

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

General Affairs Committee
November 03, 2011

[CONFIRMATION]

The Committee on General Affairs met at 1:30 p.m. on Thursday, November 3, 2011, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on gubernatorial appointments. Senators present: Russ Karpisek, Chairperson; Bob Krist, Vice Chairperson; Lydia Brasch; Colby Coash; R. Paul Lambert; and Tyson Larson. Senators absent: Dave Bloomfield; Amanda McGill.
[CONFIRMATIONS]

SENATOR KARPISEK: (Recorder malfunction)...gubernatorial appointments. For the record, my name is Russ Karpisek; I'm the Chair of the General Affairs Committee and I'm from Wilber. To my far right is Senator Brasch. Next to her will be Senator Bloomfield; then Senator Coash; our Vice Chair, Senator Krist. Next to Senator Krist is Josh Eickmeier, our legal counsel. Then we'll have Senator McGill to my left; our newest member, Senator Lambert; and Senator Larson will be next to Senator Lambert; and our committee clerk, Christina Case. With that we will have our first appointment. Mr. Homan, are you on the line? Steve? Steve, are you there? [CONFIRMATIONS]

STEVE HOMAN: (via phone) Yeah, I just...I was off for like a minute of sound, but yes, I am here. [CONFIRMATIONS]

SENATOR KARPISEK: Okay, welcome. [CONFIRMATIONS]

STEVE HOMAN: Thank you. [CONFIRMATIONS]

SENATOR KARPISEK: And thank you for calling in today and we appreciate that it's a drive in from Kearney and kind of late notice, but that's not our fault, so.
[CONFIRMATIONS]

STEVE HOMAN: I am holding...who is the chair?...holding that person responsible.
[CONFIRMATIONS]

SENATOR KARPISEK: No, I would call...the Governor called this session. (Laughter)
[CONFIRMATIONS]

STEVE HOMAN: (Laughter) Understand. [CONFIRMATIONS]

SENATOR KARPISEK: This is Senator Karpisek and I'm chairing, so if you want to go ahead and tell us a little bit about yourself. We have here that you are a reappointment to the Nebraska Arts Council. [CONFIRMATIONS]

STEVE HOMAN: (Exhibit 1) Correct. Yeah, well, I won't take a lot of your time, but I did get the e-mail. Thank you, Christina, if you're there, for lining this up. I am a

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reappointment...or hypothetical reappointment to the Arts Council. I was a step-in for the third district for someone who had to remove themselves from it. So I've been on this particular council for a couple of years. The capacity in which I've served so far, anyway, other than trying to learn as much as I can, as fast as I can, is I've been on the finance committee. I have been on the Governor's mansion art selection committee and the under served committee thus far. I'm in the process of moving to the cultural endowment division with Pam Snow. I have interest in that. But I think one of the advantages we have out here...a good fit, I believe, is I do like the fact that there is a statewide focus to the Arts Council and the Endowment for the Arts. I think our...you know, Galen Hadley does a good job for us out here. I recognize he's not there, so please don't pass that along to him. [CONFIRMATIONS]

SENATOR KARPISEK: No problem. (Laughter) [CONFIRMATIONS]

STEVE HOMAN: (Laughter) But we do have a pretty strong voice, so far, out here in the third district. We have a lot of good things happening out here, too, much like Omaha and Lincoln would. So my experience in the past of financial advisor for Edward Jones, and I'm an English major from Notre Dame, neither of which qualify me to be on the Arts Council. But I'm a past cochair for the Museum Nebraska's Arts Spirit with my wife for their last one, not this one. For those that don't know, that's a fund raiser statewide for the supported arts. My wife, Jeni, is a pastel artist, is a member of the Pastel Society of America out of New York City and she's shown works in downtown Lincoln and she's taught art classes in North Platte, has her own private studio here in Kearney. And all three of my daughters sing and act. So the arts are pretty deep in our home. I didn't know why they didn't ask Jeni to be on this instead of me. (Laughter) But I've, so far anyway, enjoyed it. I serve on the city planning commission in Kearney, so I kind of got a feel for the last ten years of trying to give and take a little bit. And I do like it so far. So, I guess...I'm not afraid to have an opinion pro or con as Suzanne Wise and Mark Owens (phonetic), those folks, probably would attest to. But I like it. I think I'd be willing to do another three-year run if everyone saw fit. [CONFIRMATIONS]

SENATOR KARPISEK: Great. [CONFIRMATIONS]

STEVE HOMAN: One thing I do think is worth noting, I did shove a little bit down the throat out here...we're conducting research on economic impact of art in communities, in both large and smaller communities. We had, I think, four cities recognized to participate in that at the beginning. One of the meetings I was at, they said, "well, how come Kearney is not on that?" And we didn't have funds for it. So we thought, well then I said, we will...I'll find the funds for it; I want to know what that is. That's coming out of national. So we're in the process of finishing up, actually, a survey right now that's measuring the economic impact of art in a community of towns our size. Which I think then we can report back to our local city council, etcetera, just to kind of make sure that everyone understands that it's just not a painting on the wall, or it's not just a person

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trodding the boards. There's actual real, meaningful, tangible effort when there's a thriving art community in whatever the size of the town is. So, hard to measure, but it's very important. [CONFIRMATIONS]

SENATOR KARPISEK: Very good. Anything else? [CONFIRMATIONS]

STEVE HOMAN: I think that's all I have. [CONFIRMATIONS]

SENATOR KARPISEK: Okay. Do we have any questions for Mr. Homan? I don't see any questions. And I agree that art is just as important all across the state. And I'm also very pleased that we have you from Kearney and we have Louise Kent in Scottsbluff, because it is a good thing for all across the state and I think it's easy to forget that. So I appreciate your service on the board. [CONFIRMATIONS]

STEVE HOMAN: Well, I've enjoyed the Orpheum and the Holland, and I've enjoyed the community theater up at Fort Robinson; and of course, the Merryman and the community theater here in Kearney. So we are an equal opportunity art goer. So I think Nebraska is unique in that. I like our 1 percent on the projects. When I look to our neighbors to the south that have tried to, or effectively eliminating a lot of the art budget down in Kansas, it's hard in a tight economy to hang on to these types of things, but you all out there in the Unicameral have done a wonderful job of at least listening and participating and supporting which is great. So we appreciate what you guys and gals are doing, because it's not always well received is my understanding. So thank you for your service for all this too. [CONFIRMATIONS]

SENATOR KARPISEK: Good. Thank you. Do we have anyone here in support of Mr. Homan? Do we have anyone in opposition? Seeing none of those, I should have played a good joke on you and said we had a room full of opposition. (Laughter)
[CONFIRMATIONS]

STEVE HOMAN: Right. [CONFIRMATIONS]

SENATOR KARPISEK: Okay. Thank you for calling in and we will let you know how it turns out. [CONFIRMATIONS]

STEVE HOMAN: I appreciate it. Thanks for your time. [CONFIRMATIONS]

SENATOR KARPISEK: Thank you. I should say that there is another hearing at 2:15, so we hope to get done by 2:10. (Awaiting the next phone call.) Louise?
[CONFIRMATIONS]

LOUISE KENT: Yes. [CONFIRMATIONS]

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SENATOR KARPISEK: Thank you for calling in. This is Senator Karpisek and we have Senators Brasch, Coash, Krist, Lambert, and Larson with us today. [CONFIRMATIONS]

LOUISE KENT: Thank you very much for coming. [CONFIRMATIONS]

SENATOR KARPISEK: And thank you for calling in. We realized the short notice and the long trip, so we're just very happy that you could call in and see that you are a reappointment to the Nebraska Arts Council. So if you'd like to tell us a little bit about yourself or what you enjoy about the council. [CONFIRMATIONS]

LOUISE KENT: (Exhibit 2 and 3) Well, as I said in my letter, working with the council has just been delightful in every way. I really do appreciate learning about all of the projects across the state. And being a part of the funding of them is an honor. And it's a responsibility that I really take seriously. As a matter of fact, right now I'm working on art grant for a meeting coming up on the 17th. And it's a fun job too because it's enlightening. And I appreciate the work so much that the grantees put forth in their projects, having created and developed a few myself, you know. [CONFIRMATIONS]

SENATOR KARPISEK: Right. [CONFIRMATIONS]

LOUISE KENT: And I am an artist. I am a musician and I do some acting. I have had...I am a pianist at our church and an organist. And I have developed a lot of programs in our community, I think, which gives a background in that work and to be able to see with a creator, developer's eye the projects that others are doing. I was also on the budgets and allocations committee for United Way. And I was...I have developed a huge program for our diocese...for our church called Going Bananas for Jesus, it's been going on for 25 years. It has served thousands of students across the diocese. And so that's...I think I have a broad range of skills (inaudible) that I can bring to the council. And I've enjoyed every minute. [CONFIRMATIONS]

SENATOR KARPISEK: Great. It sounds like we have a rotary dial trying to dial in on you. Do we have any questions for Ms. Kent? Can you still hear us okay? [CONFIRMATIONS]

LOUISE KENT: I can. And was someone speaking? [CONFIRMATIONS]

SENATOR KARPISEK: No, they were not. It sounds like we have a rotary dial phone going over us. I'd just like to say thank you for serving. And that we have a good presence out in western Nebraska, because it is important for all the state to be able to have the arts. And we just appreciate your serving and your calling in today. [CONFIRMATIONS]

LOUISE KENT: Thank you. I feel like I am a committed member. I don't think I have

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missed...in the two years I have only missed two meetings. And it's...so it's a pretty good track record. I enjoy going to the meetings and being part of such a great team. [CONFIRMATIONS]

SENATOR KARPISEK: Well, good. We're glad that you enjoy it; and the whole council does a very good job. We will let you know how the hearing turns out. Okay? [CONFIRMATIONS]

LOUISE KENT: Thank you very much. [CONFIRMATIONS]

SENATOR KARPISEK: Thank you. [CONFIRMATIONS]

CHRISTINA CASE: Mr. Nefsky did call and say he was willing to call in if you wanted him to. [CONFIRMATIONS]

SENATOR KARPISEK: I guess. Do we have anyone in support or opposition of Ms. Kent? That was my fault. Seeing none, Senator Coash, would you like to present for Mr. Nefsky? [CONFIRMATIONS]

SENATOR COASH: I can. Did he just call? [CONFIRMATIONS]

CHRISTINA CASE: He called at the beginning of the hearing and said: I'm willing to call. And I said, oh, Senator Coash said he would take care of it for you. And he said: well, I'm willing to call in if you'd like me to, so. [CONFIRMATIONS]

SENATOR COASH: We should probably... [CONFIRMATIONS]

CHUCK HUBKA: Because of the rotary dial deal, I don't think you want to try and deal with that again, if you want to put up with that again. [CONFIRMATIONS]

SENATOR COASH: I'll do it. [CONFIRMATIONS]

SENATOR KARPISEK: Yeah, kind of gets me right in the temples. (Laughter) [CONFIRMATIONS]

SENATOR COASH: Would you mind calling him back and saying we were just having a little trouble with the sound anyway. [CONFIRMATIONS]

CHRISTINA CASE: Yeah. Right now? [CONFIRMATIONS]

SENATOR KARPISEK: He'd probably have a better chance of getting on if he did it himself. [CONFIRMATIONS]

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SENATOR COASH: Okay, thank you, Chairman Karpisek from Wilber, and members of my committee. It is my honor to speak on behalf of Robert Nefsky. I've known Robert pretty much my whole life actually, and now I have the pleasure of representing him. And when he was unable to be here today I offered to say some words on his behalf. And so I will do that at this time. First of all, thank you for being here today. And I have been, I as in Robert Nefsky, have been a member and chair of the Nebraska Humanities Council; a member and president of the Nebraska Cultural Endowment; and now a member and vice chair of the Nebraska Arts Council. I think that I have a unique position and perspective having served in three major statewide cultural organizations. Mr. Nefsky has been an active member of the Arts Council, served on the finance committee and served on two grant panels, one of which he chaired and he is scheduled to serve on a third arts grants panel in mid-November. His attendance and participation in council activities has been excellent. Mr. Nefsky has continued to serve on the Nebraska Cultural Endowment which is a joint venture with the Nebraska Arts Council and the Humanities Council, and has been very active in that as well as chair of the legislative liaison committee. Governor Heineman has appointed him to the vice chair of the Arts Council and he currently serves in that position and would respectfully request to be reappointed by the Legislature so that he could serve another three terms. And I'll leave it at that. [CONFIRMATIONS]

SENATOR KARPISEK: All right. Thank you, Senator Coash. Do we have any questions of Senator Coash about Mr. Nefsky? Seeing none, is there anyone here in support or opposition of Mr. Nefsky? Seeing none, we will close that. We'll now ask Bill...William Austin to come forward on the Nebraska Liquor Control Commission, and a new appointment. Welcome. [CONFIRMATIONS]

BILL AUSTIN: Good afternoon. [CONFIRMATIONS]

SENATOR KARPISEK: Tell us a little about yourself or whatever you want to do. [CONFIRMATIONS]

BILL AUSTIN: (Exhibit 5) Okay. I'll tell you a little bit about myself. Born December 15, 1949, in the Borough of Queens, city of New York. And in 1961 my family moved to McCook, Nebraska, where I attended high school; attended McCook Junior College for two years, and then came to the University of Nebraska. Completed a political science degree which I found was completely useless for the purpose of trying to find employment, so then I went to law school. I attended law school and graduated in 1973 and I began my legal career with the Lincoln City Attorney's Office in that year. I was an assistant city prosecutor for about a year and a half and then moved to the civil side. And in 1975 I was appointed as the chief assistant; and then in 1979 I was fortunate enough to have Mayor Helen Boosalis appoint me as the city attorney for the city of Lincoln in which capacity I served for about 20 years. In 1999 I thought I would try to find some honest work in the private side and went to work with the firm of Erickson and

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Sederstrom here in Lincoln where I have been in practice up to this time in municipal law, administrative law, unfortunately, more litigation than I would prefer and many varied and other subjects. What I would bring to the commission is my background and experience primarily from the city attorney's office. If one learns from adversity, I would say that I must be approaching a genius in the area of liquor control. We went through numerous wars over the years. They were rear-guard actions, I'm afraid, as they turned out, in the areas of trying to enforce separate and distinct premises requirements, local control once after the passage of LB911; lost that one; local control again, and after passage of LB781 that was also unsuccessful. And then we've had a number of other cases in the area of liquor control in which I've dealt. In private practice, I have represented before the commission a number of different clients, some distributors, some retail licensees. And so I'm familiar with the procedures and policies of the Liquor Commission. And that's pretty much it. [CONFIRMATIONS]

SENATOR KARPISEK: Very good. Any questions? Senator Coash.
[CONFIRMATIONS]

SENATOR COASH: Thank you, Mr. Austin. Have you been made aware of the time commitments required to serve on the commission and all that that entails? We've spent some time in this committee talking about the workload of liquor commissioners and just want to know if you've been made aware of the time commitments with regard to hearings and outside of hearings, and if you're...how that will...if you've considered that and how that might play into your willingness to serve? [CONFIRMATIONS]

BILL AUSTIN: I have. I mean, I have had some experience now in the past couple of months as an interim appointee. And while my partners may not be overly thrilled with it, I feel comfortable with providing the time necessary to fulfill the duties of a liquor commissioner. [CONFIRMATIONS]

SENATOR KARPISEK: Senator Krist. [CONFIRMATIONS]

SENATOR KRIST: You know Bob Batt? [CONFIRMATIONS]

BILL AUSTIN: I do know Mr. Batt. (Laughter) [CONFIRMATIONS]

SENATOR KRIST: Enough said. [CONFIRMATIONS]

SENATOR KARPISEK: Senator Larson. [CONFIRMATIONS]

SENATOR LARSON: I guess...I don't know if you've followed the General Affairs Committee hearings over the summer, but our last one...I think it was the last one, we discussed alcohol impacts zones and you bringing up your experience with the Lincoln...as the Lincoln City Attorney, what were your thoughts? If you aren't familiar,

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I'm fine, just say you weren't...but are you familiar with alcohol impact zones and what are your thoughts about the Liquor Commission and what your role is in terms of things such as that? [CONFIRMATIONS]

BILL AUSTIN: Well, I don't think I know enough about the alcohol impact zones concept to speak very knowledgeably on it. I think it is something we do need to explore, because there are, obviously, some areas which seem to have intractable problems that need to be addressed. And if that's a method by which we can get a grip on it, I would sure like to look at that and see if that's...see if that would work. [CONFIRMATIONS]

SENATOR LARSON: So you didn't think it's the state...or the Liquor Commission's responsibility to possibly limit the sale of liquor in certain areas and communities? [CONFIRMATIONS]

BILL AUSTIN: I think if there's a problem in the use or distribution of liquor in certain areas, I would think that we would like to at least look at that...certainly subject to whatever the Legislature decides. But it seems to be a concept that at least intrigued me when I first heard about it. [CONFIRMATIONS]

SENATOR KARPISEK: Thank you, Senator Larson. Any other questions? I think you were here for our interim hearing, weren't you? [CONFIRMATIONS]

BILL AUSTIN: I was. [CONFIRMATIONS]

SENATOR KARPISEK: Yeah, very good. It's unique only three people on that board which is, I think to me, a little bit small to deal with so many issues. But at least things can get done, I think, easier with three people. And I just think here, especially recently, under Mr. Rupe and Mr. Batt and everyone else that has been on it, I feel that we've been...or the bills I've carried, we've tried to make the industry a little more accountable, a little more professional, a little bit more on the up and up, if you will, rather than...because I want to make it a good thing to look at; not to say, oh, you know, the alcohol industry is a bad thing. I think it needs to be run as a business and I think we've really moved in that direction. And I think with part of that, maybe, we've tried to loosen some rules a little bit, but what I've seen from the Liquor Control Commission is when we've got a bad actor, or we have someone that isn't wanting to play by the rules, they get dinged pretty hard. And it's not easy to sit, I'm sure, and take away somebody's livelihood. Does that affect you, or does your previous life; have you been there? [CONFIRMATIONS]

BILL AUSTIN: Well, this is a little bit different. I mean, I must say over the past couple of months we've had a couple of licensees or perspective licensees who have come in and said, well, you know, we have put our life savings or, in one instance, an individual had her alimony settlement and put it into the business and we, you know, at least a couple

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of occasions of those we've had to say, well, you know, I'm sorry, but you don't meet the requirements and as tough as it is to say that, you hope that they've protected themselves legally. But if they don't meet the requirements, it's not an industry where you are able to feel sympathetic and let them try it if you don't feel that they're going to make a go of it. From my past life, I think if...I really think that, especially in working with Mr. Rupe and the prior commissioners, I would echo what you said, Senator, is that my perspective was that they tried to be very fair with people, tried to work them through the system, but when you hit a point at which you say, this isn't going to work, the commission has always been, in my experience, willing to do that. And that's what I think we need to do. [CONFIRMATIONS]

SENATOR KARPISEK: Good. I appreciate that. Senator Krist. [CONFIRMATIONS]

SENATOR KRIST: You're sure you know Bob Batt? [CONFIRMATIONS]

BILL AUSTIN: Well, maybe you ought to tell me. Maybe I don't. Is there something else I should know. (Laughter) [CONFIRMATIONS]

SENATOR KRIST: I respect what you folks do. And every time Hobie or any of you have come to us with issues, I think we've been...Senator Karpisek has set the mode. We try to be very responsive. So, keep up the great work; and I am very, very impressed with the state of Nebraska; having seen some other states and how they do business in this area. So kudos. [CONFIRMATIONS]

BILL AUSTIN: I'll try to keep it up. [CONFIRMATIONS]

SENATOR KARPISEK: And the commission is often under some fire for what people don't think is right. But I think it goes back to it being fair, firm, but fair. And I think we're moving in the right direction. [CONFIRMATIONS]

BILL AUSTIN: That's my impression. [CONFIRMATIONS]

SENATOR KARPISEK: Good. Thank you. Do we have anyone here in support or opposition of Mr. Austin? [CONFIRMATIONS]

BILL AUSTIN: The young lady, the blonde there, she was going to speak in opposition, but I promised to buy her lunch. (Laughter) [CONFIRMATIONS]

SENATOR KARPISEK: And was it a good lunch? [CONFIRMATIONS]

_____: Well, he hasn't bought it yet. (Laughter) [CONFIRMATIONS]

SENATOR KARPISEK: Oh, you're a smart man. (Laughter) Well, we better let you get

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out of here and get her that lobster. Okay. Thank you for being here.
[CONFIRMATIONS]

BILL AUSTIN: Thank you much. Appreciate it. [CONFIRMATIONS]

SENATOR KARPISEK: And that will end our public hearing of gubernatorial appointments for the day. [CONFIRMATIONS]