

**CREDIT UNION COMMISSION
MEETING MINUTES
OCTOBER 17, 2014**

A. CALL TO ORDER - ASCERTAIN A QUORUM – Chairman Manuel “Manny” Cavazos declared that a quorum was present and called the meeting to order at 8:08 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, Allyson Morrow, Sherri Merket, Gary Tuma, Kay Stewart, Vik Vad, and John Yoggerst (arrived at 8:15 a.m.). Member Rob Kyker was 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, Robert N. Baxter, Acting Deputy Commissioner, and Stacey McLarty, Assistant Commissioner and General Counsel. Chairman Cavazos appointed Isabel Velasquez as Recording Secretary. The Chair inquired and the Commissioner confirmed that the notice of the meeting was properly posted (**October 7, 2014, TRD#2014007244**). Without objection, the Chair reserved the right to rearrange agenda items as necessary.

❖ **INVITATION FOR PUBLIC INPUT FOR FUTURE CONSIDERATION** – Chairman Cavazos invited public input on matters that were not scheduled items on today’s agenda for possible future consideration by the Commission. No public comments were received.

❖ **RECEIVE REQUESTS AND MOTIONS FOR EXCUSED ABSENCES** – Chairman Cavazos inquired if there were any requests or motions to excuse an absence. Mrs. Merket moved to excuse Rob Kyker from the Commission meeting on October 17, 2014. Mrs. Morrow seconded the motion, and the motion was unanimously adopted.

B. RECEIVE MINUTES OF PREVIOUS MEETING (June 20, 2014)

The Chairman referred the members to the draft minutes contained in the agenda packet. Mr. Janacek moved for approval of the minutes of June 20, 2014 as presented. Mr. Vad seconded the motion, and the motion was unanimously adopted.

C. COMMUNICATIONS

The Chairman referred members to the correspondence contained in the agenda packet. Commissioner Feeney called attention to the Sunset Staff Study on the Self-Directed Semi-Independent Status of State Agencies which has been submitted to the Sunset Advisory Commission. Mr. Feeney reported that the study contains four recommendations: (1) Require the LBB to develop and administer a process to obtain SDSI status and for overseeing SDSI agencies; (2) Expand reporting and monitoring requirements of SDSI agencies; (3) Place all current SDSI agencies under the SDSI Act in the Government Code; and (4) Proposes a moratorium on expanding SDSI status to other agencies during the upcoming session.

He indicated that some of the more substantive changes that could impact the Department are: (1) SDSI agencies would be required to provide standardize budget information to the LBB; (2) the agency's operating plan would be required to cover a period of two fiscal years; (3) Reporting requirements and controls that apply to SDSI agencies would be expanded; (4) the State Auditor would be required to perform a financial and performance audit of each SDSI agency every six years; (5) the submission date for the annual SDSI report would be changing to November 20th; (6) All administrative penalties would be deposited directly into the State's General Fund; and (7) LBB would be given authority to charge a fee for the monitoring and oversight of SDSI agencies.

Chair Cavazos acknowledged Member John Yoggerst's arrival.

Mr. Feeney also provided notice, in accordance with Rule 97.113, that the operating fee assessment was waived for the existing credit union that is in the process of being liquidated and that he partially waived the first installment of the operating fee for the credit union that was recently placed in conservatorship.

D. COMMITTEE REPORTS

Commissioner Evaluation Committee – Allyson Morrow, Chair of the Committee briefly discussed the process and procedures to be used during this year's evaluation of the Commissioner. She further indicated that the actual evaluation would be discussed during the Executive Session.

E. UNFINISHED BUSINESS

(a) Discussion, Consideration, and Possible Vote to Adopt the Proposed Amendments to 7 TAC Section 91.502 Concerning Director/Committee Member Fees, Insurance, Reimbursable Expenses, and Other Authorized Expenditures. Commissioner Feeney indicated that the Commission had previously approved for publication and comment certain proposed amendments to Rule 91.502. No written comments were received. He noted that the amendments clarify that meeting fees which are not excessive may be paid to directors, honorary directors, advisory directors, and committee members. The proposal also requires annual disclosure of meeting fees to the membership and grants enforcement authority to the Department to limit or prohibit excessive meeting fees.

After a short discussion, Mr. Janacek moved that the Commission adopt the proposed amendments to **7 TAC Section 91.502** as previously published in the *Texas Register*. Mrs. Stewart seconded the motion and the motion was unanimously adopted.

(b) Discussion, Consideration, and Possible Vote to Adopt the Proposed Amendments to 7 TAC Section 91.704 Concerning Real Estate Lending. Commissioner Feeney noted that the Commission had previously approved for publication and comment certain proposed amendments to Rule 91.704. No written comments were received. He indicated that the amendments clarify maturity limits for certain real estate loans.

After a brief discussion, Mr. Vad moved that the Commission adopt the proposed amendments to **7 TAC Section 91.704** as previously published in the *Texas Register*. Mr. Tuma seconded the motion and the motion was unanimously adopted.

(c) Discussion, Consideration, and Possible Vote to Adopt 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 50(g)). Commissioner Feeney explained that based on the recent Texas Supreme Court decision the Commission and the Finance Commission had jointly approved for publication and comment certain proposed amendments to 7 TAC Sections 153.1, 153.5, 153.15 and 153.51. One written comment on the proposed amendments was received. He briefly highlighted the proposed amendments and encouraged the Commission to adopt the proposal as published.

After a short discussion, Mrs. Merket moved that subject to the adoption of the same proposed amendments by the Finance Commission that the Commission adopt the proposed amendments to **7 TAC Sections 153.1, 154.5, 153.15 and 153.51** as previously published in the *Texas Register*. Mr. Janacek seconded the motion and the motion was unanimously adopted.

(d) Discussion, Consideration, and Possible Vote to Adopt the Proposed Amendments to 7 TAC Section 91.209 Concerning Call Reports and Other Information Requests. Commissioner Feeney noted that the Commission had previously approved for publication and comment proposed amendments to 7 TAC Section 91.209. No written comments were received. He indicated that the proposed amendments increase the Commissioner's flexibility to assess penalties when a credit union fails to file a timely and accurate quarterly call reports.

After a brief discussion, Mr. Yoggerst moved that the Commission adopt the proposed amendments to **7 TAC 91.209** as previously published in the *Texas Register*. Mrs. Stewart seconded the motion and the motion was unanimously adopted.

(e) Discussion of the Chair's Appointments to the Commission's Two Standing Committees (Rules and Commissioner Evaluation). Chairman Cavazos noted that as stipulated in Commission Policy, the Chair is responsible for appointing members to the two committees established by the Commission. He indicated that the minutes of the meeting should reflect the membership of the Commission's two standing committees will remain unchanged; however, he was rotating the Chair on the Rules Committee and designating a Vice Chair for the Commissioner Evaluation Committee. Accordingly, Committee appointments are as follows:

Rules Committee:

Sherri Merket, Chair
Rob Kyker, Vice Chair
Missy Morrow
Kay Stewart
John Yoggerst

Commissioner Evaluation Committee:

Missy Morrow, Chair
Vik Vad, Vice Chair
Rob Kyker
Sherri Merket
Gary Tuma

(f) Discussion and Consideration of the Department's FY 2014 Financial Results and the FY 2015 Budget. Commissioner Feeney provided an overview of the Department's FY 2014 financial statements, highlighting total revenues and expenditures. There was discussion among members with Mr. Feeney addressing questions.

After a lengthy discussion, it was the consensus of the members that significant budget variances should be itemized in future reports. No formal action was taken by the Commission.

(g) Discussion and Consideration of Current Status of the Financial Services Market and the Effect on Credit Unions Regulated by the Department. Commissioner Feeney highlighted various ratios and other financial statistics from the June 30, 2014 call report cycle. Mr. Feeney pointed out that the Department has a growing concern with some smaller credit unions getting involved in direct auto referral programs with independent dealers. He noted that the Department recognizes the benefits of a well-run loan referral; however an improperly managed or loosely controlled program can quickly lead to unintended risk exposure. He indicated that examiners would be assessing whether credit unions involved with these types of programs have adequately planned for, and are monitoring and controlling the lending activity.

There was discussion among members with Mr. Feeney addressing questions. No formal action was taken by the Commission.

F. NEW BUSINESS

(a) Discussion, Consideration, and Possible Vote to Readopt 7 TAC Part 6, Chapter 95 Relating to Insurance Requirements in its Entirety. Commissioner Feeney noted that Section 2001.39, Government Code, requires

that a state agency review and consider for re-adoption each rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. At its June 2012 meeting, the Commission approved a plan which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff reviewed 7 TAC Part 6, Chapter 95 in its entirety and has recommended that no changes be made at this time. No written comments were received regarding the review.

After a short discussion, Mr. Tuma moved that the Commission find that the reasons for adopting the rules contained in **7 TAC Part 6, Chapter 95** continue to exist and that all of these rules be re-adopted without change. Mrs. Market seconded the motion and the motion was unanimously adopted.

(b) Discussion, Consideration and Possible Vote to Readopt the Department's Equal Employment Workforce Diversity Plan. Commissioner Feeney noted that Section 15.313, Finance Code, requires the Commission to prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity. He indicated the Commission originally approved the Plan back in 1997 and that the Plan covers a 12-month period, and therefore, must be ratified annually. There was discussion among the members with Mr. Feeney addressing questions.

Mrs. Morrow moved that the Commission re-adopt the Department's Equal Employment and Workforce Diversity Plan with the changes as recommended by Staff. Mrs. Stewart seconded the motion and the motion was unanimously adopted.

(c) Discussion of the On-Line Tools Being Used by the Department to Solicit Feedback from Credit Unions and Other Interested Persons. Commissioner Feeney noted that at the June Commission meeting, questions were

raised concerning the methods and procedures used by the Department for obtaining credit union feedback. General Counsel Stacey McLarty provided an overview of the various tools that are available for credit unions to provide feedback. There was discussion among members with Ms. McLarty and Mr. Feeney addressing questions.

Chairman Cavazos opened the floor to the public for discussion.

- ✓ **Ed Zingleman - Texas Dow Employees Credit Union.** Mr. Zingleman expressed concern with the high percentage of credit unions indicating that the report of examination was not easily understood.
- ✓ **Melodie Durst, Executive Director, Credit Union Coalition of Texas.** Mrs. Durst noted that the Coalition's members don't seem to have significant concerns with the Department; however, being able to provide feedback anonymously is considered very important. She inquired if it were possible for Survey Monkey to produce a report directly to the Department without the Department having access to actual individual responses.
- ✓ **Courtland Crouchet – Senior Vice President and Chief Risk Officer – Texas Dow Employees Credit Union –** Mr. Crouchet complimented Ms. McLarty and the Department on the complaint process. He indicated that the process seems to be fair, fast and easy.
- ✓ **Jeff Huffman, Vice President Government Relations, Cornerstone Credit Union League –** Mr. Huffman indicated that the more credit unions and the Department communicate the better the system works for all involved. He suggested that the Commission may want to have a policy to

prevent the Survey Monkey “switches” from being turned on or off to protect credit union anonymity.

No formal action was taken by the Commission.

The Commission took a short recess at 10:10 a.m., and reconvened at 10:17 a.m.

G. EXECUTIVE SESSION -- Mr. Cavazos stated that the Commission would be entering into Executive Session as provided under Section 551.074 of the Government Code, for the purpose of discussing certain personnel issues: (a) The appointment of Robert Baxter as the new Deputy Commissioner and (b) The Commissioner’s Annual Performance Evaluation and FY 2015 Remuneration, Performance Targets and Evaluation Form. The Commission entered into Executive Session at 10:18 a.m. and reconvened in open session at 11:00 a.m.

Chair Cavazos noted that no final action, decision, or vote on matters deliberated during the executive session was made by the members.

H. OTHER BUSINESS. Vote on Matters Discussed in Executive Session:

1. Consideration and Possible Vote to Approve FY 2015 Performance Targets, Remuneration, and Evaluation Form for the Commissioner. Mrs. Morrow made a motion that Commissioner Feeney’s salary be increased by 7% to recognize performance and to make an equity adjustment to bring the salary closer to the current market levels. In addition she moved to maintain the current performance targets and evaluation form for FY 2015. Mr. Janacek seconded the motion and the motion was unanimously adopted.

2. Consideration and Possible Vote to Approve the Appointment of Robert Baxter as the new Deputy Commissioner. Mr. Tuma made a motion to approve Robert N. Baxter as the new Deputy Commissioner. Mr. Yoggerst seconded the motion and the motion was unanimously adopted.

ADJOURNMENT – There being no further business for the Credit Union Commission, Chairman Cavazos adjourned the meeting at 11:05 a.m.

Manuel “Manny” Cavazos
Chair

Isabel Velasquez
Recording Secretary

Distribution:

Legislative Reference Library