Kenneth L. Carper's Commentary on "Conflict of Interest Serving on a Government Committee"

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Conflict of Interest Serving on a Government Committee

This case study involves a Locally Unacceptable Land Use, sometimes called a LULU. Such planning confrontations have traditionally arisen over proposed projects deemed to be eyesores or nuisances. The public, however, has become more aware of the increasing risks to safety and health associated with contemporary hazardous land uses. Confrontations like this one are expected to become more frequent and more difficult to resolve.

The development of waste disposal sites has become a complex technical challenge, requiring advisory input from qualified experts. Technical specialists and related industry representatives, such as David Parkinson and Mark Matthews, are frequently asked to serve on policy-making bodies. It is instructive to explore the general underlying social inequities that often lead to land-use planning conflicts and the specific causes of distrust associated with this case.

Consent, fairness, compensation and equitable sharing of burdens are principles that result in acceptable land use solutions (Simmons 1987). One disturbing reality illustrated in this case study is that the poor, minorities, and rural residents are often asked to bear an unfair share of the burden for undesirable land uses.

The principle of fairness suggests that the burden of waste disposal should be shared equitably among all citizens responsible for producing the waste. Poor, rural citizens understandably perceive their share of this burden to be unfair, since a larger proportion of waste is generated by wealthy and urban consumers who can afford to live far from the typical solid waste disposal site. Recognition of this fundamental inequity suggests that consent for undesirable land use will be difficult or impossible to obtain when the affected parties do not respect the planning process and do not trust those making the decisions. Promises of compensation will

be viewed with suspicion.

Proceeding without local consent raises moral questions. In some cases, a forced solution may not even be workable, since local citizens may be in a position to physically resist the development and effective use of the site.

While the Barker Township residents have not yet adopted a militant posture, they clearly feel abandoned by the political process. Their attempt to mount a recall campaign has little chance for success, given the small population of the Township. Should the County Commission proceed with development of the Barker Township site, the local residents will likely always believe the decision was political, taking advantage of the small Township population. This situation is unfortunate, as the Barker Township site may, in fact, be the best site among alternatives in the County. Arguments based on objective risk analysis of ecology, geology and rational comparisons of economic implications of alternative sites will not be convincing to the residents of Barker Township. They perceive a conflict of interest, and in such conflicts the controversy is not over the technical qualifications of the decision-makers to make the right decision, but rather the trustworthiness of the decision-makers to make the right decision. The quality of professional judgment is not at stake, but rather the potential for violation of trust (Luebke 1987).

For a moment, let us consider the viewpoints of Matthews and Parkinson. These two specialized professionals have donated their time, probably without compensation, in this position of public service. The need for technical expertise on the Solid Waste Management Planning Committee is recognized by state law, and these two individuals appear to be qualified for the positions. Assuming that Matthews and Parkinson are altruistically motivated and not acting in self-interest, they will no doubt be frustrated by this experience. Engineers are typically not prepared by their education and practice for involvement in the political arena. When their objective professional judgment is questioned and when their personal motives are challenged publicly, the experience can be devastating. Many technical professionals choose to avoid public service for this very reason.

Yet the services of technical experts are needed in the political arena, and the donation of valuable time is surely commendable. The engineer who participates in public service is a better engineer as a result of interaction with all segments of the population. It is desirable for specialized experts to observe the social impact of technical decisions. Such involvement should be encouraged and rewarded.

Potential conflicts of interest, however, may be unavoidable when technical consultants serve on public decision-making committees (Martin and Schinzinger 1989, Luebke 1987, Davis 1982). Such conflicts of interest may be direct, such as that recognized by Matthews, the potential developer of the site in question. Matthews has openly acknowledged his situation and has stated that he will not vote on this issue. This may be the best approach to take when a clear unavoidable conflict of interest arises.

Parkinson's situation is not so clear, however. An appearance of conflict of interest is suggested by his past involvement with Matthew's firm as a consulting engineer on other projects. Such perceived indirect conflicts are very common, and may result from prior consulting positions, professional society relationships and personal friendships with other technical experts. The dilemma posed by Parkinson's position is especially interesting. It is not clear what he should ultimately do, but his decision should carefully consider the conditions of mistrust that are building in the Barker Township. Again, this mistrust is not a challenge to his technical qualifications, but rather a challenge to the political process of making appointments.

This perceived conflict of interest situation was avoidable. Luebke notes that, while such conflicts are often unavoidable, there is a moral obligation to avoid conflict of interest situations when they are foreseeable (Luebke 1987). In retrospect, the County Commission is clearly to blame for placing Matthews and Parkinson in this uncomfortable situation. Since opposition to this site development was foreseeable, an effort should have been made to advertise the Planning Committee positions prior to making the appointments. If no other qualified applicants were found, the claims made by the Barker Township residents would not be quite so convincing. By acting as they did, the County Commissioners have ensured that the Barker Township residents have a distrust, not only of Matthews and Parkinson, but of the entire County Board and its process of making appointments.

Avoidance is clearly the best way to deal with foreseeable conflict of interest situations. Successful land-use planning is based in public confidence; public confidence, once lost, is very difficult to regain.

Suggested Readings

1. Davis, Michael 1982. "Conflict of Interest," *Business and Professional Ethics Journal*, Rensselaer Polytechnic Institute, Troy, NY, Vol. 1, No. 4, pp. 17-27.
2. Luebke, Neil R. 1987. "Conflict of Interest as a Moral Category," *Business and Professional Ethics Journal*, Rensselaer Polytechnic Institute, Troy, NY, Vol. 6, No. 1, pp. 66-81.
3. Martin, Mike W. and R. Schinzinger 1989. *Ethics in Engineering (2nd edition)*, McGraw-Hill, Inc., New York, NY, pp. 178-182.
4. Simmons, A. John 1987. "Consent and Fairness in Planning Land Use," *Business and Professional Ethics Journal*, Rensselaer Polytechnic Institute, Troy, NY, Vol. 6, No. 2, pp. 5-24.