

**The City of Nixa Fails to Nix a Fraud Conspiracy:  
Applying the Enterprise Risk Management Model to a Municipal Fraud Case**

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**Introduction**

Nixa City Administrator, Brian Bingle, was on the hot seat at the City of Nixa's March 11, 2009, Board of Aldermen meeting. The city was facing a cash shortage of an estimated \$750,000—the result of an alleged massive fraud; and the aldermen and townspeople in attendance were looking for something to cool their anger. Although the alleged perpetrators of the fraud had been arrested, the Board and city residents wondered how this problem could have occurred and who else should be held responsible for this fraud. Furthermore, everyone had just learned that a whistleblower had singled out the alleged primary perpetrator of the fraud back in 2006 (which would have reduced the fraud by hundreds of thousands of dollars if the supervisors had acted upon the information).

One of the aldermen asked Bingle if he felt responsible. "Absolutely," stated Bingle. "I put a lot of reliance on city and staff, as well as the supervisors working for the city. Their actions reflect solely on me, and I accept full responsibility for them." Nixa resident, Chris Pedersen, walked up to the microphone. He told the Board that "the buck stops with the city administrator" and asked the Board to terminate Brian Bingle (Muck and Baxter, 2009).

Given that it was an election year, everyone knew that in addition to the alleged perpetrators of the crime, someone else needed to be punished. But who was it going to be? Bingle was mortified. Why did the system fail? Up until now, there had never been a problem of this magnitude within the city administration. Why and how did this happen?

**Background of the City of Nixa**

Early businesses in Nixa, Missouri focused upon the local agricultural economy. As those businesses began to close, the increasing use of the automobile allowed Nixa to evolve as a bedroom community of Springfield, Missouri, supplying workers to various companies in the larger city. Today, Nixa finds itself as a midpoint location between Springfield and the tourist destination of Branson. The city's location and excellent school system has propelled the city's explosive growth over the last few decades. This growth has forced the city to expand their services.

According to data provided by the City of Nixa, the 1970 population of Nixa was 1,636. By 2018, almost 50 years later, Nixa's population had grown to 21,113 with a median household income of \$53,674. New residents to the city were bringing higher incomes, along with higher levels of education, and more children. Because Nixa is located in the Ozark Mountains and near Branson, Missouri, several outdoor recreational and entertainment activities are available within a short driving distance. Another attractive feature of Nixa is the small town feeling of safety. Even though Missouri has a slightly higher average crime rate than the national average of the U.S., Nixa boasts a much lower crime rate.<sup>1</sup>

**Key Decision Makers for the City of Nixa**

At the time of the fraud, the city government of Nixa consisted of seven elected officials: the mayor and the six aldermen that formed the Board of Aldermen. (Note: Recently, the city changed its classification within the state, so now the "Alderman" positions are referred to as "Councilmen"). The Board hired a City Administrator who directed the administrative departments of the city in their day-to-day operations. The City Administrator reported to the Mayor and the

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<sup>1</sup> [http://www.homesurfer.com/crimereports/view/crime\\_report.cfm?state=MO&area=Nixa](http://www.homesurfer.com/crimereports/view/crime_report.cfm?state=MO&area=Nixa)

Board. The City Administrator was allowed by city ordinances to delegate some of his/her responsibilities to the city departments (e.g., the Utilities Department).

The two city departments that were embroiled in this fraud were the Finance Department and the Public Works Department. The Finance Department was managed by the Finance Director, who was responsible for the city's purchasing and accounts payable functions. Thus, the Finance Director oversaw the purchasing clerk and the accounts payable clerk. The Public Works Department was supervised by the Director of Public Works, who was responsible for utilities offered by the city, the City Recycling Center, and the Street Department. Both the Finance Director and the Director of Public Works reported to the City Administrator.

The Street Department was managed by the Superintendent of the Street Department, who was responsible for street maintenance and street construction in the city. The Superintendent of the Street Department led a workforce that maintained more than 160 streets within Nixa (or more than 110 miles of roads), handled some of the city's odd jobs (e.g., sprayed for mosquitoes), and assisted with new construction projects within the city. Some of the duties of the Street Department included filling potholes, repairing curbs, mowing grass along roadways and on city properties, removing snow from the streets, painting road lines such as crosswalks, and installing street signs. The Superintendent of the Street Department reported to the Director of Public Works.

Prior to 2007, either the City Administrator or someone appointed by him/her (i.e., a purchasing clerk) was approved by the Board to be the purchasing agent for the city. All city departments filed purchase requests with the purchasing agent. After April 2007, the city amended their laws to require the following processes:

- Any purchase that was expected to be over \$20,000 was placed into the formal budget. Later, the requested project/goods/services would be written into formal specifications and undergo a written bid process. Next a purchase order would be created by the Purchasing Clerk based on the lowest bid that met the contract specifications. Finally, the purchase order would have to be authorized by either the City Administrator or the Board.
- For any purchases ranging in cost from \$2,000 to \$20,000, bids were solicited using a mail and/or telephone process. The bids were required to be confirmed in writing. Again, the lowest qualified bid was expected to be accepted, and a purchase order was created by the Purchasing Clerk. The City Administrator was required to approve any purchase order between \$10,000 and \$20,000, but if the amount was less than \$10,000, the department head could authorize the purchase. Thus, Covington could approve any transaction that was for less than \$10,000.
- Nixa required a purchase order and the department supervisor's authorization for any purchase ranging between \$200 and \$2,000. If the purchase cost was less than \$200, then only the approval of the department head was required by the City of Nixa.

Once a purchase order was approved, the Purchasing Clerk would place the order for the goods or services with the appropriate vendor. Later, the Purchasing Clerk would send the purchase order and the associated invoice to the Accounts Payable Clerk. The Accounts Payable Clerk would prepare and mail a check to the vendor once he/she received notification from a department that the goods or services had been received/verified.

Larry Covington was hired by the City of Nixa Street Department on March 6, 2000. He was promoted to the position of superintendent on May 6, 2004. Superintendent positions in Nixa typically paid between \$44,000 and \$65,000 per year. David Griggs was hired by the City of Nixa to work in the Street Department as a utility worker in November of 2003. In August of 2004, Griggs was promoted by Covington to the position of lead utility worker. Thus, a description of their professional relationship could be that Covington was a city supervisor—in charge of streets and sanitation, while Griggs was his underling. However, their work relationship changed in 2006. Griggs was charged and pleaded to forgery in Christian County, Missouri. He was sentenced to five years of probation and fired from his job by the City of Nixa.<sup>2</sup>

## **Forensic Information**

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<sup>2</sup> <http://crimesceneinvestigations.blogspot.com/2009/02/nixa-public-works-supervisor-and-former.html>

In April of 2006, an anonymous caller used a pay phone to call Nixa officials and encouraged the city to investigate Larry Covington. The caller noted that Covington was a “sophisticated, professional thief,” and that a comprehensive investigation should be initiated. The caller noted that Public Works Director, Doug Colvin, would not listen to any information about stolen goods and refused to investigate Covington. Instead, the caller believed that supervisors were only performing a minimal level of scrutiny and number of investigations, while alleging supervisors were falsely reporting the completion of extensive investigations with no major losses by departments. The caller noted that Covington and another street department employee were frequently seen on Sundays in Clever, Missouri in a flat-bed truck owned by the city. The two were also seen in the same truck in Sparta, Missouri. The caller suspected that Covington had a shed where he hid goods that he stole from Nixa. The caller then gave some alleged instances of Larry Covington committing various acts of crime:

- In 2004, Covington stole several street signs and sold them on Ebay using an alias. (The city did not uncover this theft because they searched Ebay only using Covington’s name).
- Covington stole city equipment and then sold the equipment, including a large city lawn mower, keeping the money for his own personal use. (Covington needed a large down payment to purchase a day care center).
- Covington stole dirt from the city and then sold the dirt to residents (Covington claimed he gave the dirt to the residents).
- Covington used city funds to buy tools at a local Nixa hardware store, and then he either kept the tools for personal use or the tools were sold. (Covington usually reported the tools as lost or stolen).
- The caller noted that employees in the street department were aware of Covington’s thefts, but they were intimidated (because they were afraid, they would lose their jobs) from reporting the thefts to the city administration. They were also bullied by Covington in the workplace and did not want to deal with Covington’s aggressive behavior.

The caller also noted that Covington allegedly committed insurance fraud and arson while living in California by burning down his own home and receiving the insurance proceeds.

According to the Probable Cause Statements for a felony created by the police department of Nixa, an employee (whistleblower) of Nixa became concerned about suspicious purchase orders that were being prepared by Covington and issued to the “Ward and Spooner” Company over a three-month period.<sup>3</sup> The employee was concerned that the city was paying for products that were ordered but not received. The employee reported these suspicions to City Administrator Brian Bingle on February 13, 2009. During an initial investigation, the Nixa Finance Director found that 54 checks had been written to Ward and Spooner between January 9, 2007, and February 4, 2009, for invoices totaling \$277,446.78. Then, Public Works Director Doug Colvin was asked if he could locate any of the inventory items ordered from Ward and Spooner. He was unable to locate any inventory. The city was able to ascertain that the post office box where the purchase orders and checks were delivered was registered to Covington. The city checked with the Secretary of State office and found that Covington had registered Ward and Spooner as a business on December 4, 2002. The address listed on the business application was the same home address that Covington used in 2004. Based upon the same whistleblower tip, a similar investigation was initiated for another suspicious company, Tri-State Supply. This investigation revealed that on December 22, 2004, David Griggs applied and paid for the business registration of a company called Tri-State Supply, using his home address as the business location. Based on this information, David Griggs and Larry Covington were arrested by the Nixa Police Department.

Further investigation would lead to Covington and Griggs being charged with conspiring to setting up three phony companies—TriState Supply, Airborne Specialist(s), and Ward and Spooner—to do business with the City of Nixa. Interestingly, Griggs registered the Airborne Specialist(s) business with the state on March 6, 2002, well before he started working for the City of Nixa. Purchase orders to these companies were produced by Covington in his role as a supervisor, and then phony invoices were prepared by either Covington or Griggs and sent from these companies to Nixa. A check from the city would then be sent to the post office box of the invoicing company, but no goods (or services) would ever be shipped to Nixa. Because one of Covington’s responsibilities was to receive goods for the department, he was able to override any

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<sup>3</sup> Probable Cause Statement for a felony, State of Missouri v. Larry Covington, February 24, 2009, and Probable Cause Statement for a felony, State of Missouri v. David Griggs, February 25, 2009.

internal controls that would verify the delivery of goods (or completion of services) by the city, thus concealing and perpetuating the fraud. The acts of fraud were committed between October 18, 2004, and February 25, 2009. The estimated final total that Covington and Griggs stole from Nixa was \$756,010 based upon the following breakdown of invoices:

- 83 fraudulent invoices from Airborne Specialist(s) totaling \$183,435,
- 39 fraudulent invoices from Tri-State Supply totaling \$90,210, and
- 150 fraudulent invoices from Ward & Spooner totaling \$482,365.

In addition to the fraud charges, a search of Larry Covington's residence revealed several hardware items and other materials belonging to Nixa. Therefore, Covington was also charged with Class C felony stealing.<sup>4</sup>

Covington also had unscrupulous dealings with an actual supplier, GNC<sup>5</sup> of Kansas City, Missouri; that was owned by Gary Cohn. GNC delivered various products to municipalities.<sup>6</sup> Products ordered by Covington frequently were not delivered to the city of Nixa. City workers mentioned to investigators that so many items were ordered from GNC that there would not have been room in the warehouse to store all of them. Many products were sent to Covington's home address. The products were billed to Nixa at exorbitant prices, including one product that was priced 1,339 percent higher than the suggested retail price. The owner of GNC, Gary Cohn, paid \$3,100 into an account for Covington at a hunting resort in Kansas. This account was used by Covington for personal hunting trips. Cohn admitted to the owner of the resort that he paid the \$3,100 so Covington would continue to purchase products from GNC.

Since the fraud began, Covington had made the following purchases: a new home in Ash Grove, Missouri, a 2004 Bombardier Outlander ATV, a 2007 Mahindra tractor, a 2008 Ford Explorer, a 2008 Ford F350 truck, and a 2007 Agri Cutter (for cutting grass). Griggs, however, had a large amount of debt (around \$200,000) from credit cards, medical expenses, student loans, and home loans—and he only had about \$450 in various checking accounts. In December of 2007, Griggs filed for Chapter 7 bankruptcy protection. Unfortunately, Griggs and his wife had also filed for bankruptcy in 1995 as well.

#### **Timeline of the Covington and Griggs Fraud**

March 6, 2000	Covington hired by the City of Nixa Street Department.
March 6, 2002	*Griggs registered the Airborne Specialist(s) business of his own.
November 11, 2003	Griggs hired by the City of Nixa Street Department as a Utility Worker.
May 6, 2004	Covington promoted to Superintendent of the Nixa Street Department.
August 4, 2004	Griggs promoted by Covington to Lead Utility Worker in the Street Department.
December 2004	*Covington registered Ward and Spooner as a business of his own using his home address. *Griggs registered Tri-State Supply as a business of his own using his home address.
February 8, 2006	Griggs accused of forgery and fired from his job by the City of Nixa.
April 2006	Anonymous caller to Nixa officials to investigate Covington, alleging he committed various acts of crime against the City of Nixa dating back to 2004 (and disclosed the alleged insurance fraud committed by Covington while he was living in California). No investigation was initiated.
August 18, 2006	Griggs pleaded guilty to forgery, receiving five years of probation.
December 2008	Griggs and his wife file for Chapter 7 bankruptcy protection. They had previously filed for bankruptcy in 1995.

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<sup>4</sup> Nixa Tip, (May 27, 2009) Retrieved from [http://Commpub.smugmug.com/gallery/7504234\\_ks5X3/1/](http://Commpub.smugmug.com/gallery/7504234_ks5X3/1/)

<sup>5</sup> This GNC is not the vitamin store.

<sup>6</sup> <https://www.justice.gov/usao-wdmo/pr/kc-business-owner-pays-78000-city-nixa-restitution-fraud-scheme>

February 13, 2009	Nixa employee reported to City Administrator Brian Bingle that the city may be paying for products under Covington's authority that were never received.
February 13-23, 2009	Investigation initiated, and the Nixa Finance Director found 54 checks written to Ward and Spooner, extending from January 2007 through February 2009. Further investigation discovered three phony vendors set up with the state (denoted with an * above) by Covington and Griggs.
February 23-25, 2009	Probable Cause Statements for a felony were issued for Covington and Griggs, with ensuing warrants issued for their arrest.
October 18, 2004 to February 25, 2009	Acts of fraud committed by Covington and Griggs consisting of 272 fraudulent invoices billed to the three phony vendors totaled over \$750,000. Additionally, Covington had stolen several hardware items and other materials belonging to the City of Nixa.  Furthermore, Covington received kickbacks from their supplier GNC. Goods were priced at highly inflated prices, were sent to Covington's home, or were not sent at all.
August 27, 2009	Griggs pleads guilty in Federal court of felony counts of conspiracy to commit money laundering, conspiracy to commit mail fraud, and theft from an organization receiving federal funds.
June 1, 2010	Covington pleads guilty in Federal Court to four felony counts: conspiracy to commit mail fraud, conspiracy to commit money laundering and theft from an organization receiving federal funds, conspiracy to commit mail fraud, and mail fraud.
July 26, 2010	Griggs was sentenced to two years and eight months in federal prison without parole. The court also ordered Griggs to pay \$272,718 in restitution, and to forfeit to the government cash of \$756,010 and the 1999 Dutchman travel trailer, which were obtained from the proceeds of the offenses.
September 3, 2010	Christian County revoked Griggs parole in the 2006 fraud case and ordered to him serve three years with the Missouri Department of Corrections.
November 9, 2010	Covington is sentenced in Federal Court to nine years in federal prison without parole. Covington is required to pay \$756,010 in restitution and forfeit several items purchased with the stolen money.
October 21, 2013	Gary Cohn, owner of GNC of Kansas City, paid \$78,810 to the City of Nixa in a pretrial diversion program. Cohn was not prosecuted since he met the requirements of the diversion program.

### **Final Thoughts about Key Decision Makers**

After the Board meeting, Brian Bingle thought, "What could I have done to prevent or detect this million-dollar fraud?" Bingle was well aware that if proper internal controls had been put into place and properly followed, there was a good probability that this fraud could have been avoided. This fraud was now his responsibility.

Each question below (1 through 5) is worth equal value:

1. Using the Enterprise Risk Management Model, describe the internal environment for the City of Nixa, a growing municipality. Your answer should describe each section of the internal environment: (1) management's philosophy, operating style, and risk appetite; (2) the board of directors (aldermen); (3) commitment to integrity, ethical values, and competence; (4) organizational structure; (5) methods of assigning authority and responsibility; (6) human resource standards; and (7) external influences.
2. Based on the information in the case, diagram the internal control system for Nixa's purchasing and payables functions using a data flow diagram, level zero (use Word, PowerPoint, or Visio).
3. Larry Covington was promoted to Supervisor in 2004. Does the scope and organization of his position seem appropriate? Why or why not?

4. List and discuss some controls that should have been in place over purchasing in the City of Nixa administration.
5. List and discuss some controls/policies that should have been in place over accounts payable in the City of Nixa administration.

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