

CREDIT UNION COMMISSION MEETING MINUTES
Credit Union Department Building
914 East Anderson Lane, Austin, Texas
March 11, 2022

A. CALL TO ORDER -- Chair Yusuf Farran 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, and declared that a quorum was present. Other members present included, Liz Bayless, Karyn Brownlee, Beckie Stockstill Cobb, Steve Gilman, Sherri Merket, Jim Minge, David Shurtz and Kay Swan. The Chair introduced general counsel Nancy Elmilady, who will serve as legal counsel for the commission at this meeting. Representing the Department staff were John J. Kolhoff, Commissioner, Robert Etheridge, Deputy Commissioner, and Joel Arevalo, Director of Information and Technology. Chair Farran appointed Isabel Velasquez as Recording Secretary. The Chair inquired and the Commissioner confirmed that the notice of the meeting was properly posted with the Secretary of State (**February 24, 2022 TRD#2022001230**).

❖ **GENERAL PUBLIC COMMENT** -- Chair Farran invited public input on matters that were not scheduled items on the agenda for possible future consideration by the Commission. No public comments were received.

B. MINUTES OF PREVIOUS MEETING (November 5, 2021) -- The Chair referred the members to the draft minutes of the previous meeting included in the agenda packet and asked for any proposed edits. Hearing none, the chair asked for a motion to approve the minutes. Mrs. Cobb moved for approval of the minutes of November 5, 2021 as presented. Mrs. Merket seconded the motion, and the commission carried the motion unanimously.

C. DEPARTMENT'S FY 2022 BUDGET and FINANCIAL PERFORMANCE – Commissioner Kolhoff reported that in 2020 the Commission

adopted a strategic plan for Fiscal Years 2021-2025. The \$4.8 million FY 2022 budget approved by the Commission in June 2021 includes the maintenance and operating and capital improvement budget in support of the Strategic Plan. At the end of the five months, total expenditures were \$1.515 million or approximately 23% less than budgeted projections of \$1.977 million. Almost all lines performed below budgeted levels apart from other expenditures for FY 2022. Mr. Kolhoff further reported that the expenditures relate primarily to payment of services at the beginning of the year such as insurance costs, state services such as SWCAP, SORM, and TFC costs. Mr. Kolhoff reported that the unspent funds from the FY 2022 budget predominately represents travel related savings as a result of the pandemic's impact and personnel savings due to vacancies.

After a brief discussion, the Commission took no action.

D. DEPARTMENT'S GENERAL BUDGET ASSUMPTIONS AND PARAMETERS – Commissioner Kolhoff explained that the Finance Code, Section 16.0003 gives the Commission the responsibility for approving the Department's budget each year. Since the budget must be adopted at the June meeting, staff is seeking approval of the guidelines for developing the FY 2023 budget. Furthermore, Mr. Kolhoff reported there is a new item to the assumptions "Legal Research Tools" which allows our general counsel to subscribe to the appropriate services and perform her case searches.

After a brief discussion, Mr. Gilman moved that the Commission adopt the proposed budget assumptions and parameters for FY 2023 as recommended by staff. Mr. Minge seconded the motion and the motion was unanimously adopted.

E. APPROVE AND AUTHORIZE THE SUBMISSION OF THE DEPARTMENT'S STRATEGIC PLAN FOR FISCAL YEARS 2023-2027. Commissioner Kolhoff reported that Section 2056.002 of the Government Code

requires that every two years each agency must submit a formal strategic plan that covers a prescribed 5-year horizon (FY 2023-2027). Mr. Kolhoff further reported that this plan summarizes our analysis of the internal and external environment impacting credit unions and the Department and provides goals and objectives for the next five years. Mr. Kolhoff noted that the guidelines are similar to previous plans and outlined the importance of four strategic goals for 2023-2027 are to:

- Ensure a safe and sound state credit union system in Texas;
- Provide a flexible regulatory framework that enables credit unions to provide a full competitive array of financial services;
- Safeguard the interest of credit union members; and
- Develop a professional and motivated staff that provides quality service to the citizens of Texas and supports achievement of the Department's statutory mission.

Commission member Gilman commented that it was obvious a lot of work went into this document and appreciated the work of the Commissioner and his staff. The vision and focus on future and particularly support in the concept of utilizing technology as the risk ratings of credit unions in the state of Texas, but the commitment to development of staff and having the best examiners possible, doing their job on behalf of state credit unions.

After a short discussion, Mr. Shurtz moved that the Commission approve the proposed Fiscal Year 2023-2027 Strategic Plan and authorize its submission in the format dictated by the Governor and the LBB. Mrs. Brownlee seconded the motion and the motion was unanimously adopted.

F. REVIEW THE RESULTS OF THE EMPLOYEE ENGAGEMENT SURVEY. Commissioner Kolhoff reported that the survey reviews Department employees' viewpoints over 12 constructs including: Workgroup, Strategic,

Supervision, Workplace, Community, Information Systems, Internal Communication, Pay, Benefits, Employee Development, Job Satisfaction and Employee Engagement. Our response rate rose 1.3% to 69.2% of total employees. Overall, the survey indicated employees' responses are complimentary of the Department and have improved from the previous survey. There were only two "issue" constructs with a score below 400 that were identified but improved from the last survey. Those constructs were Pay and Job Satisfaction. Furthermore, Mr. Kolhoff noted that he held interviews with both office and the examination staff and asked their impressions of what the survey results meant to them and what options are available for us to try to make the Department a great place to work.

After concerns addressed by the Chair, a lengthy discussion occurred, and positive comments from various Commission members, the Commission took no action.

G. DISCUSSION, CONSIDERATION, AND POSSIBLE VOTE TO TAKE ACTION TO APPROVE PROPOSED AMENDMENTS TO THE COMMISSION'S POLICY MANUAL, AS PART OF ITS ANNUAL POLICY REVIEW, TO (1) REVISE THE WEAPONS POLICY, (2) THE LEGAL COUNSEL, SECTION XIV, AND (3) TO MAKE FORMATTING CHANGES.

Commissioner Kolhoff reported that the following amendments to the Commission's Policy Manual are recommended by the Department to address recent changes in the law regarding open carry of handguns as reflected by HB 1927, revising the Legal Counsel Section XIV to include a description of the General Counsel's representation and updating language regarding representation from the Attorney General's Office of Texas; and formatting changes throughout the manual.

Chairman Farran stated that the Commission would be entering into Executive Session as provided under Section 551.071(2) of the Government Code. The Commission entered into Executive Session at 9:33 a.m., and reconvened in open

session at 10:00 a.m. Chairman Farran noted that no formal action was taken by the Commission during the closed session.

Ms. Bayless made a motion that the record reflect that the Commission reviewed the Commission Policy Manual and approved the proposed changes as recommended. Mr. Shurtz seconded the motion, and the motion was unanimously adopted.

H. STATE CREDIT UNION SYSTEM – Deputy Commissioner Etheridge briefly indicated the Texas economy continues to rebound from the impact of the COVID-19 pandemic. The unemployment rate for Texas declined to 5.0% at month-end December 2021, down from 6.5% six months earlier. Overall, the financial performance of Texas credit unions was excellent during 2021. Capital strength for the Texas industry was good, with earnings and asset quality performance ratios reaching their strongest levels over the last seven years. The strong financial performance continues to perform well and the industry for Texas charters remains safe and sound. Earnings performance data for Texas credit unions reflects that strong net income performance is strengthening net worth ratios. While the outlook for the Texas industry appears positive, it remains imperative for the credit unions to adapt to the ever-changing economic trends (i.e. inflation, etc.) and political implications (i.e. local, national and worldwide) to safeguard the financial interests of millions of Texans.

After a brief discussion, the commission took no action.

I. (1) AUDIT COMMITTEE REPORT – Commissioner Kolhoff reported that as part of the Sunset Review process, a recommendation was made asking the Department to initiate an internal audit program that exceeds statutory requirements for an Agency of the Department's size and nature. The Department and the Commission agreed to implement a program and formed an Audit Committee. The

Audit Committee has been working with the Commissioner to initiate the required procurement process. Thereafter, the Department solicited bids for qualified Respondents and subsequently received bids from Respondents for review of the Department's requirements and qualifications posted in the solicitation.

Chairman Farran stated that the Commission would be entering into Executive Session as provided under Section 551.071(2) of the Government Code for the purposes of consultation and advice of counsel for legal matters subject to attorney-client privilege. The Commission entered into Executive Session at 10:14 a.m., and reconvened in open session at 10:27 a.m. Chairman Farran noted that no formal action was taken by the Commission during the closed session.

Mr. Farran moved that the Commission approve the proposed action of not awarding an Internal Auditing Services Contract for the published RFQ and to repost the solicitation at a future date with a goal of posting by December 31, 2022. The motion was unanimously adopted.

(2) DEPARTMENT'S ANNUAL RISK ASSESSMENT REPORT FOR FY 2022 AS REQUIRED BY SECTION 2102.004, GOVERNMENT CODE. Commissioner Kolhoff reported that Section 2102.013 of the Texas Government Code requires state agencies which meet certain requirements to conduct a formal risk assessment each year and submit the assessment to the State Auditor's Office. The Department has completed the internal risk review and has prepared the required written assessment of the risks for submission to the State Auditor's Office.

Mr. Farran moved that the Commission approve the Department's Internal Risk Assessment Report for FY 2022 and authorize its submission to the State Auditor's Office. The motion was unanimously adopted.

J. COMMISSIONER EVALUATION COMMITTEE REPORT – Chair Brownlee reported that on January 27 in a public meeting the Commissioner Evaluation Committee met to discuss and consider the FY 2022 commissioner performance evaluation process and performance measures. The committee revised the evaluation process for FY 2022 and drafted goals pending approval by the Commission. In summary, after the close of the fiscal year, each commission member will be required to complete an evaluation form and the commissioner will be required to submit a self-evaluation and an annual reporting of the Department’s performance measures to the Commission. The Commissioner’s final evaluation for FY 2022 will be completed at the November Commission meeting. At that time, the commissioner’s goal and performance measures for FY 2023 will also be finalized because this is a personnel issue. Furthermore, Mrs. Brownlee stated that any discussion required by Commission members be held in executive session.

Chairman Farran stated that the Commission would be entering into Executive Session as provided under Section 551.074(a)(1) for the purpose of discussing certain personnel issues related to the Commissioner’s Annual Performance. The Commission entered into Executive Session at 10:36 a.m., and reconvened in open session at 11:22 a.m. Chairman Farran noted that no formal action was taken by the Commission during the closed session.

Mr. Farran moved that the Commission approve the adoption of the FY 2022 commissioner’s evaluation process and the performance measures as recommended by the commissioner’s evaluation committee. The motion was unanimously adopted.

K. MANDATORY RULE REVIEW

(1) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter G (Lending Powers), and Re-adoption of Rules. Commissioner Kolhoff reported that Section 2001.039, Government Code, requires that a state

agency review and consider for readoption 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 February 2020 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 has reviewed **7 TAC, Part 6, Chapter 91, Subchapter G (Lending Powers)**, and is recommending that one change be made.

After a short discussion, Mr. Gilman moved that the Commission find that the reasons for adopting **7 TAC, Part 6, Chapter 91, Subchapter G (Lending Powers)** continue to exist and readopt these rules. Mrs. Merket seconded the motion, and the commission carried the motion unanimously.

(2) Adoption of Proposed Amendments to 7 TAC, Part 6, Chapter 91, Section 91.720 (Small-Dollar, Short-Term Credit). Commissioner Kolhoff noted that the purpose of the proposed amendments is to adjust for inflation the maximum lending limit related to these loan products and to foster competitive authority to similar products allowed federal credit unions. The proposed amendments to paragraph (b) increases the defined maximum for small-dollar, short-term credit loans to \$2,000 and extended maximum maturity to 12 months.

- ✓ **Suzanne Yashewski – Associated General Counsel, Texas Credit Union Association (Cornerstone Credit Union League).** Ms. Yashewski briefly noted being in favor of the proposed changes to the small dollar, short-term lending rule. Talks with the Texas state working group who requested some additional regulatory flexibility in the area. The mission of the Texas Credit Union Association is to serve the underserved. Always looking for ways to try to pull people away from the payday lenders who, do not give them the same level of service as we do, and pull them into our credit union movement. Finally, more flexibility in this area is much needed so it is much appreciated the consideration on this rule.

- ✓ **Melodie Durst, Executive Director, Credit Union Coalition of Texas.**
Mrs. Durst stated the Coalition agrees with Ms. Yashewski's comments and are in support of the changes.

After a brief discussion, Mrs. Brownlee moved that the Commission adopt the proposed amendments to rule **7 TAC Section 91.720** concerning Small-Dollar, Short-Term Credit. Mr. Minge seconded the motion, and the commission carried the motion unanimously.

(3) Proposed Amendments to 7 TAC, Part 8, Chapter 153 (Home Equity Lending). Commissioner Kolhoff reported that the interpretations are administered by the Joint Financial Regulatory Agencies, consisting of the Texas Department of Banking, Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, and Texas Credit Union Department. The purposes of the proposed rule changes to 7 TAC Chapter 153 are to amend the definition of "business day" and to make technical corrections.

After a short discussion, Mr. Shurtz moved that the Commission approve for publication and comment the amendments to **7 TAC, Part 8, Chapter 153** concerning Home Equity Lending. Mrs. Cobb seconded the motion, and the commission carried the motion unanimously.

I. LITIGATION UPDATE REGARDING PENDING LITIGATION.

General Counsel Elmilady provided a brief synopsis regarding a Public Information Act (PIA) request related to certain confidential information that the Department believes is confidential under the Finance Code and the Public Information Act. In response to that PIA request, the Department sent a request for letter ruling to the Office of the Attorney General, Open Records Division. The ruling response from the Attorney General's Office noting two reasons why the information should be disclosed. In order for the Department to maintain confidentiality and to appeal the

letter ruling, a lawsuit had to be filed against the Attorney General's Office asking the Court to rule that the information at issue in the Letter Ruling is not subject to disclosure under the Texas Public Information Act. Furthermore, on January 20, 2022, West Texas Credit Union filed a Petition in Intervention to the underlying suit, and on January 21, 2022, the Office of the Attorney General filed its Original Answer. Subsequent to these filings, on February 23, 2022, counsels for all Parties entered into a Rule 11 Agreement regarding Initial Disclosures, agreeing that no initial disclosures are due in this case until the Parties agree on a future deadline.

After a brief discussion, the commission took no action.

M. Future Commission Meetings: Agenda Items, Arrangements, and Dates.

Commission Member Minge requested the Commissioner pursue a special meeting if possible. The commission took no action. Chair Farran reminded everyone that the next regular meeting of the Commission has been tentatively scheduled for June 10, 2022 at 9:00 a.m., in Austin.

ADJOURNMENT – There being no further business for the Credit Union Commission, Chair Farran adjourned the meeting at 11:30 a.m.

Yusuf E. Farran
Chairman

Isabel Velasquez
Recording Secretary

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