

**CREDIT UNION COMMISSION
MEETING MINUTES
JULY 8, 2016**

A. CALL TO ORDER - ASCERTAIN A QUORUM – Vice Chair Allyson “Missy” Morrow called the meeting to order at 9:02 a.m. in the conference room of the Credit Union Department Building, Austin, Texas, pursuant to Chapter 551 of the Government Code. Other members present included Beckie Stockstill Cobb, Yusuf Farran, Steven “Steve” Gilman, Sherri Merket, Kay Stewart, Gary Tuma, and Vik Vad. Commission Chairman Manuel “Manny” Cavazos was absent. Assistant Attorney General Melissa Juarez was in attendance to serve as legal counsel. Representing the Department staff were Harold E. Feeney, Commissioner, Robert E. Etheridge, Deputy Commissioner and Shari Shivers, Assistant Commissioner and General Counsel. Vice Chair Morrow appointed Isabel Velasquez as Recording Secretary. The Vice Chair inquired and the Commissioner confirmed that the notice of the meeting was properly posted (**June 23, 2016, TRD#2016004289**).

❖ **INVITATION FOR PUBLIC INPUT FOR FUTURE CONSIDERATION** – Vice Chair Morrow 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**
– Vice Chair Morrow inquired if there were any requests or motions to excuse an absence. Mr. Vad moved to excuse Commission Chairman Manuel “Manny” Cavazos from the Commission meeting on July 8, 2016. Mr. Tuma seconded the motion, and the motion was unanimously adopted.

- ❖ **B. RECEIVE MINUTES OF PREVIOUS MEETING (March 4, 2016).** The Vice Chair referred the members to the draft minutes contained in the agenda packet. Mr. Gilman moved for approval of the minutes of March 4, 2016 as presented. Mrs. Cobb seconded the motion, and the motion was unanimously adopted.

C. COMMUNICATIONS

The Vice Chair referred members to the correspondence contained in the agenda packet. Commissioner Feeney noted that the state auditors will continue work onsite until the first part in August and we should have a final report by the end of October. Mr. Feeney also called attention to the correspondence concerning Texans Credit Union being released from federal conservatorship. He also pointed out that the success in reaching this milestone was in large part due to the support and dedication of NCUA Regional Director Keith Morton, the agent for the conservator.

D. COMMITTEE REPORTS

Rules Advisory Committee -- Mr. Vad, Rules Committee Chairman, reported on the Committee's public meeting held on July 7, 2016. He explained that the Committee had seven recommendations for consideration by the Commission.

(1) Discussion, Consideration and Possible Vote to Recommend that the Credit Union Commission Take Action to Adopt Amendments to 7 TAC Section 91.301 Concerning Field of Membership. Mr. Vad noted the Commission approved for publication and comment in the Texas Register the proposed amendments to Rule 91.301. Four written comments were received in regards to the proposed amendments. Two commenters opposed the amendments.

Of the two entities favoring the amendments, one had objections to various aspects of the proposal.

(2) Discussion, Consideration and Possible Vote to Recommend that the Credit Union Commission Take Action to Adopt Amendments to 7 TAC Section 97.200 Concerning the Employee Training Program. Mr. Vad explained that the Commission approved at its March meeting for publication and comment the proposed amendments to 7 TAC Section 97.200. No comments were received in regards to the proposed amendments.

(3) Discussion, Consideration and Possible Vote to Recommend that the Credit Union Commission Take Action on the Completed Rule Review of 7 TAC Subchapter P, Section 91.7000 Concerning Certificates of Indebtedness and Subchapter Q, Section 91.8000. Mr. Vad noted that in accordance with the Commission's Rule Review Plan, the committee reviewed 7 TAC Subchapter P, Section 91.7000 and Subchapter Q, Section 91.8000. No comments were received regarding the review.

(4) Discussion, Consideration and Possible Vote to Recommend that the Credit Union Commission Take Action on the Completed Rule Review of 7 TAC, Part 8, Chapter 151 (relating to Home Equity Lending Procedures); Chapter 152 (related to Repair, Renovation, and New Construction on Homestead Property; and Chapter 153 (relating to Home Equity Lending). Mr. Vad reported that the notice of the review was published in the *Texas Register* and the Department received one comment in response to that notice. After the Committee's review, there are certain revisions that are appropriate and necessary in Chapter 153 and those proposed amendments will be handled in the next agenda item.

(5) Discussion, Consideration and Possible Vote to Recommend that the Credit Union Commission Take Action on the Proposal and Publication for Comment on Amendments to 7 TAC, Part 8, Chapter 153 Concerning

Home Equity Lending from Rule Review. Mr. Vad reported that the Committee considered some proposed amendments to 7 TAC, Part 8, Chapter 153. The proposed amendments relate to consumer disclosures, the types of lenders authorized to make home equity loans, and other technical corrections.

(6) Discussion of and Possible Vote to Approve the Department's 2017-2020 Rule Review Plan as Required by Section 2001.039, Government Code. Mr. Vad reported that each state agency is required to develop a 4 year plan under which the agency will review all of its existing rules to comply with the provisions of Section 2001.039 of the Government Code.

Mr. Vad moved, on behalf of the Rules Committee, that the Commission approve the Committee's six recommendations. Coming on a motion of a standing committee, a second was not needed and the motion passed unanimously.

(7) Discussion, Consideration and Possible Vote to Recommend that the Credit Union Commission Take Action on the Proposal and Publication for Comment to 7 TAC Section 91.709 Concerning Member Business Loans. And finally, Mr. Vad pointed out that the committee had no formal recommendations on some potential amendments to 7 TAC Section 91.709, however, the Committee encouraged the Commission to take up and consider for publication and comment a newly revised proposal developed by staff. He asked the Commissioner to explain the proposal.

Commissioner Feeney reported that NCUA has recently adopted a final rule intended to modernize its member business loan rule (12 C.F.R. Part 723) to provide federally insured credit unions with greater flexibility and autonomy to provide commercial and business loans to their members. He noted that NCUA's final rule amends the regulatory requirements pertaining to credit union

commercial lending activities by replacing the current “prescriptive requirements” with a broad “principles-based” regulatory approach. Mr. Feeney noted that states, such as Texas, which currently have exemptions from the existing 12 C.F.R. Part 723, were “grandfathered” in the final rule. As a result, without action by the Commission, 7 TAC Section 91.709 will continue to require state chartered credit unions to comply with the extensive regulatory thresholds and limits and will place them at a competitive disadvantage to federally chartered credit unions when offering commercial and business loans to their members. He explained that the proposal before the Commission would provide credit unions parity, under Section 123.003 of the Texas Finance Code, with federal credit unions engaged in the business of making member business loans in Texas. Mr. Feeney explained that in keeping with NCUA’s “no less restrictive” requirement to obtain an exemption from the new 12 C.F.R. Part 723, the proposal closely tracks the provisions of NCUA’s final rule and removes the current credit union requirements for collateral and security, equity, loans limits, and waiver processes, and replaces them with broad principles intended to permit credit unions to govern safe and sound member business lending as part of their commercial lending program. He pointed out that under the proposal credit unions would be required to maintain and update written policies concerning the maximum amount of assets, credit underwriting standards, loan approval standards, loan monitoring standards and loan documentation standards. Credit unions would also be required to have qualified staff and commercial loan risk management systems. In addition, he indicated that the proposal contains prohibitions on certain types of commercial loans and contains an aggregate member business loan limits. And finally, he noted that implementation of the proposal would be delayed until January 1, 2017 to coincide with the effective date of NCUA’s new 12 C.F.R. Part 723.

After review and discussion, Mrs. Merket moved that the Commission approve for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 91.709 as recommended by staff. Mrs. Stewart seconded the motion and the motion was unanimously adopted.

(b) The Commissioner Evaluation Committee – Mrs. Merket, Commissioner Evaluation Committee Chair, reported on the Committee’s public meeting held on July 7, 2016. She explained that the Committee had one recommendation for consideration by the Commission and that she would briefly highlight the procedures to be utilized in evaluating the Commissioner’s FY 2016 performance.

1) Discussion, Consideration and Possible Vote to Recommend that the Credit Union Commission Take Action to Approve the Commissioner’s FY 2017 Performance Objectives and Goals. Mrs. Merket reported that it was the Committee determination that the 2016 Performance Objectives were still appropriate, with the exception of two objectives. She noted the Committee felt that the Production Objective related to the mailing of examination reports should be modified to allow the Department “21” days to complete and mail the reports instead of the current “20” days. She also indicated that it was suggested that the Administration Objective related to the minimum number of job fairs the Department attends should be reduced from “4” to “2”.

Mrs. Merket moved, on behalf of the Commissioner Evaluation Committee, that the Commission adopt the existing performance objectives with the noted amendments for FY 2017. Coming on a motion of a standing committee, a second was not needed and the motion passed unanimously.

2) Discussion and Consideration of the Procedures to be Utilized in the Commissioner's FY 2016 Performance Review. Mrs. Merket briefly highlighted the procedures to be used as part of the Commissioner's performance review. No formal action was taken by the Commission.

E. UNFINISHED BUSINESS

(a) Discussion and Consideration of the Department's FY 2016 Financial Performance. Commissioner Feeney reported that during the first nine months of FY 2016 operating income totaled \$3,261,423, which was \$6,896 more than budgeted amount. He also noted that the contingency fund reserves as of August 31, 2015 were over the established cap by \$411,754 and that those excess funds had been used to reduce the operating fees collected from credit unions during the fiscal year. In addition, he indicated that during the same nine month period \$2,520,000 was spent operating the Department, which is \$173,000 less than the amount budgeted for the period. 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. Commissioner Feeney noted that the business environment has become a little more difficult for Texas credit unions amid weak oil prices, challenging institutions that have heightened energy sector exposure. He indicated that, in general, revenue growth continues to be held back by narrow interest margins and many institutions are reaching for yield. Mr. Feeney explained that credit risk and interest rate risk are matters of ongoing supervisory attention.

After a brief discussion of some of the key financial trends, no formal action was taken by the Commission.

(c) Discussion, Consideration, and Possible Vote to Take Action to Prohibit the Carrying of Handguns and Other Weapons at any Meeting of the Commission that is Subject to the Open Meetings Act under TEX. GOV'T CODE Chapter 551. Mr. Feeney reported that at the last meeting, the Commission tabled discussion related to the Commission's Second Amendment Weapons Policy. He encouraged the Commission to take the motion off the table and consider amending the policy to be consistent with the weapons policy that is being used by the Office of the Governor.

After a brief discussion, Mrs. Stewart moved that the Commission approve the proposed changes to its Second Amendment Weapons Policy as recommended by staff. Mr. Farran seconded the motion and the motion was unanimously adopted.

F. NEW BUSINESS

(a) Discussion, Consideration, and Possible Vote to Take Action to Approve Both the Department's Operating Plan and Budget for Fiscal Year 2017. Commissioner Feeney reported that Section 16.003 of the Finance Code gives the Commission the exclusive responsibility for approving the Department's budget. He noted that in accordance with the budget policies and guidelines approved at the Commission's last meeting, staff was presenting for consideration a proposed FY 2017 Current Service Level budget of \$3,645,281. In addition, Mr. Feeney explained that in accordance with the FY 2017-2021 Strategic Plan, staff also encourages consideration of three new initiatives and a

replacement/capital improvement plan. He provided a brief explanation of the exceptional items:

- **Initiative #1 -- Equity adjustment for FEI and FEII (\$69,157).** Mr. Feeney explained that the Department's compensation program must be externally competitive in order to attract and reward qualified individuals. He noted that it was important for the Department to address the current inequities with the salaries being paid by the Department to its Financial Examiner I and II with those being paid by other state agencies. He indicated that the Department currently pays approximately \$5,000 less than what some state agencies pay equivalent positions.
- **Initiative #2 -- Merit Increase Pool (\$74,704).** Commissioner Feeney indicated that rewarding performance is a key for this agency. He noted that merit increases helps the Department differentiate between the performances of high and low performing staff members.
- **Initiative #3 -- Increase Examination Force (\$86,675).** Commissioner Feeney explained that the Department needed to devote additional resources to mentoring and supporting newly hired field examiners to ensure they obtain the skills and experiences necessary to fulfil the Department's supervisory responsibilities. He indicated, with 66% of examination force having less than 2 years' experience, there was a critical need for more mentoring and coaching of these short tenured staff. Mr. Feeney pointed out that existing staffing level necessitate that most of the supervisors time is currently spent performing exams.

- **Replacement/Capital Improvement Plan (\$59,577).** Commissioner Feeney noted that the plan includes replacing the buildings carpeting and HVAC, and provides funding to hire a consultant to assist the Department in determining how best to integrate the Department's database with its new electronic document repository.

Mr. Feeney reiterated that each exceptional item stood on its own merit and the Commission had the discretion to pick and choose as it deems appropriate but he encourage the Commission to approve the \$3,935,394 budget and authorize 29.5 FTEs. He also noted that the fees that will be collected under the existing rule would be sufficient to cover the total proposal.

Mr. Tuma indicated that he found the data presented in the agenda packet to be very interesting and pointed out some of the statistics.

Mr. Gilman question if the Department was looking at remote analytics for determining risk profiles of credit unions to reduce need to have examiners onsite in the future. Mr. Feeney explained that the Department was very interested in making better use of technology and, in fact, had begun a program two years ago to perform more work offsite, however, it has initially met with some resistance. He also explained that NCUA Region IV was about to begin a pilot project on remote access which the Department will have the opportunity to participate in.

Mr. Vad indicated that the Commission had increased the Department's budget substantially over the last few years and he questioned in light of the current political and economic environment whether there might be some adverse consequences in approving the recommended budget. Mr. Feeney acknowledged that some may view a budget increase negatively, but if the Commission viewed

the request as reasonable and prudent, it would be a justifiably exercise of the Commission's authority to approve it.

After a lengthy discussion, Mr. Farran moved that the Commission approve the proposed FY 2017 Operating Plan and Budget, with a total budget of \$3,935,394 and 29.5 FTEs. Mrs. Stewart seconded the motion and the motion was unanimously adopted.

Mr. Feeney referred the Commission to the FY 2017 Operating Plan and more particular to the performance measure related to the percentage of credit unions to receive an annual examination. He noted that the credit union industry has been pushing to lengthen the interval between exams and indicated that this measure restricts the Department ability to extend the interval. Mr. Feeney suggested that a reduction in the percentage of required annual examination would afford the Department some flexibility to length the interval between examinations for some credit unions that have demonstrated safe and sound operations. There was discussion among the members and the Commissioner addressed questions.

Mr. Tuma moved that the Commission adjust the performance measure in the FY 2017 Operating Plan relative to the percentage of credit unions receiving annual examination from 87.5% to 80%. Mrs. Merket seconded the motion and the motion was unanimously adopted.

(b) Next Commission Meeting – Vice Chair Morrow reminded everyone that the next regular meeting of the Commission has been tentatively scheduled for November 4, 2016 at 9:00 a.m. in Austin.

ADJOURNMENT – There being no further business for the Credit Union Commission, Vice Chair Morrow adjourned the meeting at 9:56 a.m.

Manuel “Manny” Cavazos
Chairman

Isabel Velasquez
Recording Secretary

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