

**REGULAR STATE BANKING BOARD MEETING  
OFFICE OF THE COMMISSIONER  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
2000 SCHAFER STREET, SUITE G  
BISMARCK, NORTH DAKOTA**

**May 10, 2012**

The regular meeting of the State Banking Board was held in the Office of the Commissioner, Department of Financial Institutions, 2000 Schafer Street, Suite G, Bismarck, North Dakota. Chairman Entringer called the meeting to order at 9:03 a.m., Thursday, May 10, 2012.

**MEMBERS PRESENT:** Robert J. Entringer, Chairman (*Office*)  
Nancy Baerwald, Member (*Cando*)  
Linda Beall, Member (*Velva*)  
Bill Daniel, Member (*Bismarck*)  
Kim Larson, Member (*Casselton*)  
Roger Monson, Member (*Fargo*)  
Anita Quale, Member (*Watford City*)

**MEMBERS ABSENT:** None

**ALSO PRESENT:** Aaron K. Webb, Secretary (*Office*)  
Lise Kruse, Chief Examiner – Banks (*Fargo*)  
Janilyn Murtha, Assistant Attorney General (*Office*)  
Brian Houkom, Western State Bank (*Devils Lake*)  
Todd Heilman, Western State Bank (*Devils Lake*)  
Pete Anderson, KodaBank (*Drayton*)  
Anton Moch, Winthrop & Weinstine (*MN*)  
Paul Sirek, Eide Bailly (*MN*)

**APPROVAL OF MINUTES**

Chairman Entringer indicated the Board received copies of the minutes of the regular meeting held on March 8, 2012, and the special meeting held April 16, 2012.

**It was moved by Member Larson, seconded by Member Baerwald, and unanimously carried by voice vote to approve the March 8, 2012, and April 16, 2012, minutes as presented.**

**KODABANK, DRAYTON, TO PURCHASE THE STEPHEN, MN, AND KENNEDY MN, BRANCH LOCATIONS OF CITIZENS STATE BANK – MIDWEST, CAVALIER**

Assistant Commissioner Webb reviewed his Memorandum dated May 3, 2012, indicating the Department received the an application on March 30, 2012, whereby KodaBank, Drayton, seeks authorization to purchase certain assets and assume certain liabilities of Citizens State Bank Midwest, Cavalier, and to establish the Stephen, MN, and Kennedy, MN, branch locations as facilities of KodaBank, Drayton.

Assistant Commissioner Webb indicated notice of the application was published as a joint state/federal notice pursuant to Section 13-02-13-03.1 of the North Dakota Administrative Code, in the Valley News & Views (Drayton), on April 5, April 19, and May 3, 2012, and the Cavalier Chronicle, on April 4, April 18, and May 2, 2012. Assistant Commissioner Webb indicated no comments were received nor were there any requests for copies of the application.

Assistant Commissioner Webb reviewed Section 13-02-13-01 of the North Dakota Administrative Code entitled “Consolidation or merger”. Assistant Commissioner Webb indicated the transaction is a Purchase and Assumption and therefore a Plan of Reorganization or Merger is not included.

Assistant Commissioner Webb indicated since both banks are 100% owned by their respective holding companies a shareholder meeting notice was not required. Assistant Commissioner Webb indicated a Resolution of the Board of Directors was executed by the board of directors for Citizens State Bank – Midwest, approving the proposed sale upon the terms of the Purchase and Assumption Agreement and to authorize bank officers to take any and all actions that they deem advisable to consummate the Agreement. Assistant Commissioner Webb indicated a Written Action of the Board of Directors of KodaBank was executed by the board of directors of KodaBank on March 1, 2012, approving the execution of the Agreement and all other actions taken by bank officers in connection with the Agreement.

Assistant Commissioner Webb indicated the applicant states that the resultant institution will continue the same high level of service to the communities served by the banks, as well as any changes in products and services will enhance banking services to target customers. Assistant Commissioner Webb added the applicant noted they do not currently offer a ready reserve or overdraft protection product.

Assistant Commissioner Webb reviewed North Dakota Administrative Code Section 13-02-13-04 which sets forth the criteria for consideration in approving the application.

Assistant Commissioner Webb reviewed the pro forma financial statements and the projected capital of the resultant bank as of 12/31/11, and 12/31/12. Assistant Commissioner Webb indicated capital of the resultant bank as of 12/31/11 is 9.97% Tier 1 leverage, 14.50% Tier 1 risk-based, and 15.75% total risk-based. As of 12/31/12, the above respective ratios are 8.92%, 16.16%, and 17.31%, and the bank is projected to remain in the well capitalized capital category.

Assistant Commissioner Webb indicated the proposed staff of the Stephen, MN, and Kennedy, MN, interstate branches is outlined in the application.

Assistant Commissioner Webb indicated KodaBank intends to continue operations in the former Citizens State Bank – Midwest, Cavalier, branch locations in Stephen, MN, and Kennedy, MN.

Pete Anderson, President of KodaBank, indicated the two former branch locations of Citizens State Bank – Midwest, Cavalier, are located approximately 15-20 miles east of current KodaBank locations, so the bank already has several customers and clients in the trade territory. President Anderson indicated Citizens State Bank – Midwest hoped to sell all its interstate branches located in Minnesota; however, stated KodaBank was only interested in these two locations. President Anderson stated these interstate branches have quite a few deposits, but not many loans.

Paul Sirek, Eide Bailly, noted the interstate branches have \$39 million in deposits and \$4 million in loans, which will provide KodaBank with a large amount of liquidity to work with in the future to satisfy local loan demand in its existing market.

Member Monson indicated due to his business relationship with President Anderson regarding this application, as well as his employment with State Bank & Trust, Fargo, he needs to declare that a possible conflict of interest may exist. Member Monson indicated he is aware if he does not vote on this application, his vote will be cast with the majority.

Chairman Entringer noted that Member Monson is employed with State Bank & Trust, and that State Bank & Trust has issued a commitment to facilitate the purchase of the proposed transaction.

Assistant Commissioner Webb indicated the Department believes all of the required criteria have been met; that the assumptions used and projections provided in the application are accurate; and would recommend that the transaction be approved and the Commissioner be authorized to sign the proposed Order on behalf of the Board.

Chairman Entringer reviewed the proposed Order for the applicant, and asked for the target date for consummation of the transaction. President Anderson indicated it is June 1, 2012.

Chairman Entringer indicated he contacted the Minnesota Department of Commerce so they were aware of this application; however, no comments were issued since the interstate branches are already owned by a North Dakota bank.

**It was moved by Member Baerwald, seconded by Member Quale, and unanimously carried, with Member Monson abstaining, to approve the application by KodaBank, Drayton, to purchase the Stephen, MN, and Kennedy, MN, branch locations of Citizens State Bank – Midwest, Cavalier, and that Chairman Entringer be authorized to sign the Order on behalf of the State Banking Board.**

President Anderson, Mr. Sirek, and Mr. Moch left the conference call at this time.

**WESTERN STATE BANK, DEVILS LAKE, TO PURCHASE AND ASSUME CERTAIN ASSETS AND LIABILITIES OF THE CASA GRANDE, AZ, OFFICE OF NATIONAL BANK OF ARIZONA, TUCSON, AZ**

Assistant Commissioner Webb reviewed his Memorandum dated May 3, 2012, indicating the Department received the application on March 19, 2012, whereby Western State Bank, Devils Lake, seeks authorization to purchase certain assets and assume certain liabilities of National Bank of Arizona, Tucson, Arizona, and to establish the Casa Grande, Arizona, office as an interstate branch of Western State Bank, Devils Lake.

Assistant Commissioner Webb indicated notice of the application was published as a joint state/federal notice pursuant to Section 13-02-13-03.1 of the North Dakota Administrative Code, in the Devils Lake Journal, Devils Lake, North Dakota, and in the Arizona Daily Star, Tucson, Arizona, on March 15, March 27, and April 9, 2012. Assistant Commissioner Webb indicated no comments were received nor were there any requests for copies of the application.

Assistant Commissioner Webb stated that since the transaction is a Purchase and Assumption, a Plan of Reorganization or Merger is not included.

Assistant Commissioner Webb indicated since both banks are 100% owned by their respective holding companies a shareholder meeting notice was not required; however, Western State Agency, Inc., executed an Action of Sole Shareholder Taken In Writing In Lieu Of A Meeting on February 23, 2012, approving the execution of the Agreement, filing of the application with the regulatory agencies, and all other matters related to the purchase and assumption. Assistant Commissioner Webb indicated a Consent To Action By The Board Of Directors Of National Bank of Arizona In Lieu Of Meeting was executed by the board of directors of National Bank of Arizona on March 9, 2012, approving the proposed sale upon the terms of the Purchase and Assumption Agreement and to authorize bank officers to execute any and all documents which they deem necessary and proper to consummate the sale.

Assistant Commissioner Webb indicated the application includes the proposed directors and senior executive officers of the resultant institution.

Assistant Commissioner Webb indicated the applicant states that the transaction will have no adverse effect on the convenience and needs of the

respective communities served by each depository institution, and the array of products outlined will meet the convenience and needs of the community that the applicant will serve.

Assistant Commissioner Webb indicated the pro forma financial statements and the projected capital of Western State Bank pre-acquisition and the consolidated resultant bank as of 6/30/12. Projected capital of the resultant bank, is 10.79% Tier 1 Leverage, 12.32% Tier 1 Risk-Based, and 13.58% Total Risk-Based. For 2012, the above respective ratios are projected at 11.20%, 12.87%, and 14.12%. The bank is projected to remain in the “Well Capitalized” capital category.

Assistant Commissioner Webb indicated the transaction will have no adverse effect on the convenience and needs of the communities served by each depository institution, and the applicant bank outlines services to be provided through the target institution including checking products, savings products, money market/treasury market savings, identity theft program, certificates of deposit, IRA’s, repurchase sweep accounts, ATM/debit cards, consumer and commercial loans, wire transfers, safe deposit boxes, Master Card/Visa credit cards, telephone banking, online banking and bill pay.

Assistant Commissioner Webb indicated that Western State Bank intends to continue operation in the former National Bank of Arizona, Casa Grande, Arizona office.

Brian Houkom, President of Western State Bank, indicated this is a very small acquisition as the loans are approximately \$700,000 and deposits approximately \$8-9 million. President Houkom indicated that Casa Grande is a market approximately 30 miles from the bank’s current interstate branch located in Chandler, AZ. President Houkom indicated the population of Casa Grande is approximately 50,000 and currently served by only two other community banks. President Houkom indicated one of Western State Bank’s directors, Steve Bailly, was raised in Casa Grande and a previous owner/director of Sun State Bank, which is now owned by Great Western Bank. President Houkom indicated that Director Bailly is familiar with the market in Casa Grande. President Houkom indicated they believe there is opportunity for a community bank in the Casa Grande market.

President Houkom indicated the proposed President for the Casa Grande interstate branch has been in that market area for 37 years and is very well respected and known in the community.

President Houkom indicated the location of the interstate branch is very good and will be a good addition for Western State Bank.

Chairman Entringer noted for the record that Exhibits A, B, C, and D are part of the confidential section of the application.

Chairman Entringer indicated a copy of this application was sent to the Arizona Commissioner; however, offered no comments regarding the transaction.

Chairman Entringer noted that the FDIC has issued an Order on April 27, 2012, approving the application, which is one of the criteria of the Board's proposed Order.

Chairman Entringer asked what the target date for consummation of the transaction was, and President Houkom indicated it is June 8, 2012.

Assistant Commissioner Webb indicated the Department believes all of the above criteria have been met; the assumptions used and projections provided in the application are accurate; and would recommend that the transaction be approved and the Commissioner be authorized to sign the proposed Order on behalf of the Board.

**It was moved by Member Monson, seconded by Member Daniel, and unanimously carried to approve the application by Western State Bank, Devils Lake, to purchase and assume certain assets and liabilities of the Casa Grande, AZ, office of National Bank of Arizona, Tucson, AZ, and that Chairman Entringer be authorized to sign the Order on behalf of the State Banking Board.**

President Houkom and Mr. Heilman left the conference call at this time.

## **2012 ASSESSMENT POLICY FOR STATE-CHARTERED BANKS AND TRUST COMPANIES**

Chairman Entringer reviewed his Memorandum dated May 2, 2012, which refers to North Dakota Century Code Section 6-01-17, Yearly Assessment of Banks and Interstate Branches. Chairman Entringer indicated the Department has three separate divisions: banking, credit union, and consumer, which are all self-funded

by assessments or through application and examination fees. Chairman Entringer reviewed the expense descriptions for the banking division, pointing out that the Contingency line item is used for unforeseen legal expenses.

Chairman Entringer reported that the last resignation by a bank examiner was one year ago.

Chairman Entringer indicated that last year the Board discussed the fact that the formula for assessments has not been changed since the Department became self-funded in 1989. Chairman Entringer reviewed his proposed formula which expands the tranches from 6 to 8, with the goal to put as close to an even number of banks in each tranche.

Chairman Entringer referred to the spreadsheet detailing a comparison of the fee to be paid by each bank under the proposed formula. Chairman Entringer indicated the Board has the following options: adopt the new assessment formula; instruct the Department to further refine the proposed new formula; or maintain the existing formula.

Chairman Entringer reviewed the projected revenue and expense schedules included with the Memorandum.

Chairman Entringer indicated a problem with the formula approach to determine assessments is that if there is too much reliance on a large bank assessment and should that bank decide to convert to a national charter, this will severely impact the Department's operations. Chairman Entringer explained that is one reason he tried to lower the spread of the assessment percentage paid per bank.

Member Monson asked if the Bank of North Dakota is subject to this assessment schedule. Chairman Entringer explained the Bank of North Dakota is not included because they have already budgeted the \$50,000 assessment fee; therefore, any assessment change will be addressed at the beginning of the next biennium.

Member Monson stated if the Board and the Bank of North Dakota agree to change the formula for the Bank of North Dakota, the assessment spreadsheet would change dramatically and revenue could be impacted.

Member Larson indicated he does not feel it is right that Eric Hardmeyer, President of the Bank of North Dakota, has put off making a commitment to a change in their assessment schedule. Member Larson stated he believes the Bank of North Dakota assessment needs to be addressed and taken care of.

Chairman Entringer stated he does not disagree; however, because the Bank of North Dakota already budgeted \$100,000 for the current biennium, it was agreed to address a change for the next biennium.

Chairman Entringer explained the Department's role in the examination of the Bank of North Dakota is vastly different compared to the examination of state-chartered banks. Chairman Entringer indicated the protection of the depositors of state-chartered banks is the major concern of the Department; however, the depositors of the Bank of North Dakota are the State. Chairman Entringer indicated he has no regulatory authority over the Bank of North Dakota; the Department must examine the Bank of North Dakota and report that information to the Industrial Commission and Legislature.

Chairman Entringer stated he believes the assessment for the Bank of North Dakota is more equitable in a flat fee plus an hourly fee for everything the Department does for them, rather than a percentage of their total assessments.

Chairman Entringer indicated the Bank of North Dakota is a state agency and it becomes potentially problematic if the Department takes revenue from the Bank of North Dakota to fund its budget.

Member Larson stated that is not his intention and that he agrees a fixed amount and hourly expense rate should be set for the Bank of North Dakota; however, pointed out that the assessment fee for the Bank of North Dakota has not been changed for many years. Member Larson indicated he feels the Bank of North Dakota's assessment fee is antiquated and is not adequate. Chairman Entringer agreed, adding their examination fee is basically free since that fee is netted against the yearly assessment fee.

Member Beall asked for the current hourly fee charged by the Department for the Bank of North Dakota examination. Chief Examiner Kruse indicated the Department spent 1,033 hours at the Bank of North Dakota's last examination, and Chairman Entringer added those hours would be billed at \$45 per hour, which is derived by averaging the hourly salary for each Department employee plus benefits.

Chairman Entringer indicated he talked to Tim Porter and President Hardmeyer earlier and proposed a flat fee of \$100,000 per year plus an hourly fee for any services provided by the Department.

Chief Examiner Kruse indicated she has been tracking her time spent on the Bank of North Dakota, not including the current examination, and has approximately 200 minutes for January and February of 2012.

Chairman Entringer pointed out that approximately 50 to 52% of the Bank of North Dakota's loan portfolio is guaranteed and not reviewed by the Department during an examination. Chairman Entringer indicated the Department's primary focus is on bank participations and other programs as well.

Chief Examiner Kruse indicated during the current examination of Bank of North Dakota the examiners looked at approximately 24% of the commercial and agricultural portfolio, which is similar to other state bank exams.

Chairman Entringer indicated his proposal for the Bank of North Dakota's assessment would be a flat fee plus the Department's hourly fee.

Member Beall stated she feels the Department should wait a year before implementing the new proposed assessment schedule so that the Bank of North Dakota is included; thereby giving the Bank of North Dakota time to budget for a possible fee change for the next biennium.

Member Monson indicated he feels Chairman Entringer should correspond with the Bank of North Dakota regarding possible fee changes. Chairman Entringer agreed, adding that he would not be opposed to a Board member accompanying him to a meeting with Bank of North Dakota representatives. Member Larson indicated he would be willing to accompany Chairman Entringer. Chairman Entringer indicated he would get a meeting scheduled.

Member Monson indicated he agrees with Chairman Entringer's point that the Bank of North Dakota should be treated separately. Member Monson added if an acceptable increase can be agreed upon with the Bank of North Dakota it would be better than pushing too hard because if the Industrial Commission decided the fee for the Bank of North Dakota is set too high, the Department could possibly be put back into the State's General Fund. Chairman Entringer agreed, and Member Monson added that the state bankers do not want that to happen.

Chairman Entringer indicated that a main concern of former Board Member Lorren Henke was that the Bank of North Dakota assessment be tied to the other state bank assessment fee so that the Board did not have to debate this issue each biennium. Chairman Entringer indicated he would work on a proposal that would tie a flat fee to a percentage of assets for the Bank of North Dakota. Members Beall and Monson agreed that is a good idea.

**It was moved by Member Beall, seconded by Member Larson, and unanimously carried to maintain the existing assessment formula for the next year.**

## **ITEMS TO BE NOTED**

Chairman Entringer indicated that on May 1, 2012, he approved, as Commissioner, the application by First International Bank & Trust, Watford City, to establish a facility at 1331 9<sup>th</sup> Avenue NW, Williston.

## **BANK BUDGET UPDATE**

Chairman Entringer reviewed the March 31, 2012, Organizational Status Report by Summary Account and Source, and indicated he had no items to report at this time.

## **THANK YOU TO MEMBER MONSON**

Chairman Entringer indicated the Member Monson's term expires June 30, 2012, and thanked him for his guidance and counsel for the past 10 years. Chairman Entringer wished Member Monson continued best luck.

Member Monson indicated he enjoyed serving on the Board very much and that it has been a real learning experience. Member Monson indicated he feels by serving on the Board he has received more education than what he gave back. Member Monson added that in addition to hearing from Department staff on bank issues, Board members get an eagle eye view of how banks are doing well. Member Monson thanked Chairman Entringer for the opportunity to serve on the Board.

**The Board went into closed session at 10:20 a.m. to review the Supervisory Reports of Examination pursuant to North Dakota Century Code 6-01-07.1.**

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Robert J. Entringer, Chairman

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Aaron K. Webb, Secretary