr. Alfano also indicated that we were over allocated in the store employee hours in July and August. We have seen improvement in this area in the month of October. There was a \$600,000 favorability currently reflected in the budget (making up for the overallocation of store wage hours in July and August.) We do need to balance to make sure we have enough folks in the stores. We are not cutting store hours, but rather the number of personnel in the stores.

Chair Hugo asked if there were any ideas on increasing sales.

CEO Kirby stated that we are looking at ways to not just look at the timing of sales but also at ways to generate new sales. One of those comes from a seed that Mr. Dunham planted with suppliers. We have an opportunity to get mini bottles of Buffalo Trace and Buffalo Trace Cream Liquor. We were not planning to get these, but we will be the only retailer, outside of airports, to have these to sell. Buffalo Trace will even provide containers for us to sell their product from. The Authority is also opening our 400th ABC store in Jonesville on November 17. We are having a particular bottle of bourbon labelled for the 400th store. We do have to pay for the barrel of bourbon, but we are also selling that bourbon in this one store. We will watch our expenses even during the celebration.

Chair Hugo congratulated CEO Kirby on reaching out to NABCA.

CEO Kirby said that we are evaluating to determine what the balance is between displaying products and protecting products. Some think we are not doing enough to protect alcohol. For example, there is a store in the Fan area that represented 50% of the theft in that area. However, we are concerned that if we were to put a security guard in that store for \$30,000, we would pay more for security than we are losing in theft (\$9,000). We do not want to make this store a counter store because that may not be the answer here. We are getting plexiglass

boxes with tickets on the outside for the product and we have products in cases where they are visible. The product needs to be seen to be purchased. It is a balancing act. Theft is significant at the retail level in all stores.

Mr. Sledd noted that the mini bottles seem to be sitting out in many stores.

Mr. Dunham replied that stores are given a planogram to determine where products go. Minis are to be close to the registers and in clear view of the managers. Jen Burke inserted that minis are not a large part of retail theft but that currently, tequila is driving our loss.

Chair Hugo stated that he is a big believer in teleworking and is happy to see that it appears we have embraced teleworking in this building. However, there does seem to be a lot of empty space. Maybe we could consolidate and rent some space to other government agencies? Or maybe we have some latitude as a partially non-government agency?

CEO Kirby shared that he and Mr. Alfano have a meeting scheduled with General Services to see if we have some space we could rent out to other state agencies.

Chair Hugo asked that everything be run by the Board first.

Mr. Kirby stated he would definitely run everything by the Board and went on to say that his team is looking on the second floor mostly for rental space. Some employees have already been moved with this in mind.

Chair Hugo stated that Enforcement appears to have 25-30 vehicles parked out back, is that correct?

CEO Kirby explained that the vehicles the Chair was talking about are the vehicles that belong to BLE. BLE always has a plan on how to replace vehicles. We use the state police to outfit our cars. We drive cars longer than allowed by other police agencies. We had a hotline complaint about our cars and an investigation by Internal Audit determined that we actually have too few cars. Probably over a dozen vehicles currently have over 100,000 miles on them. Right now, you cannot just go out to the lot to buy cars because there are shortages. We consulted the CTO's office about this and they consider this topic closed. They are satisfied with our way of ordering cars. Other agencies have reported shortages of vehicles. There will be no delivery of vehicles in 2023 and the vehicles ordered this year will not be here until next calendar year. We are watching and keeping a close eye on this. The state police are also storing cars for this same reason.

Chair Hugo asked that CEO Kirby send the Board the information on the cars that Internal Audit conducted.

Mr. Alfano stated that ABC shares the financials with the CTO, but we all understand that if we continue to be short in revenue, we cannot spend up to our budget amounts. We are working to change processes internally, i.e., looking at open positions, back-fill positions, contractors, vehicle inventory and assignments and the like.

CEO Kirby noted that several of the department chiefs are here in the room and their reports are in the binders but perhaps the Board would like to see if the chiefs have anything to say to the Board. With no further discussion being heard, the Chair moved on to Comments from the Board.

Before moving on to the Real Estate Committee Recommendations, Chair Hugo wished to thank those who placed the flags out for Veterans Day. Mr. Kirby stated that it was the Veterans Employee Group and many employees from within the Authority put the flags out.

Comments from the Board

There were no comments from the Board to entertain so the Chair moved on to ask for any Public Comments.

Public Comments

Angie Beasley with the Virginia Spirits Association thanked the Board for allowing her group to be a part of this discussion and for being allowed to work with us to increase sales. Mr. Sledd stated that he knows we are having a

challenging year. The Board appreciates all of our efforts to make this happen in a positive fashion. Any successful team will hit roadblocks. “I appreciate that you’re looking at ways to increase sales and have a better future for this organization.”

Chair Hugo asked if there was any need or desire for an additional closed session.

Mr. Euille asked if the next regular Board meeting date could be confirmed.

Chris Curtis said the next Board meeting is scheduled for **January 9 at 9:00 a.m.**

Chair Hugo confirmed that there will be three Board members present on Friday, November 17th to hear the appeal hearings.

Meeting Adjournment at 11:45 a.m.

Upcoming Dates:

January 9, 2024, at 9:00 a.m.