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| DATE               | 23/11/2023  |
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| COMMITTEE          | CPISF       |
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PARLIAMENT  
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THE SENATE

THIRTEENTH PARLIAMENT - SECOND SESSION

THE SELECT COMMITTEE ON COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS

REPORT ON THE CONSIDERATION OF THE AUDIT REPORTS OF THE FOLLOWING WATER SERVICE PROVIDERS FOR THE YEAR ENDED 30<sup>TH</sup> JUNE, 2019:

1. AMATSI WATER SERVICES COMPANY LIMITED -VIHIGA COUNTY
2. BOMET WATER COMPANY LIMITED - BOMET COUNTY
3. GUSHI WATER AND SANITATION COMPANY LIMITED – KISII/NYAMIRA COUNTIES
4. KISUMU WATER AND SANITATION COMPANY LIMITED- KISUMU COUNTY
5. KWALE WATER AND SEWERAGE COMPANY LIMITED- KWALE COUNTY
6. NYERI WATER AND SANITATION COMPANY LIMITED- NYERI COUNTY

Clerk's Chambers  
The Senate  
P.O. Box 41842-00100  
NAIROBI

July, 2023





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## ACRONYMS/ABBREVIATIONS

|        |                                                      |
|--------|------------------------------------------------------|
| CBK    | - Central Bank of Kenya                              |
| COB    | - Controller of Budget                               |
| COG    | - Council of Governors                               |
| DPP    | - Director of Public Prosecution                     |
| EACC   | - Ethics and Anti-Corruption Commission              |
| GAAP   | - Generally Accepted Accounting Principles           |
| IFMIS  | - Integrated Financial Management Information System |
| KRA    | - Kenya Revenue Authority                            |
| IGRTC  | - Intergovernmental Relation Technical Committee     |
| NHIF   | - National Health Insurance Fund                     |
| NRW    | - Non-Revenue Water                                  |
| NSSF   | - National Social Security Fund                      |
| OAG    | - Office of the Auditor-General                      |
| PAA    | - Public Audit Act                                   |
| PFM    | - Public Finance Management                          |
| PSASB  | - Public Sector Accounting Standards Board           |
| RWWDA  | - Regional Water Works Development Agency            |
| SO     | - Standing Orders                                    |
| TNT    | - The National Treasury                              |
| WASREB | - Water Services Regulatory Board                    |
| WSP    | - Water Service Provider                             |

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## DEFINITION OF TERMS

1. **Unqualified opinion:** This refers to a clean opinion which is the most desirable in which the auditor states that the financial condition, position, and operations of an organization are fairly presented in the financial statements in accordance with Generally Accepted Accounting Principles (GAAP).
2. **Qualified opinion:** This is an opinion expressed by the auditor if the financial statements appear to contain a small deviation from Generally Accepted Accounting Principles (GAAP) but are otherwise fairly presented. It is also rendered if the management of the organization limits the scope of audit procedures.
3. **Adverse opinion:** This refers to an opinion issued when there are material exceptions to Generally Accepted Accounting Principles (GAAP) that affect the financial statements as a whole and the auditor indicates that the financial statements are not presented fairly.
4. **Disclaimer:** This is an opinion given by the auditor when there is a significant limitation in the access to audit information and documentation and inadequate cooperation by the organizational management in the audit process.
5. **Non-Revenue Water:** Non-Revenue Water refers to the difference between the amount of water put into the distribution system and the amount of water billed/unbilled as authorized consumption. It is usually attributed to by physical losses such as leakages, bursts, and overflows through the existing old and dilapidated water supply network, and commercial losses due to metering anomalies and illegal connections.
6. **Going Concern:** This is an accounting principle used for a company that is financially stable enough to meet its obligations and continue its business for the foreseeable future.
7. **Accountability** – This refers to the assurance that an individual or a group will be held responsible for their actions or inactions.

## **PREFACE**

**Hon. Speaker,**

Parliamentary Committees are a creation of the Constitution through Article 124(1) of the Constitution which empowers each House of Parliament to establish Committees and make Standing Orders (SO) for the orderly conduct of its proceedings, including the proceedings of its Committees. The Select Committee on County Public Investments and Special Funds is established pursuant to Standing Order No. 194 of the Senate Standing Orders and is mandated to-

- a) Pursuant to Article 96(3) of the Constitution, to exercise oversight over national revenue allocated to the county governments; and
- b) examine the reports and accounts of county public investments; and
- c) examine the reports, if any, of the Auditor-General on the county public investments; and
- d) To exercise oversight over county public investments.

## COMMITTEE MEMBERSHIP

**Hon. Speaker,**

The membership of the Committee comprises of the following Senators-

- |                                              |                           |
|----------------------------------------------|---------------------------|
| 1. Sen. Godfrey Atieno Osotsi, MP            | - <b>Chairperson</b>      |
| 2. Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP | - <b>Vice-Chairperson</b> |
| 3. Sen. William Kipkemoi Kisang, MP          |                           |
| 4. Sen. Paul Karungo Thangwa, MP             |                           |
| 5. Sen. Miraj Abdillahi Abdulrahman, MP      |                           |
| 6. Sen. Eddy Gicheru Oketch, MP              |                           |
| 7. Sen. Hamida Kibwana Ali, MP               |                           |
| 8. Sen. Maureen Tabitha Mutinda, MP          |                           |

## COMMITTEE SECRETARIAT

- |                         |                            |
|-------------------------|----------------------------|
| 1. Mr. Yussuf Shimoy    | - Clerk Assistant I        |
| 2. Mr. David Angwenyi   | - Clerk Assistant I        |
| 3. Mr. Erick Njogu      | - Clerk Assistant III      |
| 4. Mr. Godfrey Nyaga    | - Clerk Assistant III      |
| 5. Mr. Kennedy Owuoth   | - Fiscal Analyst           |
| 6. Mr. Andrew Nyairo    | - Legal counsel            |
| 7. Ms. Lucy Radoli      | - Legal counsel            |
| 8. Mr. Joseph Tiyan     | - Research Officer         |
| 9. Ms. Raisa Mwithi     | - Research Officer III     |
| 10. Mr. Matano Kataa    | - Research Officer III     |
| 11. Mr. Josphat Ng'eno  | - Media Relations officer. |
| 12. Ms. Winfred Ocholla | - Audio officer            |
| 13. Mr. Patrick Ngenoh  | - Procurement officer      |
| 14. Mr. Josphat Ng'eno  | - Media Relations Officer. |
| 15. Mr. John Pere       | - Serjent-at-arms          |



## **ESTABLISHMENT OF THE COMMITTEE**

**Hon. Speaker,**

The Committee was first constituted on 19<sup>th</sup> October, 2022 pursuant to Standing Order No. 194 of the Senate Standing Orders. The County Public Investments and Special Funds Committee (CPISFC) was split from the broad County Public Accounts and Investments Committee (CPAIC) in the 12<sup>th</sup> Parliament for the purpose of clearing audit backlog and to consider many audit thematic areas which had not been subjected to Parliamentary scrutiny since the inception of devolution in the year 2013.

**Hon. Speaker,**

The County Public Investments and Special Funds Committee is one of the financial audit committees through which the Senate under the provisions of Article 96(3) of the Constitution conducts ex-post scrutiny on Public Investments and Special Funds in Counties.



## **EXECUTIVE SUMMARY**

In the execution of its mandate, the Committee relied on the reports of the Auditor-General on audited Accounts of the water companies for the Financial year 2018/2019 (1<sup>st</sup> July, 2018 to 30<sup>th</sup> June, 2019) as the primary documents for the investigations. The Committee invited the Governors as the Chief Executive Officers of their respective County Governments pursuant to Article 179(4) as witnesses to respond to the audit queries raised in the reports under consideration.

The Committee received both written and oral evidences from the Governors in response to the various audit queries raised by the Auditor-General in the reports under consideration on various dates. The Committee considered and concluded its inquiry onto the reports of the Auditor-General on the Financial Operations of the water companies for the Financial Year 2018/2019.

This report documents the observations and recommendations of the Committee on each audit query as raised by the Auditor-General.

**THE PREFACE DETAILS** the place of Committees in the Constitution, Committee establishment and mandate, Committee membership and formation, the niche of the Committee in the Senate, the executive summary, key observations and recommendations and acknowledgement.

**CHAPTER ONE** highlights the audit queries raised in the report of the Auditor-General for Amatsi Water Services Company Limited for the Financial Year 2018/19 and observations and recommendations of the Committee on each audit query.

**CHAPTER TWO** highlights the audit queries raised in the report of the Auditor-General for Bomet Water Company Limited for the Financial Year 2018/19 and observations and recommendations of the Committee on each audit query.

**CHAPTER THREE** highlights the audit queries raised in the report of the Auditor-General for Gusii Water and Sanitation Company Limited for the Financial Year 2018/19 and observations and recommendations of the Committee on each audit query.

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**CHAPTER FOUR** highlights the audit queries raised in the report of the Auditor-General for Kisumu Water and Sanitation Company Limited for the Financial Year 2018/19 and observations and recommendations of the Committee on each audit query.

**CHAPTER FIVE** highlights the audit queries raised in the report of the Auditor-General for Kwale Water and Sewerage Company Limited for the Financial Year 2018/19 and observations and recommendations of the Committee on each audit query.

**CHAPTER SIX** highlights the audit queries raised in the report of the Auditor-General for Nyeri Water and Sanitation Company Limited for the Financial Year 2018/19 and observations and recommendations of the Committee on each audit query.

## GENERAL OBSERVATIONS

1. **Non-Revenue Water (NRW)** – the Committee observed that majority of Water Companies had very high levels of Non-Revenue Water, way above the recommended sector benchmark of 25% as prescribed by the Water Services Regulatory Board (WASREB). This was mostly attributed to dilapidated infrastructure (physical losses) and inaccurate meter reading and billing, and illegal connections (commercial losses). Some companies such as Gusii Water and Sanitation Company Limited and Bomet Water Company Limited had levels of Non-Revenue Water as high as 62% and 53% respectively in the Financial Year 2018/19.
2. **Bookkeeping, Preparation & Accuracy of the Financial Statements** - the Committee observed that there were inaccuracies and errors in regards to the preparation and presentation of financial statements in almost all Water Companies. Further, the Accountants, and the Managing Directors faced challenges in submitting supporting documents to the auditors on time contrary to Section 62 of the Public Audit Act, 2015 making the accountability and audit process difficult. The delays in preparation of complete financial statements indicating lack of requisite competencies and experiences in the water companies.
3. **Compliance to Reporting Standards and Accuracy of the Financial Statements** - the Committee observed that Accountants experienced challenges in adapting to the International Public Sector Accounting Standards (IPSAS) reporting framework in preparation of financial statements. Additionally, the Committee observed that the Public Sector Accounting Standards Board (PSASB) reviews the IPSAS periodically to take into account emerging issues and conform to best accounting practices. The Committee found that some Water companies experienced challenges in the application of these standards while preparing financial statements as evidenced by the audit queries.
4. **Ethnic Inclusivity** – the Committee observed that many water companies were non-compliant with section 7 (1) and (2) of the National Cohesion and Integration Act, 2008 which provides, “all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its establishment from the same ethnic community” and Section 65(1) (e) of County Government Act, 2012 which provides, “The need to ensure that at least 30% of the vacant posts at entry level are filled by candidates who are not from the dominant



ethnic community in the County”. Some companies such as Gusii Water and Sanitation Company Limited had up to 96% of their staff originating from the same ethnic community.

5. **Material Uncertainty in Relation to Going Concern** – the Committee observed that quite a number of water companies reported negative working capital during the period under review. Therefore, the companies were unable to meet their short-term financial obligations as they fell due and relied on financial support from the County Executive or development partners raising concerns on their sustainability.
6. **Non-remittance of statutory deductions** – the Committee observed that various water companies had continuously failed to remit statutory deductions to various institutions such as Kenya Revenue Authority, National Health Insurance Fund, National Social Security Fund, and pension schemes which is a violation of the law especially the Retirement Benefits Act, 1997, the Pension Act and the Income Tax Act, 1974 which led to continued accrual of interest and penalties.
7. **Budgetary Control and Performance** – the Committee observed that a number of water companies had weaknesses in executing their budgets and did not adhere to the approved budget ceilings set for programs. Water Companies either over-utilized or under-utilized the appropriated funds. In some instances, funds were re-allocated to items that were not budgeted for and without prior approval by the Board of Directors. In addition, water companies experienced high revenue shortfalls and unrealistic budgets.
8. **Non-transfer of assets and liabilities** – the Committee observed that most water companies had not fully transferred all assets and liabilities from the defunct councils and Regional Water Works Development Agencies as is required by the Water Act, 2016. In this regard, such water companies did not reflect their correct financial position within their books of account.
9. **Breach of various provisions of the law** – the Committee observed that there was non-compliance with the provisions of the Public Finance Management Act, 2012, Public Audit Act, 2015, Public Finance Management (County Government) Regulations, 2015, the Water Act, 2016, the Companies Act, 2015, the Income Tax Act (Cap. 470), 1974, the Retirement Benefits Act, 1997, the Pensions Act, 1942, the County Government Act, 2012, the Accountants Act, 2008 and Water Service Regulatory Board (WASREB) guidelines.

10. **Unclear ownership of assets** – the Committee observed that most of the water companies had disputes with regard to the ownership of the assets.
11. **Cross County Water Companies** – the Committee observed that there were water companies jointly owned by two County Governments where there were some conflicts of ownership and management. For instance Kisii and Nyamira Counties.
12. **Lack of an updated fixed asset register** – the Committee observed that water companies had not updated their asset registers exposing assets of the water company to risk of loss, waste and misuse. The Committee further noted that the National Treasury issued a circular no. 5/2020 of 25th February 2020 on the preparation of asset registers for entities in County Governments.

## GENERAL RECOMMENDATIONS

The Committee recommends that-

1. The Board and the accounting officers of the water companies to put in place comprehensive measures to mitigate Non-Revenue Water (physical and commercial losses) including the application of Geographical Information System (GIS) for receiving real-time data in the detection of bursts and leakages, installation of smart meters for accurate billing, replacement of the dilapidated infrastructure and development of institutional anti-corruption policies and enforcement measures to prevent illegal connections among other measures. In addition, the management should disclose the proportions of both the physical and commercial losses in percentage in their reporting.
2. The Board and the accounting officer to ensure proper record keeping and provide all the supporting documents to the Auditor-General in accordance with section 9(1)(e) of the Public Audit Act, 2015 during the time of audit and adhere to the Accountants Act, 2008, failure to which the committee shall invoke section 62 of the Public Audit Act, 2015.
3. The Board of Directors in consultation with the Public Sector Accounting Standards Board conducts continuous capacity building on financial reporting standards for finance officers in the water companies and the management, to improve the quality of reporting and enhance compliance. The board to ensure that the accountants have requisite competency and experience in financial management as is required by the Accountants Act, 2008. In addition, the accounting officer to ensure compliance with the financial reporting template of the National Treasury. This will strengthen maintenance of books of accounts, preparation of financial statements, and timely submission of the statements and documents to the Auditor-General by the water Companies.
4. The Board and County Government to make deliberate efforts to progressively comply with section 7 (1) and (2) of the National Cohesion and Integration Act, 2008 and Section 65(1) (e) of the County Governments Act, 2012 on diversity, realization of the one third rule on recruitment in public institutions and ethnic inclusivity. In addition, the Board and the County Governments to establish a diversity policy with the aim of complying with the law. This will be reviewed in the subsequent audit period.
5. The Board, Accounting Officers and the County Governments to put in place strategic and innovative measures for recovery and to boost the financial health of the water



companies for self-sustainability. Additionally, they should review and regularize their existing assets indicating the service provider agreements before transition from the defunct councils and have updated assets registers that reflect the current financial position, determine and ascertain their commercial viability as required by the Public Sector Accounting Standards Board (PSASB). The Board should indicate if the financial support is a conditional grant or donation in their books of account and it should not be a direct transfer from the County Executive. Further, the County Governors through the County Executive Committee member for water should monitor the financial operations of the water companies pursuant to section 184 of the Public Finance Management Act, 2012.

6. The County Governments, the Board and the accounting officers shall ensure timely remittance of statutory deductions to the relevant institutions to avoid the accrual of interest and penalties that will further increase the companies' liabilities. The accounting officer should comply with the provisions of the Income Tax Act (Cap. 470), 1974, the Retirement Benefits Act, 1997, the Pensions Act, 1942. The Board should provide a plan and commitment for the repayment of the outstanding statutory deductions, failure to which the committee will recommend appropriate enforcement measures to be taken.
7. The Board and accounting officers should prepare realistic budgets and revenue projections to prevent issues of revenue shortfalls which have negative implications on the companies' service delivery. In the process of preparing the budget, the board should consider the previous budgetary allocation and if the current budget is to increase, it should be reasonable. In addition, the board should seek the necessary approval by forwarding the budget estimates to the County Executive Committee member for water, who shall then forward it to the County Treasury as required by the law. Further, the water companies should automate their billing systems.
8. The Council of Governors should engage the Ministry of Water, Sanitation and Irrigation, the Water Services Regulatory Board (WASREB), the Regional Water Works Development Agencies and the Inter-Governmental Relations Technical Committee to settle the matter on the transfer of the assets and liabilities as required by the Water Act, 2016.
9. The Board and accounting officers of the water companies to strictly adhere to the relevant laws such as the Public Finance Management Act, 2012, the Public Audit Act, 2015, the Public Finance Management (County Government) Regulations, 2015, the

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Water Act, 2016, the Accountants Act, 2008, the Companies Act, 2015, the Income Tax Act, 1974, the Employment Act, 2007, the Pension Act, 1942, the Retirement Benefits Act, 1997 and the Water Services Regulatory Board (WASREB) guidelines, failure to which penalties for non-compliance will be sanctioned.

10. The Governors should engage the Inter-Governmental Relations Technical Committee (IGRTC) and the relevant Regional Water Works Development Agencies to fast-track on the transfer of the assets and liabilities so that they reflect a true position of the companies in their books of account.
11. The County Governors of the Counties with cross-cutting water companies to initiate an amicable process of dealing with the matter of ownership of the water companies. As a long-term goal, the Governors should formulate a strategy for the establishment of independent water companies for the respective Counties.
12. The Board of Directors and the managing director should ensure the water companies have updated fixed asset registers pursuant to section 136 (1) of the Public Finance Management (County Government) Regulations, 2015 and in the format prescribed by the National Treasury and submit the same to the Office of the Auditor-General within 60 days from the adoption of this report.

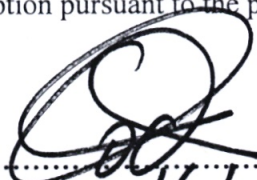
## ACKNOWLEDGEMENTS

**Hon. Speaker,**

The Committee wishes to acknowledge the support it received from the Office of the Speaker and the Clerk of the Senate in the execution of its mandate. I also take this opportunity to thank the Members of the Committee for their due diligence and commitment in the consideration of the audit reports. The Committee further wishes to express its appreciation to the able secretariat for their support and services in facilitating the Members and the Committee in its operations.

**Hon. Speaker,**

On behalf of the County Public Investments and Special Funds Committee, it is my pleasant duty and privilege to table this report on the floor of the Senate and commend it to the House for debate and adoption pursuant to the provision of Standing Order No. 223 (6) of the Senate Standing Orders.

SIGNED: ..... 

DATE: ..... 16/11/2023

HON. SEN. GODFREY ATIENO OSOTSI, MP

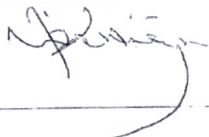
CHAIRPERSON

ADOPTION OF THE  
PUBLIC INVESTMENT  
THE AUDIT REPORT  
FOR THE YEAR EN

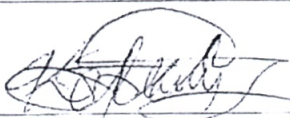
ON COUNTY  
CONSIDERATION OF  
SERVICE PROVIDERS

1. AMATSI WATER SERVICES COMPANY LIMITED – VIHIGA COUNTY
2. BOMET WATER COMPANY LIMITED – BOMET COUNTY
3. GUSHII WATER AND SANITATION COMPANY LIMITED – KISII AND  
NYAMIRA COUNTIES
4. KISUMU WATER AND SANITATION COMPANY LIMITED – KISUMU  
COUNTY
5. KWALE WATER AND SEWERAGE COMPANY LIMITED – KWALE  
COUNTY
6. NYERI WATER AND SANITATION COMPANY LIMITED – NYERI  
COUNTY

We, the undersigned Members of the Select Committee on County Public Investments and Special Funds, do hereby append our signatures to adopt this report.

| No. | Name                                                            | Signature                                                                            |
|-----|-----------------------------------------------------------------|--------------------------------------------------------------------------------------|
| 1.  | Sen. Godfrey Atieno Osotsi, MP<br>(Chairperson)                 |  |
| 2.  | Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP<br>(Vice-Chairperson) |                                                                                      |
| 3.  | Sen. William Kipkemoi Kisang, MP                                |  |
| 4.  | Sen. Paul Karungu Thangwa, MP                                   |                                                                                      |
| 5.  | Sen. Miraj Abdillahi Abdulrahman, MP                            |  |



|    |                                  |                                                                                    |
|----|----------------------------------|------------------------------------------------------------------------------------|
| 6. | Sen. Eddy Gicheru Oketch, MP     |  |
| 7. | Sen. Hamida Kibwana Ali, MP      |  |
| 8. | Sen. Maureen Tabitha Mutinda, MP |  |

## CHAPTER ONE

### REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR AMATSI WATER SERVICES COMPANY LIMITED FOR THE YEAR ENDED 30<sup>TH</sup> JUNE, 2019

The Governor of Vihiga County Government, Hon. Wilber K. Ottichilo, appeared before the Committee on Tuesday, 1<sup>st</sup> March, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor-General on Financial Statements for Amatsi Water Services Company Limited for the Financial Year 2018/2019. He was accompanied by:

- |      |                        |                              |
|------|------------------------|------------------------------|
| i.   | Mr. Ayiego Ezekiel     | - CS                         |
| ii.  | Ms. Anne Desma         | - CECM Water and Environment |
| iii. | Dr. Robert Kati        | - Chair – Amatsi             |
| iv.  | Mr. Josephine Nyambasi | - BOD Amatsi                 |
| v.   | Mr. Edward Luvusi      | - Ag. Managing Director      |

Amatsi Water Services Company Limited is wholly owned by Vihiga County Government.

The Auditor-General rendered a qualified opinion on the financial statements of Amatsi Water Services Company Limited for the period under review.

#### 1.0 Trade and Other Receivables

The statement of financial position reflects trade and other receivables totalling to Kshs 63,683,288 as further disclosed in note 12 to the financial statement. However, the receivables have not been analyzed to indicate how long they have been outstanding as at 30<sup>th</sup> June, 2019 and therefore the prospect for their recovery could not be ascertained. As a result, the level of recoverability of the total receivable balance totaling to Kshs 63,683,288 could not be confirmed.

#### Management Response:

At the time of audit, the management had not put in place a system to analyze the receivables indicating the Aging analysis and other details. Nevertheless, the management has acquired the billing system software (Majisoft) that now shows the aging analysis of the receivables.

Management has also come up with a debt management policy that outlines procedures in debt management giving clear guidelines on how to manage the debt to acceptable levels.

The company has put in place a debt recovery policy and appointed an ad-hoc committee to coordinate the recovery of long outstanding trade receivables balances although no progress has been made so far to ensure the trade receivables do not pile up.

**Committee Observation:**

The committee observed that:

- i. The company had long outstanding receivables totaling to Kshs. 63,683,288 whose level of recoverability could not be confirmed due to a lack of an aging analysis system.
- ii. The management put into place a new billing system software (Majisoft) that now shows the aging analysis of the receivables.

**Committee Recommendation:**

The Committee recommends that:

- i. The management performs an aging analysis on the long outstanding receivables and with the Board's approval, write off the irrecoverable debts in line with section 132 (d) of the PFM (County Government) Regulation, 2015.
- ii. The management should engage a debt collection agency to accelerate the recovery of the long outstanding trade receivables within 60 days from the adoption of this report.
- iii. The Office of the Auditor-General to follow up on the implementation of the management's mitigating measures and report back to the committee on the same in the subsequent audit cycle.
- iv. The query be marked as unresolved.

**2.0 Customer Deposits**

The statement of financial position reflects a customer deposits balance totaling Kshs 11,959,690 as at June, 2019, as further disclosed in Note 18 to the financial statements. However, the identities of the customers who made the deposits were not disclosed. Further, the deposits' bank account reflected a balance of Kshs 1,003,749 as at June 2019, as indicated in Note 13 to the financial statements. The variance amounting to Kshs 10,955,690 as at 30<sup>th</sup> June 2019 could not be confirmed.

**Management Response:**

The variance of Ksh 10,955,690 are the liabilities that were taken over from the defunct Local Authorities and the ministry of water and Irrigation, without full details of customers who made the deposits.

**To address on the identity of customers and variances in customer deposits,**

Through a minute of the Board on 23<sup>rd</sup> December 2022, AWASCO management has been tasked to work with the county government department of water by forming an ad-hoc committee to work on verification of water consumer's data in the area of jurisdiction. The findings will aid in reconciling the water consumer's data on the ground and the data in the records.

**Committee Observation:**

The Committee observed that the variance of Ksh 10,955,690 are the liabilities that were taken over from the defunct Local Authorities and the ministry of water and Irrigation, without full details of customers who made the deposits.

**Committee Recommendation:**

**The Committee recommends that:**

- i. The Governor to engage the Inter-Governmental Technical Relations Committee (IGTRC) and to follow the laid procedures and the law in ensuring that the transfer of all assets and liabilities is completed in a timely manner.
- ii. The Accounting Officer ensures that supporting documents are availed to the Auditor during the audit period as required under section 9(1)(e) Public Audit Act, 2015.
- iii. The Ethics and Anti-Corruption Commission (EACC) expedites investigations on the matter, and provide a status report to the Committee within 60 days after adoption of this report.
- iv. The Office of the Auditor-General should carry out a forensic audit of the company's operations and report back to the committee within 60 days from the adoption of this report.
- v. The query be marked as unresolved.

**Key Audit Matters**



Key audit matters are those matters that, in my professional judgement, are of most significance in the audit of the financial statements. I have determined that there are no key audit matters to report in the year under review.

## Other Matter

### 1.0 Failure to Transfer the Water Company to the County Government

The company was incorporated in 2005 by three local authorities in the country, which however were dissolved after and their functions were taken over by the county government of Vihiga on pronouncement of the 2010 constitution and the county government act 2012. However, the shares were still registered under the defunct authorities as at 30<sup>th</sup> June 2019 as indicated below:

|              | NAME                        | SHARES       | OWNERSHIP<br>RATIO |
|--------------|-----------------------------|--------------|--------------------|
| 1            | COUNTY CONCIL OF VIHIGA     | 1667         | 33.34%             |
| 2            | MUNICIPAL COUNCIL OF VIHIGA | 1667         | 33.33%             |
| 3            | TOWN COUNCIL OF LUANDA      | 1667         | 33.33%             |
| <b>TOTAL</b> |                             | <b>5,000</b> | <b>100%</b>        |

Management did not provide a satisfactory explanation for the omission on which resulted in the breach of law.

#### Management Response:

At the time of Audit, full ownership of the company had not been transferred to the County Government of Vihiga however; the management has since transferred the ownership of the company to the County Government of Vihiga as tabulated below:

The process culminated on 10<sup>th</sup> March 2020.

|   | NAME                                | SHARES | OWNERSHIP<br>RATIO |
|---|-------------------------------------|--------|--------------------|
| 1 | COUNTY GOVERNMENT OF<br>VIHIGA      | 4997   | 97%                |
| 2 | DEPARTMENT OF<br>ENVIRONMENT, WATER | 1      | 1%                 |

|              |                                                          |              |             |
|--------------|----------------------------------------------------------|--------------|-------------|
|              | ENERGY AND NATURAL RESOURCES VIHIGA COUNTY               |              |             |
| 3            | DEPARTMENT OF FINANCE AND ECONOMIC PLANING VIHIGA COUNTY | 1            | 1%          |
| 4            | OFFICE OF THE COUNTY SECRETARY VIHIGA COUNTY             | 1            | 1%          |
| <b>TOTAL</b> |                                                          | <b>5,000</b> | <b>100%</b> |

#### **Committee Observation:**

The committee observed that the management transferred the ownership of the company to the Vihiga County Government, as has been confirmed by the Office of the Auditor-General. The transfer process culminated on the 10<sup>th</sup> of March 2020.

#### **Committee Recommendation:**

**The committee recommends that:**

- i. **The Governor to reconstitute the Amatsi Water Services Board of Directors to improve service delivery within 60 days from the adoption of this report;**
- ii. **The management to provide the Committee with an updated CR12 of the company within 60 days from the adoption of this report.**
- iii. **The matter be marked as resolved.**

#### **2.0 Previous Year Issues**

The audit for the year ending 30<sup>th</sup> June 2018 highlighted several unsatisfactory issues relating to account balances, lawfulness and effectiveness in the use of public resources and effectiveness of the internal control, risk management and governance. In the report of management on progress made in resolving the issues reflected in Appendix 1 of these statements, Management has indicated that several issues had been resolved while work on others was on going. The actual status of the issues shall be determined after they are deliberated upon by the legislature.

#### **Management Response:**

Several issues raised by the Office of the Auditor-General in the prior year were resolved except three (3) issues.

**Committee Observation:**

The committee observed that the management of the water company did not take action in resolving the queries raised in the report of the Auditor-General for the financial year 2018/2019.

**Committee Recommendation:**

- i. The Committee recommends that Accounting officers designated for County government entities resolve any issues resulting from an audit that remain outstanding as required by Section 149(2)(l) of the Public Finance Management Act, 2012.
- ii. The query be marked as unresolved.

**Basis for Conclusion**

**Unaccounted for Water (UFW)**

During the year under review, the company produced 1,531,468 cubic meters (NRW). The NRW was 8.7% points above the threshold set by the Water Services Regulatory Board (WASREB). Had the Non-Revenue Water (NRW) billed at the rate of Kshs 44.28 per cubic meter as applied in the year under review, the company would have recorded revenue totaling Kshs 22,905,157. Management has not disclosed the measures it plans to reduce the volume NRW.

**Management Response:**

During the Year FY2017/2018, the Non-Revenue Water (NRW) was 43% and the company put intervention measures that reduced NRW to 33.7 % in the FY2018/2019 as tabulated below.

| Period    | Percentage | Source of information   |
|-----------|------------|-------------------------|
| 2018/2019 | 33.7%      | OAG REPORT              |
| 2019/2020 | 33.4%      | OAG REPORT              |
| 2020/2021 | 30%        | WASREB IMPACT<br>REPORT |



The High NRW was a result of the old and dilapidated infrastructure that the company was running which was not efficient to realize NRW below 25% Water Services Regulatory Board benchmark.

The billing system is accurate and efficient to process/produce real time NRW reports.

**Measures undertaken to reduce NRW**

- Improved infrastructures through the County Government and other Development partners i.e. WSTF, LVNWWDA
- Due to challenges in water production and distribution, the Company through the County Government of Vihiga and Lake Victoria North Water Works Development Agency (LVNWWDA) benefited from Vihiga Cluster Water Project whereby there is improvement on the water infrastructure and through this project, Non-Revenue Water (NRW) equipment was handed over to the company to enhance the capacity of the NRW team in strategic reduction of non-revenue water below the acceptable level of Water Services Regulatory Board (WASREB) benchmark of below 25%.
- The company has acquired a new billing system (**MajiSoft**) which is more efficient and able to generate real time data.
- Formation of active Non-revenue water management team and appointment of a substantive Non-Revenue Water Officer whose main function is to lower and sustain the Non-revenue water at low levels as recommended by Water Services Regulatory Board (WASREB) benchmark of below 25%.
- The Company developed a Non-Revenue Water Reduction Strategy to guide the company on strategic reduction of Non-Revenue Water.

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**Committee Observation:**

The committee observed that:

- i. The Non-Revenue Water of Amatsi Water Services Company Limited during the financial year 2018/2019 stood at 33.7% against the allowable loss of 25% as prescribed by Water Services Regulatory Board (WASREB) Guidelines. This has been attributed to by physical losses such as leakages, bursts, and overflows through the existing old and dilapidated water supply network, and commercial losses due to metering anomalies and illegal connections.
- ii. The management of the water company listed measures to address the Non-Revenue Water losses. These measures include the establishment of an NRW Team which is



tasked with the implementation and monitoring of the company's NRW Reduction Strategy, and collaboration with the County Government, as well as other development partners, to improve the water system infrastructure.

- iii. This high level of Non-Revenue Water has largely contributed to the Company's revenue shortfall.

#### **Committee Recommendation:**

##### **The committee recommends that:**

- i. **The company should put into place comprehensive measures to mitigate the Non-Revenue Water. These measures include the installation of smart meters to ensure accurate billing, the replacement of the old water supply network as well as the introduction of a Geographic Information System (GIS) which will help the company receive real-time data on leaks in pipes and monitor maintenance among other specific measures.**
- ii. **The Governor should collaborate with EACC to ensure that pre-emptive measures are put into place to reduce the cases of theft and illegal connections.**
- iii. **The Auditor-General should review the implementation of the measures put in place by the management to mitigate the matter and provide a report on this matter in the subsequent audit cycle.**

## CHAPTER TWO

### REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR BOMET WATER COMPANY LIMITED REPORT FOR THE YEAR ENDED 30<sup>TH</sup>, JUNE, 2019

The Governor of Bomet County Government Hon. (Prof.) Hillary Barchok appeared before the Committee on Tuesday 21<sup>st</sup> March, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor-General on the Financial Statements for Bomet Water Company Limited for the Financial Year 2018/2019. The Governor was accompanied by-

- |    |                         |                              |
|----|-------------------------|------------------------------|
| 1. | Mr. Andrew Kimtai Sigei | - CECM Finance               |
| 2. | Dr. Benard Tanui        | - CECM Water and Environment |
| 3. | Mr. Fredrick Ruto       | - Ag. MD BOMWASCO            |

The Bomet Water Company Limited is wholly owned by the Bomet County Government.

The Auditor-General rendered a qualified opinion on the financial statements of Bomet Water Company Limited for the period under review.

#### 1. Un-reconciled Trade and Other Payables

As disclosed in Note 17 to the financial statements, the statement of financial position reflects trade and other payables balance of Kshs. 52,976,496 which customer deposits amounting to Kshs. 2,527,488. However, the balance includes a long outstanding debt owed to Lake Victoria South Water Board of Kshs. 8,441,949. The balance differs significantly with the balance of Kshs. 10,902,651 reflected in the books of accounts of the Board resulting to an unexplained variance of Kshs. 2,460,702.

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#### Management Response:

Bomet Water Company Limited Owes LVSWWDA **Kshs 8,441,949** as reflected in note 17 page 26 of financial statement. The variance of Kshs 2,460,702 has since been reconciled with the Agency through Circularization Dated 21<sup>st</sup> March 2023 which confirmed the true balance of Kshs **8,441,949**. A circularization letter and Confirmation by LVSWWDA on the true balance has been availed for audit verification and copies submitted to the Committee.

#### Committee Observation:

- i) The Committee noted the advisory from the Auditor noting that the amount owed has since been confirmed and reconciled.
- ii) Management did not provide supporting document for the balance at the time of the audit. However, the documents were later provided to the auditors for verification.

**Committee Recommendation:**

The committee recommends that-

- i) **The management ensures that the records are reconciled and analysed with necessary supporting documents and submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012, Section 62 of the Public Audit Act and Section 2 (B) of the Accountants Act, 2009 that stipulates the ethical guidelines and applicable standards of the accounting profession shall take precedence over any instructions.**
- ii) **The matter be marked as resolved.**

**2. Unsupported Land Value**

As disclosed in Note 12 to the financial statements, the statement of financial position reflects property, plant and equipment balance of Kshs. 22,853,207 which includes land with a net book value of Kshs. 927,940 which was not supported by a valuation report.

In the circumstances, the accuracy and valuation of the land balance of Kshs. 927,940 as at June, 2019 could not be confirmed.

**Management Response:**

The Company procured two parcels of land at a cost 927,940 during the year under review as reflected in the financial statement. Hon chair, the parcels were valued at Kshs. 927, 940 which formed the net book value at the end of the financial year since the parcels were procured within the same financial year. The valuation report dated 10<sup>th</sup> February and 15<sup>th</sup> June 2018 and title deeds have been availed for audit verification and copies submitted to the Committee.

- 1. Kericho/kimulot/2463-0.02 hectares'; and
- 2. Kericho/kipsonoi/1604-0.14 acres.

**Committee Observation:**



- i) The Committee observed that accuracy and valuation of the land balance Kshs. 927,940 has been supported by the valuation report.
- ii) Management did not provide supporting document for the balance at the time of the audit. However, the documents were later provided to the auditors for verification.

**Committee Recommendations:**

**The Committee recommends that query be marked as resolved as advised by the Auditor.**

**3. Unsupported Inherited Community Loan**

The statement of financial position reflects a non-current asset balance of Kshs. 3,726,301 in respect of Kamureito water project representing amount of community loan taken over by the Company but which has not been referenced or disclosed under the notes to the financial statements. However, Management did not provide documents for basis of the taking-over the community project loan or the project status report to assess whether the Company realized value for money. Further, although the Company stopped repayments in July, 2017 and the loan continues to attract interests at the rate of 18.5% per annum, the company has not incorporated the liabilities in the financial statements.

In the circumstances, the accuracy and validity of the asset balance of Kshs. 3,726,301 reflected in the statement of financial position as at 30 June, 2019 could not be confirmed.

**Management Response:**

- i. Kamureito water project was a community-based water project. The County Government of Bomet took over the project through Department of Water and irrigation on 3<sup>rd</sup> September 2013 through public participation as per the minutes dated 5<sup>th</sup> June 2013 and 26<sup>th</sup> June 2013. The project was then handed over to Bomet water Company for management hence all assets and liabilities relating to the project were passed over to the company including among others the outstanding project loan. The loan liability at the time of takeover was Kshs 3,726,301 which the company has been servicing. The total outstanding loan balance as at 30<sup>th</sup> June 2019 was Kshs 443,373 as reflected in the financial statement note 19.
- ii. The accrued interest of approximately Kshs 750,000 on loan has been provided for in the current financial year 2022-2023 budget. The resolution through public participation minutes, approved budget has been availed for verification and copies submitted to the Committee.



### **Committee Observations:**

The Committee observed that management did not provide documents for basis of the taking-over the community project loan or the project status report to assess whether the Company realized value for money

### **Committee Recommendations:**

The Committee recommends that-

- i) **Management to ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015, Section 62 of the Public Audit Act and Section 2 (B) of the Accountancy Act that stipulates the ethical guidelines and applicable standards of the accounting profession shall take precedence over any instructions.**
- ii) **EACC to investigate the operations of the company and file a report with the Committee on the community project loan or the project status within sixty (60) days from the date the report is adopted.**
- iii) **The Auditor-General to review the reconciliation documents and report in the next audit cycle.**

## **OTHER MATTER**

### **1. Unresolved Prior Year Matters**

In the audit report of the previous year, several issues were raised. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular Ref: PSASB/1/12 Vol. 1 (44) of June, 2019.

The Board of Directors is responsible for the other information. The other information comprises the Company's information, corporate governance and the report of Board of Directors as required by the Companies Act, 2015. The other information does not include the financial statements and the auditor's report thereon.

My opinion on the financial statements does not cover the other information and I do not express an audit opinion or any form of assurance conclusion thereon.

### **Management Response:**

- i. Prior year issues have been resolved and others that touches on policy matters have been taken into account for implementation by the management recommendations.
- ii. Further, the management has complied with all circulars issued by PSASB and National Treasury every year. Our reporting therefore complied with Public Sector Accounting Standards Board templates as evident in the subsequent financial year reports.

**Committee Observations:**

The committee observed that management had made progress to ensure compliance on the unresolved prior year matters.

**Committee Recommendations:**

The committee recommends that-

- i) **The committee recommends that accounting officers designated for County government entities to try to resolve any issues resulting from an audit that remain outstanding as required by Section 149(2)(l) of the Public Finance Management Act, 2012.**
- ii) **The query be marked as unresolved the Auditor-General to review and report in the next audit cycle.**

**REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

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**Conclusion**

As required by Article 229 (6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness and effectiveness in Use of Public Resources section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

**Basis for Conclusion**

**1. Unremitted Statutory Deductions**

As disclosed in Note 17 to the financial statements, the statement of financial position reflects a balance of Kshs. 52,976,496 under trade and other payables which constitutes staff salaries deductions balance of Kshs. 17,310,957. Of this amount, Kshs. 12,910,821 relates to deductions not remitted to LAPTRUST. The Company is exposed to the risk of incurring penalties and litigation with the continued delay in remitting the deductions as well as interests and compromises the employees' pension in retirement. Consequently, the Management is in breach of the law.

**Management Response:**

- i. During the year under review the company had un remitted statutory deduction of Kshs 17,310,957 as 30<sup>th</sup> June 2019. This was occasioned by the cash flow challenges faced by the Company which was caused by default payment by our major customers that include Kericho county which owed the company **Kshs 24,947,431** as reflected in note 15 page 27 of the financial statement.
- ii. The company has put in place robust measures to enhance revenue collections that includes; Entering into an MOU with Kericho County to streamline water supply and payments for bulk water sales.
- iii. Further, the County Government of Bomet on behalf of Water Company has entered an MOU with State Ministry of Water to address issue of Non-Revenue Water as part of revenue enhancement measures. This will boost revenue collections to service the outstanding payables.
- iv. The management has further embarked on implementation of gravity fed water systems (e.g., Bomet-Mulot water line) which will cut down the cost of productions and the savings will be used to service outstanding payables.
- v. MOU with water stakeholders have been availed for audit verification and copies submitted to the Committee.

**Committee Observation:**

The committee observed that the company had a balance of Kshs. 12,910,821 that relates to deductions not remitted to LAPTRUST.

**Committee Recommendations:**



**The Committee recommends that-**

- i. **The Accounting Officer complies with statutory deduction requirements, withhold or deduct; and remit all the statutory deductions on time to avoid possible fines and penalties accruing due to non-compliance and adhere to Section 22 (2) (a) of the Public Finance Management (County Government) Regulations, 2015 which provides that the accounting officer should comply with any tax-levy, duty, pension, commitments and audit commitments as may be provided for by legislation.**
- ii. **Within three months of adoption of this report, the management to provide a detailed status report on the settlement of the outstanding statutory deductions to the Senate and a copy to the Office of the Auditor-General for subsequent reporting.**
- iii. **Management to comply with Section 19 (4) of Employment Act 2007.**
- iv. **The query remained unresolved the Auditor-General to review and report in the next audit cycle.**

**2. Inadequate Disclosure on the Company Ownership**

The statement of financial position reflects ordinary share capital balance of Kshs. 100,000. Section. 5 of the Memorandum of Association and Articles of Association indicated the Company's capital as Kshs. 100,000 divided into 100,000 shares of Kshs. 1 each. At the time of audit, only three (3) shares had been allotted to three (3) persons other than the County Government of Bomet but whose details were not made available for audit review. The allotment of the remaining 99,997 shares to the County Government could not be established as they were unsupported by way of share certificates.

In the circumstances, the ownership of the Company could not be ascertained.

**Management Response:**

The following share certificates were issued on 6/1/2021 in line with the Water Act 2016 as follows;

- County Government of Bomet-99,997 shares.
- CECM-Water-1 share number 07.
- County Secretary-1 share number 08.
- CECM-Finance-1 share number 09.



The share certificates have been availed for audit verification and copies submitted to the Committee.

**Committee Observation:**

The Committee observed that allotment of the remaining 99,997 shares to the County Government could not be established as they were unsupported by way of share certificates.

**Committee Recommendation:**

The committee recommends that-

- i) **The accounting officer provides a certified CR 12 to ascertain the ownership of the Company within seven (7) days from the date the Governor appeared before the Committee upon tabling of this report.**
- ii) **The query remained unresolved and the Auditor-General to review and report in the next audit cycle.**

**3. Non-Compliance with Non-Revenue Water Guidelines**

Review of records indicated that the Company produced 4,673,711 cubic meters of water, of which only 2,161,237 cubic meters was billed to customers leaving out the balance of 2,512,474 cubic meters unbilled representing 53% of the production as Non-Revenue Water (NRW). The NRW exceeded the set threshold of 25% as approved by the Water Services Regulatory (WASREB) guidelines. No explanations have been given for the high NRW and measures being put in place to comply with guidelines.

Consequently, the Company is in breach of the law.

**Management Response:**

This is occasioned by the Low metering ratio and aging water infrastructures. The company took over Six (6) community water projects with unmetered connections. The company endeavored to complete treatment works for these projects.

To address the above challenges, the Company initiated replacement of old and dilapidated PVC pipelines with HDPE network in Bomet town Silent line-3km, Sergutiet Line-5km and Boito raising main-4km in the FY 2020. These are capital intensive measures and the County Government through the Ministry of Water is in the process of replacing other network taken

over by the company by procuring more water meters which has been factored in the current financial year budget 2022-2023 and so far we have procured 1000 smart water meters at a total cost of Kshs 19,934,650.

**Committee Observations:**

The committee observed that the Non-Revenue Water of the company during the financial year 2019/2020 stood at 53% against the allowable loss of 25% as prescribed by Water Services Regulatory Board (WASREB) Guidelines.

**Committee Recommendation:**

The committee recommends that-

- (i) The accounting officer should put into place comprehensive measures to mitigate the Non-Revenue Water such as installation of smart meters to ensure accurate billing, the replacement of the old water supply network as well as the introduction of a Geographic Information System (GIS) which will help the company receive real-time data on leaks in pipes and monitor maintenance,
- (ii) The Governor should collaborate with EACC to ensure that pre-emptive measures are put into place to reduce the cases of theft and illegal connections; and
- (iii) The Auditor-General should review the implementation of the measures put in place by the management to mitigate the matter and provide a report on this query in the subsequent audit cycle.

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**REPORT ON EFFECTIVES OF INTERNAL CONTROLS RISK MANAGEMENT AND GOVERNANCE**

**Conclusion**

As required by Section 7 (1) (a) of the Public Audit Act, 2015, based on the audit procedures performed, except for the matter described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

## **Basis for Conclusion**

### **1. Lack of Risk Management Policy**

The Company does not have a risk management strategy in place consisting of the approved processes and guidelines on how to mitigate operational, legal and financial risks. This would have assisted the management to develop risk management strategies, which include fraud prevention mechanism and internal control that builds robust business operations.

In the circumstances, the Company is exposed to risks and lacks measures for mitigation them in the event of their crystallization.

#### **Management Response:**

The management regrets that there was lack of risk management policy and strategy by the time of audit process. However, the management is in the process of developing Risk Management Policy (RMP) that is operational.

#### **Committee Observation:**

The committee observed that management had not put in place a risk management strategy in place consisting of the approved processes and guidelines on how to mitigate operational, legal and financial risks.

#### **Committee Recommendation:**

**The committee recommends that-**

- i. **The Accounting officer to adhere to Section 158 (1) (a) and (b) of the Public Finance Management (County Government) Regulations, 2015 which provides that the accounting officer should ensure that the County Government Entity develops risk management strategies which include fraud, prevention mechanism, and the County Government Entity develops a system of risk management and internal control that builds robust business operations.**
- ii. **The Auditor-General to report on the level of compliance during the subsequent audit cycle.**



## **CHAPTER THREE**

### **REPORT ON AUDITED FINANCIAL STATEMENTS FOR GUSII WATER AND SANITATION COMPANY LIMITED FOR THE YEAR ENDED 30<sup>TH</sup>, JUNE, 2019.**

The Governor for Kisii County, Hon. Paul Simba Arati, appeared before the Committee on 29<sup>th</sup> March, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor-General on Financial Statement for Gusii Water and Sanitation Company Ltd for the Financial Year 2018/2019. He was accompanied by:

- i. Mr. Kennedy O. Abircha - CECM Finance
- ii. Ms. Lucy Wachina - MD Gwasco
- iii. Dr. Otucho Junior Obure - Chief of Staff
- iv. Mr. David Obure - Chair of the Board
- v. Col. (Rtd) Moturi - Gwasco Board Member
- vi. CPA Thaddeus Mogesi – Accountant

The Company is wholly owned by the County governments of Kisii and the Nyamira by 68% and 32% shares respectively under the water Act, 2016.

The Auditor-General rendered a qualified audit opinion on the financial statements of Gusii Water and Sanitation Company Limited for the Financial Year 2018/2019.

#### **1.0 Unsupported trade payables**

The statement of financial position as disclosed in note 27 to the financial statements reflects trade and other Payables balance of Kshs 39,670,600 as at 30 June 2019. Included in this amount is an amount of Kshs. 35,155,141, which was due to various suppliers for the acquisition of water assets which had accrued for more than 90 days. However, the management did not provide supporting document for the balance.

Consequently, the accuracy and completeness of the amount of Kshs 35,155,141 could not be confirmed.

#### **Management Response**

The management concurred with the auditor's observation on unsupported trade payables as at the time of audit. Kshs 39,670,600 comprise of Kshs 4,515,459 and Kshs 35,155,141 being trade and other payables with supporting documents and trade and other payables



without supporting documents respectively. General ledgers to support the above analyzed transactions have been provided.

#### **Committee Observation**

The Committee observed that:

- (i) Trade and other Payables had a balance of Kshs 39,670,600 as at 30 June 2019.
- (ii) Management did not provide supporting document for the balance at the time of the audit. However, the documents were later provided to the auditors for verification.

#### **Committee Recommendations**

The Committee recommends that:

- (i) **The Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) Public Audit Act, 2015.**
- (ii) **The matter be marked as resolved.**

#### **2.0 Inaccuracies in Agency Account**

The statement of financial position and as disclosed in Note 28 to the financial statements reflects agency account balances of Kshs 40,662,700. Included in the agency accounts balances are amounts due to Lake Victoria South Water Services Board of Kshs. 25,355,600, Water Services Regulatory Board (WASREB) of Kshs. 9,956,000 and Water Resources Management Authority (WARMA) of Kshs. 5,351,100. However, Management did not provide supporting documents in respect of these amounts.

#### **Management Response**

The management regrets that supporting documents in respect to agency account balances of Kshs. 40,662,700 were not provided during the audit process. The management has made available necessary supporting documents for audit verification.

#### **Committee Observation**

The Committee observed that:

- (i) Agency account balances had a balance of Kshs 40,662,700.

- (ii) Management later provided supporting documents in respect of agency account to the auditors; however, agency reconciliation accounts had not been done, and the audit query is unresolved.

### **Committee Recommendation**

**The Committee recommends that:**

- (i) **The Accounting Officer to strictly adhere to the binding agreements with third parties to avoid additional costs in the form of fines and penalties**
- (ii) **The Auditor-General to review the reconciliation documents and report in the next audit cycle.**
- (iii) **The matter be marked as unresolved.**

### **3.0 Un regularized Share Capital Ownership**

The company was registered with share capital of Kshs 100,000 divided into 20,000 ordinary shares of Kshs 5 each. The shares were issued to the defunct Municipal council of Kisii and defunct Municipal council of Nyamira. The shares were later taken over by the Kisii County Government and the Nyamira County Government. However, the shares had not been transferred and paid for by the two County Governments.

### **Management Response**

The management concurred with the auditor's observation on the subject matter. However, the Company's shares and their par value are erroneously captured. The correct breakdown of the shares of the company is as analyzed below.

| <b>Defunct Local Authorities</b> | <b>Share</b> |
|----------------------------------|--------------|
| Municipal Council of Kisii       | 1411         |
| Gusii County Council             | 509          |
| Gucha County Council             | 267          |
| Suneka Town Council              | 285          |

|                         |              |
|-------------------------|--------------|
| Nyamira County Council  | 249          |
| Nyamira Town Council    | 633          |
| Keroka Town Council     | 423          |
| Tabaka Town Council     | 299          |
| Ogembo Town Council     | 305          |
| Masimba Town Council    | 305          |
| Nyansiongo Town Council | 314          |
| <b>Total</b>            | <b>5,000</b> |

The Accounting Officer further submitted that the Company has 5,000 shares of Kshs 20 each which gives the total share value of Kshs.100, 000. The management also concurred that shares have not been transferred and paid for by the two County Governments of Nyamira and Kisii as expected.

#### **Committee observation**

The Committee observed that the shares are still owned by the defunct Local Authorities and had not been transferred to and paid for by the two County Governments of Nyamira and Kisii as of 30 June, 2019, and the Company is core-owned. The query remains unresolved.

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#### **Committee recommendations**

**The Committee recommends that within two months upon adoption of this report, the Governor to have an engagement with his counterpart Governor of Nyamira County and ensure the matter of shareholding is amicably resolved within the provisions of the law.**

#### **4.0 Material Uncertainty in Relation to Going Concern**

The statement of profit and loss and other comprehensive income indicate that the company incurred an operating loss of Kshs 6,304,200 during the year ended 30<sup>th</sup> June 2019 (2018: Loss of Kshs 10,290,100). The operating loss continued to deplete the retained earnings from Negative Kshs 9,712,300 as at 30<sup>th</sup> June 2018 to Negative Kshs 16,016,500 as at 30<sup>th</sup>



June 2019. The financial statements have been prepared on a going concern basis on the assumption that the company will continue to receive financial support from the County Government and its creditors.

### **Management Response**

The Accounting Officer submitted that Management concurs with the auditors' observation and has taken the following measures to address the situation:

- i. Operating with optimum personnel to manage cost to revenue ratio
- ii. Installation of new billing software
- iii. Non-replacement of retired officers except on essential services
- iv. Addressing Non-Revenue Water hence increasing revenue.

### **Committee observation**

The Committee observed that:

- (i) The company incurred an operating loss of Kshs 6,304,200 during the year ended 30<sup>th</sup> June 2019. The Company is technically insolvent.
- (ii) The total accumulated loss stood at Kshs 16,016,500 as at 30<sup>th</sup> June 2019; and query remains unresolved.

### **Committee recommendation**

The Committee recommends that:

- (i) The Governor through the County Executive Committee member for water ensure the monitoring financial performance of the company in line with Section 184 of the Public Finance Management Act, 2012.
- (ii) The Accounting Officer put in place strategic measures to boost the financial health of the Company, and the Auditor-General to review and report on such measures to the Committee in the next audit cycle.
- (iii) Company should review and regularize its existing assets, to determine and ascertain their commercial viability.
- (iv) The Accounting Officer to undertake detailed analysis of its long outstanding trade receivables and payables so as to reflect the true and fair financial position of the Company.



- (v) **The Company should put in place mitigating measures to address its overall revenues, review its tariffs for maximizing higher incomes; and address the physical and commercial water losses in order to reduce the high level of Non-Revenue Water.**

## **Basis for Conclusion**

### **1.0 Non- Revenue Water**

The Company produced 1,829,417 cubic meters (M3) of water out of which only 992,910 cubic meters were billed to customers. The balance of 836,507 cubic meters or approximately 46% of the volume represented the Non-Revenue water (NRW) which is 21% over and above the allowable loss of 25% in accordance with the Water Services Regulatory Board Guideline, 2010. The significant level of non-revenue Water is an indication of inefficiency and ineffectiveness in the use of water and public resources, and may negatively impact the company's profitability and its ability to sustain services in the long run.

### **Management Response**

The Accounting Officer submitted that the management concurred with the auditor's observation on Non- Revenue Water loss of 836,507 cubic meters. He further stated that this was occasioned by Non-Revenue Water (NRW) arising from physical losses due to dilapidated existing water infrastructure and commercial losses from our billing system. However, the management as part of the strategies to mitigate on high water losses, it has signed a Memorandum of understanding with Lake Victoria South Water Works Development Agency and Gusii Water and Sanitation Company Ltd for Last Milestone Connectivity aimed at; expansion of distribution line, rehabilitation of dilapidated distribution lines and installation of billing software to monitor water production and sales.

### **Committee observation**

The Committee observed that the Non-Revenue Water of the company during the financial year 2018/2019 stood at 46% against the allowable loss of 25% as prescribed by Water Services Regulatory Board (WASREB) Guidelines.

### **Committee recommendation**

The Committee recommends that:

- (i) The accounting officer should put into place comprehensive measures to mitigate the Non-Revenue Water such as installation of smart meters to ensure accurate billing, the replacement of the old water supply network as well as the introduction of a Geographic Information System (GIS) which will help the company receive real-time data on leaks in pipes and monitor maintenance among other measures.
- (ii) The Governor should collaborate with EACC to ensure that pre-emptive measures are put into place to reduce the cases of theft and illegal connections; and
- (iii) The Auditor-General should review the implementation of the measures put in place by the management to mitigate the matter and provide a report on this query in the subsequent audit cycle.

### **3.0 Non- Compliance with the law of fiscal Responsibility-Wage Bill**

The company incurred expenditure of Kshs, 78,777,800 on compensation of employees during the year which constituted about 69% of the total revenue. This is contrary to the provisions of regulation 25(1) of the Public Finance management (County Government) Regulations, 2015 which limits the county Executives expenditure on wages and benefits to not more than 35% of the total revenue for the year.

#### **Management Response**

The Accounting officer submitted that the management concurred with the auditor's observation on the subject matter. The high wage bill is as a result of high number of staff that was inherited from the defunct local authorities of Kisii and Nyamira. Gusii Water and Sanitation Company (GWASCO), on realizing that the staff lacked necessary skills, it recruited staff with prerequisite skills to achieve productivity.

He further stated that the management adopted the following measures to mitigate on the high wage bill;

- i. Non-replacement of officers due to natural attrition

- ii. Termination of expired contracts
- iii. The Company has signed a memorandum of understanding with the National Government for last Milestone Connectivity aimed at; expansion of distribution line, rehabilitation of dilapidated distribution lines and installation of billing software to monitor water production and sales. This will reduce the Non-Revenue Water (NRW) hence increasing revenue.

#### **Committee observation**

The Committee observed that the company incurred expenditure of Kshs, 78,777,800 on compensation of employees during the year which constituted about 69% of the total revenue; and the matter remains unresolved.

#### **Committee recommendation.**

**The Committee recommends that the Company to adhere with the provisions of regulation 25(1) of the Public Finance management (County Government) Regulations, 2015, establish a lean staff; and the Auditor-General to review, and report during the next audit cycle.**

### **3.0 Lack of Risk Management Policy and strategy**

The company management had not put in place risk management policy strategies and risk register to mitigate against risk. It was, therefore, not clear how the management manages risk exposures. This in contravention of Regulation 158(1)(a) and (b) of the Public finance management (County Governments) Regulations 2015 which requires the Accounting Officer to ensure that the County government entity develops risk management strategies which include fraud prevention mechanism; and the County government entity develops a system of risk management and internal control that builds robust business operations.

#### **Management Response**

The Accounting Officer submitted that the management regrets that there was lack of risk management policy and strategy by the time of audit process. However, the management has since developed Risk Management Policy (RMP) that is operational.

#### **Committee observation**



The Committee observed that management had not put in place risk management policy strategies and risk register to mitigate against risk at the time of the audit, however the RMP is now operational, and the query is marked resolved.

**Committee recommendation**

- i. **Regulation 158(1)(a) and (b) of the Public finance management (County Governments) Regulations 2015 which requires the Accounting Officer to ensure that the County government entity develops risk management strategies which include fraud prevention mechanism; and the County government entity develops a system of risk management and internal control that builds robust business operations.**
- ii. **The Committee recommends that the Accounting Officer ensures that all required policies are developed and operationalized; and the Auditor-General to report on the level of compliance during the subsequent audit cycle.**



## **CHAPTER FOUR**

### **REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR KISUMU WATER AND SANITATION COMPANY LIMITED FOR THE YEAR ENDED 30TH, JUNE, 2019**

The Governor for Kisumu County, H.E Prof. Peter Anyang Nyong'o, appeared before the Committee on Tuesday, 28<sup>th</sup> February, 2023 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Kisumu Water and Sanitation Company for the financial year 2018/2019. The Governor was accompanied by the following officers:

- |                         |                                          |
|-------------------------|------------------------------------------|
| 1. Mr. George O. Okongo | - CECM Finance Economic Planning and ICT |
| 2. Mr. Thomas Odongo    | - MD Kiwasco                             |
| 3. Mr. Wilson Abiero    | - Co -Finance Economic Planning and ICT  |
| 4. Mr. Yanzar M. Agwa   | - CECM                                   |
| 5. Mr. Philip Odundo    | - Chief officer                          |

The Kisumu Water and Sanitation Company is wholly owned by the County Government of Kisumu.

### **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES.**

#### **Basis of Conclusion.**

1. As reported in the previous year, the Company was mandated to manage Gulf water Company Ltd and Nyanas Water Company Ltd with the County Government of Kisumu having one signatory for each company to help operate the two companies' bank accounts. Analysis of the Company payroll data revealed that an amount of **Kshs.8,846,328** was spent in respect to Nyanas Water Company and Gulf Water Company limited salaries for the year under review. The Company also provided the two companies with chemicals and other production materials. However, management of Kisumu water and Sanitation Company Ltd have not provided the audited financial statements of the two

companies for audit review to confirm the operations of the two companies. It has not therefore been possible to confirm whether the amount in question was utilized for public good or whether the operations of the two companies were within the law. Non-submission of financial statements for audit also contravenes section 164(4) of the Public Finance Management Act, 2012

In the circumstance, Management is in breach of the Law

**Management Response:**

- a) KIWASCO seconded its staff as part of support to Gulf & Nyanas water companies to help in their management. These are still staff of the company hence receive their salaries from KIWASCO as shown in the payroll records analyzed by the Auditor. Including this amount in the records of Gulf & Nyanas is tantamount to double claiming of the expenditure. Moreover, KIWASCO does not expect to receive any management fees from the said two county utilities.
- b) The draft financial statements for the two utilities for the years ended 30<sup>th</sup> June 2019 were submitted to the County Government of Kisumu for consolidation, signing and subsequent submission to the office of the Auditor-General as provided for in the Public Finance Management Regulation 2015 which states as follows;
  - i) Section 163 - County treasury mandated to consolidate the annual financial statements of all county entities by 31 Oct and submit the report to the Auditor-General with copies to the National Treasury, COB, and CRA
  - ii) Section 164 - County Government entities are required to prepare financial statements with respect to the entity by 30 September each year and submit the same to the Auditor-General with copies to the County Treasury, COB, and CRA, In case of a county corporation the same should be forwarded to the CECM for Finance by the CEC responsible for the entity.

**Committee Observations**

The Committee observed that-

- i. The company had failed to provide reconciled financial statements for Nyanas Water Company and Gulf Water Company limited during the audit period.
- ii. The Committee observed that the accounting officer was in violation of the Sections

149 of the Public Finance Management Act, 2012 and Section 9(1)(e) Public Audit Act, 2015.

#### **Committee Recommendations**

**The Committee recommends that-**

- i. The Board to take administrative action against the accounting officer for submission of unsigned documents.
- ii. The accounting officer to adhere to the Public Finance Management Act, 2012 and that the accounting officer must submit financial statements for audit pursuant to section 9 (e)(1) of the Public Procurement Act, 2015.
- iii. The matter be marked as unresolved.

#### **REPORT ON EFFETIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE.**

##### **Basis of Conclusion**

##### **1.0 Duplicated meters**

An analysis of the monthly revenue collection from the system, it was found that several customers were sharing the same meter number. Management has however explained that duplication is due to changes in tenancy whereby old meter remains but new customer takes over though with the same a different account number. In the circumstances, there is a possibility of duplication of revenue because both meters are billed on monthly basis.

##### **Management Response:**

For the purpose of billing and revenue generation to the Company, the only “**Unique identifier**” is the “Customer Account Number” and not the Meter number. This is due to the fact that during changes in tenancy, the meter remains but the customer acquires a different account number but with the same meter number. This is normal to the operations of the company hence it is true there are duplicated meter numbers but not account numbers. In case of erroneous duplication of meters during billing, then the old accounts are given “credits” to offset the account. The above analysis was therefore erroneous and we urged the auditors to use the unique account numbers in analyzing



revenue.

#### **Committee Observations**

The Committee observed that the company had duplicated meter numbers.

#### **Committee Recommendations**

**The Committee recommends that the matter be marked as resolved.**

### **2.0 Weak internal controls on exhaustor revenue**

The company approved rates of Kshs 3,000 within a radius of 10km and mileage of Kshs 200 per km outside 10km radius for exhaustor services. However, the work tickets did not indicate the specific destination of the client in order to ascertain the mileage charges. Further, there were no records to match the trips to specific customers and charges or job cards that can be reconciled with the trips.

In the circumstances, the company may be losing revenue from mileage charges due to lack proper controls to ascertain the mileage per client and reconciliation to the revenues from the service.

#### **Management Response:**

Since the vehicles are GK, the company was instructed by the Government check unit in 2016 on how to record the work tickets. Before then, the work tickets would include all the details of the journey. This however does not mean that the details were not captured at all. The company ensure that all the details of every journey are not only authorized but detailed on the form given by the Customer Care assistants. (Previous and current work tickets are attached). There was therefore no revenue lost in the said period even though the exhaustor worked but did not generate any revenue on the said dates.

This is because of the following controls which are in place;

All vehicles of the company are fitted with the trackers.

Exhaustor trackers are monitored closely by the Corporate and Communication office to be specific the Customer Care Assistants and Customer Care Manager

Authorization is given by the Customer Care Manager and approval by Head of Commercial services for every work to be done

Exhaustion is done at our Sewer treatment plant as an additional control of the exhaustor



operators and there are records that can be confirmed by the auditors.

Last but not least, the exhauster services are not offered for profit but was introduced to increase the sanitation coverage by the Government who then donated the two (2) number exhausters to KIWASCO.

In addition, there are a number of circumstances when the exhauster may not have revenues on a specific date and they include;

- a) **Manual updates of revenues** - Cooperative bank and other banks were not integrated with the revenue systems of the company as such the customer would pay on a specific day but the payment was not updated until some days later.
- b) **Company Usage;** - The Waste water team from time to time use the exhauster vehicles to help flush the lines, when such activities are undertaken then the company will not get any revenues. We however ensure that such requests are done formally and are authorized appropriately
- c) **Corporate Companies** - As their nature dictates corporate companies are invoiced and paid at the end of the month as they are unable to do day to day payments. Hence a trip done on 15<sup>th</sup> of the month may be paid by the end of the month or next month depending on the agreements in place.
- d) **Advance Payments** - Some customers pay but request that the services be done at a later date
- e) **Marketing** - The exhauster drivers are mandated to market the service and are not stationed at the HQ hence they will leave every morning to different areas and such marketing trips though tracked, cannot generate revenue.

#### **Committee Observations**

The Committee observed that the company had weak internal controls on exhauster revenue control with regard to tickets, mileage and destination.

#### **Committee Recommendations**

The Committee recommends that-

- i. The company develops a documentation management providing clear ticketing on mileage and destination for the exhausters.
- ii. The matter be marked as unresolved.

## **CHAPTER FIVE**

### **REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR KWALE WATER AND SEWERAGE COMPANY LIMITED FOR THE YEAR ENDED 30<sup>TH</sup>, JUNE, 2019**

The Governor for Kwale County, H.E Fatuma Mohamed Achani, appeared before the Committee on Tuesday, 28<sup>th</sup> March, 2023 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Kwale Water and Sanitation Company for the financial year 2018/2019. The Governor was accompanied by:

- |      |                       |                       |
|------|-----------------------|-----------------------|
| i.   | Ms. Sylvia Chidodo    | - County Secretary    |
| ii.  | Mr. Hemed R. Mwabuuzo | - CECM Water Services |
| iii. | Mr. Bakari H. Sebe    | - CECM Finance        |
| iv.  | Mr. William Jefu      | - Finance Manager     |
| v.   | Mr. Erick Parmet      | - Managing Director   |
| vi.  | Mr. Alex Onduko       | - CO Finance          |

The Kwale Water and Sanitation Company is wholly owned by the County Government of Kwale.

#### **1.0 Water Sales**

The statement of profit and loss and other comprehensive income reflects water sales totaling **Kshs.120, 127,655**. However, records provided for audit review indicated that bills issued to 5,157 customers after actual meter readings totaled Kshs.113, 255,510 whereas bills issued to 3,410 customers based on their estimated water consumption totaled Kshs.16, 947,395. Management did not adequately explain how the estimated bills were arrived at. Audit examination of actual water use records indicated that the estimated bills for the 3,410 customers would have amounted to Kshs.59, 903,473 and therefore the bills issued to the customers were short by Kshs.42, 956,078.

In view of these anomalies, the accuracy, completeness and validity of water sales totalling Kshs.120, 127,655 for the year under review could not be confirmed.

#### **Management Response:**

Current Status; At present, the Company through the support of County Government of Kwale received a total No 1,000 consumer meters and another 3,600 consumer meters from WSDP project to address the issue of aged/ non- working meters, this has significantly reduced instances of estimation of customer bills that had previously denied the company revenue.

KWAWASCO inherited a water supply system which had old pipelines and meters from National Water Corporation and Coast Water Services Board. Due to the nature of the meters and lines which most of them being of GI / steel pipes, are prone to rust and leakages.

Most of Kwawasco's meters are aged and registering wrong readings and others are on complete meter stop. The malfunctioning of these meters contributed a lot to Kwawasco's under estimation of billed volumes. Due to financial constraints the company had no capacity to replace the meters in good time.

The company has for long been guided by Commercial Operations Policy and Procedure guidelines (SOPs) all estimates are based on 3 months average consumption, although due to the in-accuracy of the meters and some completely not working, the estimates seem to be low or not correct, however the company follows the policy not to over bill the customers.

### **Committee Observations**

The Committee observed that-

- i. The Company had not provided a substantial explanation and requisite documents with evidence to support the water billing to customers during the time of audit, amounting to Kshs.120, 127,655, but the management indicated that mitigation measures had been put in place to resolve the matter.
- ii. The documents with the details of customer deposits were later provided to the satisfaction of the auditor.

### **Committee Recommendations**

The Committee recommends that-

- i. The Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1) (e) Public Audit Act, 2015.
- ii. The matter be marked as resolved.



## **2.0 Staff Receivables Due after One Year**

The statement of financial position reflects under non-current assets a staff receivables balance totaling Kshs.342, 541. The balance denotes funds reportedly stolen by a former employee, whose court case had not been concluded as at 30 June, 2019.

No satisfactory explanation has been provided by Management for reflecting the stolen funds as an asset.

### **Management Response:**

On 12<sup>th</sup> November 2020 a judgment was reached by the court that ruled in favor of Ms Lydia Njeri. Based on this the board of directors resolved the amount to be written off in the financial statement for the financial year ending 30 June 2020

The statement of financial position previously FY 2018/19 reflected under current assets, staff receivables a balance totaling Kshs. 342,541. This was an amount which was reported to have been stolen by a cashier (Lydia Njeri). The matter went to court: Criminal case No. 1424 of 2013 (Mombasa) Republic- VS Lydia Njeri Mwaniki and the intention of the management was to recover the same from the staff.

On 24<sup>th</sup> November 2018 Ms Lydia Njeri deposited Kshs.10, 000 in KWAWASCO account number 1108004849 as part of payment- see attach bank statement. Attached is the final judgment of the case.

### **Committee Observations**

- i. The Committee observed that the company had not provided the requisite documents during the audit process to support current assets, staff receivables totaling Kshs. 342,541, relating to money allegedly stolen by a member of staff, by the name, Lydia Njeri.
- ii. The matter remained outstanding as the company was defeated in court by Lydia Njeri who was alleged to have stolen the money and therefore the matter remained unresolved.

### **Committee Recommendations**

**The matter to be marked as unresolved.**

## **3.0 Non-Current Liabilities**



The statement of financial position reflects non-current liabilities totaling Kshs.24, 037,459 comprised of the following unconfirmed balances:

### **3.1 Service Gratuity**

As reported in the previous year, the statement of financial position as at 30 June, 2019 reflects Kshs.9, 991,358 in respect of service gratuity which includes Kshs.1, 849,608 due for payment in 2016-2017. The amount should, in accordance with the matching principle of accounting, been charged as expense in the respective prior year's accounts and subsequently reflected among the current liabilities. Further, no satisfactory explanation was provided for the delay in payment of the gratuity.

Consequently, the accuracy and validity of the service gratuity balance totaling Kshs.9, 991,358 as at 30 June, 2019 could not be confirmed.

#### **Management Response:**

At present, the company is up to date with payment of service gratuity for staff at the end of their term/ service.

The amount of Kshs. 1,862,861 was not claimed in FY 2017/18. This amount was included in the opening balance of Kshs. 7,684,163 in the gratuity payable

The gratuity payable as stated in the financial statement for the Financial Year ending 30 June 2019 was Kshs. 9,991,358 the opening balance for gratuity payable was Kshs. 7,684,163. In the financial statement the management reported gratuity charge for the year as Kshs. 3,549,661 which was reported under staff cost in note 9 (a).

In the financial year 30 June 2019, the management paid some staff whose contracts had ended amounting to Kshs. 1,242,466, thus resulting to movement of Kshs. 2,307,195 which was reported under service gratuity note 23(a) of the financial statement.

#### **Committee Observations**

The Committee observed that-

- i. the company had pending bills relating service gratuity Kshs. 2,307,195 and had not provided the necessary supporting documents during the time of audit.
- ii. The documents were later provided to satisfaction of the auditor and therefore the matter was resolved.

## **Committee Recommendations**

### **The Committee recommends that-**

- i. The accounting officer provides all the requisite supporting documents during the time of audit pursuant to the provisions of section 9(1) (e) Public Audit Act, 2015.
- ii. The matter be marked as resolved.

## **3.2 Customer Deposits**

The statement of financial position as at 30 June, 2019 reflects customer deposits totaling Kshs.14,046,101, an increase of Kshs.1,331,000 or 10.5% from the balance of Kshs.12,715,101 reported in the previous financial year. However, analysis of cash records indicated that the deposits account cash balance at hand on 30 June, 2019 totaled Kshs.3, 506,378, resulting to a variance of Kshs.10, 539,723. No explanation was provided for the discrepancy and as a result, the accuracy and completeness of customer deposits balance totaling Kshs.14, 046,101 as at 30 June, 2019 could not be confirmed.

### **Management Response:**

Due the high cost of operations faced by the Company, mainly on electricity, the Board of Directors has periodically approved utilization of the funds in the Customer deposit account for payments to KPLC.

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In this case, the BOD had approved borrowing from the customer deposit account to offset power bills, with Management providing a repayment plan to refund to the customer deposit account a total of Kshs 50,000 per month and this can be verified in the customer deposit bank statement of up to 30 June 2019.

The statement of financial position as at 30 June 2019 reflects customer deposits totaling Kshs. 14,046,101. Analysis of records indicated that the customer deposit account had a balance at bank of Ksh 3,506,378. Resulting to a variance of Kshs. 10,549,723 this represent an amount borrowed by the management from this account to offset KPLC power bills, the entity was facing weak cash flows due to high cost of operation.

## **Committee Observations**

- i. The Committee observed that cash records indicated that the deposits account cash balance at hand on 30 June, 2019 totaled Kshs.3, 506,378, resulting to a variance of Kshs.10, 539,723, during the time of audit and no explanation had been given.
- ii. An explanation for the variance in customer deposits was later provided to the satisfaction of the auditor.

#### **Committee Recommendations**

**The Committee recommends that-**

- i. **The accounting officer to adhere to Regulations 53 (1) of the Public Finance Management (County Governments) Regulations, 2015 which states that except as provided for in the Act and these Regulations an Accounting Officer of an entity may not authorize payment to be made out of funds earmarked for specific activities for purposes other than those activities.**
- ii. **The matter be marked as resolved.**

#### **4.0 Current Liabilities – Trade payables**

The statement of financial position as at 30 June, 2019 reflects Kshs.270, 019,735 in respect of current liabilities as detailed in Note 21 to the financial statements. The balance includes trade payables totaling Kshs.193, 811,358 which in turn include Kshs.146, 145,003 owed to Coast Water Services Board. The debt owed to the Board was, however, not supported by an analysis and verifiable bills or a statement from the creditor. Indeed, the Board's financial statements for the year ended 30 June, 2019 indicated that the Company owed the Board Kshs.500, 719,880. The difference amounting to Kshs.354, 574,877 between the balances carried in the books of the two entities was not explained by Management. As a result, the accuracy, completeness and validity of trade payables balance totaling Kshs.193, 811,358 as at 30 June, 2019 could not be confirmed.

#### **Management Response:**

At present, KWAASCO has un-reconciled figures with Coast Water Services Board resulting from the Bulk Water supply operated by Coast Water.

KWAASCO has raised the matter with CWSB in writing concerning the un-reconciled figures resulting from erroneous billing of 13 boreholes operated by KWAASCO; ideally



these boreholes were to be operated by Coast Water Service Board as part of the Bulk Water Supply as per the Service Provision Agreement (SPA).

Further to these there are five boreholes namely Borehole 4, 7, C, A and 9 ( operated by CWSB), which serve/ shared between Mombasa Water and Sanitation Company and Kwale Water and Sewerage Company at the ratio of water supply of 60% - 40% but the water bills of these boreholes are charged 100% to Kwale Water by CWSB further.

In KAWASCO's records, the 60:40 ratio is reflected in order to calculate the correct Non-Revenue Water status for the company.

The statement of financial position as at 30 June 2019 reflects Kshs. 270,019,735 in respect of current liabilities. The balance include Kshs. 146,145,003 owed to Coast Water services Board, however CWSB financial statements for the year ended 30 June 2019 indicated that the company owed the Board Kshs. 500,719,880 leaving a variance of Kshs. 354,574,877. The variance of the said amount was attributed as per the opening remarks above.

#### **Committee Observations**

- i. The Committee observed that the company had trade payables balance totaling Kshs.193, 811,358 as at 30 June, 2019 which documents had not been provided during the time of audit.
- ii. The documents were later provided and a reconciliation done.

#### **Committee Recommendations**

**The Committee recommends that-**

- i. **Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) Public Audit Act, 2015.**
- ii. **The Accounting Officer should strengthen internal audit controls and ensure proper record keeping and; to take administrative action on the officers within the Accounts and Finance department who fails to keep complete financial records as required by the Accountants Act, 2008.**
- iii. **The matter be marked as resolved.**

#### **5.0 Material Uncertainty on Going Concern**

The statement of profit and loss and other comprehensive income indicates that the Company recorded a loss of Kshs.6, 241,602 for the year under review which raised its accumulated losses to Kshs.96, 383,421 as at 30 June, 2019. Further, as at 30 June, 2019, current liabilities totaled Kshs.270,019,735 and current assets Kshs.215,327,271 resulting to a negative working capital of Kshs.54,692,464 which indicated that the Company may not be able to settle its obligations as and when they fall due. Therefore, sustainability of the Company's operations may have to depend on financial support by the County Government of Kwale and creditors.

Management has not disclosed the measures it has taken, or intends to take, to reverse the unsatisfactory performance and put the Company on the path to profitability

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of Kwale Water and Sewerage Company Limited Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

#### **Management Response:**

At present, FY 2021/22, the current liabilities balance for the company stand at Ksh. 420,946,139 while total current assets balance is Ksh. 414,887,985 resulting into a negative working capital of Ksh. 6,058,154. When compared to the previous financial statement of FY 2020/2021 which reported negative working capital of Ksh. 75,158,273 there is a significant improvement. This implies that the issue of material uncertainty of the company to continue as a going concern is highly eroded implying that soon the company will be able to meet its obligation as and when they fall due.

The management is working hard to reduce Non-Revenue Water which will translate to increased revenue and increased customer base through metering the unmetered customers as well as eradicating illegal connections. By so doing the company will be able to meet its obligation as and when they fall due.

#### **Committee observations**

The Committee observed that-

- i. The company was working on a negative working capital of Kshs.54,692,464 raising doubts on its ability to meet its obligations.
- ii. The matter remained unresolved as an explanation for the negative capital was not provided.

### **Committee Recommendations**

**The Committee recommends that-**

- i. The Governor through the County Executive Committee member for water ensure the monitoring financial performance of the company in line with Section 184 of the Public Finance Management Act, 2012.
- ii. The Board and the accounting officer to put in place strategic measures to boost the financial health of the Company, and the Auditor-General to review and report on such measures to the Committee in the next audit cycle.
- iii. The accounting officer should review and regularize its existing assets, to determine and ascertain their commercial viability as required by the Public Sector Accounting Standards Board (PSASB).
- iv. The matter be marked as unresolved.

### **Key Audit Matters**

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. I have determined that there were no key audit matters to report in the year under review.

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## **OTHER MATTER**

### **1.0 Budgetary Control and Performance**

#### **1.1. Revenue Budget**

The Company's revenue budget for the year under review totaled Kshs.199, 582,498 and collections Kshs.158, 741,041, resulting to under collection of Kshs.40, 841,457 or 20.5% of the budget.

The Company had an expenditure budget of Kshs.199, 248,489 but spent Kshs.164, 982,642 or 83% of the budget resulting to net under-expenditure of Kshs.34, 265,847 or 17%.



The shortfall in revenue collections was the main cause of the under-expenditure totaling Kshs.34, 335,847 and may have in turn constrained delivery of services planned for the year.

**Management Response:**

In the water sector, customers tend to pay for their bills when there is steady supply of the commodity. In the year in question the company had consistence power disconnection which constrained the company supply of the commodity. This had negative impact on revenue collections.

The management allocates the limited resource of the company prudently.

**Committee Observations**

The Committee observed that the company had a revenue shortfall amounting to Kshs.40, 841,457 as a result of unrealistic budgeting and poor planning.

**Committee Recommendations**

**The Committee recommends that-**

- i. **The Accounting Officer should always ensure that the records are reconciled and analysed with necessary supporting documents and submitted to the Auditor-General in compliance with provisions of Section 68(2) of the PFM Act 2012; and Section 42(1) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures.**
- ii. **The Accounting Officer to take administrative action on the officers within the Accounts and Finance department who fails to keep complete financial records as required by the Accountants Act, 2008.**
- iii. **The matter be marked as unresolved.**

**2.0 Prior Year Issues**

The audit report for the 2017/18 financial year highlighted numerous substantive issues that resulted in a Disclaimer of Opinion on the financial statements for the year.

**Management response:**

Management in the report on progress made in resolving the issues has indicated that some of the issues have been resolved while others are pending. The actual status of the issues will be confirmed after they are deliberated upon by the legislature.

### **Committee Observations**

The Committee observed that-

- i. The company had unresolved prior year matters raised by the auditors.
- ii. The matter remains unresolved.

### **Committee Recommendations**

The Committee recommend that-

- i. The accounting officer engages the Office of the Auditor General pursuant to Section 149 (2) (1) of the Public Finance Management Act, 2012 and Section 136 (1) of the Public Finance Management (County Government) Regulations, 2015, to resolve the prior year matters.
- ii. The matter be marked as unresolved.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Basis for conclusion**

#### **1.0 Unaccounted for Water**

The statement of profit and loss and other comprehensive income for the year under review reflects Kshs.120, 127,655 in respect of water sales, being an increase of Kshs.11, 245,260 or 10.3% from Kshs.108, 882,395 reported in the previous financial year. Documents provided for audit review indicated that the total quantity of water produced in the year was 3,887,307 cubic meters (m<sup>3</sup>), out of which only 1,394,951 cubic meters or 36% were billed to customers for Kshs.120, 127,655. The balance totaling 2,492,356 cubic meters or 64% of the total output was Non-Revenue Water (NRW). The NRW was 39 percentage points higher than the 25% threshold set in guidelines issued by the Water Services Regulatory Board (WASREB).

The imputed loss from 2,492,356 cubic meters of unbilled water may have resulted in losses totaling Kshs.162, 003,140 at the billing rate of Kshs.65 per cubic meters applied by the Company. The high level of NRW indicated that the Company's water distribution system was inefficient, or a large number of its customers accessed the water free of charge. Management has not disclosed the measures it has taken, or intends to take, to stem the losses which pose a big risk to sustainability of the Company's operations.

### **Management Response:**

Kwawasco has been able to reduce the NRW level from 62% at end of financial year 2021 to 57% by July 2022, a reduction of 5%. This was possible through metering of customer connections and timely response to bursts and leaks.

Kwawasco has managed to secure support from the World Bank (Water and Sanitation Development Project) who by extension contracted a consultant with the aim to build the institutional capacity of the company and specifically address the prevailing NRW.

The Company through WSDP is investing in customer identification survey and introduction of a GIS system to sort out illegal connections and unmetered connections.

Kwawasco is also procuring pipes and fittings to address physical loss through timely repairs/ response to repair burst. This is through WSDP Utility Turn around Framework (UTF).

### **Committee Observations**

The Committee observed that-

- i. The Non-Revenue Water stood at 64% which is more than the allowable 25% prescribed by the Water Service Regulatory Board (WASREB), which is attributed to physical water loss.
- ii. The matter remained unresolved.

### **Committee Recommendations**

The Committee recommends that-

- i. The accounting officer should put into place comprehensive measures to mitigate the Non-Revenue Water such as installation of smart meters for accurate billing, the replacement of the old age dilapidated water supply network as well as the introduction of a Geographic Information System (GIS) to receive real-time data on leaks in pipes and monitor maintenance among other measures.
- ii. The Governor to collaborate with EACC to ensure that pre-emptive measures are put into place to reduce the cases of theft and illegal connections; and
- iii. The Auditor-General should review the implementation of the measures put in place by the management to mitigate the matter and provide a report on this query in the subsequent audit cycle.



## **2.0 Delay in Payment of Staff Salaries**

Examination of records on trade and other payables indicated that the Company owed net staff payables totaling Kshs.17, 683,725 as at 30 June, 2019, as further disclosed in Note 21 to the financial statements. Review of records provided for audit and the Management report on Page Xiii of the annual report indicated that the Company had not paid the staff salaries and related payroll liabilities from February, 2019 to June, 2019. The delay was contrary to Section E.2 (1) of the County Human Resource Manual of 2013 which provides that any person engaged by the Company will be paid full salary from the date of assumption of duty.

The Company was therefore in breach of its own regulations.

### **Management Response:**

At present, KWAASCO is up to date with payment of staff salaries and all statutory obligations. All salary arrears have been paid and all arrears owed to KRA, NSSF and NHIF have been paid.

In the financial year 2018/19 KWAASCO, was struggling financially and was not able to pay staff salaries on time.

### **Committee Observations**

The Committee observed that the company had delayed the payment of salaries in the year under review an amount totaling Kshs.17, 683,725.

### **Committee Recommendations**

**The Committee recommends that-**

- i. The accounting officer to adhere to Section E.2 (1) of the County Human Resource Manual of 2013 on the payment of salaries.
- ii. The matter be marked as resolved.

## **3.0 Unremitted Statutory Deductions**

As similarly reported in the previous year, the Company had as at 30 June, 2019 not remitted employee salary deductions totaling Kshs.48, 218,815 owed to statutory organizations such as National Hospital Insurance Fund (NHIF), National Social Security Fund (NSSF), Kenya Revenue Authority, Higher Education Loans Board (HELB), and others, as disclosed in Note 21 to the financial statements. Failure to remit statutory deductions may lead to penalties and litigation that may result in wasteful use of the Company's funds.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

**Management Response:**

The issue of nonpayment of statutory obligation has been resolved through payment of the due amounts to KRA, NHIF, NSSF and others. In the financial year 2018/19 the company was struggling financially and could not pay staff salaries and the statutory obligations.

**Committee Observations**

The Committee observed that the company had failed to pay salaries and remittance of statutory deductions totaling Kshs.48, 218,815, owed to NHIF, NSSF AND HELB.

**Committee Recommendations**

**The Committee recommends that-**

- i. **Within three months of adoption of this report, the Accounting Officer to provide a detailed status report on the settlement of the outstanding statutory deductions to the Senate and a copy to the Office of the Auditor-General for subsequent reporting.**
- i. **The accounting officer to adhere to Section 22 (2) (a) of the Public Finance Management (County Government) Regulations, 2015 which provides that the accounting officer should comply with any tax-levy, duty, pension, commitments and audit commitments as may be provided for by legislation.**

## **CHAPTER SIX**

### **REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR NYERI WATER AND SANITATION COMPANY LIMITED FOR THE YEAR ENDED 30<sup>TH</sup>, JUNE, 2019**

The Governor of Nyeri County Executive Hon. Mutahi Kahiga Mwalimu Edward appeared before the Committee on Wednesday 22<sup>nd</sup> November, 2022 to respond (under oath) to audit queries raised in the Report of the Auditor-General on Financial Statements for Nyeri Water and Sanitation Company Limited for the Financial Year 2018/2019. He was accompanied by:

- |      |                        |                           |
|------|------------------------|---------------------------|
| i.   | Mr. Patrick M. Karinga | - Chairman, NYEWASCO      |
| ii.  | Ms. Keziah Nyambura    | - Manager, Legal NYEWASCO |
| iii. | Mr. Robert Thuo        | - CECM Finance            |
| iv.  | Ms. Mercy Gathogo      | - Snr. Officer Finance    |
| v.   | Mr. Kimani Rucuiya     | - County Attorney         |

The Nyeri Water and Sanitation Company Limited is wholly owned by the Nyeri County Government.

The Auditor-General rendered a Qualified opinion on the financial statements of Nyeri Water and Sanitation Company Limited for the period under review.

#### **Non-compliance with the water services regulatory board (wasreb) regulations on personnel costs**

The statement of profit and loss and other comprehensive income reflects personnel expenditure of Kshs. 150,513,669 for the financial year ending 30 June, 2019 representing about 38% of the total expenditure of Kshs. 391,567,550 which is higher than the recommended ratio of 30% in accordance with the WASREB guidelines. The excess personnel costs may negatively impact on the Company's profitability and sustainability of services if measures are not put in place to contain the costs within the acceptable levels.

#### **Management response**

The Company operated on a non-cost recovery tariff from 2014 to 2021 following a tariff expiry in the year 2013. In 2017 a tariff was successfully developed and gazetted on 17<sup>th</sup> Feb 2017 to be implemented in March 2017 but was not implemented due to the prevailing political



environment being an electioneering year. A Collective Bargaining Agreement (CBA) covering the period 2017-2020 was negotiated during the same period as from January 2017 and registered on 25<sup>th</sup> Sept 2017. This CBA relied heavily on the tariff.

Personnel costs for the year 2018/2019 were commensurate to the registered CBA (2017-2020) which was pegged on the approved tariff. However, this tariff was not implemented leading to constrained revenues. The Management had an obligation to implement the registered CBA. Therefore, the personnel costs remained fixed and were prioritized despite the constrained revenues. This then led to low O&M expenditures resulting to the reported high ratios.

The Management continued putting efforts in addressing the situation and managed to implement a new and approved tariff in April 2021.

The registered CBA was implemented as expected up to June 2020. The Management suspended CBA negotiations for the year 2020/21 awaiting the actual implementation of an approved tariff. The tariff was approved in the year 2021. The new 2021/22 – 2023/24 CBA was negotiated, approved and implemented in the year 2021. This was in order to avoid a recurrence of this situation.

The Management efforts in managing personnel costs in line with WASREB's provisions yielded fruits resulting in maintaining it at 38.6% for the Financial Year 2019/20 and a reduction of 37% in the Financial Year 2020/2021. This was a notable achievement considering the Covid-19 pandemics which led to a reduction in revenues, reduction in operations, and O&M expenses as well.

The Management remains committed to putting efforts to ensure compliance with the law. We foresee the closure of the matter during the life of current Company's Strategy Plan (by 2026).

**Committee Observation:**

The committee observed that the company's personnel cost totaled to Kshs. 150,513,669, which represented 38% of their total expenditure which is 8% higher than the recommended ratio of 30% in accordance with the WASREB guidelines.

**Committee recommendation:**

**The committee recommends that:**

- 
- i. **The accounting officer of Nyeri Water and Sanitation Company Limited ensures compliance with Regulation 11 of the Water Services Regulations, 2021 that requires recruited staff are employed on terms and conditions of employment approved by its board of directors, which terms and conditions shall comply with the water sector benchmark on personnel remuneration as set by the Regulatory Board, in line with the guidelines issued by the Salaries and Remuneration Commission.**
  - ii. **The Company to adhere with the provisions of regulation 25(1) of the Public Finance management (County Government) Regulations, 2015, establish a lean staff; and the Auditor-General to review, and report during the next audit cycle.**

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## APPENDICES

### ANNEX I: MINUTES OF THE COMMITTEE





### 13<sup>TH</sup> PARLIAMENT 2<sup>ND</sup> SESSION

**MINUTES OF THE TWENTY FIRST SITTING OF THE COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS COMMITTEE WITH THE VIHIGA COUNTY EXECUTIVE TO CONSIDER AUDIT REPORTS ON THE FINANCIAL STATEMENTS OF THE AMATSI WATER SERVICES COMPANY LIMITED FOR FINANCIAL YEARS 2018/19, 2019/20, 2020/21 HELD ON TUESDAY, 1<sup>ST</sup> MARCH, 2023 IN FIRST FLOOR, VIP LOUNGE, KENYATTA INTERNATIONAL CONVENTION CENTRE (KICC) AT 10.00 A.M.**

#### **PRESENT**

- |                                              |                    |
|----------------------------------------------|--------------------|
| 1. Sen. Paul Karungu Thangwa, MP             | - Ag Chairperson   |
| 2. Sen. Godfrey Atieno Osotsi, MP            | - Chairperson      |
| 3. Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP | - Vice-Chairperson |
| 4. Sen. Ledama Olekina, MP                   | - Member           |
| 5. Sen. William Kipkemoi Kisang, MP          | - Member           |
| 6. Sen. Maureen Tabitha Mutinda, MP          | - Member           |
| 7. Sen. Hamida Kibwana Ali, MP               | - Member           |

#### **ABSENT WITH APOLOGY**

- |                                         |          |
|-----------------------------------------|----------|
| 1. Sen. Miraj Abdullahi Abdulrahman, MP | - Member |
| 2. Sen. Eddy Gicheru Oketch, MP         | - Member |

#### **SECRETARIAT**

- |                        |                            |
|------------------------|----------------------------|
| 1. Mr. Yussuf Shimoy   | - Clerk Assistant II       |
| 2. Mr. Erick Njogu     | - Clerk Assistant III      |
| 3. Mr. Kennedy Owuoth  | - Fiscal Analyst           |
| 4. Mr. Josphat Ng'enh  | - Media Relations officer. |
| 5. Ms. Winfred Ocholla | - Audio officer            |
| 6. Mr. Patrick Ngenoh  | - Procurement officer      |
| 7. Mr. Andrew Nyairo   | - Legal counsel            |
| 8. Mr. Josphat Ng'enh  | - Media Relations Officer. |
| 9. Mr. John Pere       | - Serjent-at-arms          |

## **IN ATTENDANCE**

### **A. COUNTY GOVERNMENT OF VIHIGA**

- |                               |                                 |
|-------------------------------|---------------------------------|
| 1. Hon. W.K Ottichilo         | - Governor, Vihiga County       |
| 2. Mr. Ayiego Ezekiel         | - CS                            |
| 3. Mr. Aggrey Musiega         | - County Attorney               |
| 4. Mr. Anne Desma             | - CECM Water and Environment    |
| 5. Dr. Robert Kati            | - Chair – Amatsi                |
| 6. Mr. Josephine Nyambasi     | - BOD Amatsi                    |
| 7. Mr. Wycliffe Obuhuma       | - Director Amatsi               |
| 8. Mr. Harryson Ondulo        | - Internal Audit Manager Amatsi |
| 9. Mr. Bota Nyaburi           | - ICT Manager                   |
| 10. Mr. Edward Luvusi         | - Ag. Managing Director         |
| 11. Mr. Benjamin Otwoko       | - Director Finance              |
| 12. Mr. Wasike Olesso Protous | - P and SCM                     |
| 13. Ms. Mitchell Stika        | - MCA Vihiga                    |
| 14. Hon. David Onjiri         | - MCA Vihiga                    |
| 15. Hon. Tirrp Paul           | - MCA Vihiga                    |
| 16. Hon. Atsiapa Vincent      | - MCA Vihiga                    |
| 17. Mr. Naftali Agalomba      | - HTS                           |

### **B. OFFICE OF THE AUDITOR GENERAL**

- |                   |           |
|-------------------|-----------|
| Mr. Mark Gachanja | - Auditor |
|-------------------|-----------|

## **MIN NO. SEN/CPICSF/135/2023 PRAYER**

The meeting was called to order by the Chairperson at six minutes past ten O'clock followed by a word of prayer.

## **MIN NO. SEN/CPICSF/136/2023 ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Sen. Paul Karungo Thangwa, MP and seconded by Sen. Hamida Kibwana Ali, MP, as follows –

1. Prayer
2. Adoption of the Agenda
3. Administration of oath of witness
4. Meeting with Vihiga County Executive to consider the Auditor General's Report on the Financial Statements of Amatsi Services Company Limited for the Financial Years 2018/19, 2019/20 and 2020/21
5. Any Other Business
6. Date of the Next Meeting and Adjournment

## **MIN NO. SEN/CPICSF/137/2023 ADMINISTRATION OF OATH**

The Hon. Governor of Vihiga County took Oath of Witness and tabled the Management responses and supporting documents for the audit reports of Amatsi Services Company Limited for the Financial Years 2018/19, 2019/20 and 2020/21.

**MIN NO. SEN/CPICSF/138/2023**

**MEETING WITH VIHIGA COUNTY  
EXECUTIVE TO CONSIDER THE AUDITOR  
GENERAL'S REPORT ON THE FINANCIAL  
STATEMENTS OF AMATSI SERVICES  
COMPANY LIMITED FOR THE FINANCIAL  
YEARS 2018/19, 2019/20 AND 2020/21**

**The following queries were considered for the Financial Year 2020/21**

| <b>Audit Query</b>                      | <b>Concern</b>                                                                                                                                                                               | <b>Observation and Recommendations</b>                                                                                                                                                                                                                                       |
|-----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1. Inaccuracies in Cost of Sales</b> | Electricity expenditure amounting to Kshs. 29,542,898 was not apportioned.                                                                                                                   | <p>The OAG informed the Committee that the supporting documents were submitted late, however the same documents were submitted later and verified.</p> <p>The query remained unresolved as a variance of one (1) million could not be accounted for.</p>                     |
| <b>2. Unsupported other income</b>      | The Company received income from Water Service Trust Fund who are its financiers. However, the signed Financing Agreement or contract in support of this funding was not provided for audit. | <p>The OAG informed the Committee that the supporting documents were submitted late, however the same documents were submitted later and verified.</p> <p>The Committee noted a capacity challenge with the staffs for the Company.</p> <p>The query remained unresolved</p> |



|                                                           |                                                                                                                   |                                                                                                                                                                                                                                                                                      |
|-----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>3. Inaccuracies in Property, Plant and Equipment</b>   | The accuracy and completeness of Property, Plant and Equipment balance of Kshs. 363,209 could not be ascertained. | <p>The Committee noted that the OAG did not receive supporting documents in time.</p> <p>The Committee directed the OAG to undertake physical verification of all assets of the water company and the management directed to cooperate.</p>                                          |
| <b>4. Inaccuracies in Trade and other receivables</b>     | The accuracy and completeness of trade other receivables balance of Kshs. 77, 959,654, could not be confirmed.    | <p>The OAG informed the Committee that the Management did not provide a policy on provision for bad and doubtful debts during the audit however, a debt management policy was developed, and it is now available for further review.</p> <p><b>The query remained unresolved</b></p> |
| <b>5. Unsupported Transfer from the County Government</b> | The accuracy and validity of transfers from the County Government of Kshs. 21,011,350 could not be confirmed.     | The OAG informed the Committee that the supporting documents were submitted late.                                                                                                                                                                                                    |
|                                                           |                                                                                                                   | <p>However, they have received the schedule of Kenya Power bills supporting Vouchers and the delivery notes have now been provided to support the transfer, hence the query was resolved.</p>                                                                                        |

After deliberation the Committee resolved as follows -

- a) The Committee to retreat and write its report on Auditor General's Report on the Financial Statement of **Amatsi Water Services Company Limited for the Financial years for 2018/19, 2019/20 and 2020/21;**

- b) The County Executive directed to put in place a legal framework for water services in the County within 60 days;
- c) The Governor directed to establish a taskforce to facilitate restructuring of Amatsi Water Services Company Limited to make itself sustaining;
- d) The Governor to reconstitute the Amatsi Water Services Board of Directors to improve service delivery within 60 days; and
- e) Office of the Auditor General directed to confirm and verify number of employees of the Amatsi Water Services Company Limited (permanent and temporary staff), the status of staff establishment and verify the authenticity of the schedule of payment of the contract staff paid during the Financial Year 2020/21.

**MIN NO. SEN/CPICSF/139/2023      ANY OTHER BUSINESS**

There was no other business.

**MIN NO. SEN/CPICSF/140/2023      DATE OF NEXT MEETING & ADJOURNMENT**

The Chairperson adjourned the meeting at one o'clock. The next meeting would be held on Wednesday, 2<sup>nd</sup> March, 2023 at 10:00 am.



13/04/2023

**SIGNED: ..... DATE: .....**

**(CHAIRPERSON: SEN. GODFREY ATIENO OSOTSI, MP.)**



### 13<sup>TH</sup> PARLIAMENT 2<sup>ND</sup> SESSION

**MINUTES OF THE THIRTY FIFTH SITTING OF THE COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS COMMITTEE WITH THE BOMET COUNTY EXECUTIVE TO CONSIDER THE AUDIT REPORTS ON THE FINANCIAL STATEMENTS OF THE BOMET WATER AND SANITATION COMPANY LIMITED FOR FINANCIAL YEARS 2018/19, 2019/20 AND 2020/21, HELD ON TUESDAY, 12<sup>TH</sup> APRIL, 2023 IN FIRST FLOOR, SHIMBA HILLS HALL, KICC AT 10.00 A.M.**

#### **PRESENT**

- |                                         |                      |
|-----------------------------------------|----------------------|
| 1. Sen. Godfrey Atieno Osotsi, MP       | - <b>Chairperson</b> |
| 2. Sen. Ledama Olekina, MP              | - Member             |
| 3. Sen. William Kipkemoi Kisang, MP     | - Member             |
| 4. Sen. Eddy Gicheru Oketch, MP         | - Member             |
| 5. Sen. Hamida Kibwana Ali, MP          | - Member             |
| 6. Sen. Maureen Tabitha Mutinda, MP     | - Member             |
| 7. Sen. Miraj Abdillahi Abdulrahman, MP | - Member             |

#### **ABSENT WITH APOLOGY**

- |                                          |                           |
|------------------------------------------|---------------------------|
| 1. Sen. (Prof.) Tom Odhiambo Ojienda, MP | - <b>Vice-Chairperson</b> |
| 2. Sen. Paul Karungu Thangwa, MP         | - Member                  |

#### **SECRETARIAT**

- |                          |                            |
|--------------------------|----------------------------|
| 1. Mr. Yussuf Shimoy     | - Clerk Assistant I        |
| 2. Mr. David Angwenyi    | - Clerk Assistant I        |
| 3. Mr. Erick Njogu       | - Clerk Assistant III      |
| 4. Mr. Godfrey Nyaga     | - Clerk Assistant III      |
| 5. CPA. Kennedy Owuoth   | - Fiscal Analyst           |
| 6. Mr. Josphat Ng'enhoh  | - Media Relations officer. |
| 7. Ms. Winfred Ocholla   | - Audio officer            |
| 8. Mr. Patrick Ngenoh    | - Procurement officer      |
| 9. Mr. Andrew Nyairo     | - Legal counsel            |
| 10. Ms. Raisa Mwithi     | - Research Officer         |
| 11. Mr. Matano Kataa     | - Research Officer         |
| 12. Mr. Josphat Ng'enhoh | - Media Relations Officer. |



13. Mr. John Pere

- Serjeant-at-arms

## **IN ATTENDANCE**

### **A. COUNTY GOVERNMENT OF BOMET**

1. Hon. Barchoc.K. Hillary - Governor
2. Mr. Andrew Kimtai Sigei - CECM Finance
3. Mr. Erick Chepkwony - CO Finance
4. Mr. Solomon Kimeto - CO Water
5. Mr. Fredrick Ruto - Ag. MD BOMWASCO
6. Dr. Benard Tanui - CECM Water and Environment

### **B. OFFICE OF THE AUDITOR GENERAL**

1. Mr. Mark Gachanja - Office of the Auditor General
2. Henry.N. Nyandwake - Director Audit
3. Mr. Mr. George.K. Onkwindi - DAA

### **C. ETHICS AND ANTI-CORRUPTION COMMISSION**

- Mr. Patrick Kinoti - Liaison Officer, EACC

## **MIN. NO. SEN/CPICSF/213/2023 PRAYER**

The meeting was called to order by the Chairperson at thirteen minutes past ten O'clock followed by a word of prayer.

## **MIN. NO. SEN/CPICSF/214/2023 ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Sen. William Kipkemoi Kisang, MP and seconded by Sen. Eddy Gicheru Oketch, MP, as follows –

1. Prayer;
2. Adoption of the Agenda;
3. Administration of oath of witness;
4. Meeting with the County Executive of Bomet to consider the Auditor General's Report on the Financial Statements of Bomet Water and Sanitation Company for the Financial Years 2018/19, 2019/20 and 2020/21;
5. Any Other Business; and
6. Date of the Next Meeting and Adjournment.

## **MIN. NO. SEN/CPICSF/215/2023 ADMINISTRATION OF OATH**

The Governor of Bomet County took Oath of Witness and tabled the Management responses and supporting documents for the audit reports of the Bomet Water and Sanitation Company Limited for the Financial Years 2018/19, 2019/20 and 2020/21.

MIN. NO. SEN/CPICSF/216/2023

**MEETING WITH BOMET COUNTY  
EXECUTIVE TO CONSIDER THE AUDITOR  
GENERAL'S REPORT ON THE FINANCIAL  
STATEMENTS OF BOMET WATER AND  
SANITATION COMPANY FOR THE  
FINANCIAL YEARS 2018/19, 2019/20 AND  
2020/21**

The Following queries were interrogated for the Financial Year 2020/21

| REPORT ON THE FINANCIAL STATEMENTS |                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|------------------------------------|---------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Audit Query                        | Concern                                                                                                 | Observation and Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 1. Customer Deposits               | The accuracy and completeness of the customer's deposit balance Kshs. 2,292,989 could not be confirmed. | <p>The Committee observed that the issue of the bank charges was adequately addressed.</p> <p>The Committee noted the customers deposits were borrowed to pay salaries but the same could not be confirmed by the Office of the Auditor General (OAG). The OAG directed to do a verification and give a status report the subsequent audit cycle.</p> <p>The Committee directed the management to open a fixed deposit account bank account for the customer deposits so that it accrues interests to cater for ledger fees and with limited access to the management.</p> <p>Further the Committee directed management to provide a certified copy of CR 12 to ascertain the ownership of the Company <b>within seven (7) days.</b></p> <p>The Committee directed management from both Kericho and Bomet Water Companies to engage and come up with modalities of settling the matter of pending bills and share the same to the Committee <b>within fourteen (14) days.</b></p> |

|                                               |                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                               |                                                                                                                                   | <b>The query remained unresolved.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>2. Trade and Other Receivables</b>         | The company is owed Kshs. 203,592,386 and the amounts continued to grow over time thereby raising doubts on their collectability. | <p>The Committee noted that the Company had not established debt recovery strategies and measures and directed the Governor to write to the Committee on plans to recover the same within 14 days. Further, OAG directed to verify the efficacy of the measures and report in the subsequent audit cycle.</p> <p>The Committee further directed EACC to commence investigations and take a close look into the matter.</p> <p><b>The query remained unresolved.</b></p> |
| <b>3. Unresolved Prior Year Audit Matters</b> | As disclosed in the financial statements, some of the prior year audit issues remained unresolved as at 30 June, 2020.            | <p>The Committee observed that management did not provide satisfactory reasons for the delay in resolving the issues.</p> <p><b>The query remained unresolved.</b></p>                                                                                                                                                                                                                                                                                                  |

### **Interventions and Resolutions**

Having considered the issues raised by the Office of the Auditor General on the Financial Statements of Bomet Water Company Limited for the said Financial Years, the Committee noted that the company had serious management challenges as demonstrated by the numerous unresolved matters and directed as follows;

- i. The Governor to take keen interest in the company to ensure efficiency in its operations and directed him to execute the following recommendations within 60 days;
  1. Restructure its Human Resources to tackle the issue of overstaffing and maintain a lean and efficient staff establishment;
  2. Restructure its management; and
  3. Measures taken to address the high Non-Revenue Water.
- ii. Within 60 days, the Governor to provide a detailed list of all stalled water projects within the county, indicated measures to be taken to complete them as well as their operationalization;



- iii. Within 60 days, OAG and the Parliamentary Budget Office to prepare a fiduciary risk analysis report, detailing areas of financial loss and possible recommendations, for considerations by the Senate and for further action;
- iv. Ethics and Anticorruption Commission (EACC) to investigate the Company's operations and file a report before the Committee;
- v. The County Government in collaboration with the County Assembly to enact a water legislation to support the operations of the water company; and
- vi. The Governor directed to engage his counterpart Governor of Kericho County in order to amicably resolve the contested pending payables between the two counties and submit a status report to the Committee within 14 days.

**MIN. NO. SEN/CPICSF/217/2023      ANY OTHER BUSINESS**

The Committee received and noted the contents of a letter from Kenya Airports Parking Services (KAPS) requesting to reschedule the meeting that was scheduled for Thursday, 13<sup>th</sup> April, 2023 and the Committee acceded to the request.

**MIN. NO. SEN/CPICSF/218/2023      DATE OF NEXT MEETING & ADJOURNMENT**

The Chairperson adjourned the meeting at fifteen minutes past one o'clock in the afternoon. The next meeting would be held on Wednesday, 13<sup>th</sup> April, 2023 at 10:00 am.



26/09/2023

**SIGNED: ..... DATE: .....**

**(CHAIRPERSON: SEN. GODFREY ATIENO OSOTSI, MP.)**



### 13<sup>TH</sup> PARLIAMENT 2<sup>ND</sup> SESSION

**MINUTES OF THE THIRTY SECOND SITTING OF THE COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS COMMITTEE WITH THE KISII COUNTY EXECUTIVE TO CONSIDER THE AUDITOR GENERAL'S REPORTS ON THE FINANCIAL STATEMENTS OF THE GUSII WATER AND SANITATION COMPANY LIMITED FOR FINANCIAL YEARS 2018/19, 2019/20, 2020/21 HELD ON WEDNESDAY, 29<sup>TH</sup> MARCH, 2023 AT THE VIP LOUNGE, FIRST FLOOR, KENYATTA INTERNATIONAL CONVENTION CENTRE (KICC) AT 10.00 A.M.**

#### **PRESENT**

- |                                              |                    |
|----------------------------------------------|--------------------|
| 1. Sen. Godfrey Atieno Osotsi, MP            | - Chairperson      |
| 2. Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP | - Vice-Chairperson |
| 3. Sen. Ledama Olekina, MP                   | - Member           |
| 4. Sen. William Kipkemoi Kisang, MP          | - Member           |
| 5. Sen. Hamida Kibwana Ali, MP               | - Member           |
| 6. Sen. Miraj Abdillahi Abdulrahman, MP      | - Member           |

#### **ABSENT WITH APOLOGY**

- |                                     |          |
|-------------------------------------|----------|
| 1. Sen. Paul Karungo Thangwa, MP    | - Member |
| 2. Sen. Eddy Gicheru Oketch, MP     | - Member |
| 3. Sen. Maureen Tabitha Mutinda, MP | - Member |

#### **IN ATTENDANCE**

Sen. Richard Momoima Onyonka, MP - Senator, Kisii County

#### **SECRETARIAT**

- |                       |                       |
|-----------------------|-----------------------|
| 1. Mr. Yussuf Shimoy  | - Clerk Assistant II  |
| 2. Mr. David Angwenyi | - Clerk Assistant II  |
| 3. Mr. Erick Njogu    | - Clerk Assistant III |
| 4. Mr. Godfrey Nyaga  | - Clerk Assistant III |
| 5. Mr. Kennedy Owuoth | - Fiscal Analyst      |
| 6. Ms. Raisa Mwithi   | - Researcher officer  |

- |                          |                            |
|--------------------------|----------------------------|
| 7. Mr. Matano Kataa      | - Researcher officer       |
| 8. Ms. Lucy Radoli       | - Legal counsel            |
| 9. Ms. Winfred Ocholla   | - Audio officer            |
| 10. Mr. Josphat Ng'enhoh | - Media Relations Officer. |
| 11. Mr. John Pere        | - Serjeant-At-arms         |

## **IN ATTENDANCE**

### **A. COUNTY GOVERNMENT OF KISII**

- |                            |                          |
|----------------------------|--------------------------|
| 1. Hon. Paul Simba Arati   | - Governor, Kisii County |
| 2. Mr. Kennedy O. Abircha  | - CECM Finance           |
| 3. Ms. Lucy Wachina        | - MD Gwasco              |
| 4. Dr. Otucho Junior Obure | - Chief of Staff         |
| 5. Mr. David Obure         | - Chair of the Board     |
| 6. Col. (Rtd) Moturi       | - Gwasco Board Member    |
| 7. CPA Thaddeus Mogesi     | - Accountant             |

### **B. OFFICE OF THE AUDITOR GENERAL**

- |                      |                                 |
|----------------------|---------------------------------|
| 1. Mr. Mark Gachanja | - Office of the auditor General |
| 2. Mr. Wilson Maiyo  | - Director OAG                  |

### **C. ETHICS AND ANTI-CORRUPTION COMMISSION**

- |                    |                         |
|--------------------|-------------------------|
| Mr. Patrick Kinoti | - Liaison Officer, EACC |
|--------------------|-------------------------|

## **MIN. NO. SEN/CPICSF/197/2023 PRAYER**

The meeting was called to order by the Chairperson at twenty three minutes past ten O'clock followed by a word of prayer.

## **MIN. NO. SEN/CPICSF/198/2023 ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Sen. Hamida Kibwana Ali, MP and seconded by Sen. William Kisang, MP, as follows –

1. Prayer
2. Adoption of the Agenda
3. Administration of oath of witness and Tabling of Documents
4. Meeting with Kisii County Executive to consider the Auditor General's Reports on the Financial Statements of the Gusii Water and Sanitation Company Limited for Financial Years 2018/19, 2019/20 and 2020/21.
5. Any Other Business
6. Date of the Next Meeting and Adjournment



**MIN. NO. SEN/CPICSF/198/2023**

**ADMINISTRATION OF OATH AND  
TABLIG OF DOCUEMNTS**

The Hon. Governor of Kisii County took Oath of Witness and tabled the Management responses and supporting documents for the audit reports of Gusii Water and Sanitation Company Ltd. for the Financial Years 2018/19, 2019/20 and 2020/21.

**MIN. NO. SEN/CPICSF/199/2023**

**MEETING WITH KISII COUNTY  
EXECUTIVE TO CONSIDER THE  
AUDITOR GENERAL'S REPORTS ON  
THE FINANCIAL STATEMENTS OF  
THE GUSII WATER AND SANITATION  
COMPANY LIMITED FOR FINANCIAL  
YEARS 2018/19, 2019/20 AND 2020/21**

**The Following queries were interrogated for the Financial Year 2020/21.**

The office of the Auditor General rendered a Qualified Opinion on the following basis

| <b>Audit Query</b>                                    | <b>Concern</b>                                                                                                         | <b>Observation and Recommendations</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1. Inaccuracies in the Statement of Cash Flows</b> | The accuracy of cash generated from/ (used in) operations comparative amount of Kshs. 6,408,700 could not be confirmed | <p>The Office of the Auditor General (OAG) informed the meeting that the Journal Voucher had been provided and that the matter would be resolved in the next financial year once the Financial Statement are amended accordingly.</p> <p>The Committee noted that the matter was occasioned by serious accounting omissions and raised concerns on the capacity the finance department of the water company.</p> <p>However, the committee noted that some remedial measures were being taken to mitigate the matter and directed the Office of</p> |

|                                                                                          |                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                     |
|------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                          |                                                                                                                                                                                   | <p>the Auditor General (OAG) to verify and report on their efficacy in the subsequent audit cycle.</p> <p><b>The query remained unresolved.</b></p>                                                                                                                                                                                                                 |
| <p><b>2. Inaccuracies in the Statement of Comparison of Budget and Actual Amount</b></p> | <p>The accuracy and completeness of the statement of comparison of budget and actual amounts for the year under review could not be confirmed.</p>                                | <p>The OAG informed the Committee that the schedules were provided but the explanatory notes were not provided.</p> <p>The Committee directed the management to provide all the necessary explanation to the OAG, who will thereafter do a verification and provide a status update in the subsequent audit cycle.</p> <p><b>The query remained unresolved.</b></p> |
| <p><b>3. Share Capital</b></p>                                                           | <p>The shares of the Company are still owned by the defunct Local Authorities and had not been transferred to and paid for by the two County Government of Nyamira and Kisii.</p> | <p>The OAG informed the Committee that the shares had not been transferred and that shareholding still in the Local defunct Authorities.</p> <p><b>The Committee directed the Governor to have an engagement with his counterpart in Nyamira County and ensure that the transfer from the defunct authorities to the County Governments was done.</b></p>           |
| <p><b>4. Irregular Payments of Director's Emoluments</b></p>                             | <p>The regularity of the expenditure of Kshs, 3,352,165 on Directors' emoluments could not be confirmed.</p>                                                                      | <p>The Governor admitted that this was a fraud by the staff of the water company and the Committee directed EACC to commence investigations into the</p>                                                                                                                                                                                                            |

|                                                                        |                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                             |
|------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                        |                                                                                                                                                                                                                                      | <p>matter and report back to the Committee within 60 days.</p> <p><b>The query remained unresolved.</b></p>                                                                                                                                                 |
| <b>5. Budgetary Control and Performance</b>                            | <p>an under-funding of Kshs.112,362,300 or 34% of the budget and under-expenditure of Kshs. 121,175,000 or 31% of the budget affected the planned activities and may have impacted negatively on service delivery on the public.</p> | <p>The OAG informed the committee that the County had put in place some mitigating measures. The Committee directed OAG to verify the measures and report on their efficacy in the subsequent audit cycle.</p> <p><b>The query remained unresolved.</b></p> |
| <b>6. Unresolved Prior Year Matters</b>                                | <p>The management had not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards and Board templates.</p>                                                    | <p>The Committee observed that management has made progresses to ensure compliance on the unresolved prior year matters.</p> <p><b>The query to be reviewed in the subsequent audit cycles</b></p>                                                          |
| <b>7. Irregular Procurement of Computer Software and Repairs Works</b> | <p>The management was in breach of law and the regularity of the expenditure of Kshs. 778,300 spent on the software and Kshs. 411,700 incurred on the computer repair could not be confirmed.</p>                                    | <p>The Committee directed EACC to commence investigations on the matter with a view to recover any money that might have misappropriated.</p>                                                                                                               |
|                                                                        |                                                                                                                                                                                                                                      | <p><b>The query remained unresolved</b></p>                                                                                                                                                                                                                 |
| <b>8. Non-remittance of statutory deductions</b>                       | <p>The management was in breach of the Law for not remitting Kshs.15,012,325 relating to outstanding pension and provident funds deducted and other remittances.</p>                                                                 | <p>The OAG confirmed to the Committee that they verified payments made by the management.</p> <p>The Committee observed that management has made strides and directed the management to settle the balance.</p> <p><b>The query remained unresolved</b></p> |



|                                            |                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                      |
|--------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>9. Long Outstanding Agency Accounts</b> | <p>The aging analysis in support of the agency account balance revealed that creditors with a total amount of Kshs. 36,222,699, that is 81% of the total balance had been outstanding.</p>                                                        | <p>The Committee observed that management had made efforts to settle the balance and management was to apply for waiver of penalties.</p> <p><b>The Committee directed OAG to review the status of the payments and other mitigating measures put in place to address the matter and provide a status updated in the subsequent audit cycle.</b></p> |
| <b>10. Non-Revenue Water (NRW)</b>         | <p>the Company produced 3,899,123 cubic meters of water out of which 1,618,289 were billed to customers; the balance approximately 58% of the volume produced represents the Non-Revenue Water, which is 33% above the allowable loss of 25%.</p> | <p>The Committee noted that the non-revenue water was quite high at 58% and <b>directed the management to submit a comprehensive plan within 14 days on the mitigating measures put in place to address the matter. OAG to verify the measures and report on their efficacy in the subsequent audit cycle.</b></p>                                   |

#### Other interventions and resolutions

The Committee resolved to -

- i. Consider the written management responses for the Auditor General's Reports on the Financial Statements of the Gusii Water and Sanitation Company Limited for the Financial Years 2018/19 and 2019/20 during its report writing;
- ii. Ethics and Anti-Corruption Commission (EACC) requested to submit a preliminary report on the ongoing investigations into the alleged fraud cases of the following matters within Seven (7) days;
  - a. Irregular Payments of Directors' Emoluments;
  - b. Irregular Procurement of Computer Software and Repair Works; and
  - c. Irregular Access to the Company's Data by Software Provider.
- iii. Secretariat directed to prepare a legal brief on intercounty ownership of investments and options for separating the ownership.

**MIN. NO. SEN/CPICSF/200/2023**

**ANY OTHER BUSINESS**

There was no other business.

**MIN. NO. SEN/CPICSF/201/2023**

**DATE OF NEXT MEETING & ADJOURNMENT**

The Chairperson adjourned the meeting at one minute past one o'clock. The next meeting would be held on Thursday, 30<sup>th</sup> March, 2023 at 8:00 am.



19/04/2023

**SIGNED: ..... DATE: .....**

**(CHAIRPERSON: SEN. GODFREY ATIENO OSOTSI, MP.)**



### 13<sup>TH</sup> PARLIAMENT 2<sup>ND</sup> SESSION

**MINUTES OF THE TWENTIETH SITTING OF THE COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS COMMITTEE WITH THE COUNTY EXECUTIVE OF KISUMU TO CONSIDER REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF THE KISUMU WATER AND SANITATION COMPANY LIMITED FOR FINANCIAL YEARS 2018/19, 2019/20, AND 2020/21 HELD ON TUESDAY, 28<sup>TH</sup> FEBRUARY, 2023 IN FIRST FLOOR, VIP LOUNGE, KENYATTA INTERNATIONAL CONVENTION CENTRE (KICC) AT 11.00 A.M.**

#### **PRESENT**

- |                                              |                    |
|----------------------------------------------|--------------------|
| 1. Sen. Godfrey Atieno Osotsi, MP            | - Chairperson      |
| 2. Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP | - Vice-Chairperson |
| 3. Sen. Ledama Olekina, MP                   | - Member           |
| 4. Sen. William Kipkemai Kisang, MP          | - Member           |
| 5. Sen. Paul Karungo Thangwa, MP             | - Member           |
| 6. Sen. Eddy Gicheru Oketch, MP              | - Member           |
| 7. Sen. Maureen Tabitha Mutinda, MP          | - Member           |
| 8. Sen. Hamida Kibwana Ali, MP               | - Member           |

#### **ABSENT WITH APOLOGY**

- |                                      |          |
|--------------------------------------|----------|
| Sen. Miraj Abdillahi Abdulrahman, MP | - Member |
|--------------------------------------|----------|

#### **SECRETARIAT**

- |                         |                            |
|-------------------------|----------------------------|
| 1. Mr. Yussuf Shimoy    | - Clerk Assistant II       |
| 2. Mr. David Angwenyi   | - Clerk Assistant II       |
| 3. Mr. Erick Njogu      | - Clerk Assistant III      |
| 4. Mr. Kennedy Owuoth   | - Fiscal Analyst           |
| 5. Ms. Raisa Mwithi     | - Researcher officer       |
| 6. Mr. Matano Kataa     | - Researcher officer       |
| 7. Mr. Hillary Kipkorir | - Legal counsel            |
| 8. Ms. Winfred Ocholla  | - Audio officer            |
| 9. Mr. Patrick Ngenoh   | - Procurement officer      |
| 10. Mr. Josphat Ng'enoh | - Media Relations Officer. |
| 11. Ms. Winfred Ocholla | - Audio officer            |



12. Mr. Benard Marwara

- Serjeant-at-arms

## **IN ATTENDANCE**

### **A. COUNTY GOVERNMENT OF KISUMU**

- |                               |                                                |
|-------------------------------|------------------------------------------------|
| 1. Hon. Peter Anyang' Nyong'o | - Governor, Kisumu County                      |
| 2. Mr. George O. Okongo       | - CECM Finance Economic Planning and ICT       |
| 3. Mr. Thomas Odongo          | - MD Kiwasco                                   |
| 4. Mr. Wilson Abiero          | - Co -Finance Economic Planning and ICT        |
| 5. Mr. Evans Otieno           | - Admin Car and Mortgage                       |
| 6. Mr. Daniel Okutah          | - Admin Kisumu County Education Fund           |
| 7. Mr. Nicholas Moseti        | - Kiwasco                                      |
| 8. Ms. Alice Ager             | - Africities Coordinator                       |
| 9. Mr. Yanzar M. Agwa         | - CECM Weccnr                                  |
| 10. Ms. Keziah Okoth          | - Director Accounts                            |
| 11. Mr. Japheth O. Orwa       | - Fund Accountant Kisumu County Education Fund |
| 12. CPA Godfrey O. Dienya     | - Director Audit                               |
| 13. Mr. Charles Omollo        | - Project Cordination                          |
| 14. Mr. Moses Ogeda           | - City Engineer                                |
| 15. Ms. Peresia Omino         | - City Finance Officer                         |
| 16. Mr. Philip Odundo         | - Chief officer                                |

### **B. OFFICE OF THE AUDITOR GENERAL**

- |                   |                        |
|-------------------|------------------------|
| Mr. Mark Gachanja | - Liaison Officer, OAG |
|-------------------|------------------------|

### **MIN. NO. SEN/CPICSF/129/2023 PRAYER**

The meeting was called to order by the Chairperson at fifteen past eleven O'clock followed by a word of prayer.

### **MIN. NO. SEN/CPICSF/130/2023 ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Sen. William Kisang, MP and seconded by Sen. Ledama Olekina, MP, as follows –

1. Prayer
2. Adoption of the Agenda
3. Meeting with the County Executive of Kisumu to consider the following matters:
  - i. Kisumu Water and Sanitation Company Limited for Financial Years 2018/19, 2019/20 and 2020/21;
  - ii. Auditor General's Report on the Financial Statements of the Kisumu County Car and Mortgage Scheme Fund for Financial Years 2018/19, 2019/20 and 2020/2;
  - iii. Response on the Auditor General's Report on the Financial Statement of the Kisumu County Education Fund for the Year ended 30<sup>th</sup> June, 2021;
  - iv. Response on the Auditor General's Report on the Financial Statement of the Kisumu County Covid-19 Emergency Response Fund for the Year ended 30<sup>th</sup> June, 2021;

- v. Response on the Auditor General's Report on the Financial Statement of the Kisumu Urban Project (Project Advanced Account) – CKE 1035.01.G for the Year ended 30<sup>th</sup> June, 2020;
  - vi. The list of projects funded by World Bank and Kenya Urban Support project in Kisumu County and the amount of funds involved;
  - vii. Detailed Information on Kisumu 42 ventures Limited;
  - viii. Information on the amount of money the County used in Afri-Cities Convention Centre and the Afri-Cities Conference that was held in Kisumu County;
  - ix. Information on the Kano Rice Project;
  - x. Any grants received by the County for the development of Kibuye market and the Kenyatta Sports Ground and the Funds received by the Lake Region Bloc; and
  - xi. Contract between the County Government of Kisumu and Oasis Doctors Plaza on the leasing of Victoria Annex Hospital.
- 4. Any Other Business
  - 5. Date of the Next Meeting and Adjournment

**MIN. NO. SEN/CPICSF/131/2023      ADMINISTRATION OF OATH**

The Hon. Governor of Kisumu County took Oath of Witness and tabled the Management responses and supporting annexures on the following -

- i. Reports of the Auditor-General on the Financial Statements of the Kisumu Water and Sanitation Company Limited for Financial Years 2018/19, 2019/20 and 2020/21;
- ii. Reports of the Auditor-General Report on the Financial Statements of the Kisumu County Car and Mortgage Scheme Fund for Financial Years 2018/19, 2019/20 and 2020/21;
- iii. Report of the Auditor-General on the Financial Statement of the Kisumu County Education Fund for the Year ended 30<sup>th</sup> June, 2021;
- iv. Report of the Auditor-General on the Financial Statements of the Kisumu County Covid-19 Emergency Response Fund for the Year ended 30<sup>th</sup> June, 2021;
- v. Report of the Auditor-General on the Financial Statements of the Kisumu Urban Project (Project Advanced Account) – CKE 1035.01.G for the Year ended 30<sup>th</sup> June, 2020;
- vi. The list of projects funded by World Bank and Kenya Urban Support project in Kisumu County and the amount of funds involved;
- vii. Detailed Information on Kisumu 42 ventures Limited;
- viii. Information on the amount of money the County used in Afri-Cities Convention Centre and the Afri-Cities Conference that was held in Kisumu County;
- ix. Information on the Kano Rice Project;



- x. Any grants received by the County for the development of Kibuye market and the Kenyatta Sports Ground and the Funds received by the Lake Region Bloc; and
- xi. Contract between the County Government of Kisumu and Oasis Doctors Plaza on the leasing of Victoria Annex Hospital.

The Office of the Auditor-General indicated that the County Government made late submissions of management responses and supporting documents for the audit reports of the Kisumu Water and Sanitation Company Limited for Financial Years 2018/19, 2019/20 and 2020/21 and thus auditors had limited time to carry out the verification.

**MIN. NO. SEN/CPICSF/132/2023      MEETING WITH THE COUNTY  
EXECUTIVE OF KISUMU TO CONSIDER  
THE FOLLOWING MATTERS**

**Reports of the Auditor-General on the Financial Statements of the Kisumu Water and Sanitation Company Limited for Financial Years 2018/19, 2019/20 and 2020/21.**

**The Following queries were interrogated for the Financial Year 2020/21**

| <b>REPORT ON THE FINANCIAL STATEMENTS</b>           |                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Audit Query</b>                                  | <b>Concern</b>                                                                                                                                                                                                                                | <b>Observation and Recommendations</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>1. Unsupported Property, Plant and Equipment</b> | The asset register maintained by the Management was not updated with asset identification number, location, cost, depreciation rate, accumulated depreciation, and depreciation charge for the year and book value of the asset among others. | The Committee noted that the County Government had submitted an updated asset register. However, the Committee found the information submitted to be inadequate and directed that within seven (7) days from the date of the meeting, the County Government provides adequate information to the Office of the Auditor-General for verification.<br><br>Upon verification, OAG to provide a status update on the matter to the Committee within seven (7) days.<br><br><b>Query remained unresolved</b> |
| <b>2. Unsupported Provision for bad debts</b>       | The basis for provision for bad debts was worth Kshs. 48,986,667 not supported given that most of the customers are schools. The duration the debts had outstanding was not disclosed as well the measures taken to collect them.             | The Committee noted that the management had made efforts to recover some debts. However, the recovered and outstanding amounts remained unclear. The committee, within seven (7) days from the date of the meeting, directed the management submit to the Committee a                                                                                                                                                                                                                                   |



|                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                           | <p>report with a clear breakdown of the recovered and outstanding debts.</p> <p><b>Query remained unresolved</b></p>                                                                                                                                                                                                                                                                                                     |
| <b>REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES</b>                |                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>3. Non-Compliance with the Public Sector Accounting Standards Board Requirements</b> | The water company failed to adhere to the provisions of the Public Sector Accounting Standards Board (PSASB) templates.                                                                                                                                                                                                                                                                                   | <p>The committee noted that the Management had not received new templates at the time of audit but has since acquired them.</p> <p><b>The committee directed the management to use the new templates going forward.</b></p> <p>Query was considered resolved</p>                                                                                                                                                         |
| <b>4. Lack of Bank Accounts Register</b>                                                | The Company did not maintain a register of bank accounts, contrary to Section 87 (3) of the Public Finance Management (County Governments) Regulations, 2015 which requires each public entity to maintain a register on bank accounts. Although eight (8) accounts were disclosed in the financial statements, it was not possible to confirm that these were the only accounts operated by the Company. | <p>The OAG confirmed that the Management had provided an accounts register with bank confirmation letters and verified.</p> <p>The Committee considered the query resolved.</p>                                                                                                                                                                                                                                          |
| <b>5. Non-compliance with the Law on Non-revenue Water</b>                              | The water Company had Non- Revenue Water of 3,072,699 cubic meters, that is 31% of the total water produced resulting in an estimated loss of Kshs. 17, 848, 244 at a rate of Kshs. 30 per cubic meter.                                                                                                                                                                                                   | <p>The committee observed that the Non-Revenue Water exceeded the sector benchmark of 25% as per the Water Services Regulatory Board (WASREB) Guidelines.</p> <p><b>The committee directed the management to put in place measures to tackle the Non-Revenue Water, that is both the physical and commercial losses. OAG to verify the measures and report on their effectiveness in the subsequent audit cycle.</b></p> |

The Following queries were interrogated for the Financial Year 2019/20

#### REPORT ON THE FINANCIAL STATEMENTS

| Audit Query                                       | Concern                                                                                                                                                                                                                                                                   | Observation and Recommendations                                                                                                                                                                                                                                      |
|---------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1. Unsupported Trade and other Receivables</b> | Total receivables balance as per the financial statements was Kshs. 254,915,333 out of which Kshs. 8,372,163 denoted prepayments and deposits. However, supporting documents such as detailed schedules and invoices for the deposits were not provided for audit review. | The Committee noted that the receivables had remained outstanding over a long period and directed the management to put in place recovery measures. OAG to verify the effectiveness of the measures and report on their effectiveness in the subsequent audit cycle. |

The Committee resolved to consider written management responses for the queries not considered during the meeting. Further, the Committee to engage the County Government in the event any item in the response became unclear.

**MIN. NO. SEN/CPICSF/133/2023      ANY OTHER BUSINESS**

There was no other business.

**MIN. NO. SEN/CPICSF/134/2023    DATE OF NEXT MEETING & ADJOURNMENT**

The Chairperson adjourned the meeting at half past two o'clock. The next meeting would be held on Wednesday, 2<sup>nd</sup>, March, 2023 at 10:00 am.



26/09/2023

**SIGNED: ..... DATE: .....**

**(CHAIRPERSON: SEN. GODFREY ATIENO OSOTSI, MP.)**



### 13<sup>TH</sup> PARLIAMENT 2<sup>ND</sup> SESSION

**MINUTES OF THE THIRTY FIRST SITTING OF THE COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS COMMITTEE WITH THE KWALE COUNTY EXECUTIVE TO CONSIDER AUDIT REPORTS ON THE FINANCIAL STATEMENTS OF THE KWALE WATER AND SEWERAGE COMPANY LIMITED FOR FINANCIAL YEARS 2018/19, 2019/20, 2020/21 HELD ON TUESDAY, 28<sup>TH</sup> MARCH, 2023 IN FIRST FLOOR, VIP LOUNGE, KENYATTA INTERNATIONAL CONVENTION CENTRE (KICC) AT 10.00 A.M.**

#### **PRESENT**

- |                                         |                      |
|-----------------------------------------|----------------------|
| 1. Sen. Godfrey Atieno Osotsi, MP       | - <b>Chairperson</b> |
| 2. Sen. Ledama Olekina, MP              | - Member             |
| 3. Sen. William Kipkemoi Kisang, MP     | - Member             |
| 4. Sen. Eddy Gicheru Oketch, MP         | - Member             |
| 5. Sen. Maureen Tabitha Mutinda, MP     | - Member             |
| 6. Sen. Hamida Kibwana Ali, MP          | - Member             |
| 7. Sen. Miraj Abdillahi Abdulrahman, MP | - Member             |

#### **ABSENT WITH APOLOGY**

- |                                              |                           |
|----------------------------------------------|---------------------------|
| 1. Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP | - <b>Vice-Chairperson</b> |
| 2. Sen. Paul Karungu Thangwa, MP             | - Member                  |

#### **IN ATTENDANCE**

- |                          |                           |
|--------------------------|---------------------------|
| Sen. Raphael Chimera, MP | - Friend of the Committee |
|--------------------------|---------------------------|

#### **SECRETARIAT**

- |                       |                       |
|-----------------------|-----------------------|
| 1. Mr. Yussuf Shimoy  | - Clerk Assistant II  |
| 2. Mr. David Angwenyi | - Clerk Assistant II  |
| 3. Mr. Erick Njogu    | - Clerk Assistant III |
| 4. Mr. Godfrey Nyaga  | - Clerk Assistant III |
| 5. Mr. Kennedy Owuoth | - Fiscal Analyst      |
| 6. Ms. Raisa Mwithi   | - Researcher officer  |



- |                        |                            |
|------------------------|----------------------------|
| 7. Mr. Matano Kataa    | - Researcher officer       |
| 8. Ms. Lucy Radoli     | - Legal counsel            |
| 9. Ms. Winfred Ocholla | - Audio officer            |
| 10. Mr. Josphat Ng'enh | - Media Relations Officer. |
| 11. Mr. John Pere      | - Serjeant-at-arms         |

## **IN ATTENDANCE**

### **A. COUNTY GOVERNMENT OF KWALE**

- |                          |                          |
|--------------------------|--------------------------|
| 1. Hon. Fatuma Achan     | - Governor, Kwale County |
| 2. Ms. Sylvia Chidodo    | - County Secretary       |
| 3. Mr. Hemed R. Mwabuuzo | - CECM Water Services    |
| 4. Mr. Bakari H. Sebe    | - CECM Finance           |
| 5. Mr. William Jefu      | - Finance Manager        |
| 6. Mr. Erick Parmet      | - Managing Director      |
| 7. Mr. Alex Onduko       | - CO Finance             |
| 8. Mr. Abbas Ngendo      | - P. Accountant          |
| 9. Mr. Steven Safari     | - Internal Auditor       |
| 10. Mr. Joshua Mdoe      | - COS                    |

### **B. TURKANA COUNTY ASSEMBLY**

- |                              |                                        |
|------------------------------|----------------------------------------|
| 1. Hon. Philip Ekuwam        | - Deputy Speaker                       |
| 2. Hon. Ewei Michael         | - Member of the County Assembly        |
| 3. Hon. Mary Nakapwan        | - Member of the County Assembly        |
| 4. Hon. Samuel Aliwo Elimlim | - Member of the County Assembly        |
| 5. Mr. Patrick Tiuko Eng'eri | - Director Legislative Services        |
| 6. Ms. Roseline Aite Onakuta | - Deputy Director Legislative Services |
| 7. Mr. Lokwee Jacob          | - Principal Clerk Assistant            |

### **C. OFFICE OF THE AUDITOR GENERAL**

- |                   |                        |
|-------------------|------------------------|
| Mr. Mark Gachanja | - Liaison Officer, OAG |
|-------------------|------------------------|

### **D. ETHICS AND ANTI-CORRUPTION COMMISSION**

- |                    |                         |
|--------------------|-------------------------|
| Mr. Patrick Kinoti | - Liaison Officer, EACC |
|--------------------|-------------------------|

### **MIN. NO. SEN/CPICSF/191/2023 PRAYER**

The meeting was called to order by the Chairperson at twenty nine minutes past ten O'clock followed by a word of prayer.

### **MIN. NO. SEN/CPICSF/192/2023 ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Sen. William Kisang, MP and seconded by Sen. Hamida Kibwana Ali, MP, as follows –

1. Prayer
2. Adoption of the Agenda
3. Administration of oath of witness and Tabling of Documents
4. Meeting with Kwale County Executive to consider the Auditor General's Report on the Financial Statements of Kwale Water and Sewerage Company Ltd. For the Financial Years 2018/19, 2019/20 and 2020/21.
5. Any Other Business
6. Date of the Next Meeting and Adjournment

**MIN. NO. SEN/CPICSF/193/2023      ADMINISTRATION OF OATH AND  
TABLING OF DOCUMENTS**

The Hon. Governor of Kwale County took Oath of Witness and tabled the Management responses and supporting documents for the audit reports of Kwale Water and Sewerage Company Ltd. for the Financial Years 2018/19, 2019/20 and 2020/21.

The Office of the Auditor General indicated that the County Government submitted the management responses and supporting annextures for the audit reports of the Kwale Water and Sanitation Company Limited for Financial Years 2018/19, 2019/20 and 2020/21 within the stipulated time and that they had verified the management response.

**MIN. NO. SEN/CPICSF/194/2023      MEETING WITH KWALE COUNTY  
EXECUTIVE TO CONSIDER THE AUDITOR  
GENERAL'S REPORT ON THE FINANCIAL  
STATEMENTS OF KWALE WATER AND  
SEWERAGE COMPANY LTD. FOR THE  
FINANCIAL YEARS 2018/19, 2019/20 AND  
2020/21**

**Consideration of Audit Report for Kwale Water and Sewerage Company Limited  
for Financial Year 2020/21**

| Audit Query                                           | Concern                                                                                          | Observation and Recommendations                                                                                                                                                                                                                                                |
|-------------------------------------------------------|--------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. <b>Unreconciled Variance in Cost of Bulk Water</b> | The variance of Kshs.45784,680 in respect of cost of bulk water was not explained or reconciled. | The Office of the Auditor General (OAG) informed the Committee that the management did not address the query since the financial statement was not reflecting the correct position. The management was directed to make the necessary adjustments to the financial statements. |



|                                                                              |                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                              |                                                                                                                                                                                                                                                                                                                                                                                    | <b>The query remained unresolved.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>2. Lack of Receivables Ageing Analysis</b>                                | The ageing analysis of the trade and other receivables balance of Kshs. 230,942,074 was not provided for audit verification.                                                                                                                                                                                                                                                       | The OAG informed the Committee that the water Company has submitted documents to the satisfaction of the auditor in addressing the query.<br><br>The Committee marked the query as resolved.                                                                                                                                                                                                                                                                                                                 |
| <b>3. Unsupported Trade Payables</b>                                         | Kshs.5, 982,991 owed to Water Services Regulatory Board (WASREB) not supported by bills or a statement from the creditor.<br><br>Kshs.37, 276,860 owed to Coast Water Works Development Agency. However, records maintained by the Agency indicated the balance owed by the Company as Kshs.695, 725,546, resulting in un-reconciled and unexplained variance of Kshs.658, 448,686 | The OAG informed the Committee that that the query remained outstanding as the variances could not be ascertained.<br><br>The Committee directed the management to engage the OAG to reconcile the figures in the query and report to the Committee within 14 days. The query remained unresolved.                                                                                                                                                                                                           |
| <b>4. Unsupported Capital Reserve</b>                                        | The Management did not provide evidence in support of the capital reserve balances Kshs. 36,719,864.                                                                                                                                                                                                                                                                               | The Committee directed the Company to write off the debt subject to the Board's decision and <b>the matter to be reported to the Committee within 14 days.</b><br><br><b>The query was considered resolved.</b>                                                                                                                                                                                                                                                                                              |
| <b>5. Failure to Disclose Material Uncertainty Relating to Going Concern</b> | The Company had an operating loss of Kshs.15,088,834 and a negative working capital of Kshs.75,158,273 an indication that the Company may not be able to settle its obligation as and when they fall due. Management did not disclose the material uncertainty related to going concern or measures taken to mitigate this.                                                        | The Committee noted that 40% of the bulk water produced by Coast Water Agency was consumed by Kwale County whereas 60% was consumed by Mombasa County. However, Coast Water bill 100% to Kwale Water Company. The Committee directed the County Government together with the OAG to engage Coast Water Agency to resolve the matter of Coast Water charging 100% to Kwale water Company for the water that is consumed by Kwale and Mombasa Counties and <b>report back to the Committee within 14 days.</b> |
| <b>6. Unresolved Prior Year Matters</b>                                      | Prior year audit issues remained unresolved as at 30 June, 2021 and the management did not provided reasons for the delay in resolving the prior year audit issues.                                                                                                                                                                                                                | The OAG confirmed that at the time of audit the Certificate on the audited accounts had not been issued to Kwawasco by the office for two years as the office due to transition issues.<br><br>The Committee recommended to the management that going forward considers and addresses issues raised in the draft management letter, as well as                                                                                                                                                               |



|                                                      |                                                                                                                                                                                                                                                                  |  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                      |                                                                                                                                                                                                                                                                  |  | those raised by internal auditors and resolve the audit issues there in.                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>7. Non-Revenue Water</b>                          | Non-revenue water at 62% which is higher than the 25% loss allowable by the Water Service Regulatory Board (WASREB) guidelines.                                                                                                                                  |  | <p>The Management was directed to put in place a comprehensive mitigation plan to reduce the Non-revenue water to within the acceptable threshold. The OAG directed to review the efficacy of the measures and report in the subsequent audit cycle.</p> <p>The query remained unresolved</p>                                                                                                                                                                             |
| <b>8. Non-remittance of statutory deductions</b>     | Management was in breach of the law following unremitted statutory deductions from Board Members' allowances, PAYE and withholding tax.                                                                                                                          |  | <p>The OAG confirmed that remittance of statutory deduction has been resolved as per the payment agreement entered with KRA.</p> <p>However, the auditor is yet to receive bank statements and receipts for verification.</p> <p>The Committee considered the matter resolved subject to submission of supportive evidence of payment of the principle amount of Kshs.15,789,234 and correspondence with KRA seeking waiver of penalties to the OAG for verification.</p> |
| <b>9. Unauthorized Expenditure</b>                   | Management was in breach of the law for the over-expenditure of Kshs.17,166,353 or 8% of the budgeted amount without Board's approval.                                                                                                                           |  | <p>The Committee directed the management to observe strict adherence to the laid down procedures as per the Law in the utilization of funds for activities not factored in the original budget.</p> <p>The query was considered resolved.</p>                                                                                                                                                                                                                             |
| <b>10. Lack of ICT controls and Policy Documents</b> | The ICT internal controls and general IT environment lacked an IT Strategic Committee, IT strategic plan, data back-up, tested emergency procedure and data recovery plan. Further, the ICT Section appeared to be understaffed as it had only one staff member. |  | <p>The OAG confirmed that the management had instituted the ICT department to be in line with the company's strategic and business plan.</p> <p><b>The Committee considered the matter resolved subject to submission of evidence of Board approval to the Committee within 14 days.</b></p>                                                                                                                                                                              |

**Other Interventions and Resolutions**  
The Committee resolved to -

- i. Consider the written management responses of the Auditor General's Reports on the Financial Statements of the Kwale Water and Sewerage Company for the Financial Years 2018/19 and 2019/20 during its report writing; and
- ii. Consider conducting a field visit to Kwale County at future date to verify issues presented in their management responses.

**MIN. NO. SEN/CPICSF/195/2023      ANY OTHER BUSINESS**

The Committee was informed of a letter Ref: TNT/CONF51/07F (50), dated 27<sup>th</sup> March, 2023, received by the Office of the Clerk of the Senate on 28<sup>th</sup> March, 2023, from the Principal Secretary (PS), The National Treasury requesting the Committee to reschedule its meeting that was scheduled for **Friday, 31<sup>st</sup> March, 2023** to **Thursday, 30<sup>th</sup> March, 2023**.

The Committee acceded to the request by the PS, National Treasury and resolved to reschedule the meeting to **Thursday, 30<sup>th</sup> March, 2023** at **8:00 am**.

The Secretariat was tasked to communicate the same to the office of the Controller of budget and the office of the Council of Governors, which had been invited to appear in the same meeting.

**MIN. NO. SEN/CPICSF/196/2023      DATE OF NEXT MEETING & ADJOURNMENT**

The Chairperson adjourned the meeting at twenty-three minutes to two o'clock. The next meeting would be held on Wednesday, 29<sup>th</sup> March, 2023 at 10:00 am.



14/07/2023

**SIGNED: ..... DATE: .....**

**(CHAIRPERSON: SEN. GODFREY ATIENO OSOTSI, MP.)**



### 13<sup>TH</sup> PARLIAMENT 1<sup>ST</sup> SESSION

**MINUTES OF THE EIGHTH SITTING OF THE COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS COMMITTEE TO CONSIDER REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF NYERI WATER AND SANITATION COMPANY LIMITED AND OTHAYA-MUKURWE-INI WATER SERVICES LIMITED FOR FINANCIAL YEARS 2018/19, 2019/20 AND 2020/21 HELD ON WEDNESDAY, 22<sup>ND</sup> NOVEMBER, 2022 AT THE BOARDROOM RED CROSS BUILDING, FIRST FLOOR, PARLIAMENT BUILDINGS AT 10.00 A.M.**

#### **PRESENT**

- |                                     |                      |
|-------------------------------------|----------------------|
| 1. Sen. Godfrey Atieno Osotsi, MP   | - <b>Chairperson</b> |
| 2. Sen. Ledama Olekina, MP          | - Member             |
| 3. Sen. Paul Karungo Thangwa, MP    | - Member             |
| 4. Sen. Eddy Gicheru Oketch, MP     | - Member             |
| 5. Sen. Maureen Tabitha Mutinda, MP | - Member             |
| 6. Sen. Hamida Kibwana Ali, MP      | - Member             |

#### **ABSENT WITH APOLOGY**

- |                                              |                           |
|----------------------------------------------|---------------------------|
| 1. Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP | - <b>Vice-Chairperson</b> |
| 2. Sen. Miraj Abdillahi Abdulrahman, MP      | - Member                  |
| 3. Sen. Murango James Kamau, MP              | - Member                  |

#### **SECRETARIAT**

- |                         |                            |
|-------------------------|----------------------------|
| 1. Mr. Yussuf Shimoy    | - Clerk Assistant II       |
| 2. Mr. David Angwenyi   | - Clerk Assistant II       |
| 3. Mr. Erick Njogu      | - Clerk Assistant III      |
| 4. Ms. Raisa Mwithi     | - Research Officer         |
| 5. Mr. Matano Kataa     | - Research Officer         |
| 6. Mr. Kennedy Owuoth   | - Fiscal Analyst           |
| 7. Mr. Hillary Kipkorir | - Legal counsel            |
| 8. Mr. Josphat Ng'eno   | - Media Relations officer. |
| 9. Ms. Winfred Ocholla  | - Audio officer            |
| 10. Mr. Patrick Ngenoh  | - Procurement officer      |
| 11. Mr. John Pere       | - Serjeant-At-Arms         |



## **IN ATTENDANCE**

### **A. COUNTY GOVERNMENT OF NYERI**

1. Hon. Mutahi Kahiga Mwalimu Edward - Governor, Nyeri County
2. Mr. Fredrick Wanjohi Kinyua - CECM
3. Mr. Patrick M. Karinga - Chairman, NYEWASCO
4. Eng. Peter Kahuthu - NYEWASCO
5. Mr. Francis K. Kiura - Chief Manager Commercial Services
6. Mr. Kimani Rucuiya - County Attorney
7. Mr. Felix Githae - Manager I Audit
8. Ms. Eva Mwangi - Executive Assistant
9. Mr. Robert Thuo - CECM Finance
10. Ms. Keziah Nyambura - Manager, Legal NYEWASCO
11. Ms. Joyce Munira - NYAWESCO
12. Ms. Mercy Gathogo - Snr. Officer Finance
13. Ms. Pauline W. Ndegwa - Chief Officer Water
14. Mr. Moses N. N. Munyi - Managing Director OMWASCO
15. Mr. Arthur Mukira - Chair OMWASCO
16. Mr. Paul Wambugu - Chief of Staff
17. Mr. Peter Ndirangu - Commercial Manager

### **B. OFFICE OF THE AUDITOR GENERAL**

1. Mr. Fredrick Ondiek - Principal Auditor
2. Mr Alex Ndungu - Deputy Director of Audit
3. Mr. David K. Cherono - Director of Audit
4. Mr. Mark Gachanja - Auditor

### **MIN/SEN/CPICSF/53/2022 PRAYER**

The meeting was called to order by the Chairperson at half past ten O'clock followed by a word of prayer.

### **MIN/SEN/CPICSF/54/2022 ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Sen. Eddy Gicheru Oketch, MP and seconded by Sen. Ledama Olekina, MP, as follows –

1. Prayer
2. Adoption of the Agenda
3. Administration of Oath
4. Meeting with the County Executive of Nyeri to consider Reports of the Auditor-General on the financial statements of Nyeri Water and Sanitation Company Limited and Othaya-Mukurwe-ini Water Services Limited for Financial Years 2018/19, 2019/20 and 2020/21
5. Any Other Business

## 6. Date of the Next Meeting and Adjournment

### **MIN/SEN/CPICSF/55/2022**

### **ADMINISTRATION OF OATH**

The Hon. Governor of Nyeri County took Oath of Witness and tabled the Management responses and supporting documents for the audit reports of the Nyeri Water and Sanitation Company Limited and Othaya-Mukurwe-ini Water Services Limited for Financial Years 2018/19, 2019/20 and 2020/21.

The OAG indicated that the county Government made late submissions of management responses and supporting documents for the audit reports of the Nyeri Water and Sanitation Company Limited and Othaya-Mukurwe-ini Water Services Limited for the Financial Years 2018/19, 2019/20 and 2020/21 and thus they had limited time to verify all the responses.

### **MIN/SEN/CPICSF/56/2022**

### **MEETING WITH THE COUNTY EXECUTIVE OF NYERI TO CONSIDER REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF NYERI WATER AND SANITATION COMPANY LIMITED AND OTHAYA-MUKURWE-INI WATER SERVICES LIMITED FOR FINANCIAL YEARS 2018/19, 2019/20 AND 2020/21**

#### **1. Nyeri Water and Sanitation Company Limited**

The following queries were interrogated for the Financial Year 2020/21

| <b>Audit Query</b>                                                     | <b>Concern</b>                                                                                                                                                                                                                    | <b>Observation and Recommendations</b>                                                                                                                                                                                                      |
|------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1. Lack of ownership documents and updated Asset Register.</b>      | Asset Register was not fully updated since some Assets did not have Asset Numbers, Registration of five (5) motor vehicles missing while the Motorcycle registration number KMEK 399N appeared three times in the asset register. | The Office of the auditor General (OAG) had not physically verified the Asset Register.<br>The Committee directed the OAG to verify the Asset register within 14 days from the date of the meeting and provide a status update on the same. |
| <b>2. Unconfirmed provision for doubtful Debts and ageing analysis</b> | Basis for doubtful debts of Kshs. 41,940,699 was not disclosed in the Financial Statement or explained.                                                                                                                           | The OAG, within 14 days from the date of the meeting was directed to verify the ageing analysis for the trade receivables and advise the Committee.                                                                                         |
| <b>3. Unresolved matters prior</b>                                     | Various audit issues remained unresolved as at 30 <sup>th</sup> June, 2021                                                                                                                                                        | The Committee noted that Company had not received OAG Certificates                                                                                                                                                                          |



|                                                                                                           |                                                                                                                                                             |                                                                                                                                                                                                                                                                                                         |
|-----------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                           |                                                                                                                                                             | for the previous two Financial periods due to transition issues at the OAG. The Committee directed the County Government of Nyeri and the OAG to engage and resolve the matter within 14 days from the date of the meeting. OAG to provide a status update on the matter in the subsequent audit cycle. |
| <b>REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE PUBLIC RESOURCES</b>                                     |                                                                                                                                                             |                                                                                                                                                                                                                                                                                                         |
| <b>1. Staff Ethnicity Diversity</b>                                                                       | 96.9% of the employees comprise of one ethnic community contrary to section 7 (1) and (2) of the National Cohesion and Integration Act, 2008.               | The Committee directed the Governor and the Board of Directors to make deliberate efforts to progressively comply with section 7 (1) and (2) of the National Cohesion and Integration Act, 2008 and Section 65(1) (e) of the County Governments Act, 2012 on diversity.                                 |
| <b>2. Non. Compliance with one Third Basic Salary Rule</b>                                                | 31 employees earned net salaries which were less than one third of the Basic Salary contrary to Section 19 (3) of the Employment Act, 2007.                 | The Committee noted that the management had put in place remedial measures and the matter was marked resolved.                                                                                                                                                                                          |
| <b>3. Non-Compliance with the Water Services Regulatory Board (WASREB) Regulations on Personnel Costs</b> | The Company's personnel expenditure stood at 38% of the total expenditure, exceeding the recommended ratio of 30% in accordance with the WASREB guidelines. | The Committee noted that the management made late submission of documents and that they were yet to be verified by the OAG.<br><br>The Committee directed the OAG to verify the documents within 14 days from the date of the meeting and provide a status update.                                      |

**The following queries were interrogated for the Financial Year 2019/20**

| <b>Audit Query</b>                                                                    | <b>Concern</b>                                                                                                                                                                                                                                                                                                           | <b>Observation and Recommendations</b>                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>2. Long Outstanding Trade and other Receivables and amounts due from Directors</b> | The water company had high trade and other receivables balance of Kshs. 237,947,398 as at 30 June, 2020. Included in this balance is an amount of Kshs. 88,234,691.12 in respect of debts which has remained outstanding over a long period of time. Management has not demonstrated efforts made to recover the amount. | The Committee noted that due to late submission of documents by the management, the OAG had not concluded the verification process.<br><br>The Committee noted that the amount of Kshs. 420,000 was paid to Institute of Internal Auditors |



|                                                                                                           |                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                           | An amount of Kshs. 420,000 to the Board of Directors to attend a Board of Audit Committee workshop which did not take place due to Covid-19 restrictions remained unspent and was not surrendered at the time of the audit. | (Kenya) – IIA and thus the matter was resolved.<br><br>The Committee directed that-<br>i. OAG to conclude verification of documents and report to the Committee within fourteen (14) days;<br>ii. The Company to properly profile their customers and strengthen their contracts; and<br>iii. Management to provide the Committee with the HR report on the staffing of the Company.                             |
| <b>3. Non-compliance with the Water Services Regulatory Board (WASREB) Regulations on Personnel Costs</b> | The Company's personnel expenditure stood at 38.6% of the total expenditure, exceeding the recommended ratio of 30% in accordance with the WASREB guidelines.                                                               | The Committee noted that the matter remained outstanding since the management had not demonstrated any intervening measures and that the company's CBA was negotiated before the tariffs were set. The Committee directed the Governor to ensure that the management institutes remedial measure and the OAG to provide a status update in the subsequent audit cycled.<br><br><b>Matter remained unresolved</b> |

## 2. Othaya-Mukurwe-ini Water Services Company

The following queries were interrogated for the Financial Year 2020/21

| Audit Query                           | Concern                                                                                                                                                                                                                                                                                                                                                                          | Observation and Recommendations                                                                                                                                                                                                                                     |
|---------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1. Trade and other Receivables</b> | The had high trade receivables of Kshs. 194,184,277 which was net of provision totaling Kshs. 47,570,540 As similarly reported in the previous year, debts totaling Kshs, 214,182,042 inherited from the National Water and Pipeline Corporation were outstanding for over 8 years as at 30 June. 2021. Further, the gross trade and other receivables balance was not supported | The Committee noted GIS was one of the measures the management intended to use to recover the debts but failed to demonstrate how it would assist in the recovery.<br><br>The Committee directed that Governor to ensure that the management puts in place measures |

|                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                         | with the list of the debtors. Although recoverability of the debts is uncertain, Management's provision for bad and doubtful debts totalling Kshs 47,570,540 appeared inadequate given the large debts balance and the long period of time the debts were outstanding.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | to recover the debts. Further, the Governor to ensure that the water company has a debt management policy to guide how the water company manages its debts.<br><br><b>Matter remained unresolved</b>                                                                                                                                                                                                                                                                                                                                               |
| <b>2. Property, Plant and Equipment</b> | <p>The following anomalies were noted in the Plant, Property and Equipment totalling Kshs 22,921, 161</p> <ul style="list-style-type: none"> <li>i. The fixed asset register did not indicate the estimated useful life and the residual values of the respective assets.</li> <li>ii. The assets were not tagged for identification and verification of their respective locations.</li> <li>iii. The summary of the significant accounting policies at notes 4(d) to the financial statements does not disclose the depreciation rate for water meters and distribution pipelines.</li> <li>iv. The balance includes buildings and water tanks with a book value of Kshs 4,163,211. However, the company did not own the land on which the assets were located and the respective lease agreements or ownership documents for the buildings and the water supply infrastructure were not provided.</li> <li>v. The total asset balance amounting to Kshs. 22,921,160 does not include the value of other water infrastructure owned by the company.</li> </ul> | <p>The Committee noted that ownership of some the company's assets remained unclear as ownership documents were not provided for audit.</p> <p>The Committee directed the Governor to ensure that the water company took full ownership of all its assets in line with the law. The Governor to further ensure that all assets are tagged accordingly and the water company to maintain updated accurate assets register. OAG to provide a status update on the matter in the subsequent audit cycle.</p> <p><b>Matter remained unresolved</b></p> |
| <b>3. Unremitted Lease Fees</b>         | The company deposited the unpaid lease fees in a special account under the County Government of Nyeri though the action was not supported by any legislation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <p>The Committee directed the management of the water company to submit the bank statements of the special account within seven (7) days and give a copy of the same to OAG for verification.</p> <p><b>Matter remained unresolved</b></p>                                                                                                                                                                                                                                                                                                         |
| <b>4. Undisclosed Outstanding Loan</b>  | The water company was a beneficiary of the African Development Bank loan, through                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | The Committee observed that the information submitted by the                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |



|                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                               |
|----------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                          | Tana Water Works Development Agency, under Small Towns, Rural Water Supply and Sanitation Project. However, the loan remained outstanding, and the water company had failed to disclose it in its financial statements.                                                                                                                                                                                                           | management was in adequate and that the matter required more detailed information on the loan and that the same would be reviewed in the subsequent audit cycle.<br><br><b>Matter remained unresolved</b>                                                                                                                     |
| <b>5. Excessive Non-Revenue Water</b>                    | The Water company had non-revenue water 41.19% which is 16.19 percentage points over sector benchmark of 25% in accordance with water Services Regulation Board (WASREB) guidelines.                                                                                                                                                                                                                                              | The Committee noted that the non-revenue water remained high in the period under review. The Committee directed the Governor to ensure that the management of the water company puts in place measure to tackle the non-revenue water. OAG to review the measures and report on their efficacy in the subsequent audit cycle. |
| <b>6. Lack of Ethnic Diversity</b>                       | The Company had ninety-six (96) staff members out of whom, ninety-two (92) or 96% were drawn from the dominant ethnic group in Nyeri County. This was contrary to section 7(2) of the National Cohesion and Integration Act, 2008 which states that no public establishment shall have more than one third of its staff from the same ethnic community. In the circumstances, the management was in breach of the law.            | The management to progressively work towards inclusivity in line with section 7(2) of the National Cohesion and Integration Act, 2008.                                                                                                                                                                                        |
| <b>7. Irregular Expenditure on Kenya Forest Wayleave</b> | Way-leave fees totalling Kshs 414.000 paid to the Kenya forest services (KFS) contrary to section 131(2) of water act 2016. The law provides that a licensed water service provider shall not be required to pay any fees for the of public assets for the provision of water services other than the repayment of loans acquired for the development of those assets. In the circumstances, the management was in breach of Law. | The Committee to review the matter in the matter in the subsequent audit cycle.                                                                                                                                                                                                                                               |

Owing to limited time, the Committee resolved to consider the written response of the audit reports of the Othaya-Mukurwe-ini Water Services Limited for the Financial Years 2018/19 and 2019/20.

**MIN/SEN/CPICSF/57/2022**

**ANY OTHER BUSINESS**

There was no other business.



**MIN/SEN/CPICSF/58/2022**

**DATE OF NEXT MEETING & ADJOURNMENT**

The Chairperson adjourned the meeting at half past two o'clock. The next meeting would be held on Tuesday, 6<sup>th</sup> December, 2022 at 10:00 am.



22/03/2023

**SIGNED: ..... DATE: .....**

**(CHAIRPERSON: SEN. GODFREY ATIENO OSOTSI, MP.)**



### 13<sup>TH</sup> PARLIAMENT 2<sup>ND</sup> SESSION

#### MINUTES OF THE A HUNDRED AND TWENTIETH MEETING OF THE COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS COMMITTEE DURING ITS REPORT WRITING RETREAT HELD ON FRIDAY, 27<sup>TH</sup> OCTOBER, 2023 IN LAKE NAIVASHA SIMBA LODGE, NAKURU COUNTY AT 2.00 P.M.

#### PRESENT

- |                                         |               |
|-----------------------------------------|---------------|
| 1. Sen. Godfrey Atieno Osotsi, MP       | - Chairperson |
| 2. Sen. William Kipkemai Kisang, MP     | - Member      |
| 3. Sen. Eddy Gicheru Oketch, MP         | - Member      |
| 4. Sen. Maureen Tabitha Mutinda, MP     | - Member      |
| 5. Sen. Miraj Abdillahi Abdulrahman, MP | - Member      |
| 6. Sen. Hamida Kibwana Ali, MP          | - Member      |

#### ABSENT WITH APOLOGY

- |                                              |                    |
|----------------------------------------------|--------------------|
| 1. Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP | - Vice-Chairperson |
| 2. Sen. Paul Karungo Thangwa, MP             | - Member           |

#### SECRETARIAT

- |                        |                            |
|------------------------|----------------------------|
| 1. Mr. Yussuf Shimoy   | - Clerk Assistant I        |
| 2. Mr. David Angwenyi  | - Clerk Assistant I        |
| 3. Mr. Erick Njogu     | - Clerk Assistant III      |
| 4. Mr. Godfrey Nyaga   | - Clerk Assistant III      |
| 5. Ms. Lillian Waweru  | - Legal Counsel            |
| 6. Mr. Kennedy Owouth  | - Fiscal Analyst           |
| 7. Mr. Kataa Matano    | - Researcher officer       |
| 8. Ms. Winfred Ocholla | - Audio officer            |
| 9. Mr. Josphat Ng'eno  | - Media Relations Officer. |
| 10. Mr. John Pere      | - Serjeant-At-arms         |

MIN NO. /SEN/CPICSF/721/2023

PRAYER

The meeting was called to order by the Chairperson at two O'clock in the afternoon followed by a word of prayer.

**MIN NO. /SEN/CPICSF/722/2023      ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Sen. Eddy Gicheru Oketch, MP and seconded by Sen. Maureen Tabitha Mutinda, MP, as follows –

1. Prayer
2. Adoption of the Agenda
3. Adoption of the Reports
4. Any Other Business
5. Date of the Next Meeting and Adjournment

**MIN. NO. SEN/CPICSF/723/2023      ADOPTION OF REPORTS.**

The Chairperson indicated that the Committee had finalized consideration of reports of Water Companies of seven (7) counties for the Financial Years 2018/19, 2019/20 and 2020/21 during its retreat held in Safari Park Hotel from 11<sup>th</sup> to 16<sup>th</sup> July, 2023.

The Committee adopted the said reports as follow-

**A. The reports on the Audit Reports of the following County Water Providers for the Financial Year ended 30<sup>th</sup> June, 2021 -**

1. Amatsi Water Service Company Limited for the year ended 30<sup>th</sup> June, 2021, Vihiga County having been proposed by Sen. Miraj Abdillahi Abdulrahman, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.
2. Bomet Water Company Limited for the year ended 30<sup>th</sup> June, 2021, Bomet County having been proposed by Sen. Miraj Abdillahi Abdulrahman, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.
3. Gusii Water and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2021, Kisii and Nyamira Counties having been proposed by Sen. Miraj Abdillahi Abdulrahman, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.
4. Kisumu Water and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2021, Kisumu County having been proposed by Sen. Miraj Abdillahi Abdulrahman, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.
5. Kwale County and Sewerage Company Limited for the year ended 30<sup>th</sup> June, 2021, Kwale County having been proposed by Sen. Miraj Abdillahi Abdulrahman, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.



6. Nyeri Water and Sewerage Company Limited for the year ended 30<sup>th</sup> June, 2021, Nyeri County having been proposed by Sen. Miraj Abdillahi Abdulrahman, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.
7. Wajir Water and Sewerage Company Limited for the year ended 30<sup>th</sup> June, 2021, Wajir County having been proposed by Sen. Miraj Abdillahi Abdulrahman, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.

B. The reports on the Audit Reports of the following County Water Providers for the Financial Year ended 30th June, 2020-

1. Amatsi Water Service Company Limited for the year ended 30<sup>th</sup> June, 2020, Vihiga County having been Proposed by Sen. Eddy Gicheru Oketch, MP and Seconded by Sen. William Kipkemai Kisang, MP respectively.
2. Bomet Water Company Limited for the year ended 30<sup>th</sup> June, 2020, Bomet County having been Proposed by Sen. Eddy Gicheru Oketch, MP and Seconded by Sen. William Kipkemai Kisang, MP respectively.
3. Gusii Water and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2020, Kisii and Nyamira Counties having been Proposed by Sen. Eddy Gicheru Oketch, MP and Seconded by Sen. William Kipkemai Kisang, MP respectively.
4. Kisumu Water and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2020, Kisumu County having been Proposed by Sen. Eddy Gicheru Oketch, MP and Seconded by Sen. William Kipkemai Kisang, MP respectively.
5. Kwale County and Sewerage Company Limited for the year ended 30<sup>th</sup> June, 2020, Kwale County having been Proposed by Sen. Eddy Gicheru Oketch, MP and Seconded by Sen. William Kipkemai Kisang, MP respectively.
6. Nyeri Water and Sewerage Company Limited for the year ended 30<sup>th</sup> June, 2020, Nyeri County having been Proposed by Sen. Eddy Gicheru Oketch, MP and Seconded by Sen. William Kipkemai Kisang, MP respectively.

C. The reports on the Audit Reports of the following County Water Providers for the Financial Year ended 30th June, 2019 -

1. Amatsi Water Service Company Limited for the year ended 30<sup>th</sup> June, 2019, Vihiga County having been Proposed by Sen. William Kipkemai Kisang, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.
2. Bomet Water Company Limited for the year ended 30<sup>th</sup> June, 2019, Bomet County having been Proposed by Sen. William Kipkemai Kisang, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.

3. Gusii Water and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2019, Kisii and Nyamira Counties having been Proposed by Sen. William Kipkemai Kisang, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.
4. Kisumu Water and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2019, Kisumu County having been Proposed by Sen. William Kipkemai Kisang, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.
5. Kwale County and Sewerage Company Limited for the year ended 30<sup>th</sup> June, 2019, Kwale County having been Proposed by Sen. William Kipkemai Kisang, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.
6. Nyeri Water and Sewerage Company Limited for the year ended 30<sup>th</sup> June, 2019, Nyeri County having been Proposed by Sen. William Kipkemai Kisang, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.

**MIN. NO. SEN/CPICSF/724/2023**

**ANY OTHER BUSINESS**

There was no other business.

**MIN. NO. SEN/CPICSF/725/2023**

**DATE OF NEXT MEETING &  
ADJOURNMENT**

The Chairperson adjourned the meeting at half past three o'clock in the evening. The next meeting would be held on Friday, 27<sup>th</sup> October, 2023 at 4:00 pm.



6/11/2023

**SIGNED: ..... DATE: .....**

**(CHAIRPERSON: SEN. GODFREY ATIENO OSOTSI, MP.)**

