

**MINUTES OF THE MEETING**  
**OF THE STATE CREDIT UNION BOARD**

February 17, 2009

**First item in order of business:** The Credit Union Board meeting was called to order at 10:00 a.m. pursuant to the agenda that was posted for public display prior to 10:00 a.m. on February 12, 2009. 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 Oklahoma State Banking Department, 2900 N. Lincoln Boulevard, Oklahoma City, Oklahoma.

**Second item:** Roll call - the following members were present:

Floyd Atha  
Agnes Berkenbile  
Richard Forshee  
Les Rector  
Mick Thompson, Chairman

The Chairman declared a quorum present.

Also present from the Department: Dudley Gilbert, Legal Counsel; Kandace Natale, Examiner, and Debbie Moore, Secretary.

D.J. Morrow Ingram was present from the Oklahoma Credit Union League.

**Third item:** Approval of the Minutes of the meeting held November 19, 2008.

Mick Thompson: Asked for any changes or additions to the minutes from the Board.

Les Rector: Made a motion to accept the minutes as written.

Richard Forshee: Seconded the motion.

Minutes were approved as follows:

Floyd Atha: voted yes  
Agnes Berkenbile: voted yes  
Richard Forshee: voted yes  
Les Rector: voted yes  
Mick Thompson: voted yes

**Fourth item:** Commissioner's Reports:

Department Status Report:

The Banking Department Open House will be held April 8, 2009 from 4:30 p.m. to 6:30 p.m. Dedication of the statue will be held at 5:00 p.m. An additional parking lot will be available with shuttle service provided. Most arrangements for the Open House are handled by the Art In Public Places Council.

Examination Report:

There were two examinations completed since November, 2008 and there are two examinations in process.

The Legislative Report:

The Commissioner stated that he is not aware of legislation that makes changes to the Oklahoma Credit Union Act, but the Commissioner is monitoring the legislation closely.

Commissioner Thompson discussed Rule 180:10-5-1 regarding fees on dormant accounts. He recommended that the rule be amended to remove the fee amount. He said that the fee is the only one where a Department rule controls the amount. The amount of the fee should be left to the agreement between the member and the credit union. He also stated that he would discuss this matter further during the rule adoption item of the agenda.

**Fifth Item:** Consideration of the request by Tulsa Teachers Credit Union, Tulsa, Oklahoma to add the employees of the Cherokee Nation of Tahlequah to the credit union's field of membership pursuant to Title 6 O.S. §2007 and O.A.C. 180:10-3-6.

Dudley Gilbert stated that he had reviewed the application and found that all the information was correct and in order. He clarified that the request is for an employee group and not all members of the Cherokee Nation as a whole.

Floyd Atha: Made a motion to approve the request to add employees of the Cherokee Nation of Tahlequah to the credit union's field of membership.

Agnes Berkenbile: Seconded the motion.

Floyd Atha: voted yes  
Agnes Berkenbile: voted yes  
Richard Forshee: voted yes  
Mick Thompson: voted yes

Les Rector: Abstained

Motion passed.

**Sixth Item:** Consideration of the request by Oklahoma Central Credit Union, Tulsa, Oklahoma to amend its bylaws pursuant to Title 6 O.S. §2006 (7) and O.A.C. 180:10-1-7.

Dudley Gilbert stated that he had reviewed the application and that everything was in order.

Agnes Berkenbile: Made a motion to approve the requested amendments.

Richard Forshee: Seconded the motion.

Floyd Atha: voted yes  
Agnes Berkenbile: voted yes  
Richard Forshee: voted yes  
Les Rector: Abstained  
Mick Thompson: voted yes

Motion passed.

**Seventh Item:** Consideration of the request by Frisco Employees Credit Union, Tulsa, Oklahoma to merge with and into Western Sun Federal Credit Union, Broken Arrow, Oklahoma.

Dudley Gilbert stated that all documents were in order. The date of merger is April 1, 2009.

Mr. Jerry L. Agee and Mr. Carl L. Mallonee represented Frisco Employees Credit Union. Mr. Agee stated that the merger is necessary to make a wider range of electronic services available to members.

Agnes Berkenbile: Made a motion to approve the merger.

Richard Forshee: Seconded the motion.

Floyd Atha: voted yes  
Agnes Berkenbile: voted yes  
Richard Forshee: voted yes  
Les Rector: voted yes  
Mick Thompson: voted yes

Motion passed.

**Eighth Item** – Consideration of the request for approval of conversion of Tulsa Federal Employees Credit Union to a federally chartered credit union pursuant to Title 6 O.S. § 2021 and O.A.C. 180:10-3-3.

Dudley Gilbert said the credit union has submitted all necessary documents pursuant to Rule 180:10-3-3.

Richard Forshee: asked if the assessment fee has been paid.

Mick Thompson: replied that it had.

Richard Forshee: Made a motion to approve the conversion.

Floyd Atha: Seconded the motion.

Floyd Atha: voted yes  
Agnes Berkenbile: voted yes  
Richard Forshee: voted yes  
Les Rector: voted yes  
Mick Thompson: voted yes

Motion passed.

**Ninth Item** – Consideration and possible adoption of new and amended rules proposed under Chapter 1 and Chapter 10 of Title 180 of the Oklahoma Administrative Code, pursuant to Title 6 O.S. § 2001.2 and Title 75 O.S. §§ 302, 305 and 307.

Richard Forshee: asked if the comment period was still open.

Dudley Gilbert: stated that the written comment period expired Friday, February 13, 2009. The public may submit oral comments at this meeting and the Board members may also make oral comments and suggestions to the proposed rules.

Public Comments:

Brent Taylor, President and CEO, Weokie Credit Union provided oral comments that followed the written comments that he had submitted. His comments were as follows:

1. He asked that a community credit union serving a metropolitan statistical area be allowed to continue to serve members that live, work, worship, or attend school in a county that had been included in an MSA when the credit union declared it as its “community,” but had later been removed from the OMSA.
2. He asked that the Board include a provision in rule 180:10-3-3 that would allow Board approval of a conversion to a mutual savings bank only if the conversion is in the best interest of the credit union’s members and that the volunteers and officers of the credit union will not be personally enriched.
3. He asked that rule 180:10-5-4 be amended to allow credit unions to invest in real property for development and to produce income and sales gains.

Board Member Richard Forshee then provided non-substantive comments regarding typographical and grammatical errors in rules 180:10-1-2 (Definitions), 180:10-1-7 (Bylaw amendments), 180:10-

1-8 (Corporate central credit union organization and operation), and 180:10-1-17 (Credit union branches).

Board Member Forshee supported the comment regarding proposed amendments to rule 180:10-3-5 (Community field of membership). He suggested that a community credit union serving an OMSA be allowed to continue to serve members that live, work, worship or attend school in a county that had been included in an OMSA when the credit union declared it as its “community,” but had later been removed from the OMSA.

Dudley Gilbert stated that the Department was concerned that if the counties that had been removed from the MSA were retained in a field of membership, it could violate Title 6 O.S. § 2007 that requires a “well defined” community. He stated that the rule as proposed (subsection (i)) was a compromise that would allow a credit union to continue to serve that county only if it had a branch in the county. That compromise was an attempt to avoid an illegal “taking” under the U.S. Constitution.

Chairman Thompson stated that the \$25 dormant account fee in rule 180: 10-5-1 (Deposits) is the only fee imposed by any financial institution that is regulated by Banking Department rules. He recommended the fee amount be removed and that it be agreed on by the customer and the credit union.

The Board considered all comments individually and made revisions to the rules as discussed below:

Richard Forshee: moved that proposed new paragraph (i) not be included in rule 180:10-3-5.

Agnes Berkenbile: Seconded the motion.

Floyd Atha: voted no  
Agnes Berkenbile: voted yes  
Richard Forshee: voted yes  
Les Rector: voted yes  
Mick Thompson: voted no

Motion passed. Based on a majority of the Board agreeing with the comment, proposed new subsection (i) was removed from amended rule 180:10-3-5.

The Board declined to make further changes to rule 180:10-3-3 as proposed after determining that the proposed rule as written, and the provisions of federal law (NCUA Regulations - 12 C.F.R. Part 708a), adequately address the conversion of credit unions to mutual savings banks.

The Board declined to make further changes to proposed rule 180:10-5-4 as suggested by the comment. Dudley Gilbert referred the Board to Title 6 O.S. § 2006(8)(b)(13), which provides: “the State Credit Union Board shall not be permitted under this specific grant of authority to authorize a credit union to purchase or own real estate solely for investment purposes.” Member Forshee also relied on §2006(4) as limiting a credit union’s authority to purchase real property for investment purposes. These statutory provisions were interpreted as prohibiting the rule change that was suggested by the comment.

Correction of typographical and grammatical errors identified by Member Forshee were agreed to by all Board members.

Floyd Atha: Made the motion to adopt the proposed rules as published in the Oklahoma Register, with the following changes:

- (1) removal of proposed subsection (i) to rule 180:10-3-5,
- (2) removal of the reference to the fee in rule 180:10-5-1 (by inserting a period after the word “charge” in the first sentence of proposed subsection (c) and striking the remainder of the first sentence in that subsection), and
- (3) making the typographical and grammatical corrections identified by Member Forshee in rules 180:10-1-2 (Definitions), 180:10-1-7 (Bylaw amendments), 180:10-1-8 (Corporate central credit union organization and operation), and 180:10-1-17 (Credit union branches).

Richard Forshee seconded the motion.

Floyd Atha: voted yes  
Agnes Berkenbile: voted yes  
Richard Forshee: voted yes  
Les Rector: voted yes  
Mick Thompson: voted yes

Motion passed.

**Tenth Item – New Business**

There was no new business.

**Eleventh Item – Adjournment**

Richard Forshee: Made a motion to adjourn.

Floyd Atha: Seconded the motion.

Floyd Atha: voted yes  
Agnes Berkenbile: voted yes  
Richard Forshee: voted yes  
Les Rector: voted yes  
Mick Thompson: voted yes

The meeting was adjourned at 10:50 a.m.

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Floyd Atha

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Agnes Berkenbile

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Richard Forshee

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Les Rector

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Mick Thompson