

MINUTES OF THE
FINANCE COMMISSION MEETING

Friday, October 18, 2013

The Finance Commission of Texas met Friday, October 18, 2013, in the Finance Commission Building, William F. Aldridge Hearing Room, 2601 North Lamar Boulevard, Austin, Texas.

Members in attendance:

Paul Plunket, Finance Commission Vice Chairman
Susan Burton, Finance Commission Member
Victor Leal, Finance Commission Member (left at 11:00 a.m.)
Stacy London, Finance Commission Member
Will Lucas, Finance Commission Member
Cindy Lyons, Finance Commission Member
Lori McCool, Finance Commission Member
Jonathan Newton, Finance Commission Member
Larry Patton, Finance Commission Member
Jay Shands, Finance Commission Member

Others in attendance:

Doug Foster, Executive Director to the Finance Commission and Commissioner, Texas Department of Savings and Mortgage Lending (SML)
Charles Cooper, Commissioner, Texas Department of Banking (DOB)
Leslie Pettijohn, Commissioner, Office of Consumer Credit Commissioner (OCCC)
Laurie Hobbs, Assistant General Counsel, (OCCC)
Rudy Aguilar, Director of Consumer Protection, (OCCC)
Stephanie Newberg, Deputy Commissioner, (DOB)
Kaylene Ray, General Counsel, (DOB)
Wendy Rodriguez, Director of Strategic Support, (DOB)
George Noelke, Assistant Attorney General, Office of the Attorney General (OAG)

Finance Commission Vice Chairman Paul Plunket announced a quorum with ten members present and called the meeting to order at 9:13 a.m.

Discussion of and Possible Vote to Excuse the Absence of a Commission Member.

Stacy London made a motion to excuse Bill White from the Finance Commission meeting held on October 18, 2013. Cindy Lyons seconded and the motion was adopted.

Finance Commission Matters:

General Public Comment.

No public comments were received.

Consent Agenda.

Victor Leal made a motion that the Finance Commission approve consent agenda items A1; B2-3; C2-7. Susan Burton seconded and the motion was adopted. (A copy of the consent agenda is attached).

Finance Commission Operations – Legislative Issues; Testimonies and Correspondence; and Agency Complaints.

Doug Foster, Executive Director to the Finance Commission, discussed the schedule change for the upcoming December meeting. This meeting will be held one week earlier on December 13, 2013. There was discussion among members to also move the April and December 2014, meetings one week earlier. Commissioner Foster stated the Finance Commission 2014 meeting schedule will be updated and posted on the website.

Discussion of and Possible Vote to Accept the Report on the Financial Condition of the State Banking System. (NOTE: Report provided separately.)

Director Wendy Rodriquez gave an overview of the September 2013 Texas State Banking System report. She noted numerous new regulatory mandates and standards with the banking system still showing strong growth and improvements. There was discussion among members with Commissioner Cooper and Director Rodriquez addressing the questions.

Stacy London made a motion to accept the *Report of the Financial Condition of the State Banking System*. Jonathan Newton seconded and the motion was adopted.

Audit Committee Report

Committee Chair Lyons reported on the Audit Committee meeting held on October 18, 2013.

Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' August 31, 2013, Investment Officer Reports.

Committee Chair Lyons made a recommendation on behalf of the Audit Committee that the Finance Commission approve the agencies' August 31, 2013, Investment Officer Reports. A second was not needed and the motion carried.

Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' Fourth Quarter Financial Statements.

Committee Chair Lyons made a recommendation on behalf of the Audit Committee that the Finance Commission approve the agencies' Fourth Quarter Financial Statements. A second was not needed and the motion carried.

Jonathan Newton commented on the agencies' budget variances and the large amount of remaining cash balances that had been reported.

Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Texas Financial Education Endowment Fund.

There was discussion with no vote on the agenda item.

Discussion of and Possible Vote to Take Action on the Accomplishment Reports for Fiscal Year 2013 for the Commissioners of the Office of Consumer Credit Commissioner, Texas Department of Banking, and Department of Savings and Mortgage Lending.

Commissioners Pettijohn, Cooper, and Foster each provided a general overview of the material contained within each of their accomplishment reports.

Jay Shands made a motion to Accept the Accomplishments Reports for Fiscal Year 2013 for the Commissioners of the Office of Consumer Credit Commissioner, Texas Department of Banking, and Department of Savings and Mortgage Lending. Stacy London seconded and the motion was adopted.

Vice Chairman Plunket acknowledged Mr. George Noelke would be attending the meeting in place of Mr. Jim Crowson, and representing the Office of the Attorney General.

Office of Consumer Credit Commissioner

Industry Status and Departmental Operations:

Commissioner Pettijohn summarized the Agency's consumer protection activities and highlighted the fiscal year end data in examination staffing, noting gains and losses within this area. She commented on the examination production that had increased by 16%. Overall, the Agency accomplished 92.3% of the examination projection, despite significant, complicating factors. The Agency continues to prioritize the examination process for CABs, motor vehicle sales finance, and property tax lenders.

The Commissioner continued with the success of the Agency's annual examiner meeting and training, which was held in September in Marble Falls, Texas. She commended Mr. Rudy Aguilar and his staff for all the positive feedback received after the conference.

She continued with a discussion of the Agency's current documentary fee process noting the substantial number of filings. The acceptable level of compliance report was also highlighted in the motor vehicle sales finance and property tax areas. There was discussion among members with Commissioner Pettijohn and Rudy Aguilar addressing the questions.

Commissioner Pettijohn provided an overview of the motor vehicle sales finance report noting a continued increase in new licensed dealerships. There was discussion among members with Commissioner Pettijohn addressing the questions.

Vice Chairman Plunket commended and congratulated the Commissioner and her staff for their effort in providing information to improve compliance in the motor vehicle sales financing area. He also commended the stakeholder and trade associations for their participation and input.

The Commissioner provided an overview of the Agency's complaints within the CAB area and noted the largest category still reported is within the motor vehicle sales finance area.

She continued by highlighting the complaints and issues pertaining to credit card surcharges and noted the legislative requirements and enforcement changes.

Commissioner Pettijohn summarized the licensing report with notable trends and significant improvement in the Agency's processing time for license applications.

The Commissioner provided an overview and progress report of the Agency's information technology project, the licensing and registration self-service web-based portal. The new name for the project is Application, Licensing, Examination, Compliance System (ALECS). The Industry Advisory Workgroup has continued to meet and advise the agency regarding industry's anticipated use of the new system. There was discussion among members with Commissioner Pettijohn addressing the questions.

She continued with the Agency's executive summary report, highlighting the staffing and employee data, including available hiring opportunities. She discussed the Agency's success at their annual staff conference held September 17-18, 2013, in Austin, Texas. There was discussion among members regarding staffing and salary adjustments for financial examiners with Commissioner Pettijohn addressing the questions.

The Commissioner concluded her discussion by providing an overview of the legal report and highlighting the Agency's enforcement actions.

Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC §89.207, Concerning Files and Records Required, and New §§89.801 - 89.804, Concerning Payoff Statements, for Property Tax Lenders.

Laurie Hobbs provided an overview of the proposed rule. There was discussion among members with Laurie Hobbs and Commissioner Pettijohn addressing the questions.

Stacy London made a motion to approve the Adoption of Amendments to 7 TAC §89.207, Concerning Files and Records Required, and New §§89.801 - 89.804, Concerning Payoff Statements, for Property Tax Lenders. Cindy Lyons seconded and the motion was adopted.

Discussion of and Possible Vote to Take Action on the Adoption of the Completed Rule Review of 7 TAC, Part 5, Chapter 88, Concerning Consumer Debt Management Services.

Laurie Hobbs provided an overview of the proposed rule. There was discussion among members with Laurie Hobbs and Commissioner Pettijohn addressing the questions.

Susan Burton made a motion to approve the Adoption of the Completed Rule Review of 7 TAC, Part 5, Chapter 88, Concerning Consumer Debt Management Services. Larry Patton seconded and the motion was adopted.

Discussion of and Possible Vote to Take Action on the Publication for Comment of Amendments to 7 TAC, Chapter 88, Concerning Consumer Debt Management Services.

Laurie Hobbs provided an overview of the proposed rule. There was discussion among members with Laurie Hobbs and Commissioner Pettijohn addressing the questions.

Stacy London made a motion to approve the Publication for Comment of Amendments to 7 TAC, Chapter 88, Concerning Consumer Debt Management Services. Will Lucas seconded and the motion was adopted.

Department of Banking

Industry Status and Department Operations:

Commissioner Cooper summarized the CAMEL ratings noting the total number of banks is now 283, continuing to decline primarily due to bank consolidations. Problem banks have been reduced to 20, and this continues to be a positive trend within the banking industry.

The Commissioner provided an overview of the banking administrative actions and their compliance with examination priorities. He commented that past due bank examinations were zero at year end.

He discussed the Agency's CSBS accreditation review and process. He continued by acknowledging the hard work of staff to prepare for the review. The Department awaits the final report.

Commissioner Cooper commented on the CSBS District IV Meeting and Community Banking Conference held in St. Louis, Missouri. This was a national community banking research and policy conference that focused on the challenges and opportunities facing the 21st century community banking industry.

The Commissioner reported on the failure of The First National Bank of Edinburg on September 11, 2013. This was a three billion dollar national bank and one of the larger bank failures in Texas, with the assets being acquired by a Texas state bank.

The Commissioner discussed the corporate activities and detailed the applications for mergers and conversions. There are currently four pending applications to convert from a national bank charter to a state bank charter.

He continued with an overview of the special audit and division activities report. The annual MTRA conference was held September 23, 2013, in New Orleans, Louisiana, with Deputy Commissioner Newberg being elected as the new President of the organization.

Commissioner Cooper further reported on the Agency's staffing and employee data. The Commissioner and Deputy Commissioner Newberg commented on the budgeted number of employees and office personnel.

He continued by detailing the summary of strategic support activities and the complaints area. Most of the complaints still remain due to ATM issues.

Commissioner Cooper continued with an overview of the Bank Examination Testing System (BETS), detailing the activity chart and report. He also discussed the financial literacy program and the process to provide vital information and available curriculum to state-chartered banks.

Stacy London commended the Commissioner and Agency for the additional and illustrated information.

Kaylene Ray concluded the discussion by providing an update on the legal division report.

Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of New 7 TAC §§24.1, 24.2, 24.3, Concerning Cemetery Brokers.

Kaylene Ray provided an overview of the proposed rule.

Stacy London made a motion to approve the Proposal and Publication for Comment of New 7 TAC §§24.1, 24.2, 24.3, Concerning Cemetery Brokers. Jay Shands seconded and the motion was adopted.

Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Repeal of 7 TAC §33.21, Concerning Money Services Business License Renewal, and Amendments to 7 TAC §§3.36, 15.2, 15.3, 17.22, 17.23, 21.2, and 33.27, Concerning Fees Pertaining to Banks, Trust Companies, and Money Services Businesses, more specifically:

- (a) **Amendments to 7 TAC §3.36, Concerning Specialty Examination and Investigation Fees for Banks;**
- (b) **Amendments to 7 TAC §15.2 and §15.3, Concerning Bank Filing Fees and Cost Deposits, and Expedited Filings;**
- (c) **Amendments to 7 TAC §17.22 and §17.23, Concerning Trust Company Examination and Investigation Fees, and Call Reports;**
- (d) **Amendments to 7 TAC §21.2, Concerning Trust Company Filing and Investigation Fees; and**
- (e) **Repeal of 7 TAC §33.21, Concerning Money Services Business License Renewal, and Amendments to 7 TAC §33.27, Concerning Fees to Get and Maintain a Money Services Business License.**

Mr. Kelly Goulart, with the Independent Bankers Association of Texas, was a witness in favor of the proposed amendment to the rule but did not give public testimony.

Kaylene Ray provided an overview of the proposed rule. There was discussion among members with Commissioner Cooper and Deputy Commissioner Newberg addressing the questions.

Larry Patton made a motion to approve the Proposal and Publication for Comment of Repeal of 7 TAC §33.21, Concerning Money Services Business License Renewal, and Amendments to 7 TAC §§3.36, 15.2, 15.3, 17.22, 17.23, 21.2, and 33.27, Concerning Fees Pertaining to Banks, Trust Companies, and Money Services Businesses. Susan Burton seconded and the motion was adopted.

Department of Savings and Mortgage Lending

Industry Status and Departmental Operations:

Commissioner Foster provided an overview of the Agency's executive summary report while highlighting the improvements within the CAMELS ratings.

The Commissioner further reported on the FDIC Interest Rate Risk Initiative. This project will identify excess exposure to interest rate risk insured depositories. He continued by reporting that none of the Texas state savings banks were listed as at risk institutions.

Commissioner Foster continued with an update of the residential mortgage loan originators activity report. The consolidation of six individual licenses into one was almost complete. As of October 1, 2013, the three hours of newly adopted Texas specific education and the uniform state test are in effect.

He commented on the aggregate mortgage call report data and the enforcement activity process regarding the filing of the reports.

Commissioner Foster summarized the mortgage examinations report and noted the number of examinations being higher this fiscal year, while the number of licensees examined decreased due to the current cycle including primarily smaller operations.

The Commissioner provided an overview of the significant volume in consumer complaints commenting that one-half are related to mortgage loan servicing.

He continued with an update of the Mortgage Industry Advisory Committee meeting held on October 2, 2013. The Department will hold a Mortgage Industry Day, scheduled in conjunction with the Texas Mortgage Banker Association's Education Seminar, November 12, 2013, in Dallas. The license application and renewal fees structure was also presented to the advisory committee.

The Commissioner concluded his discussion with an overview of the current mortgage licensee population and growth. There have been 452 new license applications received in September, being the first time in over 26 months that the Agency received below 500 applications.

Stacy London commended the Agency for their work, and the appreciation for the upcoming Mortgage Industry Day meeting.

Discussion and Possible Vote to Take Action on the Publication for Comment on Proposed Amendments to 7 TAC §53.1 Establishment and Operation of Additional Offices; 7 TAC §53.2 Types of Additional Offices; and 7 TAC §53.5 Loan Offices and Administrative Offices.

Commissioner Foster provided an overview of the proposed rule.

Stacy London made a motion to approve the Publication for Comment on Proposed Amendments to 7 TAC §53.1 Establishment and Operation of Additional Offices; 7 TAC §53.2 Types of Additional Offices; and 7 TAC §53.5 Loan Offices and Administrative Offices. Jay Shands seconded and the motion was adopted.

Discussion of and Possible Vote to Take Action on the Publication for Comment on Proposed Amendments to 7 TAC §75.31 Establishment and Operation of Additional Offices; §75.32 Types of Additional Offices; and 7 TAC §75.34 Loan Offices and Administrative Offices.

Commissioner Foster provided an overview of the proposed rule.

Susan Burton made a motion to approve the Publication for Comment on Proposed Amendments to 7 TAC §75.31 Establishment and Operation of Additional Offices; §75.32 Types of Additional Offices; and 7 TAC §75.34 Loan Offices and Administrative Offices. Stacy London seconded and the motion was adopted.

Discussion of and Possible Vote to Take Action on the Publication for Comment on Proposed Amendments to 7 TAC §77.73 Investment in Banking Premises and Other Real Estate Owned.

Commissioner Foster provided an overview of the proposed rule.

Jay Shands made a motion to approve the Publication for Comment on Proposed Amendments to 7 TAC §77.73 Investment in Banking Premises and Other Real Estate Owned. Larry Patton seconded and the motion was adopted.

Finance Commission Matters (Continued)

Vice Chairman Plunket called for an Executive Session at 11:43 a.m.

Vice Chairman Plunket reconvened the Open Meeting of the Finance Commission at 1:11 p.m.

Discussion of and Possible Action Regarding Facility Planning and Real Property Matters Pursuant to Section 551.072, Texas Government Code: Deliberations Regarding the Purchase, Exchange, Lease or Value of Real Property.

There was discussion with no vote on the agenda item.

Discussion of and Possible Action Regarding Anticipated and Pending Litigation Pursuant to Section 551.071, Texas Government Code, for the purpose of seeking the advice or attorney-client privileged communications from our attorneys regarding pending and contemplated litigation.

There was discussion with no vote on the agenda item.

Discussion of and Possible Action Regarding Personnel Matters Pursuant to Section 551.074, Texas Government Code: Deliberations with Respect to the Duties of a Person Holding the Position of Executive Director of the Finance Commission, Deliberations with Respect to the Duties of Persons Holding the Position of Agency Commissioner Positions, and Other Staff.

Discussion of and Possible Vote to Take Action on the Annual Evaluations of the Commissioners of the Office of Consumer Credit Commissioner, Texas Department of Banking, and Department of Savings and Mortgage Lending.

Vice Chairman Plunket made a motion that the Finance Commission approve the annual base salaries, for the three agency commissioners, effective October 1, 2013, as follows:

Texas Department of Banking Commissioner: \$225,000

Texas Department of Savings and Mortgage Lending Commissioner: \$191,250

Office of Consumer Credit Commissioner: \$190,000

Jay Shands seconded and the motion was adopted.

There being no further business, Commission Vice Chairman Paul Plunket adjourned the meeting of the Finance Commission at 1:13 p.m.

Paul Plunket, Vice Chairman
Finance Commission of Texas

Doug Foster, Executive Director of the
Finance Commission of Texas

Tammy King Wooten, Executive Assistant
Finance Commission of Texas