

**CREDIT UNION COMMISSION
MEETING MINUTES
JUNE 20, 2014**

A. CALL TO ORDER - ASCERTAIN A QUORUM – Vice Chairman Rob Kyker declared that a quorum was present and called the meeting to order at 8:00 a.m. in the conference room of the Credit Union Department office, Austin, Texas, pursuant to Chapter 551 of the Government Code. Other members present included Gary Janacek, Sherri Merket, Kay Stewart, and Vik Vad. Chairman Manuel “Manny” Cavazos was absent due to the untimely passing of a family member. John Yoggerst and Gary Tuma were absent due to a scheduling conflict. Assistant Attorney General Nancy Fuller was in attendance to serve as legal counsel. Representing the Department staff were Harold E. Feeney, Commissioner, Daniel J. Buckley, Deputy Commissioner, and Stacey McLarty, Assistant Commissioner and General Counsel. Vice Chairman Kyker appointed Isabel Velasquez as Recording Secretary. The Vice Chair inquired and the Commissioner confirmed that the notice of the meeting was properly posted (**June 9, 2014, TRD#2014004186**). Without objection, the Vice Chair reserved the right to rearrange agenda items as necessary.

❖ **INVITATION FOR PUBLIC INPUT FOR FUTURE CONSIDERATION** – Vice Chairman Kyker invited public input on matters that were not scheduled items on today’s agenda for possible future consideration by the Commission.

- **Jeff Huffman – Vice President, Government Relations, Texas Credit Union Association.** Mr. Huffman indicated that the Association has received an increasing amount of negative feedback from its members regarding the exam process and the time necessary to get approvals from

the Department. He posed several questions and suggested that the Commission may want to consider a future agenda for the staff to provide an overview of the current exam process.

❖ **RECEIVE REQUESTS AND MOTIONS FOR EXCUSED ABSENCES**

– Vice Chairman Kyker inquired if there were any requests or motions to excuse an absence. Mr. Vad moved to excuse the absences of Chairman Cavazos and John Yoggerst. Ms. Merket seconded the motion, and the motion was unanimously adopted.

B. RECEIVE MINUTES OF PREVIOUS MEETING (February 21, 2014)

The Vice Chairman referred the members to the draft minutes contained in the agenda packet. Ms. Stewart moved for approval of the minutes of February 21, 2014 as presented. Ms. Morrow seconded the motion, and the motion was unanimously adopted.

C. COMMUNICATIONS

The Vice Chairman referred members to the correspondence contained in the agenda packet. Commissioner Feeney called attention to the results of the State Office of Risk Management on-site consultation as well as the action plan to deal with the issues identified. In addition, he provided an update on the Higher Education Coordinating Board's progress on its endeavor to obtain video conferencing capabilities. And finally, Mr. Feeney briefly reported on the status of the mandatory SB 1681 training.

Mr. Janacek expressed doubts about the validity of the biennial Report on Customer Service that was included in the agenda packet. He made reference to a groundswell of concerns and specifically noted that he had received numerous

calls from all over the state distressed about issues related to examinations and other Department actions.

Mr. Vad questioned whether the surveys were submitted anonymously and suggested that participation may be curtailed if credit unions are uncomfortable providing criticism for fear of retaliation. He suggested that the Department may want to improve how it communicates that survey responses cannot be traced back to a particular credit union.

Commissioner Feeney indicated that several years ago the Department contracted with a third party to allow the Survey to be completed online to better maintain the confidentiality of respondents. He further noted that anonymity has always been stressed to ensure receipt of candid comments and suggestions but the Department would work to find ways to improve its communications on the matter. No formal action was taken.

D. COMMITTEE REPORTS

Rules Advisory Committee -- Ms. Merket, Committee Vice Chair, reported on the Committee's public meeting held on June 19, 2014. She provided an overview of all Committee recommendations:

(1) Discussion, Consideration, and Possible Vote to Adopt the Proposed Amendments to 7 TAC Section 91.501 Concerning Director Eligibility and Disqualification. Mrs. Merket explained it was the Committee's recommendation that the Commission adopt the proposed amendments to 7 TAC Section 91.501 as previously published in the *Texas Register*. She noted that no written comments were received on the proposal.

(2) Discussion, Consideration, and Possible Vote to Withdraw the Previously Published Proposed Amendments to 7 TAC Section 91.502

Concerning Director/Committee Member Fees, Insurance, Reimbursable Expenses, and Other Authorized Expenditures, and Approve for Republication the Revised Proposed Amendments to 7 TAC Section 91.502.

Mrs. Merket indicated, for clarity and uniformity purposes, it was the recommendation of the Committee that the previously proposed amendments to 7 TAC Section 91.502 be withdrawn and that a revised proposal be approved for republication.

(3) Discussion, Consideration, and Possible Vote to Recommend that the Credit Union Commission Readopt 7 TAC Sections 91.701 (Lending Powers), 91.703 (Interest Rates), 91.705 (Home Improvement Loans), 91.706 (Home Equity Loans), 91.707 (Reverse Mortgages), 91.708 (Real Estate Appraisals or Evaluations), 91.709 (Member Business Loans), 91.710 (Overdraft Protection), 91.711 (Purchase and Sale of Member Loans), 91.712 (Plastic Cards), 91.713 (Indirect Lending), 91.714 (Leasing), 91.715 (Exceptions to the General Lending Policies), 91.716 (Prohibited Fees), 91.717 (More Stringent Restrictions), 91.718 (Charging Off or Setting Up Reserves), 91.719 (Loans to Officials and Senior Management Employees), and 91.720 (Small-Dollar, Short-Term Credit). Mrs. Merket noted it was the recommendation of the Committee that the Commission find the reasons for initially adopting the Rules 91.701 (Lending Powers), 91.703 (Interest Rates), 91.705 (Home Improvement Loans), 91.706 (Home Equity Loans), 91.707 (Reverse Mortgages), 91.708 (Real Estate Appraisals or Evaluations), 91.709 (Member Business Loans), 91.710 (Overdraft Protection), 91.711 (Purchase and Sale of Member Loans), 91.712 (Plastic Cards), 91.713 (Indirect Lending), 91.714 (Leasing), 91.715 (Exceptions to the General Lending Policies), 91.716 (Prohibited Fees), 91.717 (More Stringent Restrictions), 91.718 (Charging Off or Setting Up Reserves), 91.719 (Loans to Officials and Senior Management Employees), and 91.720 (Small-Dollar, Short-Term Credit) continue to exist and that these rules be readopted without change.

(4) Discussion, Consideration, and Possible Vote to Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.704. Mrs. Merket explained it was the recommendation of the Committee that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.704. She noted that the proposed amendments will clarify the maturity limits for certain real estate loans.

(5) Discussion, Consideration, and Possible Vote to Recommend that the Credit Union Commission Approve for Publication and Comment the Proposed Amendments to 7 TAC Sections 153.1 (Definitions), 153.5 (Three Percent Fee Limitation: Section 50(a)(6a)(E), 153.15 (Location of Closing: Section 50(a)(6)(N), and 153.51 (Consumer Disclosure: Section 50g). Mrs. Merket indicated it was the Committee's recommendation that the Commission approve for publication and comment the proposed amendments to 7 TAC Sections 153.1, 153.5, 153.15 and 153.51. She further noted that the proposed amendments implement the Texas Supreme Court's decision in *Finance Commission of Texas v. Norwood*.

(6) Discussion of and Possible Vote to Recommend that the Credit Union Commission Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.209 Concerning Director/Committee Member Fees, Insurance, Reimbursable Expenses, and Other Authorized Expenditures. Mrs. Merket explained it was the Committee's recommendation that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.209. She indicated that the proposed amendments would permit the Department, in lieu of NCUA, to impose penalties against credit unions for failing to meet call report deadlines.

Mrs. Merket then made a motion on behalf of the Rules Committee that the Commission adopt the six recommendations of the Committee. A second was not needed and the motion passed unanimously.

(b) Commissioner Evaluation Committee – Chair Morrow briefly reviewed the procedures that will be used during the Commissioner’s FY 2014 performance review. No formal action was taken by the Commission.

E. UNFINISHED BUSINESS

(a) Discussion and Consideration of the Department’s FY 2014 Budget. Commissioner Feeney reported that in the first nine months operating income totaled \$2,849,856, approximately \$14,000 over budget. He also pointed out that the funds held in Contingency Fund Reserves as of August 31, 2013 were \$186,657 over the established cap. In accordance with Commission policy, he explained that those excess funds were used to balance the budget and reduce the operating fees for credit unions during fiscal year 2014.

During the same nine-month period, he noted that approximately \$2,995,488 was spent operating the Department, which is 93% of the year-to-date budget. Mr. Feeney also reported that there were no cost overruns on the parking lot project and project has been completed.

After a brief discussion, no formal action was taken by the Commission.

(b) Discussion and Consideration of Current Status of the Financial Services Market and the Effect on Credit Unions Regulated by the Department. Deputy Commissioner Buckley reported that overall financial trends are positive as Texas credit unions continue to deal with the challenging economic environment. He noted that the current number of active state-chartered

credit unions was 188, with total aggregate assets of \$31.6 billion. Mr. Buckley also highlighted various ratios and other financial statistics. After a brief discussion, no formal action was taken by the Commission.

F. NEW BUSINESS

(a) Discussion, Consideration, and Possible Vote to Ratify and Approve the Expenditure of Funds to Citibank in the Amount of \$688.12 for Disputed Charges Incurred on one of the Department's Corporate Liability Individual Bill Accounts. Commissioner Feeney noted that a hotel in Waco alleged that property damage was caused on September 27, 2013, due to negligence by an employee of the Department staying at the hotel while conducting a multi-day examination of a credit union on behalf of the Department. Charges for the alleged damage were placed on the Department's Citibank Central Liability Individual Billed Travel Card without authorization. The Department enlisted assistance from the Attorney General's Tort Claims Division and the Comptroller's office to resolve this matter. The hotel eventually reduced the charges to the Department account, maintaining that the Department was responsible for the remaining charges. Although the Department disagreed with the remaining charges, it was determined that paying the claim amount would be less costly than disputing it.

After a short discussion, Mr. Janacek moved that the Commission ratify the May 6, 2014 payment to Citibank in the amount of \$688.12. Ms. Merket seconded the motion and the motion was unanimously adopted.

(b) Discussion, Consideration, and Possible Vote to Approve the Department's Operating Plan and Budget for Fiscal Year 2015.

Commissioner Feeney briefly noted that Section 16.003 of the Finance Code gives the Commission the exclusive responsibility for approving the Department's budget. He reported, in accordance with the budget policies and guidelines approved at the last meeting, a proposed FY 2015 Current Service Level budget of \$3,093,925. In addition, Mr. Feeney explained that consistent with the recently approved strategic plan, the Department was also presenting six new strategic initiatives for consideration. He further noted that each initiative stands on its own merit and the Commission has the discretion to pick and choose among the various initiatives as it deems appropriate.

Vice Chair Kyker opened the floor for comments or questions from the public on the proposed budget.

- **Jeff Huffman – Vice President, Government Relations, Texas Credit Union Association.** Mr. Huffman indicated that the Association that is not opposed to additional funding, staff or new approaches to how the agency fulfills its mandate; however, many of its credit union members have expressed concerns about the trend that the Department is becoming more like NCUA. He suggested that there should be standards and criteria established to monitor effectiveness of these additional resources.

Mr. Vad questioned the size of the budget increase should the entire proposal be adopted. He noted his preference for more graduated increases.

Mr. Janacek noted that he had a number of personnel issues and concerns relative to some of the new strategic initiatives, which might be better discussed in Executive Session.

Vice Chair Kyker conferred with Legal Counsel and announced that the Commission would hold an Executive Session to discuss certain personnel issues related to the Strategic Initiative #4 as provided under Section 551.074 of the Government Code.

G. EXECUTIVE SESSION

Vice Chairman Kyker rearranged the agenda items and called for an Executive Session at 8:57 a.m.

Vice Chairman Kyker reconvened the Open Meeting at 9:56 a.m.

F. NEW BUSINESS (continued)

(b) Discussion, Consideration, and Possible Vote to Approve the Department's Operating Plan and Budget for Fiscal Year 2015.

Vice Chairman Kyker called a brief a recess at 9:56 a.m.

Vice Chairman Kyker reconvened the meeting at 10:03 a.m.

After a lengthy discussion, Mr. Janacek moved that the Commission adopt the proposed Current Service Level Budget with the inclusion of the Strategic Initiatives Number 1, 2, 3, and 6 for a total FY 2015 budget of \$3,411,170. Ms. Stewart seconded the motion and the motion was unanimously adopted.

(c) Discussion of the Chair's Appointments to the Commission's Two Standing Committees (Rules and Commissioner Evaluation). With no objection, Vice Chairman Kyker tabled this item until the next meeting.

H. OTHER BUSINESS

Vice Chair Kyker reminded everyone that the next regular meeting of the Commission has been tentatively scheduled for October 17, 2014 at 8:00 a.m. in Austin.

ADJOURNMENT – There being no further business for the Credit Union Commission, Vice Chairman Kyker adjourned the meeting at 10:14 a.m.

Rob Kyker
Vice-Chair

Isabel Velasquez
Recording Secretary

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