

## **A SHAMEFUL WASTE?**

Mark Matthews and David Parkinson have just been reappointed members of the Madison County Solid Waste Management Planning Committee. Committee members are appointed by the county board. State law requires that the seats Matthews and Parkinson occupy be held by a solid waste industry representative and an expert in solid waste, respectively. Matthews is president of Efficient Disposal Service, and Parkinson is an engineer who specializes in solid waste disposal. Madison County has a population of approximately 300,000, with 95,000 living in Madison City. Rural Barker Township is the least populated township in the county, with approximately 500 residents.

Prior to the reappointments, Efficient Disposal developed a proposal that Barker Township be the site for a county landfill. Although not involved in the development of this proposal, Parkinson has provided consulting services to Efficient Disposal in the past.

Residents in Barker Township strongly oppose the proposed site for the landfill. A very large number opposed the reappointment of Matthews and Parkinson. Now a petition demanding the recall of Matthews and Parkinson has been signed by several hundred township residents. They claim that both Matthews and Parkinson are involved in a conflict of interest.

Neither volunteers to resign. Matthews says he always makes it very clear to other Planning Committee members when he is acting as a committee member and when he is speaking as developer of the landfill site. He says he does not vote on sites he is developing. Parkinson's response is that he serves at the pleasure of the County Commission: "I will do what they think is best. If they think there is a conflict of interest, I'll resign."

Two groups are primarily responsible for mounting the recall campaign. Concerned Citizens of Barker and the Barker Association for Rural Ecology both complain that the County Board should have found other individuals to serve on the Planning Committee. Although there were no other candidates for the two positions, the groups object that the County Board did not advertise that the positions were open.

Discuss the ethical issues this set of circumstances raises. What do you think David Parkinson should do? Explain.

## **COMMENTARIES**

### **Kenneth L. Carper**

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 policymaking bodies. It is instructive to explore the general underlying social inequities that often lead to landuse 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 decisionmakers to make the right decision, but rather the trustworthiness of the decisionmakers 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 selfinterest, 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 decisionmaking committees (Martin and Schinzingler 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 landuse 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. 1727.
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. 6681.
3. Martin, Mike W. and R. Schinzinger 1989. Ethics in Engineering (2nd edition), McGrawHill, Inc., New York, NY, pp. 178182.
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. 524.

#### **John B. Dilworth**

My discussion of this case will extend the general approach to conflicts of interest which I initially presented in my commentaries on the GOLFING and THE LAST RESORT? cases. From this point of view, problems of 'conflict of interest' in which one person has several roles involving different interests (in the present case, for example, David Parkinson is both a solid waste expert and a member of a County Planning Committee) are generally problematic not because of supposed 'conflicts' of those interests, but rather because of the amount of moral temptation present, or assumed to be present, in such situations.

An important difference for ethics and public policy arising from this distinction is that no easy, automatic solution is available in apparent 'conflict' cases, if one accepts my view. On this view, someone's apparent conflict is no sure evidence that he or she did anything wrong, or even that he should remove himself from the situation (by resigning, etc.). The 'conflict' may merely be evidence that he could have been tempted (since tempting factors

existed), even if in fact he did not give in to temptation (in which case his status or judgement were not compromised).

It is tempting for us to try to simplify such cases by saying, in effect, that if there is even the appearance of a conflict of interest in some public position held by X, then X should be forced to resolve the conflict by resigning, dropping one of his interests, etc. In some cases this seems a legitimate point, and in the present case where over 100 of the 500 citizens of Barker Township are apparently concerned about possible conflicts in the cases of Matthews and Parkinson, then the 'appearance' of conflict is politically visible and divisive enough that perhaps there should be a re-election for the positions held by Matthews and Parkinson.

However, we all have to be concerned that the 'appearance' of conflict in some situations may be artificially generated as a political or social ploy. In the present case, clearly residents of Barker Township don't want a landfill sited in their township, so it seems likely that their 'landfill defense' teams will produce as reasons anything they think will 'play' well in the newspapers or the courts. The 'conflict of interest' charges would almost certainly never have been raised in the present case if Barker Township hadn't been targeted for landfill development. There has to be something more to the idea of the 'appearance' of a conflict than simply that some people claim or allege there is a conflict, because such people could have highly biased or even malicious reasons for their claims.

A more familiar kind of case in which accusations of conflicts of interest might inappropriately or maliciously be raised concerns issues such as the rights of gay (homosexual) people to hold jobs. Militant anti-gay groups have tried to have gay people removed from various jobs such as teaching positions, on the ground that there is a conflict between their interest in finding sexual partners and their interest in properly carrying out their professional responsibilities.

This kind of case well illustrates my point that conflicts of interests do not by themselves produce moral or legal problems, because of course no-one would suggest that heterosexual teachers should be banned from teaching because of their own conflicts of interest in similar situations. In other words, some conflicts (or potential conflicts) are so pervasive as to be almost part of 'the human condition', yet they cause moral problems only if people 'give in' to the temptations they provide.

Finally, note that a special factor in the present case is that both Matthews and Parkinson needed to have, by requirements of state law, the kind of interests (one had to be a solid waste industry representative, and the other an expert in solid waste) which led to the apparent conflicts. On my view of conflicts, this is unproblematic, because the advantages in having expert opinions available on a committee generally outweigh the risk that office-holders will succumb to temptation and misuse their positions. Knowledge and experience are important assets in public service, and we are liable to lose both if we pursue too zealously the removal or restriction of candidates who might have (or be alleged to have) personal conflicts of interests.

### **Joseph Ellin**

This case is a bit unusual in that the conflict of interest here evidently occurred through trying to comply with state law. The law requires that two seats on the waste planning committee be held by industry representatives, but the two who are appointed, Matthews and Parkinson, are connected with a plan to site the county landfill in Barker township, where the residents charge conflict of interest. It is not clear in what the conflict consists, but presumably the accusation is that Matthews and Parkinson's firms will benefit if the dump is situated in Barker.

Conflict of interest is easy to charge and hard to disprove. Often it seems that appearance of conflict amounts to nothing more than someone saying that there is such a conflict. Since passions about things like landfills are apt to become intense, it is politically foolish, even if not necessarily ethically objectionable, for anyone to sit on a planning board where even the whisper of conflict of interest is possible. There must be other industry representatives who don't have proposals before the County Waste Board. Neither Matthews nor Parkinson want to resign. They seem to have made it a point of personal pride not to succumb to pressure which they consider unjustified. But it is a mistake to allow one's sense of honor to stand in the way of getting the task done. These accusations will poison the board's deliberations and cause the decision to drag on forever. Neither Matthews nor Parkinson should serve on the board. They have made their defense, which is their right, and they need not admit any culpability. Now they should resign for the public good.