

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Appropriations Committee May 23, 2019

**STINNER:** Rather than me reading all of this stuff, I think you guys know the drill. We've got one or two testifiers, so I'm going to open the hearing and ask the proponents to please step forward. And we won't even put you under our time, because I know you're going to be quick. Right?

**TOM CARLSON:** Well, I am Tom Carlson; used to be senator from District 38, now live in Lincoln. But former Senator Wickersham and I are here to talk about the restoration of the courtyard gardens and just to give you a few facts that I think are pretty important. In the original plans of the building, these were supposed to be all finished and landscaped, and that went by the wayside. So looking at the plans, I think that when this is done, people are going to walk in and see it and say, "Wow." And you've been to the Sunken Gardens in Lincoln, most of you, probably. That's a wow. You walk in there, takes your breath away. I think that's going to be the way it is here. And there won't be any tax dollars that fund this. And so there has been an effort to raise 1.4 million without having a tax-- tax dollars involved. And the first contribution was March 21, 2018. And here we are 13, 14 months later and we're right at 1.4 million that's been raised. And so I'm-- I'm amazed that this has happened. And former Senator Wickersham, former Senator Schimek, former Senator McDonald have been really working hard and instrumental in raising this money. And so I'm amazed. I happen to be the president of the former senator association so that's kind of how I'm involved in it, but most of the work has been done by other people. And this-- when we get to 1.4 million, which we're just about there, the objective is then when all the work is done to have a million dollar endowment and the interest off that million dollars would provide the replanting and the trimming and the work that's going to be done every year, then it's going to have to be done. And if it's not provided some way, you know there comes a time when you argue about money and there won't be money and so we won't do it this year, and then this year drags into next year and pretty soon nothing is being done. But that won't happen here as long as this money is in a good place and not in a place that anybody can get at. And that's a really great objective that we-- we have in this project. We have a number of private groups and individuals. Many of you-- most of you have contributed something to it. We appreciate that and we thank you. And if there's anybody that hasn't, we'd like you to be a part of this too before it's all over. But we invite you to help out. If you want to know how you can help out, talk to us individually. But we want to be-- made sure that this money that's in the endowment will

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be there to earn interest to provide the annual expenses that are going to be necessary in keeping these things looking good and having the "wow" factor that we want to have as people come and visit. You know, the Capitol is-- is a tourist attraction. It just is. And most people in Nebraska really almost sacredly look at the building here. You know, walk down the hallway sometime, it's kind of dark, you wonder, you know, why is it this way? But it's to preserve the original-- originality of the Capitol. And this is-- this is all part of that. I think that I would just say this, and then open it up to questions that you might have. But I really appreciate what Senator Wickersham has done, what Vickie McDonald as executive director of the former senators has done, what DiAnna Schimek has done, and then we hired Susan Rodenburg, and probably several of you know who that is, and we paid her. But she really was effective in bringing in a lot of money. And we appreciate the work that she has done. So with that, I'll open it up for any questions that you might have.

**STINNER:** Now, you're asking us to approve \$330,000.

**TOM CARLSON:** Approve that we can use it.

**STINNER:** Use it.

**TOM CARLSON:** And this will make Senator Wickersham a little bit nervous, but we want the assurance that this money is going to be there in future years. Because if it's not, there will come a time when we can't do this. So-- and so that's pretty-- that's really important, especially when you ask people to give money to a project like this and they do, they don't want to have it 10 or 15 years later that, oh, you know, we had to spend a little here, a little there. And I think our planning is-- is done well enough that that won't be necessary as long as--

**BOLZ:** I'm sorry if I missed this, can you clarify for me, you said you want to put the money in a place where no one can get it for other purposes and that it's an endowment. Is it an endowment to the community foundation? Or can you just walk me through where the where is? What-- what endowment are we talking about? What-- are you getting into the Legislature and we're to manage it?

**TOM CARLSON:** Well, OK.

**BOLZ:** Is it a cash fund? I just need to know.

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**TOM CARLSON:** Let's go down this-- this-- in the middle of the page, the cost of restoration is estimated at \$348,000. So out of the million four, that's going to be spent to finish the work that we're already-- and then we hope that, and the objective is, when that's all done and that's all paid for, there's still a million dollars. The million dollars are going to be invested and earn interest, we hope.

**BOLZ:** Will it be invested by the Nebraska Investment Council?

**TOM CARLSON:** We hope so. But there's got to be--excuse me.

**BOLZ:** Are we creating a cash fund? I just don't know where the-- where the money is going to be held.

**TOM CARLSON:** Well, I'm not so sure that-- that I have the answer to that either. But, you know, philosophically, you have this money and it's set aside and the Investment Council is handling it and there's going to be income off that every year; some years it's going to be more than others, but overall there should be 40, 50 thousand dollars that could be used every year in replanting and so forth.

**BOLZ:** OK. Well, I believe your assurances that the dollars are sufficient. Maybe I just think you follow up with the Fiscal Office in terms of the mechanics, whether we're-- are-- are we-- whether we're creating a cash fund or working with community foundation, I just-- I'm not sure how the dollar will flow. Maybe that's why--

**TOM CARLSON:** Well, I don't know, if you were in the Legislature--

**STINNER:** I don't know if you want him to answer that or Phil.

**MIKE LOVELACE:** Yeah, at this point, what you're approving is the gift of approximately three hundred and some thousand to do the planning and the irrigation, things like that. When it comes to setting up the endowment and how that's invested, whether it's how that process-- or how that system will be set up, I don't think it's known yet. That'll be in the next session.

**BOLZ:** So is it premature to accept this gift if we don't have the assur-- assurance that an endowment is actually established?

**MIKE LOVELACE:** I think that they're giving their assurance that the money is there. It's the only question mark is what process will be

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used to set up the endowment, whether it will be a state fund; correct me if I'm wrong.

**PHIL HOVIS:** That's the way I understand it. I don't-- former Senator Wickersham, if you want to jump in, in terms of--

**WILLIAM WICKERSHAM:** I-- I-- Mr. Chairman, I don't know what kind of process you want to use, I don't know [INAUDIBLE]--

**STINNER:** That's, that's fine. We're kind of open right now. So go ahead, Senator Wickersham.

**WILLIAM WICKERSHAM:** Well, Senator, we have examined a number of options for management of the endowment. The Investment Council is one, the Lincoln Community Foundation is one, the Nebraska Community Foundation is one. And frankly, I've asked my personal brokers to analyze the issue for us. We haven't made a decision about that. But we have furnished the Fiscal Office staff, Mr. Lovelace and Mr. Hovis with information that analyzes each one of the four options that we've explored. And all of the options produce sufficient revenues to fund the anticipated maintenance for the gardens. We have a private estimate of the cost for maintaining the gardens from Campbell's. We've worked with the Capitol Administrator's Office to reassure ourselves that those estimates of maintenance costs are reasonable. And if we're able-- we will be able, regardless of what option is ultimately chosen, to fund maintenance. But I think Mr. Lovelace is correct, the issue for the Legislature now is simply consent to an improvement to real estate in the form of bushes and shrubs and a irrigation system and so forth. It's centered-- it's a-- it's a complicated system of when we get ready to donate the cash for the endowment, that would require a separate process.

**STINNER:** So the funds are not in a cash fund--

**WILLIAM WICKERSHAM:** No.

**STINNER:** --controlled by the state of Nebraska?

**WILLIAM WICKERSHAM:** No, they would not be.

**STINNER:** OK.

**WILLIAM WICKERSHAM:** And if the funds were deposited with the Investment Council, we believe that we can develop a process so that

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those funds would in effect be trust funds and could not be diverted for others' uses.

**BOLZ:** I appreciate that, and I appreciate there probably some complexities, maybe Senator Clements has some experience with that that I don't have in terms of setting up these kinds of things. I think my fundamental question is whether or not it's wise for us to set up-- and maybe that is not precedent setting, but whether or not it makes sense for us to move forward now without having the functionality set up and whether or not that sets a precedent. Certainly we trust the former senators association, but if we are accepting future gifts in the future, how do we make sure that we have a process that makes sense. So maybe that's for committee discussion.

**WILLIAM WICKERSHAM:** Well, Senator, I understand your comment, and I-- I will acknowledge that I think there's a little bit of "trust me" in this. But on the other hand, I will point out to you that we have raised the money. We're not coming to you and saying we need another--we need to raise another \$500,000 and let's-- let's hope we get where we want to be.

**BOLZ:** I hear you. I don't want to monopolize the committee's time.

**WILLIAM WICKERSHAM:** No, I--

**BOLZ:** I do-- I do think it's not just about this project, but how we handle projects and requests like this in the future.

**STINNER:** The only question I have is that who has approved what improvements that you have contemplated in this?

**WILLIAM WICKERSHAM:** The-- the-- the restoration of the gardens is based on the 1932 plan by Ernst Herminghaus. He was the landscape architect that prepared the grounds plan and also plans for the courtyards. The courtyards were actually landscaped in-- in 1934. But then that landscaping over time-- died out over time, which of course was a lesson for us that if you want to keep something you better provide for its maintenance. Now what we're-- what we're planning is a restoration. We have the Herminghaus plans. We have a consultant, Big Muddy from Omaha, a landscape architect, Mr. Royster, has examined the original plans. He suggested some modifications to them and we're also-- and we're also installing an irrigation system that would not have been part of the original plan. So.

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**STINNER:** So you're operating basically under this memorandum of understanding--

**WILLIAM WICKERSHAM:** Yes. Yes, sir.

**STINNER:** --[INAUDIBLE]. And it's oversight by Robert Ripley, I believe.

**WILLIAM WICKERSHAM:** Yes, sir.

**STINNER:** OK.

**WILLIAM WICKERSHAM:** Yeah. All the-- all the work, all the plans, all the specifications and all the work that is finally done has to be approved by the Capitol Administrator.

**STINNER:** Senator Vargas.

**VARGAS:** Thank you. Just so for clarification, rereading the statutes, we are just voting on the acceptance of a gift of \$330,000. Cash is not coming because this is the concern that Senator Bolz [INAUDIBLE]. Cash is not coming to us. It is cash is being paid to an entity that [INAUDIBLE] work and we need to accept all that gift of the work, the materials on the project. So we don't need to then have that entity that is collecting the cash. We're not collecting cash.

**WILLIAM WICKERSHAM:** Exactly.

**VARGAS:** Well, I mean just, but we're just talking that's \$300,000.

**WILLIAM WICKERSHAM:** You're correct, Senator.

**VARGAS:** OK.

**WILLIAM WICKERSHAM:** And just for point of clarification, I know the number of 330,00 has come up. I think it's going to be closer to 350, because when-- when the \$330,000 estimate was prepared, we had not yet made a commitment to add benches to the courtyards. We're going to add another roughly \$25,000 to the budget so you'll have benches. There will be six benches in each one of the courtyards. That was not part of the original plan, but we thought that we had room to include that in our budget. So, just-- just so you're aware, it's probably going to be a little bit closer to \$350,000. I don't know the exact amount is material to you now, we haven't yet signed a contract for the work. We

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didn't think it was prudent to sign a contract until we knew that we could do it. So.

**STINNER:** Senator Vargas.

**VARGAS:** I have an amendment-- sorry, I have a motion to accept approval--

**BOLZ:** I'm sorry, point of order.

**VARGAS:** I do have that-- I know it's a point of order, but I just want to say I have that motion. I can remove it if we're still having a conversation. It sounds like he's offering additional information.

**STINNER:** I can eventually accept a motion and a second and then open up the discussion.

**BOLZ:** I'm sorry. Point of order.

**STINNER:** Yes.

**BOLZ:** I don't think it's appropriate to do a motion and a second while the hearing is live. And I understand that we have-- we have--

**STINNER:** But we've got an Exec Session.

**BOLZ:** Which we probably need to hold action until we are in committee meeting versus a public hearing.

**VARGAS:** That's fine.

**WILLIAM WICKERSHAM:** And Mr.-- Mr. Chairman, if I could suggest to the-- whatever the committee's action is, I hope it doesn't have a-- frankly, I would hope it doesn't have a specific dollar amount in it unless you say something up to \$400,000. Because, gentlemen, we have-- and ladies, we have-- Senators, excuse me, we have not signed a contract. We can't sign a contract until we know that you're going to let us do the work. See, we were caught and if I had signed a contract, I tell you exactly how much we were going to spend.

**STINNER:** And you're working under this--

**WILLIAM WICKERSHAM:** Yes, sir.

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**STINNER:** I just want to make sure that the committee understands there is a memorandum of understanding--

**WILLIAM WICKERSHAM:** Yes, sir.

**STINNER:** -- between the Nebraska Capitol Courtyard Gardens Restoration and the former state legislators who are raising the money.

**WILLIAM WICKERSHAM:** Yeah, and--

**STINNER:** And so this is really a gift--

**WILLIAM WICKERSHAM:** Of the completed restoration. Yes sir. We will contract for it. In fact we're going to pay sales tax. We're going to pay tens of thousands of dollars' worth of sales tax because we're contracting for it, not the state.

**STINNER:** OK. Senator Clements.

**CLEMENTS:** Thank you, Mr. Chairman. I did have a question as to whether the Appropriations Committee is an appropriate committee. The Executive Board, I thought--

**STINNER:** It's referenced here. That's all I can tell.

**BOLZ:** May I?

**STINNER:** Yes.

**BOLZ:** May I respond? The-- the statutes that articulate acceptance of gifts say that it is the responsibility of the Appropriations Committee when we're in session and the responsibility of the Executive Board when we're out of session. So both answers are correct.

**CLEMENTS:** OK. Just wanted to make sure this was appropriate. Thank you.

**STINNER:** Thank you. Senator Wishart.

**WISHART:** I just-- I want to thank both of you and all the other former senators that have worked to raise these dollars and leave a legacy for the Capitol. Thank you.

**TOM CARLSON:** I think most people-- a lot of people in the state of Nebraska almost think this building is sacred. And you walk in and

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it's part-- it's part of it's my building and I want it to be nice; I want it to be something that people respect and I want it to be something that people bring their visitors to see, because there's nothing else like it. And we have an opportunity to do that and we're going to get it done.

**STINNER:** Thank you for that. Senator Hilkemann, did you have a question?

**HILKEMANN:** I just-- I just-- on the one page here, it says, I think it's from Gerry Oligmueller, the five FTEs, that have-- this has nothing to do with what we're being asked at this point, is that right?

**WILLIAM WICKERSHAM:** No. No, Sir. The five FTEs that are currently used are a mingling of staff supervised by DAS and the Office of the Capital Commission. They have various responsibilities for the maintenance, the grounds, and the Capitol building. But there are five people associated with that effort. That doesn't change. What-- what we anticipate changing, if anything, is that now you don't have any others-- the only source of funding for those five people is the General Fund to the extent they vote some of their effort to the maintenance of the gardens. We anticipate that the revenues from the endowment will offset that time and cost. Only that, Senator, I'm not talking about funding five FTEs, but to the extent they devote time and effort to maintenance of the gardens, we would anticipate reimbursing the state for that cost.

**CLEMENTS:** Yeah.

**STINNER:** Thank you for that. That's sort of how I read it; between the five FTEs this is a project that included in that.

**WILLIAM WICKERSHAM:** We could not fund five FTEs.

**STINNER:** I would hope that that would not take five FTEs to maintain those gardens.

**WILLIAM WICKERSHAM:** No, no, sir.

**HILKEMANN:** So these former people are getting together saying let's do this beautification process, how much is it going to take? Well, it's going to take a million five. So we're going to contribute this much

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for the improvements, we're going to provide an endowment for the--  
for the maintenance of the gardens over all of our lifetimes.

**TOM CARLSON:** Well, I think it's important to remember that whatever is left from the maintenance standpoint, we're-- we're hoping it's a million dollars. The maintenance today and the maintenance next year is probably quite different than what it's going to be in 10 years. So that money needs to be invested in an area that can compound and increase every year so that 10 years from now when it's not \$50,000, it's \$100,000, there's money there to take care of it. That's our plan.

**STINNER:** OK. Does everybody understand? Senator Erdman, you had some questions, or no? OK. Very good. OK.

**TOM CARLSON:** Thank you.

**WILLIAM WICKERSHAM:** Thank you.

**BOLZ:** Thank you.