

MINUTES OF THE REGULAR MEETING
OF THE STATE BANKING BOARD

NOVEMBER 16, 2005

As first item in order of business on the agenda, Chairman Thompson called the Banking Board meeting to order at 10:00 a.m., pursuant to the Agenda that was posted for public display prior to 10:00 a.m. on November 15, 2005. Notice of the meeting was also made available to the Secretary of State pursuant to Title 25 O.S. § 311 (The Open Meeting Act). The meeting was held in the Conference Room of the State Banking Department, Oklahoma City, Oklahoma.

Second item on the agenda was roll call; the following members were present:

Mick Thompson, Chairman
Chris Conn
John Goad
Gordon Greer
Gary Huckabay
Bob Newcomb

Member Cartwright was absent.

Also present: Dudley Gilbert, Legal Counsel; Charles Griffith, Deputy Commissioner; Sherbie Kiffin, Assistant Deputy Commissioner; Rhonda Bruno, Budget Director/Controller; Stacey Tayar, Administrative Assistant and Angela Morris, Secretary.

The Chairman noted for the record that a quorum was present.

Third item on the agenda, Chairman Thompson called for approval or discussion of the Minutes of the Regular Meeting of the State Banking Board held June 15, 2005. Member Greer made the motion for approval. Motion was seconded and approved as follows:

Chris Conn – voted yes
John Goad – voted yes
Gordon Greer – voted yes
Gary Huckabay – voted yes
Bob Newcomb – voted yes

Fourth item on the agenda, Commissioner's Monthly Reports:

A. Department Status Update

Chairman Thompson handed out information regarding the Skill-Based Pay Adjustment Program. He said one purpose for this program is to keep well trained examiners. Dudley and Stacey began working on this program approximately a year ago and based some of their information from CSBS'

national certification program. There are several levels and specialty areas that can be reached using this program and they will be rewarded once a year for their progress. He said examiners are required to maintain and keep up their paperwork. He said currently Tony Reel is in Washington, DC, introducing the Department's program to all other states. CSBS has also adopted our program.

Member Huckabay asked what schools do examiners attend?

Chairman Thompson said Graduate School of Banking is one of the schools attended to help achieve this goal.

Member Huckabay asked who usually puts on the programs?

Chairman Thompson said CSBS and Cannon Trust School.

Member Greer said for example if you have an MBA , CPA, and examiner-in-charge you would receive \$7,000 for compensation?

Chairman Thompson said that is correct.

Member Huckabay asked if the Department pays these expenses?

Chairman Thompson said yes.

Member Greer said the program looks like a good one.

Member Newcomb said if the examiner has a \$60,000 salary, \$9,000 would be the cap for compensation?

Chairman Thompson said yes. Chairman Thompson said a lot of people qualify for various areas of this program.

Member Huckabay said he would like further information to explain the different schools that can be attended and how the certification works.

Member Greer asked if this is for information purposes only?

Chairman Thompson said yes, there is no vote needed.

B. Examination Report .

Chairman Thompson gave the monthly examination report showing that during the month of October one fed member bank, five nonmember banks, two credit unions, two trust departments, and three cemeteries were examined. Examinations in process at the end of October were five banks, five credit unions, three cemeteries, and two trust departments.

JULY: 3 SENIOR EXAMINERS ATTENDED GRADUATE SCHOOL OF BANKING IN BOULDER, CO (2 GRADUATED)

2 SENIOR EXAMINERS ATTENDED NCUA's SPECIALIZED LENDING TRAINING IN DALLAS

AUGUST: GENERAL COUNSEL GILBERT ATTENDED THE CSBS LEGAL FORUM IN SAN FRANCISCO

1 SENIOR EXAMINER ATTENDED NCUA's EXAMINATION ISSUES FORUM IN LOUISVILLE, KY

SEPTEMBER: 2 SENIOR EXAMINERS ATTENDED THE CSBS PROBLEM BANK SCHOOL IN CHICAGO

OCTOBER: 2 SENIOR EXAMINERS ATTENDED THE GRADUATE SCHOOL OF BANK SECRECY AND ANTI-MONEY LAUNDERING IN WASHINGTON, DC.

3 EXAMINER TRAINEES ATTENDED THE CERTIFIED OPERATIONS EXAMINER SCHOOL IN DALLAS

NOVEMBER: 1 STAFF MEMBER AND 2 SENIOR EXAMINERS ATTENDED THE CSBS TECHNOLOGY CONFERENCE IN AUSTIN

1 SENIOR EXAMINER ATTENDED THE MONEY TRANSMITTER REGULATORS ASSOCIATION. ANNUAL MEETING & CONFERENCE IN CHARLOTTE, SC

1 STAFF MEMBER IS ATTENDING THE CSBS EXAMINER EDUCATION FORUM IN WASHINGTON DC.

C. Legislative Update

Chairman Thompson said there will be a Department cleanup bill this year. He met with the OBA Government Relations Committee and they plan to have a "Super wildcard" bill. It will extend state law to the limit of FDIC approved activities.

Mr. Gilbert said several other states already have a super wildcard statute.

Chairman Thompson said this covers a broad range of activities.

Member Greer asked if this would only require FDIC approval?

Mr. Gilbert said it could also be Federal Reserve approval.

Chairman Thompson said this is not a Department bill, but a bill the OBA is proposing.

D. Pending Applications

Chairman Thompson asked if Board members are receiving pending applications.

Fifth item on the agenda, Consideration of Request for Approval of Merger, Purchase of Assets and Assumption of Liabilities, and Application for Certificate to Maintain and Operate a Branch by Acquisition:

- A. Application for Merger of Southwestern Bancshares, Inc., Oklahoma City, Oklahoma, with and into First United Bank and Trust Company, Durant, Oklahoma, pursuant to Title 6 O.S. § 1111.

- B. Application of First United Bank and Trust Company, Durant, Oklahoma, to Purchase Certain Assets and Assume Certain Liabilities of Southwestern Bank, Oklahoma City, Oklahoma, pursuant to Title 6 O.S. § 1109.
- C. Branch Application of First United Bank and Trust Company, Durant, Oklahoma, pursuant to Title 6 O.S. § 501.2 and O.A.C. 85:10-9-2.
Branch by Acquisition – proposed bank to be acquired and converted to a branch: Southwestern Bank, Oklahoma City, Oklahoma.
Proposed Name: "First United Bank and Trust Company"

Bruce Crum, Attorney, and William Farhrendorf, Executive Vice President, were present to answer questions.

Mr. Crum said First United Bank and Trust Company, Durant, is proposing to acquire Southwestern Bancshares, Inc., Oklahoma City, to purchase and assume certain liabilities, and eventually turn Southwestern Bank, Oklahoma City, into a branch.

Mr. Crum said one problem had come up and has been resolved. Southwestern Bank had a large loan that could not be transferred to First United Bank and Trust. He said the loan has been paid off and the issue is gone. He said all stock of the holding company will be acquired through a share acquisition transaction. He said any assets will be immediately merged out of existence and into First United Bank and Trust. He said Southwestern Bank will become a wholly owned subsidiary of Durant, and First United Bank and Trust will acquire all assets and liabilities and will leave some personal property. They don't want to pay any personal taxes and will have some miscellaneous property for awhile then liquidate it.

Member Newcomb asked if Southwestern Bank will retain its own charter?

Mr. Crum said they will become a general business organization after surrendering the charter.

Member Huckabay asked if any stockholders of Southwestern Bank will own part of First United Bank and Trust?

Mr. Crum said no. He said this will be 100% sale and all shareholders will be paid the same price. Member Newcomb made the motion to approve the Merger of Southwestern Bancshares, Inc., Oklahoma City, with and into First United Bank and Trust Company, Durant, Oklahoma. Motion was seconded and approved as follows:

Chris Conn – voted yes
John Goad – voted yes
Gordon Greer – voted yes
Gary Huckabay – voted yes
Bob Newcomb – voted yes

Member Greer made the motion to approve the Application of First United Bank and Trust Company, Durant, Oklahoma, to Purchase Certain Assets and Assume Certain Liabilities of Southwestern Bank, Oklahoma City, Oklahoma. Motion was seconded and approved as follows:

Chris Conn – voted yes

John Goad – voted yes
Gordon Greer – voted yes
Gary Huckabay – voted yes
Bob Newcomb – voted yes

Member Goad made the motion to approve the Branch by Acquisition. Motion was seconded and approved as follows:

Chris Conn – voted yes
John Goad – voted yes
Gordon Greer – voted yes
Gary Huckabay – voted yes
Bob Newcomb – voted yes

Sixth item on the agenda, Consideration of changes to the Oklahoma State Banking Department Employee Position Description Manual pursuant to Title 6 O.S. Section 201.C.5.

Chairman Thompson said the Legislature changed the administrative procedure relating to "cause" for termination of Department employees. Therefore, the definition of "Cause" in the Department's Employee Position Description Manual needs to be updated.

Mr. Gilbert said the Department is an unclassified agency. The current language in the Code was more suited for classified agencies and that is why it was changed in the statute.

Member Greer asked why number nine in the definition of "cause" was taken out?

Mr. Gilbert said items number seven and nine were the same, so he deleted number nine.

Member Greer asked if item number fourteen is new language in the definition of "cause"?

Mr. Gilbert said that is correct, it adds the circumstances of harassment or violation of the Personnel Manual.

Member Greer made the motion to approve the changes to the Employee Description Manual and to adopt the definition of "cause" as show in the Manual. Motion was seconded and approved as follows:

Chris Conn – voted yes
John Goad – voted yes
Gordon Greer – voted yes
Gary Huckabay – voted yes
Bob Newcomb – voted yes

Member Huckabay asked if this approval is solely the Board's decision, or does someone else have to look at it and agree to make the change?

Mr. Gilbert said under the Banking Code, the Banking Board has sole authority to make these changes.

Seventh item on the agenda, Consideration and Prescription of the rates of bank and trust company assessments for Oklahoma chartered institutions existing as of December 31, 2005, calculated on institution assets as of December 31, 2005, pursuant to Title 6 O.S. § 211 (A)(2).

Chairman Thompson asked the Board to look at the Expenditure Summary information provided. He said page 1 shows last year, current year and budgeted information with two months of the year not included.

Member Newcomb asked if the information is for ten or twelve months?

Ms. Bruno said the information shown is for four months (July – October 2005).

Member Greer said the Department is under budget by \$200,000?

Ms. Bruno said that is correct.

Chairman Thompson said page 2 shows the various expenses of the Department broken out. He said page 3 shows the income revenue report and each statute is provided for each category.

Chairman Thompson gave the Board copies of the Estimated Annual Cost Increases. He said the Department's budget runs from July to July, but receives its assessments in January.

Chairman Thompson said estimated annual increases are higher mileage expenses, statutory retirement, insurance, skill-based pay adjustment, and statutory pay increases.

Member Huckabay asked on page 2, fourth column, of the Expenditure Summary by Object Code information, why the administrative expenses have doubled?

Chairman Thompson said the information is only showing 4 months.

Ms. Bruno said she paid the CSBS fee early this year which totals \$28,000.00.

Chairman Thompson said the new Core System also has gotten rid of some of the old object codes. Member Huckabay asked why it is so much higher?

Ms. Bruno said this information is budget information only, not actual expenses paid.

Member Newcomb said this information is on a total cash basis and it may seem deceiving, but it really isn't.

Chairman Thompson said the Department is unique in that they receive their money in January and most other agencies receive theirs in July.

Member Goad said the Department is \$1/4 million less than budgeted?

Ms. Bruno said that is correct.

Member Huckabay asked why the information shows only four months?

Ms. Bruno said because the Department's budget starts in July and the information is showing from July – October 2005.

Member Huckabay asked why the number is dramatically different than last year?

Chairman Thompson said four examiners have been hired, mandated pay increases, a couple of retirements will be coming up and insurance costs have gone up. He said the Department is under on rent and office expenses.

Member Huckabay asked if this information is provided once a year?

Ms. Bruno said it is provided quarterly.

Member Huckabay said four months isn't a quarter.

Chairman Thompson said the Board didn't meet last month, so another month is included. He said before the Department became self funded, the legislature reviewed this information. Now that the Department is self funded, the Board reviews the information.

Member Greer asked what the Market Pay Adjustment is?

Chairman Thompson said it is based on the Federal Reserve's 4.4% increase.

Member Goad asked if the FDIC is comparable?

Chairman Thompson said yes.

Member Greer asked if the market pay adjustment has been around awhile, but the skill based is new?

Chairman Thompson said that is correct. He said the skill based is given only once a year. He said if the Department runs into any financial problems, the skill based program may be cancelled.

Member Huckabay asked when the skill based program incentive is given?

Chairman Thompson replied once the examiners submit their information in July, everything gets processed, and it is on their October paychecks.

Member Huckabay asked Chairman Thompson if he remembers the Department trying to get a pay raise and the state said no?

Chairman Thompson said no.

Member Huckabay said he thought Scott Meecham was involved.

Chairman Thompson said Governor Keating had vetoed the Department's supplement appropriation one year.

Ms. Tayar said the minimum and maximum levels were amended in the past because mandated pay increases exceeded some levels.

Member Conn asked if changing when the assessments come in to July would be beneficial to the Department?

Chairman Thompson said that would take statutory approval.

Member Newcomb said these reports are very helpful.

Member Greer asked if there are retirements coming up?

Chairman Thompson said one is the end of the year and one is a year from January. He said four new examiners have been hired (one is a previous employee with experience, one employee has seventeen years of banking experience, and the other two examiners are just out of college). One additional examiner is needed at every exam now to handle BSA.

Chairman Thompson said the Oklahoma Association of State Banks (Oklahoma Bankers Association) members were sent a letter asking for their input, comments or questions for the upcoming legislative year. He said only one response was received suggesting to lower the percentage rate given to General Revenue from 20% to 10%.

Chairman Thompson asked the Board members to look at the color chart with Proposed Trust Fee Schedule information. He said the fourth column shows the total assessment of trust companies last year which was \$23,698.27 and total current fees for the year was \$72,355.97. He said if they were national trusts they would be paying \$603,470.26. He said the proposed assessment would include \$.19 per \$1,000 on Company assets and \$.10 per \$1,000 on fiduciary assets, but capped at \$25,000.00. With the new rates, trust departments would pay approximately \$148,000.

Member Newcomb asked why Albright Title & Trust amounts are so high?

Chairman Thompson said a lot of time was spent doing an examination for this trust company.

Member Huckabay asked why the two blue columns are different?

Ms. Bruno said the top column is fiduciary assets and the bottom column (if you add D and F) would equal the same as the orange column (G).

Chairman Thompson said the bank trust departments would still pay the \$1,000.00 trust department fee.

Member Newcomb asked if the proposed fees come close to helping pay for trust expenses?

Chairman Thompson said after examination time, Legal Counsel time, and processing of fees, it will be an improvement from what they currently pay.

Member Newcomb said this is a good step for now.

Member Newcomb made the motion to assess trust companies at the following rates: (1) a rate of \$.19 per \$1,000 of company-owned assets, plus (2) a rate of \$.10 per \$1,000 of assets under management, but this portion of the assessment be capped at \$25,000. Motion was seconded and approved as follows:

Chris Conn – voted yes
John Goad – voted yes
Gordon Greer – voted yes
Gary Huckabay – voted yes
Bob Newcomb – voted yes

Member Newcomb asked if the rate for banks in the first column, is this only an estimate?

Chairman Thompson said yes. He said if the rate stays the same, the assessment will increase by \$260,000.00. He said state chartered banks pay less in assessments than if they were with the Comptroller of the Currency.

Member Newcomb asked if the rate is going to stay .19?

Member Huckabay asked what the Department has in reserve?

Chairman Thompson said approximately \$2 million has been reserved in six months and approximately another \$2 million will be reserved for another six months. He said there is no need for an increase because of growth, credit unions were increased last year, cemeteries were increased last year, and hopefully in the future money order companies will be increased.

Member Newcomb made the motion to leave assessments at the same rates as imposed last year, specifically, .19 cents per \$1,000 of assets on the first \$1 billion, .14 cents per \$1,000 on the assets exceeding \$1 billion, but not exceeding \$2 billion, and .10 cents per \$1,000 on assets exceeding \$2 billion. Motion was seconded and approved as follows:

Chris Conn – voted yes
John Goad – voted yes
Gordon Greer – voted yes
Gary Huckabay – voted yes
Bob Newcomb – voted yes

Chairman Thompson said the next Board meeting is December 21. He asked if everyone could make it?

Board members said it shouldn't be a problem.

Chairman Thompson asked what would be on the agenda?

Ms. Kiffin said the Meno Guaranty Bank and Farmers State Bank, Hazelton, Kansas merger.

Member Greer asked if the Department is current on exams?

Mr. Griffith said he thought at the end of the year the Department would be caught up.

Chairman Thompson also added that Tony Reel is Chairman of CSBS Education; Deron Brubaker is Chairman of IT for CSBS; and Dudley Gilbert is Chairman for Legal Division of CSBS.

Member Conn made the motion to adjourn at 11:05 a.m. Motion was seconded and unanimously approved as follows:

Chris Conn – voted yes
John Goad – voted yes
Gordon Greer – voted yes
Gary Huckabay – voted yes
Bob Newcomb – voted yes

Mick Thompson, Chairman

Chris Conn

John Goad

Gordon Greer

Gary Huckabay

Bob Newcomb

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