

**REGULAR STATE CREDIT UNION BOARD MEETING
HELD BY CONFERENCE CALL
OFFICE OF THE COMMISSIONER
DEPARTMENT OF FINANCIAL INSTITUTIONS
2000 SCHAFFER STREET, SUITE G
BISMARCK, NORTH DAKOTA**

June 5, 2009

The regular meeting of the State Credit Union Board was called to order by Chairman Karsky in the Office of the Commissioner, Department of Financial Institutions, 2000 Schafer Street, Suite G, Bismarck, North Dakota, at 9:30 a.m., Friday, June 5, 2009.

MEMBERS PRESENT: Timothy J. Karsky, Chairman (*Fargo*)
Paul Brucker, Member (*Office*)
Melanie Stillwell, Member (*Williston*)
Steve Tonneson, Member (*Minot*)
Darlene Watne, Member (*Minot*)

MEMBERS ABSENT: None

ALSO PRESENT: Robert J. Entringer, Assistant Commissioner (*Office*)
Corey Krebs, Chief Examiner – Credit Unions (*Office*)
Todd Van Orman, Financial Institutions Examiner (*Office*)
Taylor Lee, Financial Institutions Examiner (*Office*)
Suzette Richardson, Administrative Assistant (*Office*)
Aaron Webb, Assistant Attorney General (*Office*)
Tony Richards, ND Credit Union League (*Office*)
Jeff Olson, ND Credit Union League (*Office*)

MINUTES PREVIOUSLY APPROVED BY MAIL

Chairman Karsky indicated the Board had previously received and approved the minutes of the regular meeting held on March 6, 2009.

ARTICLES OF AMENDMENT TO THE BYLAWS – TOWN AND COUNTRY CREDIT UNION, MINOT

Assistant Commissioner Entringer referred to Articles of Amendment to the Bylaws submitted by Town and Country Credit Union, Minot, requesting amendments to Article VII, Elections, which would allow electronic voting and voting by mail. Assistant Commissioner Entringer indicated because of the various branches it has been an issue for Town and Country Credit Union when it holds the annual meeting to have more membership involvement.

Chairman Karsky referred to the March 24, 2009, minutes of Town and Country Credit Union meeting wherein it is stated that approximately 60% of the members voted in favor of the proposed changes to Article VII.

Chairman Karsky asked if the Board members read through the minutes provided by Town and Country Credit Union regarding the proposed amendments to its bylaws, and whether there were any questions by the Board. Chairman Karsky added he believes the proposed amendments make sense since this credit union is geographically spread out across the State of North Dakota, adding this will allow more members to participate in decisions of the credit union.

It was moved by Member Watne and seconded by Member Stillwell to approve the Amendments to the Bylaws of Town and Country Credit Union, Minot, regarding Article VII, Elections.

Member Stillwell stated she feels the proposed amendments make sense, as her credit union struggles with the same issues, and this will give Town and Country Credit Union the ability to have more people vote. Member Watne agreed and Member Tonneson indicated he has no problem with the amendments.

Chairman Karsky indicated he has no problem with the request and added he believes more credit unions will request this same change in the future.

Member Brucker indicated he has no problems with the amendments.

Member Tonneson asked if it is an issue that 60% of the credit union's membership voted in favor of the amendments; however, 2/3 of the membership vote was required. Member Brucker referred to the last page of the credit union's May 2009 meeting which indicates 87% of the membership voted in favor of the amendments to Article VII, Elections, and 13% opposed.

The previous motion was unanimously carried.

ARTICLES OF AMENDMENT TO THE BYLAWS – DAKOTA WEST CREDIT UNION, WATFORD CITY

Chairman Karsky indicated Dakota West Credit Union, Watford City, is proposing amendments to Article X, Credit Manager; Article XII, Loans to Members; and Article XX, Amendments to Certificate of Organization and Bylaws.

Assistant Commissioner Entringer indicated the proposed amendment to Article X, Credit Manager, Section 1, is authorized under the standard bylaws, and therefore creates no issue. Assistant Commissioner Entringer indicated the proposed amendment to Article XII, Loans to Members, Section 2, adds “or their designate” to the previous language regarding approval authority of this Section, allowing the credit union’s Board of Directors to grant approval authority to the CEO. Assistant Commissioner Entringer indicated the proposed amendment to Article XX, Amendments to Certificate of Organization and Bylaws, Section 1, allows the Board of Directors instead of the membership to vote on any bylaw changes, which is permitted under the standard bylaws.

Member Stillwell asked if these three proposed amendments were voted on by the credit union’s membership, and Chairman Karsky indicated a high majority of the membership approved these proposed changes.

Chairman Karsky referred to the first proposed amendment to Article X, Credit Manager, and indicated it makes sense for a large credit union to have a credit manager, as long as good policies and procedures are in place.

It was moved by Member Stillwell, seconded by Member Watne, and unanimously carried to approved the Amendments to the Bylaws for Dakota West Credit Union, Watford City, regarding Article X, Credit Manager, Section 1; Article XII, Loans to Members, Section 2; and Article XX, Amendments to Certificate of Organization and Bylaws, Section 1.

ARTICLES OF AMENDMENT TO THE BYLAWS – PRIESTS CREDIT UNION, FARGO

Chairman Karsky indicated Priests Credit Union, Fargo, is a very small closed charter credit union that has relocated numerous times, and the Department has been working with this credit union for some time due to management and operational difficulties.

Assistant Commissioner Entringer indicated Priests Credit Union has been discussing options to get the credit union more active or possibly merging with another credit union. Assistant Commissioner Entringer referred to the April 6, 2009, minutes of Priests Credit Union which included discussion of a possible merger with Catholic Aid Association Credit Union, St. Paul, Minnesota.

Assistant Commissioner Entringer explained the proposed Expansion of Field of Membership and Articles of Amendment to the Bylaws would allow Priests Credit Union to change its field of membership to all Catholics who live in the State of North Dakota, which would result in the credit union being a favorable merger partner for Catholic Aid Association Credit Union.

Assistant Commissioner Entringer stated that Chairman of the Board Fr. McDermott indicated the proposed field of membership expansion to all Catholics living in the State of North Dakota could be estimated as approximately 80,000 possible members; however, Assistant Commissioner Entringer pointed out that Catholic Aid Association Credit Union is a virtual credit union, meaning all business is conducted via internet. Assistant Commissioner Entringer concluded he does not believe Catholic Aid Association Credit Union is proposing to expand its members by 80,000.

Assistant Commissioner Entringer explained the proposed expansion of field of membership and amendments to the bylaws by Priests Credit Union are requested in order to support the possible merger with Catholic Aid Association Credit Union. Assistant Commissioner Entringer indicated Nicolas Jaeger, President of Catholic Aid Association Credit Union, intends on calling today to find out the Board's decision regarding the proposed field of membership and bylaw change for Priests Credit Union and, if approved, will submit the merger application to the State of Minnesota.

Assistant Commissioner Entringer indicated the notice of the field of membership expansion was published in the eight major newspapers as prescribed by rule, and no comments were received.

Chairman Karsky stated he does not anticipate a lot of people joining the Priests Credit Union if this field of membership expansion is approved, but that the expansion is requested in order to facilitate the possible merger. Chairman Karsky added that Priests Credit Union is a small credit union that has struggled for years.

Member Stillwell asked if approval of the expansion of the field of membership and amendments to the bylaws should be contingent on the Priests Credit Union merging with the Catholic Aid Association Credit Union. Chairman Karsky indicated the approval would not be contingent on the possible merger; however, believes a merger application will be submitted if approval is granted.

It was moved by Member Brucker and seconded by Member Watne to approve the application by Priests Credit Union, Fargo, to expand its field of membership and approve the Amendments to the Bylaws.

Member Tonneson indicated Priests Credit Union is not a community charter credit union, and Chairman Karsky concurred that it is a closed charter credit union. Member Tonneson asked if the merger does occur if there will be a branch office in Fargo, and Assistant Commissioner Entringer indicated it will be a strictly virtual credit union – internet business only.

The motion was unanimously carried.

Chairman Karsky indicated there are currently 31 state-chartered credit unions and if Priests Credit Union does merge, that number will drop to 30.

MERGER APPLICATION – FARGO FORUM FEDERAL CREDIT UNION, FARGO, INTO TOWN AND COUNTRY CREDIT UNION, MINOT

Jay Landsiedel, CFO of Town and Country Credit Union, Minot, and Allan Schierholz, Manager of Fargo Forum Federal Credit Union, Fargo, joined the conference call.

Chairman Karsky indicated the Department received a letter dated and hand delivered on June 1, 2009, by Marilyn Foss, General Counsel of the North Dakota

Bankers Association. The letter was discussed in detail, in particular the reference to proper notification not being given regarding the proposed merger.

Chairman Karsky discussed North Dakota Century Code Sections 6-06-36 and 6-06-37 regarding mergers, in particular the right of credit unions to merge. Chairman Karsky also discussed North Dakota Administrative Code Chapter 13-03-05 regarding the notice requirements for a merger. Chairman Karsky indicated proper notification was given by the Department, and following this meeting the Department will address the issues outlined in the letter from Ms. Foss.

Assistant Attorney General Webb referred to Section 13-03-05-01(6), North Dakota Administrative Code, which outlines the next step required if there is a merger application along with an expansion of the field of membership request. Assistant Attorney General Webb added that permission to assume an existing field of membership falls under North Dakota Administrative Code Chapter 13-03-14 and the notice requirements are to not just credit unions but also bank associations within the field of membership range.

Assistant Commissioner Entringer continued that Ms. Foss also indicated in her letter that due to the inadequate notice the North Dakota Bankers Association has not had an opportunity to review the merger application and can only speculate it proposes the continuing credit union, Town and Country Credit Union, will take on and absorb the field of membership of the merged credit union. Ms. Foss continued that since the Fargo Forum Federal Credit Union is an occupational credit union with no geographic restrictions for the residency of its members and Town and Country Credit Union restricts its field of membership to persons residing within a 50 mile radius of Fargo, it seems likely the merging credit union will have members who reside outside the geographic limits of the continuing credit union. In conclusion, Ms. Foss indicates neither statutes nor rules relating to a credit union merger allow the State Credit Union Board to authorize Town and Country Credit Union to retain as members persons who reside outside the 50 mile radius of Fargo.

Chairman Karsky referred to North Dakota Century Code Section 6-06-07 and indicated that during the 2005 Legislative Session the North Dakota Administrative Code proposed changes that would limit credit unions from branching across the state, and that this legislation passed. Chairman Karsky stated Assistant Attorney General Webb reviewed the legislative history regarding merging and field of membership expansion, and the CEO of the North Dakota

Bankers Association specifically states that the legislation allows the surviving credit union of a merger to assume the field of membership of a merged credit union and then branch into the field of membership.

Chairman Karsky indicated it is obviously clear in this application, Town and Country Credit Union can assume the current field of membership of Fargo Forum Federal Credit Union, as it is not an expansion of field of membership since Town and Country Credit Union already has a 50 mile radius field of membership of Fargo.

Assistant Attorney General Webb added that in looking at past legislative history and the course of dealings the State Credit Union Board has operated under, it is his assumption the State Credit Union Board has always allowed the merging credit union to assume existing members of the merged credit union regardless if those members reside within the geographical area or not. Assistant Attorney General Webb continued if members of the merging credit union who previously left the specified geographical area are still considered members of the resulting credit union. Assistant Attorney General Webb added the legislative history shows that when a surviving credit union absorbs another credit union it assumes the field of membership, which does not conflict with any other law. Assistant Attorney General Webb stated when reviewing existing rules it appears all members within both the acquiring and acquired credit unions have the power to vote and be involved in the entire merger process.

Assistant Attorney General Webb concluded the North Dakota Bankers Association may have an argument regarding the merger application; however, on the surface he feels it appears the State Credit Union Board has taken this position in the past.

Chairman Karsky reiterated one issue Ms. Foss has is that there may be members of the Fargo Forum Federal Credit Union who are outside the current field of membership of Town and Country Credit Union, and asked what that percentage would be. Manager Schierholz indicated 5% or approximately 15 members would fall outside the current field of membership of Town and Country Credit Union.

Chairman Karsky indicated several state-chartered credit unions allow members who leave the stated field of membership are allowed to retain membership in the credit union; therefore, in the case of a merger the State Credit

Union Board views all members of an acquired credit union should be able to retain membership in the continuing credit union.

Assistant Commissioner Entringer indicated the Department recommends approval of the application by Town and Country Credit Union, Minot, to merge with the Fargo Forum Federal Credit Union, Fargo. Assistant Commissioner Entringer indicated the Department included a proposed Order regarding the merger to be signed by the State Credit Union Board; however, since the meeting is being held by conference call, he would suggest the motion include an amendment to the proposed Order allowing Chairman Karsky authority to sign the Order on behalf of the State Credit Union Board.

CFO Landsiedel explained to the Board that the Fargo Forum Federal Credit Union approached Town and Country Credit Union regarding a possible merger; Town and Country Credit Union submitted a merger proposal; the membership of Fargo Forum Federal Credit Union met and selected Town and Country Credit Union as the acquiring credit union; and the membership of Town and Country Credit Union met and approved the proposed merger. CFO Landsiedel explained that the Fargo Forum Federal Credit Union is open only one hour per day; therefore, would like to expedite the proposed merger in order to offer more services to its members, with an effective merger date of July 1, 2009.

Member Brucker indicated a concern he has is how equity payouts will be done and that guidelines and rules have been established. Member Brucker asked CFO Landsiedel and Manager Schierholz what steps will be taken, and how payouts will be made and to whom. CFO Landsiedel indicated the agreement that has been reached is that Town and Country Credit Union will retain no less than 7% of the Fargo Forum Federal Credit Union's equity.

Chairman Karsky asked the payout date to the members, and Manager Schierholz indicated it would be as of December 31, 2008. Manager Schierholz continued the minimum balance required by Town and Country Credit Union will be maintained and fund all accounts immediately. CFO Landsiedel indicated part of equity will be used to fund numbers up to \$50 so all members will come across to Town and Country Credit Union. Manager Schierholz indicated that a percentage will be taken of each member's share balance, as well as the individuals with loan balances and interest paid in, and will calculate out a fair value for each member.

Member Brucker asked if anything has been submitted in writing to the State Credit Union Board as how equity will be disbursed. Assistant Commissioner Entringer indicated the Department has not received any written notification, and CFO Landsiedel added it had not been requested. Member Watne also questioned whether this should be in writing.

CFO Landsiedel indicated Town and Country Credit Union has reached an agreement to disburse the equity in order that Town and Country Credit Union as the existing credit union will retain no less than 7%.

Member Brucker reiterated he believes a solid plan should be submitted so it is clear where the money is going and how it will be disbursed to the members of the Fargo Forum Federal Credit Union.

Member Tonneson indicated he believed in the past the State Credit Union Board asked for an explanation of the equity payout only, not a formal written plan. Assistant Commissioner Entringer indicated in regard to the merger between Knife River Credit Union, Hazen, and Capital Credit Union, Bismarck, the Board did ask Knife River Credit Union to provide a written plan; however, that was requested after that fact, and the Board was not happy with their process.

Assistant Commissioner Entringer indicated he did not request any further documentation since it was indicated that Town and Country Credit Union would retain no less than 7%.

Member Brucker indicated he would be comfortable going forward if once the formula has been promulgated it is submitted to the Department so the calculations and dates are known.

Chairman Karsky indicated he does not have a problem with Member Brucker's suggestion; however, he questioned if it is the State Credit Union Board's decision to say what is fair or not fair and how would that be regulated. Chairman Karsky indicated his main concern is that the surviving credit union is safe and sound after the merger.

Chairman Karsky asked the dollar amount being considered, and Manager Schierholz indicated the original equity is \$210,000, so 7% of that amount will be transferred to Town and Country Credit Union. Chief Examiner Krebs stated that according to March 31, 2009, call report data, there will be approximately \$130,000 to distribute back.

Member Stillwell stated she believes the Board's previous concern was not how the equity was paid out, but that it was distributed to non-members, and if the membership would have voted they would not have wanted funds distributed to non-members. Chairman Karsky agreed; however, again questioned if the State Credit Union Board has the authority to make those decisions.

There was further discussion on this issue, and it was agreed the credit unions need to have a plan regarding the equity payout. Chairman Karsky indicated the Board can approve the merger subject to an equity payout report being submitted to the State Credit Union Board after the fact, or request a plan before acting on the merger application. Member Tonneson indicated he would be comfortable receiving a report after the fact, and does not believe this application should be delayed for this reason. Members Watne and Stillwell agreed, and Member Stillwell continued she believes the plan is to distribute funds to members only.

Chairman Karsky indicated if the Board feels it should have more authority in this area, legislation should be introduced to accomplish that. Chairman Karsky reiterated the payout will not be more than 7% of equity and the surviving credit union will be safe and sound without the 7%.

Chairman Schierholz indicated that payouts will be made to members only.

CFO Landsiedel informed the Board that the Fargo Forum Federal Credit Union office will be closed, and all member services will be combined with existing branches of Town and Country Credit Union in Fargo and West Fargo.

Assistant Commissioner Entringer indicated he will add a provision to the proposed Order that the Fargo Forum Federal Credit Union must submit a detailed report to the State Credit Union Board on how the equity was distributed, as well as allowing Chairman Karsky to sign the proposed Order on behalf of the State Credit Union Board.

It was moved by Member Tonneson and seconded by Member Stillwell to approve the application of Town and Country Credit Union, Minot, to merge Fargo Forum Federal Credit Union, Fargo, into Town and Country Credit Union, Minot, and authorize Chairman Karsky to sign the Proposed Order on behalf of the State Credit Union Board.

Member Tonneson asked if the field of membership after the merger will remain a 50 mile radius of Fargo, and Chairman Karsky indicated the field of membership of the surviving credit union will be the same.

The motion was unanimously carried.

CFO Landsiedel and Manager Schierholz left the conference call at this time.

2009 ANNUAL ASSESSMENT POLICY FOR STATE-CHARTERED CREDIT UNIONS

Chairman Karsky indicated every year the State Credit Union Board is to set an assessment formula that will adequately cover the Department's expenses for the supervision and regulation of state-chartered credit unions. Chairman Karsky referred to the Memorandum prepared by Joan Becker, Director of Administration, which contains an outline of expense and revenue projections for both June 30, 2009, and June 30, 2010.

Chairman Karsky reviewed the assessment formula and indicated it is the same formula as last year.

It was moved by Member Watne, seconded by Member Tonneson, and unanimously carried to approve the 2009 Annual Assessment Policy for State-Chartered Credit Unions.

The Board adjourned the open session at 10:30 a.m., and went into closed session at 10:35 a.m.

Timothy J. Karsky, Chairman

Robert J. Entringer, Secretary