

# Board Meeting Minutes

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## Virginia Alcoholic Beverage Control Authority Board Meeting

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ABC Headquarters – August 20, 2021 – 9:00am

### **Call Meeting to Order**

Authority Board Chair Maria J.K. Everett called the Board Meeting to order at 9:10 am.

### **Attendance**

Board Chair Maria Everett

Board Member Mark Rubin

Board Member Greg Holland

Board Member William Euille (arrived at start of Gourmeltz hearing)

Chief Executive Officer, Travis Hill

Chief Government Affairs Officer, John Daniel

Chief Communications and Research Officer, Eddie Wirt

Chief Information Officer, Paul Williams

Chief Retail Operations Officer, Mark Dunham

Director of Procurement, Melissa Watts

Senior Legal Counsel, LaTonya Hucks-Watkins

Kristie Miles, Legal Assistant

James Flaherty, Attorney General's Office Representative

### **Chief Reports:**

#### **CROO Report:**

Mark Dunham reported that:

#### **Retail & Logistics Update:**

- Through May 13th, YOY Retail sales increase is up roughly 4.8% compared to LY or 5.2% above plan.
- Warehouse OOS continue to be an issue. Last board meeting the Authority was at 227 OOS and are currently at 232.
  - Suppliers continue to struggle with product availability due to glass, driver and manufacturing capacity issues.
- Retail OOS last week the Authority had over 300 stores below 97% in stock, this is a new peak and directly related to supplier supply chain issues.
- Retail
  - Daily call outs since the last board meeting rough average is 25 a day. Effective July 1, the Authority implemented a new attendance point system in retail which is aiding in these numbers. Partial store closing in the last two weeks is ticking up averaging four a day with a peak of eight. There were also six store cleanings related to positive COVID tests during this time period as well. It is believed to be related to the Delta variant.

#### **Update:**

- **Projects**
  - **On Demand** deliver with Door Dash (Same Day Delivery)
    - Monday July 12<sup>th</sup> the Authority started the five store pilot in Richmond.
      - \$7,496 sales

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- 107 orders placed, 102 delivered, 5 cancellations
- Avg. sale 58.06
- 246 bottles sold, avg 2.4 per order
- 82% on-time delivery
- Initial feedback is positive, the Authority is working on streamlining reporting internally and from DD before moving forward with the additional pilot stores
- Conversation with Paul Williams yesterday about the Authority doing this right, taking our time pushing out our timeline not rushing and producing a good product
- **New Warehouse**
  - The Authority is working through our last issues to go live. The Authority has been working six to seven days a week since the last board meeting. There is one last hurdle the Authority is working through with the dispenser and should have resolved within the next 24-hours. The Authority has a contingency plan to move forward without the dispenser initially if needed. This involves 200 pallet moves.
- **Store of the Future**
  - Store 350 is on schedule to begin the remodel next month.
- **Operational Units (Retail, Marketing, Real Estate and Logistics)**
  - Director of Spirits Supply Chain
    - The Authority has hired a new director Tracey Heilborn, she starts next Wednesday. Look forward to introducing you to her in an upcoming board meeting.

Board Member Rubin asked with the On-Demand deliveries, were there any compliance issues with checking ID's? Mr. Dunham responded that there were a couple of issues with drivers, those drivers were blocked. The majority of them are being scanned and verified. He will send a recap report.

### Approval of Minutes

Board Chair Everett moved to approve the minutes from the July 15, 2021, Board meeting as presented. Board Member Holland seconded the motion and with all in agreement, the minutes were approved through a roll-call vote of 4 – 0.

### New Business

#### Approve recommendations of Real Estate Committee (REC)

Board Member Holland moved to accept the REC's recommendations for one new store, Store 442 which will be located adjacent to the Hanover Headquarters. The REC also recommended two relocations, 095 (Massaponax) and 144 (Emporia), and three renewals, 039 (Bristow), 079 (Chesapeake) and 381 (Williamsburg). Board Member Rubin seconded the motion, and the Board adopted the recommendations of the REC on a roll-call vote 4 - 0.

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### **Moved Into Closed Session**

At 9:45 a.m., Board Chair Everett moved that the Board enter closed session pursuant to 2.2-37.11(A) (7) and (8) to receive legal advice from counsel concerning the Board's upcoming hearing. Board Member Holland seconded and the motion passed 4 – 0 on a roll-call vote. Attending the closed session in full were Maria Everett, Mark Rubin, Greg Holland, and William Euille. In attendance regarding the hearing were also James Flaherty, Travis Hill, Kristie Miles and John Daniel.

### **Hearing**

GOURMELTZ, LLC  
GOURMELTZ  
10013 JEFFERSON DAVIS HIGHWAY, SUITE 117  
FREDERICKSBURG, VIRGINIA 22407-9430  
License No.: 093473

### **Certification for Closed Sessions**

Upon the Board's return from Closed session at 1:15pm, Chair Everett 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)(1)(8), and only public business matters lawfully exempted from open meeting requirements was discussed. Board Member Euille seconded; the motion passed on a roll-call vote of 4 - 0.

### **Strategic Planning Update (Hill/Wirt)**

- A recommended mission statement and several other proposed statements are found on page 53. These mission statements have been proposed based on employee feedback prior to the strategic planning sessions, mission statements from other control states and state authorities, as well as mission statements crafted by members of the leadership team. Review of the SWOT analysis, there were no changes and remains consistent.
- The Board discussed modification of the proposed mission statement, ultimately determining to have Board members send any suggested edits to Mr. Hill and Mr. Wirt rather than wordsmithing at the table. The Board will revisit the decision on a mission statement at a future meeting.
- The Authority's SWOT analysis (strengths, weaknesses, opportunities and threats) is also being provided for the benefit of awareness and the identification of ideas to current or proposed projects.

### **Chief Reports Continued:**

#### **CCRO Report:**

Eddie Wirt reported that:

- Relating to Communications, ABC submitted nominations for annual Stateways Awards. ABC submitted a total of 8 nominations for 6 categories, to include Best Consumer Education Program, Best Technology Innovation, Best Retail Innovation, Best Stakeholder Outreach Program, Best On-Premise Partnership, and Best Enforcement Program. The awards will be presented at NABCA's Annual Administrator Conference this fall.
- FOIA requests and press releases in the past month were provided to the Board in their advance packet. There was nothing out of the ordinary.
- The Authority's KPI report shows there was nothing out of the ordinary.

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### **Enforcement Report:**

Chief Tom Kirby reported that:

- E-commerce operations have been conducted over the past few months for the Cocktails-to-Go and delivery to gather data
- Underage buyers were set up to take delivery
- 37 establishments that agreed to deliver, of those, 13 agreed to deliver with the remaining utilizing delivery services.
- Data is still developing this process with restaurants relating to complying.
- The initial test regions were Roanoke, Newport News, and Virginia Beach
- Enforcement along with Education and Prevention are developing information to serve as a reminder to licensees specifically for the sale and delivery of alcoholic beverages, which will also be provided to delivery drivers.
- Enforcement intends to set-up more operations in other regions to continue to capture data.
- Considering licensing to third party delivery drivers. Education pieces will be a step to help them.

Board Member Rubin asked if the Authority should look at a company such as Drizzly as a potential vendor due to its sole focus on alcohol delivery. Drizzly's current model may not be a good fit for ABC since it serves as an ordering platform to allow the consumer to order a product, but it is still up to the licensee to make the delivery. The model may change since Drizzly was acquired by UBER, which operates a delivery service.

Based on her attendance at a recent cocktails to go study group, Board Chair Everett asked about the individual who identified as being from a Chesterfield organization that conducted underage buys, and if there were data for wine and beer delivery? Chief Kirby responded the group is called Chesterfield Safe and that the organization plans to draft a flyer with language similar to the Authority's Enforcement information. During enforcement operations, there were a couple of deliveries that were wine and beer, and it is intended to expand these operations to add more wine and beer sales.

### **GAO Report:**

John Daniel reported that:

- The timeline for Appeals to be heard before the Board is currently reliant on Board meeting. Requests the Board's consideration to having interim meetings/special Board meetings to reduce time from hearing decision to appeal hearing. Mr. Hill suggested a 3-member panel or an Ad Hoc panel for hearings.
- Requested the ability to rule on motions or set a particular date between Board meetings for the Board to review and decide on motions.
- In the matter of The Burger Bar, a complaint was made by the objectors, stating that the licensee had not opened the restaurant during the stated probationary period. The Board discussed the purpose of the probationary period was to demonstrate adherence to responsible business practices while operating. Mr. Daniel suggests a modified order to amend the probationary period to be served while operating.

Board Member Euille asked if we could hold multiple hearings on a scheduled date. Mr. Daniel responded yes.

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Board Chair agreed with the suggestion of a 3-panel Board and further suggested to set-up a rotation of Board members for dates outside of meetings to include an on-call calendar for scheduling and/or conflicts.

### **CAO Report:**

Melissa Watts reported on behalf of Jerome Fowlkes:

For the month of June vs budget:

- Store sales were over 15% above budget at \$113M.
- COGS was higher than expected due to larger sales.
- Variable costs were \$2.5M above budget largely due to increased personnel costs (\$1.6M) (tied to increase in sales needing to hire more people), higher building rentals (\$296K), increased credit card fees (\$216K), higher supplies and materials (\$107K) and higher other contractual services (\$102K). (broad bucket, temp help, COVID, etc.)
- Despite this, the total Contribution margin was over \$2.5M favorable at \$26.0M.
- Fixed administrative costs were \$3M above budget largely from increased personal services costs (\$1.8M) and higher other contractual services (\$1.2M).
- Overall, the Authority ended the month \$0.3M unfavorable at a net profit of \$14.6M, or 2% below budget.

For the full fiscal year to date period vs budget

- Store sales were up by 12.4% at \$1.334B.
- Other revenue, which includes the licensee fees, was down by 4% at \$24M.
- Net revenue was 12.2% above budget at \$1.137B.
- While the COGS variance is negative, that is due to higher sales. COGS is consistent as a % of store revenues.
- Variable expenses were higher by \$13.5M due to personnel services expenses (\$8.2M), credit card processing fees (\$2.2M), other contractual services (\$1.4M) and VITA costs (\$1.0M).
- The contribution margin was positive by \$37.2M or 13.3% above budget for a total of \$317.0M. (sales-COGS- variable costs)
- Fixed administrative costs were \$5.7M favorable largely from lower software development costs (\$5.3M) and lower VITA costs (\$2.8M); partially offset by higher equipment costs (\$1.3M) and higher supplies, materials and other costs (\$1.5M).
- After adjusting for the positive variances in fixed costs, the Authority come up with a net profit of \$237.3M which is \$45.1M above budget, more than 23% ahead of budget.
- The favorable excess profit transfer carried over from Fiscal 2021 to Fiscal 2022 is \$1.086M (true-up of actual vs. estimated transfer)
- For the Fiscal Year the General Assembly Profit Requirement of \$228.9M was exceeded by almost \$19.5M.

Division Reports:

### **Within HR:**

- Within the Human Resources Division, many of the Authority's resources are supporting the working group to determine ABC's vaccination approach and the tactics to implement it.

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- HR will welcome Candace Frost on September 10th as the new Assistant Director of HR. She comes to the Authority from Retail Data, LLC. Recruiting is ongoing for a Manager of Talent Acquisition and Employee Engagement.
- HR is also working to compile a report from exit surveys to understand factors impacting turnover. The Authority can aggregate this data with other information from the strategic planning focus groups and survey data to ensure that there is a complete picture of employee feedback.
- Mercer continues to work on the Authority-wide Compensation Study with focus on the new pay bands (salary scale) for the Authority. The Authority is awaiting the resolution of 22 questions of 122 originally sent to Mercer. On a study of this size, it is not unusual to have this number of questions. Two contract workers have been acquired with dedicated focus on the Compensation Study.
- Lastly its performance feedback time, and the Authority is working with managers to answer any questions and encourage timely completion of performance reviews. This is an important step as the Authority begins to transition to a pay-for-performance culture.

### **Within Finance:**

- Finance has successfully implemented GASB 87 as of July 1 in the BAR system and will continue to refine the reporting outputs in the coming months.
- The Financial Reporting Manager position posting was extended by 2 weeks and resulted in no viable candidates to interview.
- Year-end closing and the APA audit are well underway with no findings to report to date.
- Finance continues to support the many On Line Ordering initiatives ongoing including the On-Demand, Licensing and Channel accounting projects.

### **Within Procurement:**

- Virginia ABC's Procurement Division was recently selected as one of the recipients of the 2021 Achievement of Excellence in Procurement Award by the National Procurement Institute. ABC was one of 182 organizations, one of the five Virginia organizations and one of the seven state/local agencies that received the prestigious award for 2021.
- The Authority have wrapped our ETS solicitation and engagement with Thought Logic. The team has participated in multiple training sessions to cover SaaS requirements gathering and market research, a function previously covered by our BSAs. In addition, the Authority concurrently conducted the procurement for reusable bags using a slightly adapted, flexible version of the approach used with ETS.
- The Authority ended FY21 with \$18,812,732.56 in SWAM spend, 33.98% of total spend up from 27.39% in FY20. While some of this can be attributed to COVID expenses, the Authority is working to develop a similar goal for FY22.
- The Authority have partnered with communications to post our quarterly SWAM supplier spotlight articles to our social media platforms. The Authority continues to encourage its partners to use SWAM vendors when possible.
- The Authority currently has 3 vacancies within the division. There is a critical shortage of experienced Procurement officers across the nation. In recent conversations with peers at other agencies and

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localities, this appears to be a growing trend. With many experienced officers aging out of the workforce, there is not a tremendous interest in the profession and most training is on the job.

Board Member Rubin asked if the costs were costs going forward? Ms. Watts responded that the costs are for temporary help, COVID expenses, and increase in sales.

Board Member Rubin asked if the personnel costs included compensation increases. Ms. Watts responded yes.

Board Member Rubin asked for a review of the percent of increase and changes. Mr. Hill responded with an overview that the numbers reflect preliminary promotions, changes in logistics and State increase to base pay. A follow-up with HR will be conducted for the remainder of the information provided.

Board Member Rubin asked for clarity for page 91, relating to new positions. Mr. Hill responded that these positions account for new store openings and store growth. Will verify with HR.

### **CIO Report:**

Paul Williams referred the Board to his materials previously provided and reported that:

- Cell coverage in the new building has been increased in service for the first floor
- Intends to bring more receivers to the building to extend coverage
- VITA made changes to their VPN, VA ABC was prepared and suffered no loss to warehouse functionality
- Migration is ongoing for our stores
- Heavily engaged with Mark Dunham and Warehouse to ensure their systems are functioning properly
- There have been a few hacking attempts, our network has block them well
- Open position – No applicants or low numbers with necessary credentials applying. Will repost.

### **CEO Update (Travis Hill)**

Mr. Hill reported that:

- COVID –Return to Office has been pushed out until October due to the current variant. Meetings on what a return would look like, 3 days in/2 days teleworking. The schedule to be addressed between supervisor and staff. Not pushing it for now.
- The Governor announced vaccination reporting requirements for state employees earlier this month. For those employees who are unvaccinated, weekly testing will be required.
- ABC will be implementing a vaccine reporting and testing requirement based upon its business operations and must consider such things as how would we monitor testing going forward due to our business structure?
- CTO recruitment – Really good pool of applicants. Will be six candidates, two panels of interviews. Would like Board members on the panels. One on each panel or designate a Board member for both panels or have a Board member on the final panel interview. The first interviews will be approximately two days for the six applicants, second interviews will be one day for three applicants. (Holland & Everett volunteered)

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- DPB meeting next week for discussion of fiscal year performance and planned budget submittals for the upcoming biennium.
- There will be Press Release next week announcing unaudited results for FY21. Mr. Hill has penned an op-end to Richmond Times Dispatch around the announcement.
- Review of his speaking engagements for August, September, and October
- Since this year Virginia will be electing a new governor, information regarding the Authority structure will be shared with the board for review which will be provided to the new Governor.
- IT has placed a computer in Chris Curtis' old office for the Board members use.

### **Old Business**

None

### **Comments from Board**

Board Member Holland suggests Hearing notifications are consistent.

Chair reminded of Upcoming Dates:

October 5 – Board Meeting

November 18 – Board Meeting

Board Member Rubin comments on the Informal Conference issue before a hearing. Traditionally under the APA, the informal conference was a way to work out or come to an agreement. Suggests using a different term to describe the process the Authority uses since it is not used as noted by the APA.

### **Public Comments**

None

### **Meeting Adjournment**

At 3:17 pm, with no further business, Chair Maria Everett adjourned the meeting.



## APPEAL HEARING MINUTES

1. **Kind of meeting:** Appeal Hearings
2. **Date:** August 20, 2021 **Place:** Hanover Hearing Room
3. **Present:** M. Everett, M. Rubin, G. Holland, W. Euille, J. Daniel, AAG J. Flaherty, T. Hill, K. Miles, M. Custis

10:18 a.m. - Hearing was called to order

- GOURMELTZ  
Martha Norton, Esq.,  
Matthew Strickland, Managing Member  
  
Enforcement - Craig Maxey, Esq., Legal Counsel

10:25 a.m. - Closed session – to consider the Motion to Accept New Evidence presented by Ms. Norton. Chair Maria Everette **motioned** that the Board enter closed session pursuant to 2.2-3711(A)(7)(8) to receive advice from counsel; Mark Rubin **seconded** and the motion passed **unanimously**. Attending closed session concerning the appeal were M. Everett, G. Holland, M. Rubin, J. Daniel, AAG J. Flaherty, T. Hill, K. Miles.

10:30 a.m. – Open Session - Maria Everett **motioned** to return to open session, Gregory Holland **seconded** the motion and the Board voted **unanimously** to go back into open session. The Board (Everett, Rubin, Holland, Euille) then certified by voice vote that to the best of their knowledge nothing was discussed in the closed session but legal matters pursuant to 2.2-3711(A)(7)(8), and only public business matters lawfully exempted from open meeting requirements were discussed. Mark Rubin **motioned** the Board to **accept** into the record **and to take under advisement** the Motion to Accept New Evidence, Gregory Holland **seconded** and the motion passed **unanimously**.

11:20 a.m. - Approved and Adopted Board Orders for Board Minutes for June 2021 and July 2021, William Euille **motioned** to approve and adopt Board Orders for Board Minutes and adopt the Board Minutes for Archive, Mark Rubin **seconded** and the motion passed **unanimously**.

11:25 a.m. - Closed session - With no further cases Maria Everett **motioned** that the Board enter closed session pursuant to 2.2-3711(A)(7)(8) to receive advice from counsel; William Euille **seconded** and the motion passed **unanimously**. Attending closed session concerning the appeal were M. Everett, G. Holland, M. Rubin, W. Euille, C. Curtis, J. Daniel, AAG J. Flaherty, T. Hill, K. Miles.

1:15 p.m. – Maria Everett **motioned** to return to open session, William Euille **seconded** the motion and the Board voted unanimously to go back into open session. The Board (Everett, Rubin, Holland, Euille) then certified by voice vote that to the best of their knowledge nothing was discussed in the closed session but legal matters pursuant to 2.2-3711(A)(7)(8), and only public business matters lawfully exempted from open meeting requirements were discussed.

- In the matter of **GOURMELTZ** –
- Mark Rubin motioned to **deny the Motion to Dismiss**, Gregory Holland seconded and the motion passed **unanimously**.