

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

August 14, 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 9:00 a.m., Thursday, August 14, 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*)
Jan Murtha, Assistant Attorney General (*Office*)
Lise Kruse, Chief Examiner-Banks (*Fargo*)
Dana Ereth, Eide Bailly (*Bismarck*)
Pat Artz, State Bank of Bottineau (*Bottineau*)

STATE BANK OF BOTTINEAU, BOTTINEAU – RELOCATE MAIN OFFICE

Chairman Entringer indicated the Department neglected to invite Dana Ereth, Eide Bailly, or Pat Artz, President of State Bank of Bottineau, to the conference call held on July 17, 2014. Chairman Entringer indicated the Board tabled action on the application by State Bank of Bottineau (Bottineau) to relocate its main office from 514 Thompson Street, Bottineau, to its existing facility location at 105 11th Street

East, Bottineau, and to request permission to exceed the fixed asset limitation found under Section 6-03-07 of the North Dakota Century Code, until a representative was available to answer questions from the Board.

Mr. Ereth explained Bottineau proposes to move its main banking office at 514 Thompson Street to the facility location at 105 11th Street East. Mr. Ereth indicated the building at the facility location has already been sold and construction of a new building has begun.

In response to Chairman Entringer, Mr. Ereth indicated the estimated cost of the new building, as well as furniture and equipment, is \$3,687,831.

Chairman Entringer indicated the schedule of projected non-interest income and non-interest expense for Bottineau as of year-end 2014, 2015, and 2016 compiled by Mr. Ereth was provided for the Board's review.

Chairman Entringer reiterated the requests before the Board are (1) to relocate the main office from 514 Thompson Street the current facility location at 105 11th Street East, and (2) to act on the request to exceed the fixed asset limitation found under Section 6-03-07 of the North Dakota Century Code.

Member Larson stated he has two questions: (1) referring to the projected budget he wondered what information the bank's board of directors considered in its discussions as to constructing the building, and (2) the growth in loans during the second quarter 2014 is fairly significant at 15.5% and in looking at the history of the bank, loan growth is 8.5%.

Mr. Ereth explained the bank's board of directors had discussions about additions to the facility during 2013 and into the first month of this year. Management used the budget for discussion purposes with the bank's board of directors to assess the impact on earnings due to the need to fund the construction of the building by utilizing earning assets. Mr. Ereth continued that the projections are based on the actual numbers through June 30th, noting the bank is well ahead of projections for the first two quarters of the year due primarily to the loan growth. Mr. Ereth stated he updated the budget and then included the impact of the donation of the facility and corresponding gain on the disposition. The net effect is that the budget came in close to the original projection and he believes the bank will probably come in even higher.

Member Larson restated that his second question was about the rate of loan growth and what types of new loans the bank was booking.

President Artz stated that the average loan volume is up due to the fact that more acres were planted this year as opposed to previous years and the bank is financing more operating, a limited amount of farmland loans because of competition from Farm Credit Services, some mortgage financing of lake cabins and a small percentage personal borrowing.

Chairman Entringer asked a question of Mr. Ereth relating to the breakdown of non-interest income and non-interest expense, and more specifically, whether net gain on asset sales would be the combination of the \$164,000 in 2014 and the \$699,000 in 2015. Mr. Ereth responded that the gain on the facility would be as detailed in the projections, adding that you also need to look at the donations line in the projections noting that \$251,000 is attributed to the fair value. Chairman Entringer asked whether the same treatment would occur during 2015 for the other building. Mr. Ereth answered that this representation would be correct for the other building.

Mr. Ereth indicated that the bank is projecting to be back into compliance with the 65% fixed asset limit by 2018.

Member Beall asked whether the project was currently on track with budget projections. President Artz indicated the bank maintains contingency funding but explained that the bank costs are in-line with projections, including furniture and fixtures.

Chairman Entringer stated that it was his understanding that the bank had already started construction of the new building, and asked whether the bank had plan B if the waiver was not approved by the board. President Artz indicated that the bank did not have a plan B, but would do whatever the Department instructed him to do. President Artz added that he felt the bank had followed the rules and worked with the Department on the request. Chairman Entringer added that in the event the request was denied, the bank would have options, like securing a capital injection into the bank.

Member Schmid indicated that his thoughts would be to place a restriction on dividends, potentially at 40% of net income, until the bank's fixed asset limitation comes back in compliance with the statutory minimum.

Chairman Entringer indicated that the bank has historically not declared very high dividends until 2014 when the numbers were a little higher than normal.

Mr. Ereth addressed the fact that as an S-Corp entity, the goal of the bank is to ensure that it has sufficient dividends to cover the shareholder's tax obligations. Therefore, Mr. Ereth proposed the restriction be tailored to account for the flow-through tax obligations of the bank's shareholders.

Member Schmid noted that his intention was to enact a dividend restriction that would ensure that the bank's shareholders would have sufficient dividends to pay their tax obligations.

Chairman Entringer explained that his understanding of Member Schmid's comment was not that there is an issue allowing the bank to declare a dividend to cover the shareholder tax liability, but instead that shareholders should not get a return on their investment until such time as they are within compliance with the statute.

Chairman Entringer indicated that his thought was to enact a plan whereby the board's fixed asset waiver approval would be ratcheted down with the goal of getting the bank in compliance with the statute. Chairman Entringer agreed that limiting the ability of the bank to declare dividends would effectively accomplish the same goal. Chairman Entringer noted that he created a spreadsheet showing the fixed assets to capital, surplus, and undivided profits, and obviously Bottineau had the highest ratio of fixed assets to capital, surplus and retained earnings, exceeding the next highest institution by probably 40 percent. Further, Chairman Entringer explained his goal was to get the bank into compliance with the statute as quickly as possible.

Member Beall indicated that she agreed that some form of restriction on dividends was appropriate.

It was moved by Member Schmid, seconded by Member Stennes, and carried by a vote of 5 to 1, with Member Larson voting no and Member Thompson absent, to authorize the State Bank of Bottineau to exceed the fixed asset limitation to a level of 80% and restricting dividend payouts to the greater of 40% of net income or the actual shareholder tax liability calculation provided

by the bank's accounting firm, until such time as the bank comes back into compliance with the 65% statutory fixed asset limitation.

It was moved by Member Baerwald, seconded by Member Beall, and carried by a vote of 6 to 0, with Member Thompson absent, to approve the application by State Bank of Bottineau, to relocate its main office from 514 Thompson Street, Bottineau, to its existing facility location at 105 11th Street E, Bottineau.

The meeting adjourned at approximately 9:30 a.m.

Robert J. Entringer, Chairman

Aaron K. Webb, Secretary