

Investigative Report

Conflict of Interest and Abuse of Position by Parks & Recreation Manager

April 2022



Jonathan Pixler, former General Maintenance Supervisor II for the Parks and Recreation Department, violated City Code by acting on a conflict of interest. Pixler's spouse worked at a plant nursery where he made multiple purchases for the City. Between November 2020 and June 2021, Pixler made at least 13 purchases totaling about \$12,500 at that nursery. We also found that Pixler violated City Code by having his staff pick up plants from that nursery that he purchased for his personal use.

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Cover: Aerial view of downtown Austin by RoschetzkyStockPhoto

Allegation

The Office of the City Auditor received an allegation that General Maintenance Supervisor II Jonathan Pixler was buying large amounts of plants exclusively from a wholesale nursery in Austin. Pixler's spouse was alleged to be working for the nursery.

Background

The mission of the Parks and Recreation Department (PAR) is to provide diverse programs and experiences to the public by creating sustainable natural spaces and public places. Jonathan Pixler began working for the Parks and Recreation Department in August 2019. As a General Maintenance Supervisor II, Jonathan Pixler was responsible for PAR's horticulture team as well as maintaining the City's horticulture needs. Pixler was also responsible for making purchases for the horticulture team.

Investigation Results Summary

Jonathan Pixler, a General Maintenance Supervisor II at PARD, violated City Code by acting on a conflict of interest he had with a local plant nursery. Specifically, Pixler made about \$12,500 in purchases between November 2020 and June 2021 from a nursery that employed his spouse.

Pixler also abused his City position in February 2020 by having two of his staff pick up plants from the nursery where his spouse worked that he purchased for personal use. This occurred on City time.

Finding 1 Conflict of Interest

Investigation Criteria:

A substantial interest of a spouse of a City official or employee shall be deemed to apply to that official or employee for the purposes of Sections 2-7-63 (Prohibition on Conflict of Interest) and 2-7-64 (Disclosure of Conflict of Interest) concerning disclosure and recusal or reassignment.

§ 2-7-65 - SUBSTANTIAL INTEREST OF RELATIVE. (A)

See Investigation Criteria for details

Jonathan Pixler began working for the Parks and Recreation Department in August 2019. Shortly after his hire date, Pixler began making purchases on a City credit card, including purchases at the nursery where his partner was employed. They were not married at the time of the initial purchases, so those purchases are not involved in our conflict-of-interest calculations. Pixler and his spouse married on November 7, 2020. Once Pixler was married, he had a conflict of interest with the nursery where his spouse worked.

Based on Austin City Code, Pixler's spouse had a substantial interest in the nursery because they earned more than \$5,000 in salary annually. When Pixler married his spouse in November 2020, the spouse's substantial interest applied to Pixler. Beginning November 7, 2020, Pixler had a substantial interest in the nursery.

During his employment with PARD, Pixler made at least 42 purchases totaling approximately \$38,500 at the nursery. Of these 42 transactions, 13 were made after he was married, and those total approximately \$12,500. Purchasing was within Pixler's responsibilities as a manager, and he did not need PARD management approval before making these purchases.

According to Pixler's supervisor, they did not become aware that Pixler's spouse worked at the nursery until Pixler told them in spring 2021. Pixler's supervisor told us that Pixler's spending was in line with management expectations and the quality of products PARD received from the nursery was good. Pixler's supervisor stated they advised Pixler that his relationship would not be a problem because the nursery is a City vendor and was not the only vendor from which PARD was purchasing plants. This advice does not match City Code.

Jonathan Pixler resigned from the City in August 2021 and declined to speak with our office.

By making purchases from the nursery where his spouse was employed, Pixler appears to have violated the following portion of City Code:

- § 2-7-63 – Prohibition on Conflict of Interest

Finding 2

Abuse of Position

In February 2020, Pixler instructed staff that reported to him to pick up plants for PARD from the nursery where his spouse worked. However, Pixler also asked the employees to pick up roughly 12-20 other plants that he purchased for himself while they were picking up the order for PARD. Once the employees returned, they also loaded the plants into Pixler's personal vehicle. All these events occurred during the employees' normal working hours, and the employees were paid by the City for the time it took to complete this personal errand.

One staff member told our office they were uncomfortable with this request, but felt compelled to comply as Pixler was their direct supervisor.

Pixler's supervisor confirmed that Pixler is not permitted to use City staff to run personal errands. They also noted that after this incident, Pixler admitted that he made a mistake. Pixler received a verbal counseling from his supervisor, who noted this did not happen again to their knowledge.

By asking staff who reported directly to him to perform a personal errand, Pixler appears to have violated the following portion of City Code:

- § 2-7-62 - Standards of Conduct

Appendix A - Subject Response


Pixler did not provide a response.

Appendix B - Management Response



MEMORANDUM

TO: Corrie Stokes, City Auditor

FROM: Kimberly A. McNeeley, M.Ed., CPRP, Director
Austin Parks and Recreation Department 

DATE: April 21, 2022

SUBJECT: INC21003

The purpose of this memorandum is to notify the Office of the City Auditor that the Parks and Recreation Department (Department) acknowledges the report findings. The Department will continue to require employees to participate in Purchasing and Ethics Training with a training emphasis to include Code of Ethics-Conflicts of Interest as it relates to purchasing

Cc: Liana Kallivoka, PhD, PE, LEED Fellow, Assistant Director, Parks and Recreation Department

Investigation Criteria

Finding 1

§ 2-7-63 - Prohibition on Conflict of Interest

(A) A City official or employee may not participate in a vote or decision on a matter affecting a natural person, entity, or property in which the official or employee has a substantial interest; provided, however, that this provision shall not prohibit any member of the city council from participating in a discussion relating to a petition certified to the city council by the city clerk which petition seeks the recall of said member of the city council.

§ 2-7-65 - Substantial Interest of Relative

(A) A substantial interest of a spouse of a City official or employee shall be deemed to apply to that official or employee for the purposes of Sections 2-7-63 (Prohibition on Conflict of Interest) and 2-7-64 (Disclosure of Conflict of Interest) concerning disclosure and recusal or reassignment.

Finding 2

§ 2-7-62 - Standards of Conduct

(O) - A City official or employee may not engage in fraud or abuse, as defined in City Code Chapter 2-3 (City Auditor).

§ 2-3-5 - Powers and Duties (A) (1)

ABUSE means the use of a City office, employment, contract, or other position with the City to obtain personal gain or favor from a citizen or other City employee or vendor.

Methodology

We took the following steps to accomplish our investigation objectives:

- Conducted background research
- Reviewed City financial records
- Interviewed PARD employees
- Interviewed vendor staff
- Reviewed applicable City Code and policy

CAIU Investigative Standards

Investigations by the Office of the City Auditor are considered non-audit projects under Government Auditing Standards and are conducted in accordance with the general and ethics standards, procedures recommended by the Association of Certified Fraud Examiners (ACFE), and the ACFE Fraud Examiner's Manual. Investigations also adhere to quality standards for investigations established by the Council of the Inspectors General on Integrity and Efficiency (CIGIE) and City Code.

The Office of the City Auditor, per City Code, may conduct investigations into fraud, abuse, or illegality that may be occurring. If the City Auditor, through the Integrity Unit, finds that there is sufficient evidence to indicate that a material violation of a matter within the office's jurisdiction may have occurred, the City Auditor will issue an investigative report and provide a copy to the appropriate authority.

In order to ensure our report is fair, complete, and objective, we requested responses from both the subject and the Department Director on the results of this investigation. Please find attached these responses in Appendix A and C.

The Office of the City Auditor was created by the Austin City Charter as an independent office reporting to City Council to help establish accountability and improve city services. We conduct investigations of allegations of fraud, waste, or abuse by City employees or contractors.

City Auditor

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