

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

July 17, 2014

A special 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, July 17, 2014, by conference call.

MEMBERS PRESENT: Robert J. Entringer, Chairman (*Office*)
Nancy Baerwald, Member (*Cando*)
Linda Beall, Member (*Velva*)
Kim Larson, Member (*Casselton*)
John Schmid, Member (*Carson*)
Tom Stennes, Member (*Harwood*)

MEMBER ABSENT: Cheryl Thompson, Member

ALSO PRESENT: Aaron K. Webb, Secretary (*Office*)
Suzette Richardson, Administrative Staff Officer (*Office*)

STATE BANK OF BOTTINEAU, BOTTINEAU – RELOCATE MAIN OFFICE

Assistant Commissioner Webb reviewed his Memorandum dated June 25, 2014, indicating the Department received the above referenced application on April 14, 2014. Assistant Commissioner Webb indicated that notice of the application was published pursuant to federal requirements in the Bottineau Courant on June 24, 2014, and July 1, 2014. Assistant Commissioner Webb indicated the public comment period ended July 16, 2014, and no comments were received nor were there any requests for copies of the application.

Assistant Commissioner Webb referred to Section 6-03-13 of the North Dakota Century Code which provides in part: “A banking association may apply to the state banking board for authority to move its main office to any location currently being operated by the banking association as a facility or to another location within the same corporate city limits.”

Assistant Commissioner Webb stated the State Bank of Bottineau requests authorization to move its main office from its downtown location at 514 Thompson Street, Bottineau, North Dakota, to its highway location at 105 11th Street East, Bottineau, North Dakota, and then cease operating at the downtown location. Assistant Commissioner Webb continued the bank has indicated that the existing downtown (Thompson Street) building and land will be donated to the City of Bottineau upon relocation and the existing highway location building will be donated to the VFW.

Assistant Commissioner Webb referred to the letter dated April 7, 2014, from Eide Bailly which provides a description of the facility and Exhibit 1 contains a bid tabulation regarding the construction costs of the new facility. Assistant Commissioner Webb stated from the information provided, the estimated total cost of the facility will be \$4,433,315 with building construction cost totaling \$2,987,830.82, and costs relating to furnishings, vault, security systems, etc., amounting to \$700,000.

Assistant Commissioner Webb referred to Section 6-03-07 of the North Dakota Century Code which provides: “A state banking association may not invest more than sixty-five percent of the amount of its unimpaired capital stock, surplus, and undivided profits in a banking facility, furniture, fixtures, and equipment without the approval of the commissioner or the state banking board.”

Assistant Commissioner Webb indicated based on the costs associated with the application for relocation of its main office, the bank is requesting approval from the Board to exceed the 65% fixed asset limitation; specifically, the bank would exceed the 65% limit by \$1,002,963, for a total investment in fixed assets of \$4,433,663 or 84%.

Chairman Entringer explained the bank is moving from downtown to the highway location, with the existing highway building being removed and a new building constructed. Chairman Entringer indicated the total cost of the new building is approximately \$3.7 million; reiterating that both existing buildings will be donated.

Chairman Entringer referred to Dana Ereth's calculation which shows the total investment in fixed assets as of March 31, 2014, is \$4.4 million. Chairman Entringer indicated the bank has a current balance of \$948,000 in fixed assets; deducting the donation amounts for both current buildings estimates approximately \$200,000; the cost of construction for the new building is \$3.7 million; resulting in a total investment in fixed assets of \$4.4 million. Chairman Entringer reiterated the bank would exceed its fixed asset limitation by nearly 20%. Chairman Entringer indicated most of the increased expenses are non-cash expenses as the majority of the increased costs are depreciation.

Chairman Entringer indicated the bank needs the additional space and modernization of the existing building is the primary reason for the relocation. Chairman Entringer explained the main bank and facility are not far apart; therefore, there is no anticipated change in any of the financial services. Chairman Entringer indicated brokerage and insurance services would be offered at the new location.

Chairman Entringer indicated the bank bought additional lots and removed the properties before receiving a letter from SHPO; therefore, had to go through the lengthy process to determine none of the removed properties were historic properties. Chairman Entringer referred to the April 9, 2014, letter from the State Historical Society of North Dakota concurring with the "no historic properties affected" determination.

Chairman Entringer indicated the bank's capital will be impacted some in the leverage ratio and more in the risk based ratios.

Chairman Entringer informed the Board that the FDIC has not yet acted on this application; adding the application has not yet been accepted by the FDIC. Chairman Entringer explained the bank did not provide the "anticipated rental income", and since the bank will be leasing to the insurance agency as well as the investment center, the FDIC is requesting this projected amount. Chairman Entringer indicated the bank informed the Department that the insurance agency rent will be \$650 per month. Chairman Entringer continued that he believes the investment center will base its rent on production of sales/commissions. Chairman Entringer concluded the FDIC is waiting for a copy of the rental agreement; therefore, to date has not accepted the application.

In response to Member Beall, Chairman Entringer indicated even though the new building construction is in process, the bank cannot relocate until it receives approval from both the FDIC and the Board.

In response to Member Baerwald, Chairman Entringer agreed the proposed rental income is an issue for the Board as well as the FDIC, and explained pursuant to Section 23B of the Federal Reserve Regulations the bank cannot offer more favorable rent to the insurance agency than a non-affiliated party. Chairman Entringer explained that the same group owns both the bank and insurance agency; therefore, this must be an arms-length transaction. Chairman Entringer concluded the FDIC's main concern is that a transaction is not approved wherein there could be a potential violation of law.

In response to Member Stennes, Chairman Entringer indicated determining an appropriate level of market rent in the Bottineau area is the difficult aspect of this application.

Member Larson indicated years ago he had to go through the process of proving the Buffalo facility rent charged by three owners of the First State Bank of North Dakota was not unfair to the bank. Chairman Entringer agreed that the State Bank of Bottineau is facing this same scenario.

Assistant Commissioner Webb indicated the Department recommends (1) approval of the application by the State Bank of Bottineau, Bottineau, North Dakota, to relocate its main office from 514 Thompson Street, Bottineau, North Dakota, to its existing facility location at 105 11th Street East, Bottineau, North Dakota, (2) approve the bank's application to exceed the fixed asset limitation, not to exceed \$4.6 million unless the bank's fixed asset limitation falls below 65%, and (3) authorization for the Commissioner to sign the proposed Order on behalf of the Board.

Chairman Entringer indicated he could, as Commissioner, approve the bank's request to exceed the fixed asset limitation; however, since the Board needs to act on the relocation application, both were brought to the Board for action.

Chairman Entringer indicated in the past a dollar amount has been set when approving an application to exceed the fixed asset limitation, and this amount cannot be exceeded unless further approval is granted. In regard to this application, Chairman Entringer indicated approval of the application to exceed the bank's fixed

asset limitation will impact earnings for the bank. Chairman Entringer stated he had hoped Mr. Ereth would be available on this conference call to discuss with the Board the impact on the bank's earnings.

In response to Member Schmid, Chairman Entringer indicated the Board could require the bank's capital remain at a certain level; however, in the past a dollar amount was set, with the restriction the bank cannot exceed that amount unless they request permission from the Commissioner or Board.

Chairman Entringer explained the Board could approve the application to relocate the bank and facility, and he consult with Mr. Ereth on whether the \$4.6 million limitation would be adequate and then approve that limit as Commissioner.

Chairman Entringer indicated the Board also has the option to table action of the proposed applications until a representative of the bank is available to answer questions of the Board.

In response to Member Larson, Chairman Entringer indicated the proposed Order states the Board's approval of the applications is contingent on the FDIC's approval.

Member Larson indicated since the Board scheduled a special meeting he feels a representative should have been available to discuss the proposed applications and answer any questions by the Board.

It was moved by Member Larson and seconded by Member Baerwald to table action on the applications by the State Bank of Bottineau, Bottineau, North Dakota, to relocate its main office from 514 Thompson Street, Bottineau, North Dakota, to its existing facility location at 105 11th Street East, Bottineau, North Dakota; and to exceed the bank's fixed asset limitation, until a representative of the bank is available to discuss the applications and answer any questions by the Board.

After further discussion, as well as Chairman Entringer suggesting a future Board meeting be scheduled to coordinate with the FDIC's process regarding the application, **the motion carried by a vote of 6 to 0, with Member Thompson absent.**

The meeting adjourned at 9:28 a.m.

Robert J. Entringer, Chairman

Aaron K. Webb, Secretary