

Board Meeting Minutes

Virginia Alcoholic Beverage Control Authority Board Meeting

June 14, 2022 – 9:00am

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 Greg Holland
Board Member William Eulle
Board Member Mark Rubin
Chief Executive Officer, Travis Hill
Chief Government Affairs Officer, John Daniel
Chief Information Officer, Paul Williams
Chief of Law Enforcement, Tom Kirby
Chief Retail Operations Officer, Mark Dunham
Chief Transformation Officer, Elizabeth Chu
Deputy Secretary, Chris Curtis
Director of Internal Audit, Nannette Williams
Senior Legal Counsel, Latonya Hucks-Watkins
Attorney General's Office Representative, Jim Flaherty
Executive Assistant, Kathleen LaMotte

Approval of Minutes

Board Member Mark Rubin moved to approve the minutes from the April 12 and May 17, 2022, Board meeting. Vice-Chair Hungate-Noland seconded the motion and with all in agreement, the minutes were approved through a roll-call vote of 5 – 0.

Approve recommendations of Real Estate Committee (REC)

- Board Member Greg Holland moved to accept the REC's recommendations for two new stores, store 525 (Winchester), and store 526 (Chesterfield), and the expansion of one store, store 370 (Virginia Beach), and three renewals, stores 085 (Oakton), 054 (Loudon), and 080 (Alexandria). Vice Chair Hungate-Noland seconded the motion, and the Board adopted the recommendations of the REC on a roll-call vote 5 – 0.

Approve Regulatory Change to § 3VAC5-70-200

Latonya Hucks-Watkins introduced a proposed change to 3 VAC5 -70-200 altering guidance to how the ABC Board issues Grain Alcohol permits

- A 2017 bill from the General Assembly (GA) included a sunset provision
- A recent GA bill removed the sunset clause, so the Authority must re-write regulation to comply with bill passed this GA session
- No public comment is necessary as change to regulation is to comply with statutory language

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Board Member William Eulle moved to approve the change to the regulation. Board member Greg Holland seconded the motion, and the motion was approved through a roll-call vote of 5 – 0

Approve Acceptable Use Policy

Nannette Williams, Director of Internal Audit, presented a revision of the Authority's Acceptable Use Policy:

- Internal Audit worked closely with Paul Williams, CIO and the Authority's Information Security Team
- The GA passed a law which requires certain training by code
- VITA standards dictate all agencies must comply with an acceptable use policy
- The Authority received an audit point last year and this should be cured by enhancing security awareness training
- Bullet point B3 modified to say "Public disclosure" instead of "public distribution"

Vice Chair Hungate-Noland moved to accept the policy as amended. Board Member Mark Rubin seconded the Motion, and the policy was accepted on a roll-call vote of 5 – 0

Approve Bereavement Leave Policy

Travis Hill reported that:-

- This policy introduces new type of leave to all workers. Full-time employees will receive up to 40 hours and part-time employees would receive up to five days based upon their average weekly hours worked. This would be the first time paid leave is given to a wage employee at the Authority other than the temporary Public Health Emergency Leave granted during the height of the COVID pandemic.
- The Board suggested language changes to provide clarity in the procedures on leave without pay and paid time off availability. Human Resources will modify language.

Vice Chair Hungate-Noland moved to accept the policy. Board Member Eulle seconded the Motion, and the policy was accepted on a roll-call vote of 5 – 0

Moved into Closed Session

At 9:28 a.m., Board Chair Everett moved that the Board enter closed session for the purpose of receiving legal advice regarding hearings before the Board pursuant to 2.2-37.11(A)(8). Board member Eulle seconded, and the motion passed 5 – 0 on a roll-call vote. Attending the closed session in full were Maria Everett, Beth Hungate-Noland, Greg Holland, Mark Rubin, and William Eulle. Attending in part were Jim Flaherty, Chris Curtis, Travis Hill and John Daniel.

Hearing

MRG Holdings LLC
Phoenix Restaurant & Lounge
928 Diamond Springs Road, Suite 115
Virginia Beach, VIRGINIA 23455-6601

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License NO.: 0891154

DOMAINE PHILIPPE PLANTEVIN

v.

VINIFRANCE IMPORTS INC.

Certification for Closed Session

- 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.

Decisions of Hearings

Vice-Chair Hungate Noland moved to substantiate the hearing officer's decision in part by terminating the franchise agreement in Domaine Philippe Plantevin vs. Vinifrance Imports Incorporated. Board Chair Hungate-Noland seconded the motion. The motion was passed on a roll-call vote of 5 – 0.

Board Member Rubin moved that the charge be dismissed regarding Phoenix Restaurant and Lounge with a reasonable measures letter to be sent by the Bureau of Law Enforcement. Vice Chair Hungate-Noland seconded the motion. The motion passed on a roll-call vote of 5 – 0.

CEO Report

Travis Hill reported that: –

- The Authority has received an objection to the planned store 524 in downtown Roanoke previously approved by the Board on March 22, 2022 from a concerned citizen. However, the Roanoke Downtown revitalization group and Roanoke economic development remain in support of the store. The Authority will proceed with store opening.
- Vida Williams was selected as the Authority's new Chief Digital Brand Officer. Ms. Williams has a strong background in web and data and will begin work on July 10.
- The position for CAO is still listed, the Authority may engage an outside recruiter to help fill this position.
- The reusable bag initiative began in early June, social media demonstrates a favorable response so far.

Financial Report

Doug Robinson reported that:

For the month of April vs budget:

- Store sales were 3.9% above budget at \$114M.

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- The Cost of Goods Sold (COGS) variance is unfavorable, due to higher than budgeted sales. COGS is consistent as a % of store revenues at approx. 48%.
- Variable costs were \$0.9M above budget largely due to a depreciation true-up adjustment on the new building based on new DGS provided costs of the new building.
- The total Contribution margin was \$1.3M favorable at \$25.5M.
- Fixed administrative costs were below budget by \$3.0M due to lower personal services cost (\$700k) due to unfilled budgeted positions, favorable telecom costs (\$500k) and a depreciation true-up on the new building for (\$1.1M) offsetting the unfavorable variance in variable costs. Regulatory costs were \$0.8M below budget largely from lower personal services costs (\$800k) due to unfilled budgeted positions.
- Overall, the Authority ended the month \$5.1M favorable at a net profit of \$19.6M, or 35.1% above budget.

For the April fiscal year to date period vs budget

- Store sales were up by 2.7% at \$1.145 Billion
- Net revenue was 2.6% above budget at \$973.6M.
- 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 \$7.8M due to increased manual labor services (\$2.9M) related to repalletizing in the warehouse and temporary labor needs as part-time employees max out on allowed hours, unfavorable building rentals (\$4.1M) due to unbudgeted short-term operating lease costs, higher personnel services expenses (\$1.5M), higher telecom costs (\$900k) and higher credit card fees (\$800k) in line with higher sales, partially offset by favorable supplies and materials costs (\$1.7M) due to purchase of reusable bags lagging the expected budgeted purchases and lower equipment costs (\$1.0M) due to the capitalization of store shelving.
- The contribution margin was positive by \$6.7M or 2.7% above budget for a total of \$260.6M.
- Fixed administrative costs were \$16.6M favorable largely from lower personal services costs due to vacancies (\$5.4M), favorable telecom costs (\$1.7M), favorable network server software and equipment costs (\$1.7M), favorable skilled services costs (\$1.7M) due to hard to fill IT contract positions, unfulfilled computer software costs (\$1.6M), a net favorable year-to-date leave liability adjustment of (\$1.2M), lower training/travel costs due to Covid (\$1.0M) and lower management services (\$0.9M).
- Regulatory costs were \$5.2M favorable principally in personal services due to vacancies.
- After adjusting for the positive variances in fixed costs, the Authority comes up with a net profit of \$189.4M which is \$28.5M above budget, 17.7% ahead of budget.

Budget Approval

Mr. Hill shared an update to the budget presentation provided to the Board, which is attached to these minutes as Appendix A. Updated budget presentation – attached as Appendix A.

- Finance examined trends, growth, and inflation, then met with each division head to produce a list of recommended budget decision briefs.
- Forecasting this year is difficult, there is tremendous revenue growth, but also added expenses in compensation and COGS

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Board member Rubin asked if the increased cost of fuel impacts the Authority's contract with Estes. Mr. Dunham advised that there is a fuel surcharge, and Mr. Robinson responded that the Authority allowed for large increase to fuel costs in the next budget

- It is estimated the Authority will exceed the FY 2022 profit requirement, due to sales exceeding forecast and expenses coming in under budget. FY 2022. Expectations for FY23 and FY24 are predicated on a conservative forecast.
- COVID-19 expenses in FY 2022 total approximately \$2.5 million through May and were offset partially by \$1.7 million in Cares Act Funding from prior year's expense reimbursement for a net FY22 expense of \$0.8 million.
- Store Sales are projected to finish around \$1.377 billion, up from \$1.350 billion estimate for FY 2022
- The New Building & Warehouse Project went live during FY 2022
- The Licensing Project & related Sales Audit portion, C-Vent Project, Voice-Over-IP Project and Reusable Bag Initiative are all implemented.
- Two new stores, eight relocations, and three expansions occurred in FY22
- The Department of Budget and Planning had a duplicate entry for sale of the Hermitage Road Headquarters, this was removed from the profit transfer requirement.
- An increased profit transfer requirement using revised profit forecast was provided on 2/13/22.
- The Authority was granted profit relief for state 5% increase and bonus to full-time employees to offset ABC's costs.
- The Authority is well-positioned to exceed the profit requirement set for FY22.
- Credit Card fees steadily climbing. Elavon advises fees are expected to go up by 10%. With licensing system going live, more licensees are expected to utilize credit cards, thus increasing fees.

Vice Chair Hungate-Noland asked if the Authority imposes a surcharge for credit card transactions. Mr. Kirby advised that while there has been some discussion, right now the Authority is not passing that cost on to customers. Mr. Curtis advised that statutorily we are permitted to charge a credit card surcharge.

Board Member Rubin asked if the Authority is raising prices like other retailers are at this moment. Mr. Hill advised that if a supplier takes a price increase, ABC's prices go up as a result. Mr. Hill advised that the Authority may see more "shrinkflation", where price of an item stays the same but the size of the bottle goes down, and it may impact buyer behavior.

Mr. Robinson reviewed Budget assumptions :

- \$2.3 million to Implement \$15/hour Retail minimum wage increase on 01/01/2023 and address any compression issues
- \$9.0 million for state mandated 5% pay increase to all workers (Both Salary & Wage)
- \$1.4 million for State approved bonus payout in December.
- \$2.9 million for compensation adjustments to align ABC compensation with market (This is the 2nd half of Compensation Study Adjustments)

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- \$3.0 million added to budget by decreasing vacancy factor for most divisions to 3% and Enforcement to 5% compared to the 5% and 10% vacancy factor used in FY22, respectively
- \$4.8 million for 77 added classified positions for retail growth and resource for projects have been included in the FY 2023 budget as part of the DPB submission for retail specific positions
- \$1.4 million 12 central office positions have also been included in the 2023 budget (4 were approved in FY22 and 8 have been recommended for approval in FY23)
- 4-8% inflation was considered where applicable for costs outside of personal service cost

Mr. Hill advised that if there is a recession, licensee sales are likely to suffer due to altered consumer behavior found in reduced trips to restaurants.

The Board thanked Mr. Robinson and his team for their work and advised they liked the new “waterfall” format of slides and overview.

Decision Briefs

- Mr. Hill reviewed the Decision Briefs submitted and the recommendation for the Board to approve, defer and deny.

Board Vice-Chair Hungate-Noland moved to approve the FY2023 Budget; Board Member Rubin seconded. With all in agreement, the motion passed in a roll-call vote of 5-0.

Board Member Rubin moved to approve the proposed Decision Briefs; Board Member Euille seconded. With all in agreement, the motion passed in a roll-call vote of 5-0.

Profit transfer

Per regulation, the profit transfer must be sent by end of June. Vice Chair Hungate-Noland moved to approve, Board Member Holland seconded. Passed on roll-call vote of 5 – 0

CEO Report Continued

Mr. Hill reported that:

- Third party licensing goes live on July 1, the Authority is in the process of approving training created by outside parties.
- The Authority continues with the limited availability process. Response on social media is mixed. While many like that allocated products are more accessible to more people, there are some that do not like the process ..
- Chair Everett and Mr. Hill held 11 or 12 meetings with suppliers at the annual NABCA meeting. Supplier challenges are expected to remain through this calendar year.
- Mr. Hill will travel to Kansas to present to NCSLA on regulatory efforts. Mr. Hill will host the regional conference in Richmond in October
- Mr. Hill met with the Governor’s office in early May, they would like to see a monthly briefing. The Authority is working on what would be best to include in this request.

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Old Business

None

Comments from Board

None

Public Comments

None

Meeting Adjournment

At 4:00 pm, with no further business, Chair Maria Everett adjourned the meeting.

