

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

September 13, 2018

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. Chair Kruse called the meeting to order at 9:00 a.m., Thursday, September 13, 2018, by conference call.

MEMBERS PRESENT: Lise Kruse, Chair (*Office*)
Todd Heilman, Member (*Devils Lake*)
Linda Beall, Member (*Velva*)
Kim Larson, Member (*Casselton*)
John Schmid, Member (*Carson*)
Tom Stennes, Member (*Harwood*)

MEMBERS ABSENT: Cheryl Thompson, Member (*Fargo*)

ALSO PRESENT: Aaron Webb, Secretary (*Office*)
Ryan Spah, Chief Examiner – Banks (*Office*)
Heidi LaBree, Administrative Examiner (*Office*)
Anders Odegaard, Assistant Attorney General
(*Office*)
John Ortega, First United Bank (*Park River*)
Steve Rehovsky, First United Bank (*Park River*)
Paul Sirek, Eide Bailly (*Minneapolis, MN*)
Brad Sinclair, Attorney (*Fargo*)
Dave Felch, Border State Bank (*Greenbush, MN*)

APPROVAL OF MINUTES

Chair Kruse indicated the Board received copies of the minutes of the regular meeting held on July 12, 2018.

Member Larson made a correction to his title. His title should read CEO.

It was moved by Member Beall, seconded by Member Schmid, and unanimously carried, to approve the minutes of the regular meeting held September 13, 2018, as corrected.

FIRST UNITED BANK, PARK RIVER – AUTHORIZATION TO PURCHASE CERTAIN ASSETS AND ASSUME CERTAIN LIABILITIES OF CHOICE FINANCIAL GROUP (PETERSBURG FACILITY), FARGO.

Assistant Commissioner Webb stated the Department received the application on June 15, 2018, whereby First United Bank, Park River, seeks authorization to purchase certain assets and assume certain liabilities of Choice Financial Group, Fargo. The purpose of the transaction is to acquire Choice Financial Group's banking facility in Petersburg.

Assistant Commissioner Webb stated the notice of the application was published pursuant to 13-02-13-03.1 of the North Dakota Century Code, which allows the applicant to publish a joint state and federal notice. The notice was published in the Walsh County Record on June 20, July 3, and July 11, and in the Ness Press on June 22, July 6, and July 13. No comments were received nor were there requests for copies of the application.

Assistant Commissioner Webb stated that Section 13-02-13-01 of the North Dakota Administrative Code requires this transaction to be treated as a merger even though it is a purchase and assumption; therefore, not all the requirements will be applicable.

Assistant Commissioner Webb reviewed the application requirements set forth in Section 13-02-13-02 of the North Dakota Administrative Code.

Mr. Ortega reviewed the criteria set forth in Section 13-02-13-04 of the North Dakota Administrative Code. He stated that the applicant is 100% owned by its parent holding company which conducted a special meeting on March 29, 2018. The bank intends to continue operations at the same location in Petersburg.

Mr. Rehovsky stated that they feel the Petersburg branch fits in with their existing branches and their current trade area.

Assistant Commissioner Webb stated that the Department believes all criteria has been met. The Department recommends approval of the request for

First United Bank, Park River to purchase certain assets and assume certain liabilities of Choice Financial Group (Petersburg location).

It was moved by Member Larson, seconded by Member Heilman, and carried by a vote of 6-0, to approve the application for First United Bank, Park River to purchase certain assets and assume certain liabilities of Choice Financial Group (Petersburg Facility), and authorizing Commissioner Kruse to sign the Order on behalf of the Board.

APPLICATION FOR CHANGE OF CONTROL – BORDER BANCSHARES, INC., GREENBUSH, MINNESOTA, TO ACQUIRE CONTROL OF THE VOTING STOCK OF UNION BANCSHARES, INC., FARGO, NORTH DAKOTA, AND THEREBY CONTROL OF UNION STATE BANK OF FARGO, FARGO, NORTH DAKOTA.

Assistant Commissioner Webb stated the Department received the application on August 1, 2018. The application was deemed complete on August 3, 2018.

Assistant Commissioner Webb stated the notice of the change of control was published in the Fargo Forum on August 13, 2018. The comment period ended on August 28, 2018. No comments were received nor were there any requests for copies of the application.

Assistant Commissioner Webb reviewed the application criteria outlined in North Dakota Century Code 6-08-08.1(4).

Assistant Commissioner Webb stated that as a result of the holding company merger, Border Bancshares, Inc. would control three banks; Border State Bank, Greenbush, MN; First State Bank of Clearbrook, Clearbrook, MN; and Union State Bank of Fargo, Fargo, ND. The applicant has already filed an application to merge its two Minnesota charters; however, the applicant has indicated its intent to operate the Union State Bank of Fargo as a separate charter with the same locations and hours of operations for the foreseeable future.

Mr. Sirek reviewed the application on behalf of Border Bancshares, Inc. He stated that upon the completion of the transaction, Union Bancshares, Inc. will be dissolved. Therefore, Border Bancshares, Inc. will have ownership of three

different bank charters. There are no overlapping markets between Border Bancshares existing subsidiaries and Union State Bank of Fargo.

Mr. Felch discussed the management structure upon the completion of the change of control. He stated there will be minor management changes. He also stated that going forward they would have the opportunity to decide whether to have a Minnesota or North Dakota charter. Board of Directors would have representatives from both Union State Bank of Fargo and Border State Bank. He stated that with the size of Border State Bank, the services and resources that are provided to Union State Bank of Fargo can be enhanced.

Mr. Sirek stated that a change has been made from the initial application. Border Bancshares, Inc. will not be financing 100% of the purchase price. Rather it will use a combination of existing cash plus a smaller dividend from its existing subsidiaries to put a 25% down payment on the acquisition and finance 75%, which was approved and required by the Federal Reserve.

Member Stennes asked for clarification on management changes and whether people would be replaced.

Mr. Felch stated that they were not going to replace any officers. They feel that the employees add value to the bank.

Chair Kruse asked for clarification on who from the Union State Bank Board of Directors and officers would remain. The list of executive officers after acquisition provided as part of the application lists only Mary Johnson.

Mr. Felch stated that Mary Johnson would be the only Board member to remain. The executive officers of the bank will continue to be a part of the team, with an addition of team members from Border State Bank. The information provided in the application is not correct.

Member Larson asked for clarification on how the State Banking Board proceeds when information given is not accurate.

Chair Kruse stated that what was given is pro forma and that it is reasonable to expect some changes to staff with this type of transaction.

Member Larson asked who the other two Union Bank of Fargo representatives on the Board of Directors would be, in addition to Mary Johnson.

Mr. Felch stated that in discussion with Mary Johnson, Dennis Furman and Pam Anderson may also remain on the board.

Mr. Sirek provided clarification on why there was a change from the original application, resulting in a 25% down payment. The Federal Reserve Bank in Washington, D.C. has stated that holding companies no longer are able to finance 100% of the purchase price; and therefore, required the purchase to be restructured to include the 25% down payment.

It was moved by Member Larson, seconded by Member Stennes, and carried by a vote of 6-0, to approve the application for the change of control, Border Bancshares, Inc., Greenbush, Minnesota, to acquire control of the voting stock of Union Bancshares, Inc., Fargo, North Dakota, and thereby control of Union State Bank of Fargo, Fargo, North Dakota, and authorizing Commissioner Kruse to sign the Order on behalf of the Board.

BANK BUDGET UPDATE

Chair Kruse stated the Department is within the budget requirements. The budget is watched closely as the end of the biennium draws near. There are no concerns with the budget at this time.

LEGISLATIVE UPDATE

Chair Kruse stated that there were no big legislative changes coming. There will be some clarification and clean up done, mostly to the trust statute. There is confusion between the Century Code and Administrative Code regarding capital requirements for trust companies. Additionally, the resolution section of the bank statute is outdated. While there has not been a failure in almost 30 years, it is better to address this now. This change was recommended by the FDIC based on their experience with other states.

The Board went into closed session at 9:41 a.m. to review the Supervisory Reports of Examination pursuant to North Dakota Century Code 6-01-07.0, and to discuss any confidential records pursuant to North Dakota Century Code 44-04-19.2, and returned to open session at 9:53 a.m.

ITEMS TO BE NOTED

Chair Kruse gave an update on the appraisal waiver application. The Appraisal Subcommittee does not deem the application complete. Additional support will be needed from the banks. The Subcommittee wants clarification, numbers, and data. Several banks have expressed that they will write letters; however, the letters should provide data to support the position.

The meeting adjourned at 10:13 a.m.

Lise Kruse, Chair

Corey Krebs, Secretary