

**MINUTES OF THE  
FINANCE COMMISSION MEETING  
Friday, August 15, 2014**

The Finance Commission of Texas met Friday, August 15, 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  
Will Lucas  
Lori McCool  
Jay Shands  
Cindy Lyons  
Jonathan Newton

**Finance Commission Members Absent:**

Stacy London  
Victor Leal  
Larry Patton

**Others in attendance:**

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

Finance Commission Chairman Bill White announced a quorum with eight members present and called the meeting to order at 9:00 a.m.

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

Bill White made a motion to excuse Stacy London, Victor Leal and Larry Patton from the Finance Commission meeting held on August 15, 2014. There were no objections and the motion passed unanimously.

**Finance Commission Matters:**

**General Public Comment.**

None

**Consent Agenda.**

Lori McCool made a motion that the Finance Commission adopt the consent agenda items A1; A2; C2; D2; and D3. Cindy Lyons seconded and the motion was adopted.

## **Finance Commission Operations**

Commissioner Cooper reported that on July 31, 2014, a public budget hearing was held by the three finance agencies with Commission Members Lori McCool and Stacy London attending.

## **AUDIT COMMITTEE REPORT**

### **Audit Committee Review of Agencies' Activities.**

#### **Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' Annual Internal Audit Reports as Prepared and Presented by Garza/Gonzalez and Associates.**

Audit Committee Chair Lyons reported that the Audit Committee recommended approval of the Finance Commission Agencies' Annual Internal Audit Reports as prepared and presented by Garza/Gonzalez and Associates. Coming upon recommendation from the Audit Committee, no second was needed and it passed unanimously.

#### **Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' May 31, 2014, Investment Officer Reports.**

Audit Committee Chair Lyons reported that the Audit Committee recommended approval of the Finance Commission Agencies' May 31, 2014, Investment Officer Reports. Coming upon recommendation from the Committee, no second was needed and it passed unanimously.

#### **Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Revisions to the Investment Policies for Funds Under the Oversight of The Finance Commission.**

Audit Committee Chair Lyons reported that the Audit Committee recommended approval of the revisions to the Investment Policies for Funds Under the Oversight of the Finance Commission. Coming upon recommendation from the Committee, no second was needed and it passed unanimously.

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

Audit Committee Chair Lyons reported that the Audit Committee recommended approval of the Agencies' Third Quarter Financial Statements. Coming upon recommendation from the Committee, no second was needed and the motion passed unanimously.

#### **Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' Fiscal Year 2015 Operating Budgets.**

Audit Committee Chair Lyons opened the discussion of the agencies' FY2015 operating budgets. Commission Member Jonathan Newton expressed several concerns over the combined total of \$14 million of cash on hand of the three finance agencies. Commissioner Cooper discussed the agencies desire to be located on the Capitol Complex and await the finalization of the master plan for the Complex. Concurrently, the agencies are still looking for suitable space in Austin. Due to increasing construction costs and the increase in real estate values in the Austin area, the agencies believe the current building cash reserves will be necessary when a move is finalized.

Audit Committee Chair Cindy Lyons reported that the Audit Committee recommended approval of the Agencies' FY2015 Operating Budgets. Coming upon recommendation from the Committee, no second was needed and the motion passed unanimously.

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

Commissioner Pettijohn provided a brief comment on the fund’s activity. No further action was taken.

**Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Selection of an Internal Auditor for the Finance Commission Agencies for Fiscal Year 2015.**

Audit Committee Chair Lyons reported that the Audit Committee recommended that the Finance Commission approve the selection of Garza/Gonzales & Associates as the internal auditor for the Finance Commission agencies for FY2015. Coming upon recommendation from the Audit Committee, no second is needed and the motion passed unanimously.

**Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the 2015-2019 Strategic Plan of the Texas Finance Commission.**

Chairman White read the Summary Written Report from Stacy London, Chair of the Strategic Planning Committee, who was not able to attend the meeting. Committee Chair Stacy London wrote that the planning process was the same as prior years and the Finance Commission’s Strategic Plan was a culmination of information from the agency plans. Coming on recommendation from the Strategic Planning Committee, no second is needed and the motion passed unanimously.

**Discussion of and Possible Vote to Take Action on the Agency Priorities for Fiscal Year 2015 for the Commissioners of the Texas Savings and Mortgage Lending Department, the Office of Consumer Credit Commissioner, and the Texas Department of Banking.**

***Texas Department of Savings and Mortgage Lending***

Commissioner Caroline Jones reviewed the FY2015 agency priorities with special emphasis on legislative priorities, resolution time on consumer complaints, and external communication through speaking engagements.

***Office of Consumer Credit Commissioner***

Commissioner Leslie Pettijohn provided a high-level summary of FY2015 agency priorities with emphasis on regulatory activities of motor vehicle sales finance and CAB examination, the Finance Education Endowment, and staff development. She also stated that Phase 2 of ALECS (online licensing portal) will be a priority for FY2015.

***Texas Department of Banking***

Commissioner Charles Cooper provided a high-level summary of FY2015 agency priorities with emphasis on a new priority related to Cybersecurity. The continuing priority to find a new physical location for the Finance Commission agencies remains. He stated that his overriding and continuing goal is for the Texas Department of Banking to be considered one of the best in the country by our regulated industries and other regulatory agencies.

Jonathan Newton made a motion to approve the Agency Priorities for FY2015 for the Commissioners of the Texas Savings and Mortgage Lending Department, the Office of Consumer Credit Commissioner, and the Texas Department of Banking. Lori McCool seconded and the motion passed.

**Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of New 7 TAC §5.101, Concerning Finance Agency Employees Training and Education Assistance Programs.**

Catherine Reyer, General Counsel of the Texas Department of Banking, summarized the purpose of the proposed rule that was developed on behalf of the three finance agencies. She further reported that, if approved, each agency will develop their own education programs and draft individual education policies.

Jay Shands made a motion to approve the proposal and publication for comment of *New 7 TAC §5.101, Concerning Finance Agency Employees Training and Education Assistance Programs*. Susan Burton seconded and the motion passed.

*Chairman White announced a break of the Finance Commission meeting at 9:36 a.m.*

*Chairman White reconvened the Finance Commission meeting at 9:50 a.m.*

**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.**

No discussion

**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.**

No discussion

**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.**

No discussion

**Department of Savings and Mortgage Lending**

**Industry Status and Departmental Operations – State Savings Bank Activity: a) Industry Status; b) State Savings Bank Charter and Application Activity; c) Wholesale Savings & Loan Charter and Application Activity; d) Recap of Problem Institutions/Enforcement Issues; and e) Other Items.**

Commissioner Jones provided highlights of each written report. There was no further discussion.

**Industry Status and Departmental Operations – Mortgage Lending Activity: a) Residential Mortgage Loan Originators; b) Mortgage Examination; c) Consumer Complaints/Legal Activity; d) Mortgage Industry Advisory Committee Minutes; and e) Other Items. (Same as above)**

Commissioner Jones provided highlights of each written report. There was no further discussion.

**Fiscal/Operations Activity: a) Funding Status/Audits/Financial Reporting; b) Staffing; and c) Other Items.**

Commissioner Jones provided a summary of the written reports. There was no further discussion.

**Discussion of and Possible Action Regarding Anticipated and Pending Litigation.**

No discussion.

*Khosrow Khani v. Texas SML*; Cause No. D-1-GN-13-000207, 200<sup>th</sup> Judicial District Court of Travis County, Texas.

## Office of Consumer Credit Commissioner

**Industry Status and Departmental Operations: a) Consumer Protection; b) Consumer Assistance; c) Licensing; d) Credit Education; e) Financial and Administration; f) Legal Activity; and g) Legislative Activity.**

Commissioner Pettijohn provided highlights of the written reports. She introduced a new chart relating to licensing which provides members with a rolling 12-month trend among each of the regulated industries.

Matt Nance, OCCC Assistant General Counsel, provided the update on Legal Activity. He reported that the three finance agencies would be working concurrently with the Texas Credit Union Department to develop for adoption the proposed amendments to home equity lending which implements the Texas Supreme Court's decision in *Finance Commission of Texas v. Norwood*. One comment was received and is under consideration.

Mr. Nance then reported on the Advisory Bulletins issued by the OCCC relating to pawnshops and motorcycle dealers. He also gave a progress report on the Consent Order which was entered into with ACE Cash Express and the Consumer Financial Protection Bureau regarding settlement penalties and restitution.

Commissioner Pettijohn expressed her appreciation to Sealy Hutchings, OCCC General Counsel, who is retiring on August 31. She thanked him for his many contributions and accomplishments over the years, and wished him the best in his future endeavors.

### **Discussion of and Possible Action Regarding Anticipated and Pending Litigation.**

*Lynn Rowell d/b/a Beaumont Greenery, MPC Data and Communications, Inc., Micah Cooksey, NXT Properties, Inc., Mark Harken, Montgomery Chandler, Inc., Paula Cook, Townsley Designs, LLC, and Shonda Townsley v. Greg Abbott, in his official capacity as Attorney General of the State of Texas and Leslie L. Pettijohn, in her official capacity as Commissioner of the Office of Consumer Credit Commissioner of the State of Texas; Cause No. 1:14-cv-00190-LY, in the United States District Court, Western District of Texas, Austin Division.*

Matt Nance updated Commission Members on the *Rowell v. Abbott* case related to surcharge litigation.

## Department of Banking

**Industry Status and Departmental Operations: a) Items of Interest from the Commissioner's Office; b) Bank and Trust Division Activities; c) Corporate Division Activities; d) Special Audits Division Activities; e) Fiscal Division Activities; f) Strategic Support Division Activities; g) Legal Division Activities; h) Legislative Activity; and i) General Items of Interest.**

Commissioner Cooper provided highlights of the written division reports. He provided additional commentary to the Department's involvement with the FFIEC Cybersecurity Risk Assessment Initiative recognizing the Department's IT Director, Phillip Hinkle, who is prominently involved with the FFIEC Cybersecurity & Critical Infrastructure Working Group (CCIWG). Relative to the increased threat of cybercrime, three new entry level IT examiners have been hired to work exclusively in this area. He also gave special mention to Leilani Lim-Villegas, Financial Education Coordinator, who was awarded the 2014 Financial Fitness Greater Austin Distinguished Partner Award. This is the third year in a row that Ms. Villegas has received this award.

Catherine Reyer, General Council, provided comments on the Legal Division activities reporting that respondents of Gonzalez Funeral Home have replied to the demands for monies that came due under the terms of the Commissioner's Order and payment is being negotiated.

**Discussion of and Possible Action Regarding Anticipated and Pending Litigation.**

*Antioch St. Johns Cemetery Co. v. The Texas Department of Banking Commissioner*, Cause No. D-1-GN-14-000367, In the 261st District Court of Travis County, Texas.

No discussion

*Department of Banking v. Greg Abbott, Attorney General of Texas*; Cause No. D-1-GV-11-001906, In the 53rd District Court of Travis County, Texas.

Catherine Reyer, General Counsel, reported that this litigation is still in the resolution stage.

*State of Texas v. Myrtlewood Memorial Services d/b/a Harlingen-Combes Memorial Cemetery*, Cause No. 2013-DCL-2248-B, in the 138<sup>th</sup> Judicial District Court of Cameron County, Texas.

Catherine Reyer, General Counsel, reported that a temporary injunction hearing is set in Cameron County on August 18 for Myrtlewood Memorial Services.

Chairman White called for an Executive Session at 10:30 a.m.

Chairman White reconvened the Open Meeting of the Finance Commission at 10:38 a.m.

Chairman White noted that the members made no final action, decision, or vote on matters deliberated during the executive session.

There being no further business, Commission Chair Bill White adjourned the meeting of the Finance Commission at 10:39 a.m.

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Bill White, Chair  
Finance Commission of Texas

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Charles G. Cooper, Executive Director  
Finance Commission of Texas

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Judy E. Schooling, Executive Assistant  
Finance Commission of Texas