

Board Meeting Minutes

Virginia Alcoholic Beverage Control Authority Board Meeting

ABC Headquarters – April 14, 2021 – 9:00am

Pursuant to Governor Northam’s Declaration of Emergency due to the Novel Coronavirus (COVID-19) and best social distancing practices, today’s Board Meeting was held electronically.

Call Meeting to Order

Authority Board Chair Maria J.K. Everett called the Board Meeting to order at 9:00 am.

Attendance

Board Chair Maria Everett
Board Vice-Chair Beth Hungate-Noland
Board Member Mark Rubin
Board Member Greg Holland
Board Member William Euille
Chief Executive Officer, Travis Hill
Deputy Secretary, Chris Curtis
Chief Government Affairs Officer, John Daniel
Chief of Law Enforcement, Tom Kirby
Chief Communications and Research Officer, Eddie Wirt
Chief Information Officer, Paul Williams
Chief Retail Operations Officer, Mark Dunham
Director of Finance, Doug Robinson
Kathleen LaMotte, Administrative Assistant
James Flaherty, Attorney General’s Office Representative

Approval of Minutes

Board Member Holland moved to approve the minutes from the March 23, 2021 board meeting. Board Member Rubin seconded the motion and with all in agreement, the minutes were approved through a roll-call vote of 5-0.

New Business

- **License Reform Regulations (Hucks-Watkins).** These bills were passed two years ago and deferred until January 2022 in the last session. Drafts were issued in the Board packet with changes highlighted as suggested by the stakeholder committee. Primary changes were to primarily code references and changes to wording in the regulations to match the language in the Code to mirror definitions. Language was removed in portions of the regulations that referred to beer only licenses.
- The Second regulation presented to the Board regarded the new class of marketplace licenses. There was some concern that the regulation may not prevent alcohol from being given to people who were just browsing and looking for complimentary alcohol. Virginia Code states that alcohol may only be provided to a “bona fide customer” but does not define the term, and requires that a business must provide a “a personalized experience” to a customer without defining personalized experience. The Authority held a stakeholder meeting on March 31, and no issue was identified with the proposed definition for personalized experience, but there was some concern over the definition for a bona fide customer. The draft language struck by the Authority is responsive to stakeholder concerns.
- Board approval is needed prior to the public comment period.
- The Board recommended insertion of the phrase “may deem necessary in order to protect public health, safety and welfare” to track the language in the statute and address concerns regarding the broad scope

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of Paragraph D in order for a licensee to be clearer regarding the criteria used by the Authority to consider their license application.

Chief Kirby advised that the Bureau of Law Enforcement (BLE) will be working with the entire Authority to determine the creativity we will see from our licensee community to navigate this new broad authority. Stakeholder comment was strong around trying to define what is a customer.

Board Member Euille moved to approve the proposed marketplace regulation as amended, and the License Reform Regulation as presented. Vice-Chair Hungate-Noland seconded the motion and with all in agreement, the regulations were approved through a roll-call vote of 5-0.

Approve recommendations of Real Estate Committee (REC)

- Vice Chair Hungate-Noland moved to accept the REC's recommendations for three relocations, Store 037 (Culpeper), Store 376 (Lake Anna) and Store 144 (Emporia). All three will remain in their current shopping center but with more space. The REC also recommended five renewals, 155 (Hayes), 238 (Callao), 277 (Stanleytown), 343 (Bristol), and 422 (Newport News). Board Member Euille seconded the motion, and the Board adopted the recommendations of the REC on a roll-call vote 5 – 0. The REC also recommended closure of Store 416 (Alexandria). This was the temporary location for Store 119, as we awaited redevelopment of the property; Store 119 has been up and running for a while; this location will close at the end of the term of the lease, which is March 31, 2022. This decision was deferred by the Board pending more information from the REC.

Chief Executive Reports

CAO Report (Doug Robinson for Jerome Fowlkes)

Mr. Robinson reported that:

- The Profit and Loss Statements are attached to these minutes as Appendix A.
- Store sales were almost 15% above budget at \$111M, and Cost of Goods Sold (COGS) was higher than expected due to larger sales. Variable costs were \$1.9M above budget largely due to increased personnel costs (\$1.1M), higher supplies and materials (\$316K), higher other contractual services (\$257K) and increased credit card fees (\$195K). Despite this, the total Contribution margin was over \$3M favorable at \$26.1M. Fixed administrative costs were \$1.1M favorable largely from lower software development costs (\$589k), quarter end true up to leave liability (\$330K) and lower VITA costs (\$269K). Overall, the Authority ended the month \$4.6M in the positive at a net profit of \$19.5M, a 31% increase over budget.
- For the year to date period vs budget, store sales are up by slightly over 9.9% at \$979M. Online sales are \$11.6M and are greater than 3x budgeted amounts due to limitations in the FY2021 budgeting process. Reporting by channel is a current development priority for FY 2022 reporting and budgeting. Other revenue, which includes the licensee fees, is down by 13% at \$16M. Net revenue is 10.6% above budget at \$843M. While the COGS variance is negative, that is due to higher sales. COGS is consistent as a % of store revenues. Variable expenses were negative due to personnel expenses (\$4.2M), credit card processing fees (\$1.5M) and VITA (\$750K). The contribution margin is positive by \$25.9M or 12.4% above budget for a total of \$235.2M. Fixed administrative costs were \$7.4M favorable largely from lower software development costs (\$4.4M) and favorable leave liability adjustments (\$2.6M). After adjusting for the positive variances in fixed costs, the Authority has a net profit of \$180.4M which is \$35.4M above budget, more than 24% ahead of budget.
- The HR Division held final interviews for two of its key positions. Vicky Gay, an internal candidate, was selected for the position of Employee Relations Manager. She has been with Virginia ABC for 2 years and has prior experience as a Director of Human Resources as well. Final interviews were held for

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the position of Assistant Director of Human Resources and are conducting reference checks on two final candidates.

- The Authority's HR Division continues work with the compensation consultant and expects to have the final report by the end of the month. They provided HR and Jerome Fowlkes with a preliminary report to align the jobs so that there was more consistency in titles and responsibilities across ABC. This is part of the necessary job leveling effort that will help us align with a market-driven compensation report.
- HR is working with procurement, IT, the project management office and others to prepare the HR system project. Initially this looks to be an 18-24 month project.
- The Finance Department has been collaborating with the APA on the interest rate to use on the implementation of GASB 87. In concurrence with the APA the Authority will use the prime interest rate of 3.25% as a proxy for the incremental borrowing rate effective July 1, with the go-live.
- Interviews will begin next week with six candidates for the new Assistant Director of Budgeting and Forecasting.
- The Authority is making good progress with our largest volume accounts payable vendor Dominion Energy on an EDI invoicing solution so we can bypass delayed USPS mailing of invoices. This will help us ensure compliance with the 95% prompt pay metric.
- The Procurement Division is working on the Authority's vaccine effort along with our new non-IT project manager, Elizabeth Cochrane. The division is also conducting a review of current policies and procedures as it considers ways that we can comply with the DGS Memorandum of Understanding and Virginia statute. The division is working with practically every element of the Authority as we have dedicated people working on the move and its components; we have people engaged with IT-especially looking at an enterprise ticketing system which could enhance workflow management and reporting, and we have the third party logistics warehouse effort redefining how we provide goods to our retail and central office locations.

CCRO Report (Eddie Wirt)

Mr. Wirt reported that:

- The FOIA Reports included with the Board's materials are similar to types of previous requests we have received regarding games of skill, license applications and violation history in the past. The Press Releases also contain nothing out of the ordinary.
- The Authority KPI report is also in the Board's materials. Most items are trending in the right direction for internal targets. Two items are in red; retail out of stocks, which are being addressed by Mark Dunham and his team by working with vendors and addressing shortages and investigating root causes from suppliers. Employee turnover also trending in a negative direction, there are a number of hypothesis from exit interview data and continue to track retail compensation and to track if we are losing employees to return to working for licensees as more restaurants re-open. Work continues to define data for other identified KPIs.

Board Member Rubin discussed a new assessment tool used by physicians to assess whether patients have problems with alcohol. Mr. Wirt will check in with Katie Crumble and her team in Education, the Virginia Office for Substance Abuse Prevention (VOSAP) continues to meet and this may be in their meeting minutes. Mr. Hill advised this was recently in the Roanoke Times on April 13.

Hearing

The Burger Bar

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1847 W. Broad St
Richmond, VA 23220-2109
Application No. 752321

Moved Into Closed Session

Board Chair Everett moved that the Board enter closed session pursuant to 2.2-37.11(A) (8) to receive legal advice from counsel; Board member Rubin seconded and the motion passed unanimously on a roll-call vote. Attending closed session in full were Maria Everett, Beth Hungate-Noland, Mark Rubin, Greg Holland, William Euille, Chris Curtis, James Flaherty, Travis Hill, Kristie Miles and John Daniel.

Certification for Closed Sessions

Upon the Board's return from Closed session, Vice-Chair Hungate-Noland moved to certify that to the best of her knowledge nothing was discussed in the closed sessions but legal advice pursuant to 2.2-37.11(A)(8), and only public business matters lawfully exempted from open meeting requirements was discussed. Board Member Rubin seconded, the motion passed on a roll-call vote of 5-0.

CCRO Report Continued (Eddie Wirt)

Mr. Wirt reported that:

- Work has begun on a domain migration, Virginia ABC now uses the "virginiaabc.com" email suffix, but now uses abc.virginia.gov website address. As work begins to change the physical address, it is a good time to also change the website address to virginiaabc.com. Mr. Wirt emailed a discussion point document to the Board before the meeting, it is attached to these minutes as Appendix B.

GAO Report (John Daniel)

Mr. Daniel reported that:

- The volume of cases still down compared to pre-pandemic levels, a lot has to do with focusing on negotiated settlements and not having as many cases referred regarding underage buyers.
- On the hearings and appeals caseload document, one additional appeal to the circuit court was received after the book went to print.
- Vino Shipper has also been appealed to circuit court, a stay has been issued pending the appeal
- The Legal Liaison office is now completely staffed with attorney Sarah Ross on staff and admitted to the Virginia Bar.

Mr. Rubin asked about the discussions that were to take place with Vino Shipper. Mr. Daniel replied the talks have fallen apart, all parties feel this might be more appropriately resolved during the legislative session.

CROO Report (Mark Dunham)

Mr. Dunham reported that:

- Through April 3, year-over-year retail sales increase remains strong, in March the Authority saw an anticipated slow-down in retail sales as there began an overlap of the beginning of the pandemic and initial COVID sales increases. However, sales increases have rebounded with the receipt of the federal stimulus checks. Retail sales month-to-date are running about 20% over last year.
- Warehouse out-of-stocks have jumped back up to 190, last month the Authority was at 160, this time last year there were 64 out of stocks.

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- Retail call outs and store cleanings continue to be a challenge. The Authority was on an upward trend for call outs through the beginning of April with a peak of 191. After Easter there has been a dip in call outs with a rough average of 135 daily.
- Only one store (180) remains a counter service store. This is a smaller store with a high community transition rate of COVID. Stores – three down to one (store 180 in Richmond),
- The Authority’s management system for the warehouse at the new facility will have a go-live test later today. Inbound loads are scheduled beginning next Monday. Outbound trucks are scheduled to begin in July.
- On Demand (Same Day Delivery) has an operational test next week. Door Dash has updated their alcohol training program and delivery app to promote driver accountability and safe delivery of alcohol.
- The Store of the Future project is moving ahead, the layout has been set, fixtures ordered and planograms finalized for May renovation.
- The recruitment for Director of Supply Chain Spirits has closed, the next step is to schedule interviews.

CLEO Report (Tom Kirby)

Mr. Kirby reported that:

- Shared an update on Direct to Consumer shipping, the presentation shared with the Board is attached to these minutes as Appendix B.

CEO Update (Travis Hill)

Mr. Hill reported that:

- The Authority completed the first enforcement action around the third party delivery, their performance was a bit disappointing. Working with vendors to communicate and educate prior to issuing any violations.
- There was recently a shooting in Alexandria licensed establishment, a summary suspension was issued and an investigation is ongoing.
- Authority COVID vaccination clinics were supposed to begin, but the Authority was given J&J Vaccines that are now paused per guidance from the FDA.
- The Authority is working to consider how Governor Northam’s Executive Order to ban single use plastic bags will impact the ABC. John Daniel and Jennifer Burke are working directly with Virginia DEQ. While the ban only applies to Executive Agencies, ABC wants to cooperate and will continue efforts around reducing the use of single-use plastic.
- The C Suite will meet this week to discuss an end of year recognition and bonus program.
- Listening sessions regarding DEI efforts are being scheduled.
- Employee engagement results will be shared with managers and directors soon, the Authority is not where we would like to be, but there are improvements seen and people in the field feel valued and engaged.

Mr. Euille asked about how ABC forms relationships with localities to hear about things like the shooting in Alexandria, Mr. Hill and Chief Kirby reviewed efforts and meetings with law enforcement professionals.

CIO Report (Paul Williams)

Mr. Williams reported that:

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- The Authority's website is now out of CESC. While the website code is old and IT feared website performance wouldn't increase, but the Pappy Lottery went well with an extraordinary response time with no impact to users. The difficulty with website performance is that online sales are much higher than pre-pandemic levels and it was not designed to do this volume. With very high volumes, there will be performance impacts. An updated web commerce platform and websites should be live by holiday season of 2022.
- The new warehouse and HQ will house the primary user network next week.
- About 20% of ABC staff have been migrated to new computers off the VITA network. Users like the new equipment and find it easier and runs faster.
- VITA continues to struggle with migrating shared files.

Old Business

None

Comments from Board

Chair reminded of Upcoming Dates:

May 12 – Board Meeting

May 17 – 2021 - NABCA Annual Conference

June 15 – Board Meeting

A poll will be sent for July and August Board dates

Public Comments

None

Meeting Adjournment

At 1:12 pm, with no further business, Chair Maria Everett adjourned the meeting.

VIRGINIA ALCOHOLIC BEVERAGE CONTROL AUTHORITY
Contribution Margin - Income Statement (In Millions)
Fiscal Year 2021 - Month of March

	FY 2021		FY 2021			FY 2020			
	Actual	Budget	Variance	Percentage		Actual	Variance	Percentage	
Revenue Sources:									
Alcoholic Beverages (Store Sales)	\$ 111.1	\$ 97.0	\$ 14.1	14.6%	●	\$ 110.8	\$ 0.3	0.3%	
Online Sales	1.1	-	1.1	NM		0.4	0.7	194.1%	
Other	2.2	2.0	0.2	9.9%	●	1.5	0.7	43.9%	
Gross Revenue	114.4	99.0	15.4	15.6%	●	112.7	1.7	1.5%	
Less: Spirits Excise Tax	18.5	16.2	(2.3)	-14.4%	●	17.7	(0.8)	-4.8%	
Net Revenue	95.9	82.8	13.1	15.8%	●	95.0	0.9	0.9%	
Variable Operating Costs:									
Cost of Goods Sold	54.4 48.5%	46.5 48.0%	(7.9)	-16.9%	●	52.7 47.4%	(1.7)	-3.2%	
Variable Administrative Costs	15.4	13.5	(1.9)	-14.2%	●	12.8	(2.6)	-19.9%	
Total Variable Costs	69.8	60.0	(9.8)	-16.3%	●	65.5	(4.3)	-6.5%	
Contribution Margin	26.1	22.8	3.3	14.6%	●	29.5	(3.4)	-11.5%	
Contribution Margin as a % of Store Sales	23.3%	23.5%				26.5%			
Fixed Operating Costs:									
Fixed Administrative Costs	5.2	6.3	1.1	17.6%	●	2.6	(2.6)	-98.2%	
Regulatory Costs (Enforcement & Hearings)	1.4	1.6	0.2	11.7%	●	1.5	0.1	6.2%	
Total Fixed Costs	6.6	7.9	1.3	16.4%	●	4.1	(2.5)	-61.0%	
ABC Net Profit	\$ 19.5	\$ 14.9	\$ 4.6	31.1%	●	\$ 25.4	\$ (5.9)	-23.2%	
As a % of Store Sales	17.4%	15.3%				22.9%			

- Favorable Variance
- Unfavorable Variance



NM = Not Meaningful

Notes: Fund 05001 was utilized because this represents the Operational revenue and expenses that are utilized to calculate the disbursements to the Commonwealth. Contribution Margin - represents the amount of earnings available to contribute towards profit after removing the variable costs of operations. Example: if the sales forecast was increased by \$1M (with a 24% contribution margin), \$240K of additional earnings would flow through to profit.

Appendix A

VIRGINIA ALCOHOLIC BEVERAGE CONTROL AUTHORITY
Contribution Margin - Income Statement (In Millions)
Fiscal Year 2021 - YTD as of 3/31/2021

	FY 2021		FY 2021			FY 2020		
	Actual	Budget	Variance	Percentage		Actual	Variance	Percentage
Revenue Sources:								
Alcoholic Beverages (Store Sales)	\$ 979.0	\$ 890.7	\$ 88.3	9.9%		\$ 867.9	\$ 111.1	12.8%
Online Sales	11.6	2.4	9.2	375.4%		2.9	8.7	303.5%
Other	16.2	18.6	(2.4)	-13.1%		15.0	1.2	7.8%
Gross Revenue	1,006.8	911.7	95.1	10.4%		885.8	121.0	13.7%
Less: Spirits Excise Tax	163.7	149.2	(14.5)	-9.8%		143.2	(20.5)	-14.3%
Net Revenue	843.1	762.5	80.6	10.6%		742.6	100.5	13.5%
Variable Operating Costs:								
Cost of Goods Sold	476.9 48.1%	429.4 48.1%	(47.5)	-11.1%		415.6 47.7%	(61.3)	-14.8%
Variable Administrative Costs	131.0	123.8	(7.2)	-5.8%		109.0	(22.0)	-20.2%
Total Variable Costs	607.9	553.2	(54.7)	-9.9%		524.6	(83.3)	-15.9%
Contribution Margin	235.2	209.3	25.9	12.4%		218.0	17.2	7.9%
Contribution Margin as a % of Store Sales	23.7%	23.4%				25.0%		
Fixed Operating Costs:								
Fixed Administrative Costs	41.9	49.3	7.4	15.0%		41.5	(0.4)	-1.0%
Regulatory Costs (Enforcement & Hearings)	12.9	15.0	2.1	14.1%		12.9	0.0	0.0%
Total Fixed Costs	54.8	64.3	9.5	14.7%		54.4	(0.4)	-0.7%
ABC Net Profit	\$ 180.4	\$ 145.0	\$ 35.4	24.4%		\$ 163.6	\$ 16.8	10.3%
As a % of Store Sales	18.2%	16.2%				18.8%		

-  Favorable Variance
-  Unfavorable Variance

NM = Not Meaningful

Notes: Fund 05001 was utilized because this represents the Operational revenue and expenses that are utilized to calculate the disbursements to the Commonwealth.
Contribution Margin - represents the amount of earnings available to contribute towards profit after removing the variable costs of operations.
Example: if the sales forecast was increased by \$1M (with a 24% contribution margin), \$240K of additional earnings would flow through to profit.

UNREGISTERED SKILL GAMES



Appendix B

Phase I

- Following the implementation of the regulation of skill games the Bureau began to receive complaints regarding unregistered skill games in operation.
- Initial response was to work in collaboration with local law enforcement, local cwa, and other officials.
- Letter received from Virginia General Assembly



Phase II

- Plan Development:
 - Support from ABC Legal Training Program
- Plan Execution:
 - Intel Gathering and Research
 - Special Agent Visits
 - Cease and Desist Letter if appropriate
 - Legal Outreach
 - Initiation of Ongoing Investigation with local collaboration.

Current Outcomes

- Agents identified 35 locations through complaints that were conducting business with unregistered skill games.
- Of those 35 only 3 are still under investigation. The other locations closed upon receiving the Cease and Desist letter.
- Additional Locations have been identified.



