Report on a Case by the Board of Ethical Review

Case No. 65-9

Subject: Public Criticism of Proposed Public Highway Route
Section 2(b)- Code of Ethics; Section 4(a)-Code of Ethics; Section 5-Code of Ethics; Section 5(a)-Code of Ethics; Section 12-Code of Ethics

Facts:
A state highway department prepared engineering data on alternate routes for a by-pass of part of the interstate highway system in the state, including cost estimates for three possible routes. The highway department indicated it favored route "B". An official of a city located close to the proposed route publicly criticized the proposed route "B" because he felt it would endanger the city's water supply and be a detriment to the development of a lake as a proposed recreation area.

A principal of a consulting engineering firm, which had performed the engineering work on a portion of the interstate highway to which the by-pass would connect, issued a public letter, "To Whom Concerned," which was published in the local press, discussing the alternative routes. His letter stated disagreement with the cost estimates of the highway department and pointed out alleged disadvantages of the proposed route. The letter then suggested a fourth route ("D") which, it was claimed, would be superior to those previously suggested. The newspaper story containing the full text of the letter from the consulting engineer also quoted the city official as favoring route "D" proposed by the consulting engineer.

Question:
Is it ethical for a consulting engineer to publicly express criticism of proposed highway routes prepared by engineers of the state highway department and to propose an alternative route?

References:
Code of Ethics-Section 2 (b) - "He shall seek opportunities to be of constructive service in civic affairs and work for the advancement of the safety, health and well-being of his community."

Section 4(a)-"He shall not issue statements, criticism, or arguments on matters connected with public policy, which are inspired or paid for by private interests, unless he indicates on whose be half he is making the statement."

Section 5-"The Engineer will ex press an opinion of an engineering subject only when founded on adequate knowledge and honest conviction."

Section 5(a)-"The Engineer will insist on the use of facts in reference to an engineering project in a group discussion, public forum or publication of articles."

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*Section 12-"The Engineer will not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects or practice of another engineer, nor will he indiscriminately criticize another engineer's work in public. If he has knowledge that another engineer is guilty of unethical or illegal practice, he shall present such information to the proper authority for action."

Discussion:
Probably no engineering activity excites as much interest, comment, and criticism from members of the public as that related to the location of proposed highway systems. This is understandable and even welcome because the whole purpose of engineering is to serve the public interest. When an engineering project has such a direct and substantial impact on the daily life of the citizenry as the location of a highway it is desirable that there be public discussion. The Code does not preclude engineers, as citizens, from participating in such public discussion. Those engineers who have a particular qualification in the field of engineering involved may be said to even have a responsibility to present public comment and suggestions in line with the philosophy expressed in Section 2(b) of the Code.

This type of comment by engineers, however, is restricted in certain respects, as indicated by other provisions of the Code. In paraphrase, these restrictions are that his public comment may not be on behalf of an undisclosed private interest (Section 4 (a)) ; the comment must be based on sound engineering knowledge and judgment (Section 5); the comment must be in accord with the facts of the situation (Section 5(a)); and the criticism or comment by the engineer must not be malicious, unjust, or intended to injure another engineer (Section 12).

We find no violation of any of these restrictions in the facts presented. There is no indication that the consulting engineer was representing any client or that he was using his criticism as a means to advance his own personal interests. Inasmuch as the consulting engineer's firm had participated in the design of a related portion of the highway system it is reasonable to assume that he did have adequate professional knowledge of the facts. Nor is there any ground to indicate or imply that the criticism was malicious or unfair in any respect.

This is not to say that the alternate route proposed by the consulting engineer was in fact superior to those suggested by the engineers of the highway department. This is a question for determination by appropriate public authority. The letter of the consulting engineer as published in the daily press was temperate in tone and language and was written in constructive terms.

The fact that the consulting engineer's letter disagreed with the cost estimates of the highway department engineers is, in and of itself not objectionable from an ethical standpoint. As we stated in Case 63-9, "Some aspects of an engineering problem will admit of only one conclusion, such as a mathematical equation, but it is a fallacy to

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carry this statement to the ultimate conclusion that all engineering problems admit of only one correct answer. . . . There may also be honest differences of opinion among equally qualified engineers on the interpretation of the known physical facts. Assuming complete factual agreement...engineers can and do arrive at different conclusions based on their best understanding of the application of those facts."

Conclusion:
Under the facts and circumstances of the case, it is ethical for an engineer to publicly express criticism of proposed highway routes prepared by engineers of the state highway department, and to propose an alternative route.

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