

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

General Affairs Committee
May 28, 2013

[CONFIRMATION]

The Committee on General Affairs met at 1:00 p.m. on Tuesday, May 28, 2013, 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; Colby Coash, Vice Chairperson; Dave Bloomfield; Bob Krist; Scott Lautenbaugh; and John Murante. Senators absent: Jerry Johnson; and Ken Schilz.

SENATOR KARPISEK: All right. Welcome, Kris. [CONFIRMATION]

KRISTOPHER COVI: (Exhibit 1) Thank you. [CONFIRMATION]

SENATOR KARPISEK: One, two, three, four, five. [CONFIRMATION]

KRISTOPHER COVI: Do I need to state my address and all that stuff? I didn't sign in. Am I supposed to sign in? [CONFIRMATION]

SENATOR KARPISEK: Just spell your name and... [CONFIRMATION]

KRISTOPHER COVI: Kristopher, K-r-i-s-t-o-p-h-e-r, last name is Covi, C-o-v-i. [CONFIRMATION]

SENATOR KARPISEK: And you are here for the State Racing Commission. [CONFIRMATION]

KRISTOPHER COVI: I am. [CONFIRMATION]

SENATOR KARPISEK: And you are...tell us a little about you, Kris. [CONFIRMATION]

KRISTOPHER COVI: Sure. I'm an attorney at McGrath North in Omaha. I've been practicing about 15 years. Married to Jessica from Grand Island, horse racing country. We have three children: Caroline, 10; Elsa, 7; and Finn (phonetically) turned 1 this week. I have been on the Racing Commission now for two years. As a part of the statute that changed the commission from three members to five members, two additional members were appointed by the Governor, so I am here for reappointment today. And I'm happy to answer any questions you have about me, the status of racing, or... [CONFIRMATION]

SENATOR KARPISEK: Any questions for Kris? Well, as you know things aren't going real great with racing. I mean, you got any brilliant ideas on what we can do to... [CONFIRMATION]

KRISTOPHER COVI: You know, we...we're charged with regulating and supporting the

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industry. But as far as the recent events and the historic horse racing, I've been following it. I've been watching the floor debate from the perspective that if and when a law is ever passed by the Unicameral or the people in Nebraska, we're going to write the regulations to regulate that. And so I've been keeping abreast of that and the various permutations of that law. But other than that I...you know, it's struggling. There's no doubt about it. On its current trajectory, it doesn't appear under the way the current laws are written that it's self-sustaining in long term. [CONFIRMATION]

SENATOR KARPISEK: And how about the Lincoln track? Do you have any knowledge what's going on there? [CONFIRMATION]

KRISTOPHER COVI: They have not applied for any type of licensure yet. Currently, there is a Lincoln race course that has a simulcast license. They ran a race this calendar year. That facility is no longer running live racing in 2013. It's my understanding there's a new facility being constructed in or outside of Lincoln that I'm told is going to be on-line and applying for licensure for live racing in 2014. But that's as far as I know. There's somebody else in the room that may know more behind me. [CONFIRMATION]

SENATOR KARPISEK: Very good. Oh, Bob, you could make something up. No questions? Anything else to tell us, Kris? [CONFIRMATION]

KRISTOPHER COVI: No. [CONFIRMATION]

SENATOR KARPISEK: All right. Thank you very much for coming. [CONFIRMATION]

KRISTOPHER COVI: Thank you for your time. [CONFIRMATION]

SENATOR KARPISEK: Do we have anyone in support of Kris to be back on the board? Anyone in opposition? Seeing none, any neutral? Seeing none, that will end Kris's State Racing confirmation. Next we have Bob Batt for the Liquor Control Commission. Welcome. [CONFIRMATION]

BOB BATT: (Exhibit 2) Thank you, gentlemen. [CONFIRMATION]

SENATOR KARPISEK: If you could spell your name for us, Bob, and tell us a little bit about yourself. [CONFIRMATION]

BOB BATT: Bob Batt, B-a-t-t. I'm from Omaha, lived there all my life. I have 51 years on my job at Nebraska Furniture Mart. And I have five years this July of being on the Liquor Commission, the last three as chairman. Upon the death of Bob Logsdon, the Governor made me the chair. We've come a long ways in total because of the support that we've had from General Affairs. We've changed regulations; we had our first income increase

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in some 30 years on liquor licenses. We have a ways to go. We ask for a lot of things every year, and we get about 75 percent of what we ask for in changing and modernizing our laws. A lot of them are left over since it was created in the '30s. And so we have to keep up to date because the liquor business is changing. And we have plenty of problems that are inherent with liquor, but prohibition does not work. But well-regulated liquor laws do work. And we've gotten rid of a lot of bad operators and we've brought a lot of new people on board who want to either be in the bar or the restaurant or the off-sale liquor. Of course, our number one problem is in Whiteclay. It's a horrible thing and we don't have the right idea. I mean, it's up to the Legislature. As my director reminded me, before I got there, we had a guy that we turned down for licensing. It actually was his father's license. We turned him down. And everything we do is appealable, so the district court mandated that we give the license over...they overturned our decision and gave him a license. But it's still a problem today and one that I'd really, really love to get rid of. [CONFIRMATION]

SENATOR KARPISEK: Thank you. Any questions? Senator Bloomfield.
[CONFIRMATION]

SENATOR BLOOMFIELD: How would you like to get rid of it? [CONFIRMATION]

BOB BATT: Well, I've been there. I went up... [CONFIRMATION]

SENATOR BLOOMFIELD: I've been there also. [CONFIRMATION]

BOB BATT: Yes, sir. But it is a very sad place. And the theory is if you got rid of Whiteclay, you'd have people driving down further and there would be more death. But when you have a city that has an 80 percent alcoholism rate and the highest fetal alcohol syndrome rate, and then plus you have the other parts I call the trifecta. You have cirrhosis and you have lung cancer and diabetes, the big three. You have to change the culture from within. I went to Washington lobbying--on my own nickel, by the way--and I talked to the Bureau of Indian Affairs, I talked to Senator Johanns, I talked to people in the executive branch. They don't get it. [CONFIRMATION]

SENATOR BLOOMFIELD: Would your choice be just to force all the bars to go out of business in Whiteclay? [CONFIRMATION]

BOB BATT: We can't do that. I...there...first of all, you have to understand. I mean, there are four off-sale beer places. [CONFIRMATION]

SENATOR BLOOMFIELD: I'm aware of that. [CONFIRMATION]

BOB BATT: Okay. But the beer...even the beer that's sold is not very...it's high gravity, meant to just get you high. I don't like it, but it's not against statute. Everybody says why

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don't you do that? And I said, because there's no law saying I can do that. So we're governed by that. And we don't react when we know that we would be overturned, and I don't want to waste the time of the courts or our own. What would I do?

[CONFIRMATION]

SENATOR BLOOMFIELD: I think it's a South Dakota problem, not a Nebraska problem. We have retail marketers there and I don't believe we should curtail them.

[CONFIRMATION]

BOB BATT: You're right. It's legal. And we're not. Now what I would like to do is, the BIA took ownership of the issue. When I went there, there was the BIA police, the Sheridan County Sheriff, the Nebraska State Patrol, and the tribal police all driving their big SUVs around Whiteclay. Nobody is doing anything, but they were...there was enough there. Until the people take charge of themselves, nothing is going to change. And when you stand up and say, I'm an alcoholic. And I met a guy, he said, I was born a drunk, I am a drunk, and I'm going to die one. And I said, how old are you, 75, 80? He said, no, I'm 45. And that was a big wake-up call about what happens. As long as they're legal, we're not going to do anything. But if they do things wrong, they will be punished the same way anybody else in Nebraska will do it. [CONFIRMATION]

SENATOR BLOOMFIELD: A few years back--and I suppose it's been 10 or 12 now, maybe more--when they had the... [CONFIRMATION]

BOB BATT: Ninety-nine? [CONFIRMATION]

SENATOR BLOOMFIELD: Is that when it was? When they set fire to the store. [CONFIRMATION]

BOB BATT: When they had the riots and the Patrol spent the summer up there? Yeah. I think that was a while ago. [CONFIRMATION]

SENATOR BLOOMFIELD: It's been a while ago then. The only store they set fire to was the one that didn't sell beer. [CONFIRMATION]

BOB BATT: Yeah. Well, unfortunately, that was...I wish I had the magic answers for this, but we don't. And it's also...we've tried and State Patrol tries to work. But they...when the tribe says we're sovereign, we're not going to cooperate, I said, then you're never going to have anything solved. [CONFIRMATION]

SENATOR BLOOMFIELD: Okay. Thank you. [CONFIRMATION]

BOB BATT: It's frustrating, sir, let me...from our standpoint too. We have a zero tolerance for violence on both sides. [CONFIRMATION]

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SENATOR KARPISEK: Any other questions? [CONFIRMATION]

BOB BATT: But I really want to thank the committee for...every year, we've really been able to modernize our legislation, up our revenues by bringing our license fees more in line. The only thing I'm going to ask for--I mean, we'll ask it in November with our legislative letter--we'd like to have an alternate, which wouldn't cost anything--to--there's only three of us so if one of us is gone or if my colleague from Lincoln who has to recuse himself as an attorney, he conflicts quite often, it gets down to two. And it makes it really dicey when you've got a big case. So we'd like to have enough to do it. And that person would only sub; it would be somebody from the surrounding area. It's just something to think of for the next season. And that way we can give a better...because right now it's just two of us and we do it. And if we have to be at a funeral or someone can't go, it causes...and we're going to have a good interim study session on SDLs which is needed. But we're making a lot of progress and I thank you very much for it. [CONFIRMATION]

SENATOR KARPISEK: Thanks, Bob. I appreciate...oh, sorry. [CONFIRMATION]

SENATOR KRIST: Go ahead. [CONFIRMATION]

SENATOR KARPISEK: Go ahead. [CONFIRMATION]

SENATOR KRIST: Oh, I just...no question, but it's nice to see less of you. [CONFIRMATION]

BOB BATT: Oh, thank you. Better living through surgery. [CONFIRMATION]

SENATOR KRIST: You're looking good. [CONFIRMATION]

BOB BATT: I've lost 61 pounds since February and not on the state's nickel, by the way. This was cash. I'm off... [CONFIRMATION]

SENATOR KARPISEK: Sure, sure. [CONFIRMATION]

BOB BATT: Oh, no, no, no, no. This was C.O.D. guys. They say you can't come in the door until you pay. It was all cash. But it's well worth it; I got my health back. I was going to apply for work comp because of my job here. But, you know, I like it that we're making progress and we're progressive and we're turning things. And now maybe in Omaha things will change. Just a side note--you know, we've not had a compliance check by the Omaha police in 26 months now. And it's deteriorating in the city and we totally have to rely on the State Patrol to do it. And there's only two or three guys doing it. It really strains the resources. So when you see things in Omaha, they kind of like to

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have to look in the mirror because they're not doing the job. They just...as soon as that time and a half money dried up, they got out of the business. Other communities, the sheriff or the State Patrol has done well all over the state by local as well as state authorities. But we just need to step it up in Omaha, and maybe with the regime change it'll get better. This is off the record, isn't it? No. Anything else? [CONFIRMATION]

SENATOR KARPISEK: I just wanted to say that I appreciate, I think, the way that you guys are handling things. You give people a chance, do the regs, do it--I don't want to say loosely--but with some common sense. But when people screw up, then they get it. [CONFIRMATION]

BOB BATT: We let them have it. [CONFIRMATION]

SENATOR KARPISEK: Yeah. [CONFIRMATION]

BOB BATT: But it really counts. We had a gentleman who had five DUIs. But ten years ago he went through the course and has been sober for ten years, and he has not had a black mark. And we sent him away and said, you're so borderline. We made him do an alcohol "eval" for his chance. But he wasn't even going to run the bar. He just owned it and had somebody else running it. But this guy had lived clean for ten years so it's worth another chance. But some people are beyond help and they don't get it. So whether it's big town or small...this was the town of Colon, Nebraska, and this was the only food outlet. It was a restaurant that happened to have a liquor license, but he was it. So, of course, the World-Herald twisted the deal--and no big surprise--and we...but everything's fine. And we've had other ones. And most of the time we do it. And that's the good thing about having people who have a lot of experience is you're able to make value judgments most of the time. But the same way you guys have to make them upstairs, so I appreciate it. I mean, it's been fun and we're making progress. If it wasn't, I wouldn't have done this again. But we just have to keep our independence and rely on the Legislature and the General Affairs to make the law and we're going to enforce it. And without...the first day I got on the job--which was August 1, 2008--somebody accused me of being on the take. And I looked at this lady and I said, you can't afford me. [CONFIRMATION]

SENATOR LAUTENBAUGH: She's gone now. [CONFIRMATION]

BOB BATT: Yes, she is. But that was my first day on the job. So things have settled down since then. Anyway, thanks for your time. [CONFIRMATION]

SENATOR KARPISEK: Very good. Thank you, Bob. And maybe if you could talk to Kris about how to generate some revenue through the Racing Commission like you do. [CONFIRMATION]

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BOB BATT: You've got to keep the customers' interest. Right? I just...I love horse racing. My son-in-law is a great...oh, can I tell one story? It's clean. [CONFIRMATION]

SENATOR KARPISEK: A quick one. [CONFIRMATION]

BOB BATT: One story. I'm at my son-in-law's bachelor party at Del Mar Race Track in San Diego. And my son loves horse racing. They go to...they live in Scottsdale. So I'm there and there's 16 guys and I'm the only...you know, I'm the father-in-law. So we go to this thing and we won the first race. And we're betting through. And we get to the last race and I'm down for the day. And look at the program, there's a horse on there. My...I'm such a great reader. The horse's name is Free Beer. I said, this is it. It's an epiphany. So I said, we're going to bet the farm on this. My son-in-law goes, I know better. We're not going to do it. So everybody but the two of us bet the horse. It came in and paid \$17, won by eight lengths. [CONFIRMATION]

SENATOR KARPISEK: Never pass up a free beer. [CONFIRMATION]

BOB BATT: Right. That's the moral of the story. Thanks for your time, Senators. [CONFIRMATION]

SENATOR KARPISEK: Thank you, Bob. Do we have anyone in support of Bob? Opposition? Neutral? Seeing none, that will end the hearing for Bob Batt for Liquor Control Commission. Do we have a motion to go into Exec? [CONFIRMATION]