

MINUTES OF THE FINANCE COMMISSION MEETING

FRIDAY, JUNE 20, 2014

The Finance Commission of Texas met Friday, June 20, 2014, in the Finance Commission Building, William F. Aldridge Hearing Room, 2601 North Lamar Boulevard, Austin, Texas.

Finance Commission Members in attendance:

Bill White, Chairman
Paul Plunket, Vice Chairman
Susan Burton
Stacy London
Will Lucas
Lori McCool
Larry Patton
Jay Shands
Cindy Lyons
Victor Leal

Others in attendance:

Charles G. Cooper, Executive Director of the Texas Finance Commission, and
Commissioner, Texas Department of Banking (TXDOB)
Caroline Jones, Commissioner, Texas Department of Savings and Mortgage Lending (TDSML)
Leslie Pettijohn, Commissioner, Office of Consumer Credit Commissioner (OCCC)

Finance Commission Chairman Bill White announced a quorum with 10 members present and called the meeting to order at 9:01 a.m.

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

Bill White made a motion to excuse Jonathan Newton from the Finance Commission meeting held on June 20, 2014. Paul Plunket seconded and the motion was adopted.

Finance Commission Matters:

General Public Comment.

None.

Chairman Bill White acknowledged Commissioner Cooper as the new Executive Director of the Finance Commission, and announced that Commissioner Cooper had also been elected as Vice Chair to the Conference of State Bank Supervisors (CSBS) Board of Directors. Chairman Bill White also congratulated Caroline Jones as newly appointed Texas Savings and Mortgage Lending Commissioner. Commissioner Pettijohn introduced Mr. Juan Garcia as the new Director of Strategic Communications, Administration and Planning at the Office of Consumer Credit Commissioner.

Consent Agenda.

Chairman Bill White made one correction to the Consent Agenda by removing Item A6 which is an action item for proposal and publication and is open for comment.

Susan Burton made a motion that the Finance Commission approve Consent Agenda items A1, B2, and D2. Stacy London seconded and the motion was adopted. (A copy of the consent agenda is attached).

Finance Commission Operations:

Commissioner Cooper reported that the three agencies have submitted their Quarterly Updates to the Senate Business and Commerce Committee as well as the Report on Interim Charges to the House Investment and Financial Services (IFS) Committee. The House IFS Committee conducted a hearing on May 21, 2014 and testimony was given by the three commissioners.

The agencies will hold a public budget hearing on July 31, 2014, to receive comments on the draft 2015 budgets. Additionally, the Audit Committee will meet that day to interview potential internal auditors for FY 2015. The Sunset Commission has requested the participation of the three agencies in a survey they are conducting regarding self-directed semi-independent (SDSI) concept. The SDSI Survey is general in nature and the commissioners will work together to prepare a common theme and response for their respective agency. Concluding the report on Finance Commission operations, Commissioner Cooper invited all Finance Commission members to a demonstration of the proposed automated travel/expense reporting program for use by the members.

Chairman Bill White requested that Stacy London continue her work on the review of current guidelines related to relocation expenses of new hires, and to work with the Study Committee to make recommendations on the general process of hiring to address potential and future needs of the agencies. Stacy London commented that her recent discussions with the Search Committee uncovered certain roadblocks that the current statute may have created by limiting qualified candidates from consideration.

Strategic Planning Committee Report

Committee Chair Stacy London introduced the first recommendation by providing an overview of the agencies' strategic planning processes. She introduced the liaisons assigned from the Finance Commission to each agency and detailed their involvement in meetings, calls, edits to drafts, commentary provided and the review of final drafts of their assigned agency. She also noted that the layout of the Strategic Plan is unique to each agency, but the appendices are fairly standardized among the three agencies. She recognized the three agencies for achieving an overall rating of Outstanding on the University of Texas Employment Engagement Survey. She thanked the three commissioners, the Committee liaisons and the agency points of contact for their hard work. Each of the Committee liaisons complimented the respective agency for a job well done.

Discussion of and Possible Vote Taking Action on the Finance Commission Agencies' 2015 – 2019 Strategic Plans.

Committee Chair Stacy London reported to the Finance Commission that the Strategic Planning Committee recommended approval of the Finance Commission Agencies' 2015-2019 Strategic Plans. Coming upon recommendation from the Committee, no second was needed and it passed unanimously.

Discussion of the 2015-2019 Strategic Plan of the Texas Finance Commission.

Committee Chair Stacy London reported that the drafting process of the 2015-2019 Strategic Plan of the Texas Finance Commission is underway. Commissioner Cooper as Executive Director of the Finance Commission will be managing the process in cooperation with Commissioners Pettijohn and Jones. Commissioner Cooper stated that the draft will be ready by July 15, 2014, for review by the members of the Strategic Planning Committee and will be presented at the August Finance Commission meeting for approval.

Finance Commission Matters (Continued)

Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC, Part 8, Joint Financial Regulatory Agencies, §153.1, §153.5, §153.15, and §153.51, Concerning Home Equity Lending.

Commissioner Pettijohn presented an explanation of amendments to the Home Equity Interpretations that implement the Supreme Court decision regarding Texas Finance Commission vs. Norwood. She then summarized the process leading up to the amendments. The Texas Credit Union Commission voted to approve these same amendments for publication and comment contingent upon approval of the Texas

Finance Commission. Each of the four key amendments were reviewed which are: 1) to modify the definition of interest; 2) specify the per diem interest is interest and not subject to the 3% limitation; 3) specify that legitimate discount points are interest and not subject to the 3% limitation; and 4) specify that any power of attorney to execute the closing documents must be signed at the office of the lender, attorney or the title company. Commissioner Pettijohn stated that the adoption of the amendments will be proposed at the October Finance Commission meeting. There was no further discussion.

Cindy Lyons made a motion that the Finance Commission approve the proposal and publication for comment of Amendments to 7 TAC, Part 8, Joint Financial Regulatory Agencies, §153.1, §153.5, §153.15, and §153.51, Concerning Home Equity Lending. Stacy London seconded and the motion was adopted.

DEPARTMENT OF BANKING

Industry Status and Departmental Operations

Commissioner Cooper reported that the total number of state-chartered banks is declining primarily due to consolidation; however, total assets continue to increase. The number of problem banks is down to 14 and continues to decline. He then reported on the number of delinquent examinations as of May 31, 2014, and the upcoming examination schedule for those. He also notified the Commission that the 2nd Annual Community Bank Forum will be held in September 2014 jointly with CSBS and The Federal Reserve in St. Louis, Missouri. In preparation of the Community Bank Forum, Texas banks as well as banks across the country completed a survey in May, and the Department has conducted five town hall meetings with Texas community bankers to discuss the survey results and other issues. The Texas Department of Savings and Mortgage Lending and state savings banks also attended the Town Hall Meetings.

Commissioner Cooper reviewed the Corporate Activities and Special Audits Division Reports. Deputy Commissioner Stephanie Newberg responded to Paul Plunket on common themes identified at the Southwest Border Anti-Money Laundering Alliance Conference in Tempe, Arizona, which she attended along with two other staff members. She stated that the next step is to develop a more effective method of communication regarding the sharing of licensing information between the border states and the federal regulators in Mexico.

Commissioner Cooper reported that the Department has 14 job vacancies. Three IT Specialists positions are being filled in order to focus more on cybersecurity issues. He also provided a breakdown on employee turnover which includes three field examiners who left to work at the Federal Reserve.

Department of Banking General Counsel Catherine Reyer reported that the Commissioner issued a Final Order on the matter of Gonzalez Funeral Home on May 22 and it became final on June 10; a hearing has been set for July 10 for Palms Memorial Gardens and a motion has been filed for a partial summary judgment; and a permit has been issued to Pendergrass-Peoples Mortuary Inc. and Legal will dismiss the hearing.

Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC §15.4, Concerning Corporate Activities-Required Information and Abandoned Filings; 7 TAC §21.4, Concerning Trust Company Corporate Activities-Required Information and Abandoned Filings; and 7 TAC §33.13, Concerning How to Obtain a New Money Services Business License.

Catherine Reyer presented an overview explaining that although each of the rules apply to a different type of entity or licensee, the three amendment proposals have a common theme which is to eliminate specific time frames that applicants have to complete an application and grants the Commissioner authority to grant additional time, if needed.

Larry Patton made a motion that the Finance Commission approve the proposal and publication for comment of Amendments to 7 TAC §15.4, Concerning Corporate Activities-Required Information and Abandoned Filings; 7 TAC §21.4, Concerning Trust Company Corporate Activities-Required Information

and Abandoned Filings; and 7 TAC §33.13, Concerning How to Obtain a New Money Services Business License. Jay Shands seconded and the motion was adopted.

Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC §33.27, Concerning Fees to Get and Maintain a Money Services Business License.

Department of Banking Senior Counsel Everette Jobe presented the rule proposal explaining that the examination process of money services business licensees has become more complex and, therefore, additional examiners are needed. The current assessment schedule was then distributed to Finance Commission members. Mr. Jobe discussed the impact of the fee increase on micro business, small business and other business. The proposal was sent to industry stakeholders and no comments were received. A lengthy discussion followed with emphasis on gross revenue collected under the current fee schedule. Paul Plunket asked that this agenda item be tabled to allow the agency to get information on historical revenue assessments. Victor Leal commented that having the ability to collect the proposed fees, and retaining the ability to abate is pro-active and supports the mission statement of the Commission. He also noted that the agencies' Strategic Plans reflect and support the need to retain, hire and train examination staff.

Chairman Bill White announced a break of the open meeting of the Finance Commission at 9:57 am. Chairman Bill White reconvened the open meeting of the Finance Commission at 10:18 am.

Chairman Bill White announced that the agenda item above will be moved to the end of meeting so that Russell Reese, Director of Special Audits, and Deputy Commissioner Stephanie Newberg may have time to collect the information requested by Paul Plunket.

Department of Savings and Mortgage Lending

Industry Status and Departmental Operations:

Commissioner Caroline Jones reported on the Industry Status of state savings banks with a focus on overall strength of capital and profitability.

Commissioner Jones invited Commission members to attend the Department's 7th Annual Thrift Industry Day August 14, 2014, at the Texas State Capitol and provided agendas to them.

Commissioner Jones provided a summary of the residential mortgage loan originators and mortgage examinations activity reports. She reported an increase to 62% of the consumer complaints related to loan servicing compared to 46% in the prior fiscal year. The Department expects a spike in enforcement activity related to the failure to file quarterly mortgage call reports. Assessed penalties for non-compliance will be \$100 for the first failure and \$250 for each thereafter which was recommended by the Mortgage Industry Advisory Committee.

Commissioner Jones reported that the General Counsel position has been filled by Ernest Garcia. Mr. Garcia currently serves as Assistant U.S. Attorney, Houston, Texas, and starts with the Department on July 28, 2014. She also congratulated Steven O'Shields on his election as Parliamentarian of the Texas State Agency Business Administrators Association.

Office of Consumer Credit Commissioner

Industry Status and Departmental Operations

Commissioner Pettijohn re-introduced Juan Garcia. She also announced the retirement of General Counsel Sealy Hutchings effective August 31, 2014. Mr. Hutchings served as General Counsel at the Department for 19 years.

Commissioner Pettijohn reported that she testified at the House Business and Industry Committee on May 27, 2014, on the property tax lien issue and property tax transfers. Her written testimony was provided previously to Commission Members.

Commissioner Pettijohn provided a summary of Consumer Protection Activities noting a surge in credit access business activity which remains under the projected examination goal due to the training of new examiners. She then reported no significant change in the level of compliance.

Commissioner Pettijohn summarized the Complaints Processed report noting a significant decrease in motor vehicle sales finance complaints.

Commissioner Pettijohn continued with an update of the Licensing Report which reflects growth in the number of licensed regulated lenders and motor vehicle sales finance. There is a fairly significant increase in registered creditors which is reflective of wireless companies offering installment financing of hardware. She also announced that assessments are being discounted approximately 60% for pawn shop and motor vehicle sales finance licensees due to growth in the industry and penalties received. A discussion followed on the need to attract, hire and retain qualified staff.

Commissioner Pettijohn and Rudy Aguilar responded to questions from Members on average fees charged for a pay day loan. The discussion then moved to price discovery and how to make the information readily available and transparent to consumers which dovetails with educating the consumers on how to find the information.

Commissioner Pettijohn presented geographic information on loan volume and refinances by metropolitan statistical area. She discussed the challenge of sharing information to policy makers while protecting the proprietary nature of the information. She advised the Commission that the OCCC has received a legislative request for confidential data by municipality and county levels for jurisdictions that have 100,000 or more in population. Municipal data cannot be pulled due to boundary lines changing; however, county data can be pulled. She is working with Legislative Council to provide the requested information under a Confidentiality Agreement. Paul Plunket encouraged the Department to look for a middle ground in the spirit of cooperation, while maintaining a balance of disclosure restrictions of proprietary data. Chairman Bill White advised that a consistent standard among similar requests for access to sensitive information should be followed, unless there is a statutory requirement restricting it.

Commissioner Pettijohn provided highlights of the Administration Report and updated the Commission on the Information Technology-Legacy Modernization project. She also summarized activities of the Crafted Precious Metals Dealer Stakeholder focus group.

Commissioner Pettijohn updated Members on Enforcement Actions and spoke specifically about the litigation concerning Consumer Service Alliance of Texas, Inc. v. City of Dallas. Sealy Hutchings responded to concerns raised by Paul Plunket regarding the precedence set by this litigation on future dealings involving the Commission's jurisdiction. A general discussion among the Members followed.

Commissioner Pettijohn reported page 5-53 in the meeting packet relating to a rule adoption did not get posted to the Open Meetings Agenda and, therefore, will be presented at the August meeting.

DEPARTMENT OF BANKING (Continued)

Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC §33.27, Concerning Fees to Get and Maintain a Money Services Business License.

Stephanie Newberg reported that gross revenue collected under the current fee schedule was \$896,000 in FY2009 and gradually increased through 2014 which is projected to total \$1,044,000 through fiscal year-

end 2014. She also noted a 12% increase in the number of licensees during this same time frame from 125 to 140.

Paul Plunket made a motion that the Finance Commission approve the proposal and publication for comment of Amendments to 7 TAC §33.27, Concerning Fees to Get and Maintain a Money Services Business License. Susan Burton seconded and the motion was adopted.

There being no further business, Commission Chairman Bill White adjourned the meeting of the Finance Commission at 11:27 a.m.

Bill White, Chairman
Finance Commission of Texas

Charles G. Cooper, Executive Director of the
Finance Commission of Texas

Cathey Richards, Executive Assistant to the
Finance Commission of Texas