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**SPECIAL REPORT**  
OF THE  
**CONTROLLER AND  
AUDITOR-GENERAL**  
ON THE  
**CITY COUNCIL OF NAIROBI**

**MARCH, 1981**

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**OF THE**  
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**MARCH, 1981**

**KENYA NATIONAL ASSEMBLY**

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OFFICE OF THE CONTROLLER AND  
AUDITOR-GENERAL  
P.O. Box 30084, NAIROBI

The Honourable Minister for Local Government,  
Ministry of Local Government,  
Nairobi.

Sir,

**Nairobi City Council**

1. In the Report on the Local Authorities for the two years ended 31st December, 1978, attention was drawn to the Council's inability to collect its debts and to the lack of control over expenditure in that the Council continued to incur expenditure in excess of the approved estimates. The Council's financial position has since then deteriorated to an extent that it is now necessary to issue a special report on the various matters affecting the financial control and administration of the Council. This report is therefore made in accordance with section 27 (1) of the Exchequer and Audit Act (Cap. 412 of the Laws of Kenya).

**General Financial Position**

2. The Council's financial position is very weak, and the Nairobi City Council has been able to continue providing services and meeting its recurrent expenditure on salaries and other items, only by making illegal use of monies earmarked for other purposes such as the Renewals Fund and the Consolidated Loans Fund and, as indicated in the paragraph under General Fund below, by failing to comply with the agreements Council has made with the World Bank, a major provider of funds to the Council for development purposes. Although the Council is well aware of these irregular practices adequate steps have not been taken to improve the situation. Instead, the Council has consistently continued to operate in this irregular manner. To explain how this serious situation has arisen, it is necessary first to consider the following principles:

(a) *Local Government Legislation.*—As is the case of all other local authorities in the country, the City Council is governed

by the Local Government Act (Cap. 265 of the Laws of Kenya). This legislation contains specific provisions with regard to local authority finances and borrowings and matters which can only be dealt with having the approval of the Minister for Local Government. Apart from matters embodied in the legislation, there is, of course, the need for financial prudence to be considered and borne in mind.

(b) *Maintenance of Separate Funds.*—Local authority financing is very much dependent on the idea of separate funding. There is firstly the distinction between capital and revenue. In addition to this, however, the Act refers to particular funds which have been set up and operated by City Council of Nairobi.

(c) *General Fund.*—There is firstly the General Rate Fund which receives income from rates and other services provided by the City Council of Nairobi as for example licensing, City Hall lettings, cleansing, parking meters, etc. It is the income of this fund which is used to provide the services of the City Council, but does not include water and sewerage, where separate accounts are drawn up in accordance with the World Bank requirements. Thus, this fund covers all the day-to-day operations of the Council with the exception of water. These services should be financed with rates income, together with other sundry income and grants from Central Government. This is a self-financing operation and any increase in costs should be covered by a corresponding increase in income.

(d) *Renewals Fund.*—Section 219 (1) provides that a local authority may and, if so directed by the Minister, shall create adequate Renewals Funds to provide for the entire or partial replacement of some or all of its assets, which owing to depreciation or other cause, will require at some later date to be replaced. The section further requires that every local authority pay annually into Renewals Funds such contributions as may be necessary. It also states that pending the application of monies in any Renewals Fund to the purposes

for which such funds have been established the monies in the fund shall (unless applied in any manner authorized by any written law) be invested in trustee securities or in such manner as may be approved by the Minister. The monies held in a Renewals Fund must therefore be held in cash or invested in a limited number of specified securities. In the case of City Council this has not been done and in fact, the money has been completely utilized for other purposes as demonstrated at paragraph 4 below.

(e) *Consolidated Loans Fund.*—Similarly, section 221 of the Act allows a council to establish a Consolidated Loans Fund for the purpose of centralizing all or a part of its transactions. The Act is not, however, specific so far as the investment of the funds is concerned but the Council's own Consolidated Loans Fund Rules specify that the C.L.F. monies must be invested in the same way as the Act specifies for Renewals Funds. Thus the monies must be held in cash or in certain specified securities. These monies have also been used by the City Council to meet its recurrent expenditure.

### **Failure to Comply with the World Bank Agreement**

3. The World Bank is a major lender of monies to the City Council of Nairobi. As part of the borrowing conditions for the funds lent by the World Bank, the City Council has made certain undertakings to the World Bank with regard to the finances of the General Fund. I would refer in particular to the agreement covering the Second Nairobi Water Supply Project which was dated 27th March, 1978. In this agreement the City Council agreed that whilst the General Fund could borrow temporarily monies from the Water Fund, at no time would the amount so borrowed from the fund exceed K.Sh. 8,000,000. As at 31st December, 1979, the borrowing was in fact K.Sh. 12,002,360 and estimated figures recently produced by the City Council, giving a financial position at 31st August, 1980, show that this borrowing had increased by that date to K.Sh. 70,000,000 approximately, or about eight times the

amount agreed with the World Bank. This is extremely unsatisfactory not only because of the World Bank involvement, but also because the Water Department will no doubt require the money for their capital development and those funds no longer exist. It would seem that the only reason why a crisis has not arisen is because the Water Department in fact have short-term deposits of nearly 180 million shillings but the problem is clearly a long-term one and will at some stage be felt.

### Misuse of Fund Monies

4. Although it is essential for monies of the various funds to be invested in trustee securities or in such manner as may be approved by the Minister it is noted that the monies of the various funds are not so invested and have in fact been spent for purposes other than those for which they were created and no longer exist. The Council's Abstract of Accounts for the year ended 31st December, 1979, indicates that the balances of the following funds are held by the General Fund and which should be invested or held in cash:

	<i>K.Sh.</i>
Capital Fund ... ..	13,209,680
Insurance Fund ... ..	3,374,140
Water and Sewerage ... ..	12,002,360
Umoja Housing ... ..	5,333,860
Consolidated Loans Fund ... ..	51,622,280
Renewals Fund ... ..	43,219,820
Housing Development ... ..	(10,690,780)
	<hr/>
K.Sh. ...	118,071,360
	<hr/> <hr/>

Thus it would be expected that the Council's General Fund would be holding cash and investments of at least K.Sh. 118,071,360 in addition to monies required for the day-to-day running of the Council's services. It is, however, noted from the Council's accounts that the Council had only K.Sh. 75,620 in cash and K.Sh. 13,335,860 in investments as at 31st December, 1979, in the General Fund, giving a total of K.Sh. 13,411,480 in cash and investments.

5. This represents about 12.8 per cent of the total balances of K.Sh. 118,071,360 which should actually be held. The balance of K.Sh. 104,659,880 has been totally spent instead of being retained and invested as required by law. Of particular concern is the misuse of the monies in the Consolidated Loans Fund, the Renewals Fund and the Water Fund.

6. The monies in the Consolidated Loans Fund are meant to be used for approved capital investment and also to enable the repayment of the various loans raised by the Council to be made. As regards the Renewals Fund the monies in the Fund are meant for essential replacements of vehicles and other such assets. The Council has been making book entries to build up the renewals fund every year but without any actual monies being set aside and invested. Thus the Council presently has no cash available to make essential replacements of vehicles and other assets necessary for the provision of services to the public although the accounts indicate a balance of K.Sh. 43,219,820 as at 31st December, 1979, on the Renewals Fund. With regard to Water Fund and as stated in paragraph 3 above, the requirements of the World Bank have not been complied with and again as indicated above, when the monies in the fund are eventually required by the Water Department for capital projects they will not actually be available.

### **Council's Financial Practice**

7. To explain where the apparently missing monies, almost K.Sh. 120 million as at 31st December, 1979, have gone, it is necessary to consider the following combination of factors which have been noted during audit:

- (a) The Council has consistently operated its general fund operations on a deficit basis. That is, the Council has been spending more money than it has been receiving and covering up the problem by misusing monies intended for other purposes.
- (b) Capital projects have been embarked upon without first ascertaining that there is sufficient finance for them and as

indicated in paragraph 25 such expenditure amounted to K.Sh. 28,117,900 as at 31st December, 1979.

(c) The Council has not been collecting monies due to it by ratepayers and others to a satisfactory degree, leading to a build-up of debtors' balances. The total of uncollected debts was K.Sh. 129,599,080 as at 31st December, 1979.

### **Deficit Operations**

8. It will be noted from the foregoing that it is necessary to collect sufficient from rates and other sources of income to pay for services provided as otherwise it is not possible to continue those services. For many years now the City Council has been both budgeting for and incurring deficits on its general fund operations without having any finance to pay for those deficits. During the five years ended 31st December, 1979, the Council has incurred an overall deficit totalling K.Sh. 17,780,920 as follows:

<i>Year</i>		<i>K.Sh.</i>	
1975	... ..	8,328,140	deficit
1976	... ..	381,060	surplus
1977	... ..	15,271,560	deficit
1978	... ..	7,276,840	surplus
1979	... ..	1,839,120	deficit

9. The deficits are, however, understated as demonstrated at paragraph 27. Under collections of rates and other debts in the same years were very high as indicated at paragraph 14 below. These deficits occurred at a time when it was necessary to rebuild the finances of the general fund and repay amounts taken from elsewhere. The overall deficit, therefore could only be financed by the misuse of monies from elsewhere, as has been the case. As required under Local Government Act the Council draws up estimates prior to the commencement of each year and should operate on the basis of those estimates. It should be noted that the deficits incurred have been planned and continue to be so planned. In fact deficits in excess of those actually achieved have been budgeted in previous years. The budgeted deficit for the year 1979 was for example K.Sh. 9,264,500, although a deficit of K.Sh. 1,839,120 was eventually achieved. In the final analysis the

Council will not only need to build up surpluses to cover the deficits but also to reinstate the specific funds which have been irregularly used.

10. The fact that a serious situation has arisen which needs to be corrected appears to be known to the City Council. The draft estimates put forward by the City Treasurer in respect of 1980 contained a budgeted deficit of K.Sh. 37,327,000. The revised budget for the same year shows a deficit of K.Sh. 41,036,200. The City Treasurer, in his recommendations accompanying the 1980 budget pointed out that if the budget was adopted as put forward it would result in a serious liquidity crisis for the general fund and therefore recommended the increasing of the general rate by  $2\frac{1}{2}$  per cent. The estimates for the year 1980 as approved by the Minister for Local Government contain an unfinanced deficit of K.Sh. 27,382,600 although because of the difference of the year ends of the Government and the City Council of Nairobi this actually results in a budgeted deficit for the Council of K.Sh. 20,987,880.

11. It should also be noted that although City Council had given an undertaking to the World Bank, as part of its obligations under the lending conditions, to reinstate the consolidated loans fund balance by 31st December, 1979, not only did the Council fail to do this but it is continuing to budget for deficits at an extremely high level.

### Revenue Collection

12. The City Council has been unable to collect amounts due to it for rates and other services to a satisfactory level. The following figures indicate the position:

	<i>Amounts due to General Fund by debtors</i>			
	<i>K.Sh.</i>			
1975	...	...	...	83,933,340
1976	...	...	...	95,866,760
1977	...	...	...	86,916,680
1978	...	...	...	101,561,560
1979	...	...	...	129,599,080

13. Whilst it has not been possible to obtain a comparable figure at the present time figures obtained from the City Council as at 30th September, 1980, for the main debtors totalled K.Sh. 139,732,820. This shows a very considerable deterioration in the position in recent years. The serious nature of this level of debts can be appreciated when cognizance is taken of the fact that the total rates charge, including interest on unpaid rates for the year 1979 was as indicated earlier, K.Sh. 118,207,940. Rates are the major contribution to the income of the City Council of Nairobi.

14. The Council has particularly not been able to collect its debts from various individuals, organizations, Government ministries, Kenya Railways, etc., in respect of rates, rent, water charges, conservancy fees and other debts. As at 30th June, 1979, according to a statement of debts prepared by the Council for the World Bank a sum of K.Sh. 130,938,628.20 was owed to the Council as follows:

<i>Rates</i>	<i>K.Sh.</i>
Kenya Railways ... ..	31,133,047.55
Commissioner of Lands ... ..	23,870,585.50
E.A. Community ... ..	985,408.75
Others ... ..	47,572,583.85
<b>Sub-total</b> ... ..	<b>103,561,625.65</b>

<i>Private Street Works</i>	<i>K.Sh.</i>
Commissioner of Lands ... ..	204,672.45
E.A. Community ... ..	106,280.25
Others ... ..	1,715,273.50
<b>Sub-total</b> ... ..	<b>2,026,226.20</b>

	<i>K.Sh.</i>
Tenant Purchase Schemes ... ..	510,615.10
Housing Loans ... ..	837,149.85
Umoja Tenant Purchase Scheme ... ..	5,336,079.80
Sundry Debtors ... ..	18,666,931.60
<b>Total</b> K.Sh.	<b>130,938,628.20</b>

15. An examination of the breakdown of the above debt by year revealed that there are debts due from as long ago as 1968 and that the debt collection performance has not been particularly impressive. The accounts as at 31st December, 1979, show that the position hardly changed the total debt owed to Council in respect of the above being K.Sh. 129,599,080.

16. The Rating Act enables the Council to issue a legal notice immediately a person fails to pay his rates by the due date, which in recent years has been 15th June in any year. If the rates are not paid within 14 days of that notice City Council can immediately institute court proceedings to secure the payment of the rates and interest thereon. The Rating Act also enables the Council to charge interest on the outstanding rates, the interest charged currently being at the rate of 1 per cent per month on the outstanding rate amount. One further power given to the Council under the Rating Act is that they may require persons renting properties where rates have not been paid to pay over the rents directly to Council until the arrears and interest have been duly paid. The effect of these provisions is to give the Council a considerable advantage in obtaining payment.

17. Despite the very considerable advantage enjoyed by the City Council to enforce collection of rates due, the situation as set out above indicates that the Council has been dilatory in the collection of monies owed to it. The main reason for the accumulation of these very large debts is that the Council is extremely slow in taking proceedings against defaulting ratepayers and this is clearly at variance with the position as expressed by officers of the Council to the effect that the problems in collecting rates are due to delays in courts hearing the cases.

18. In fact during the year 1980 owing to a delay in the submission of Council's estimates to the Ministry of Local Government for approval, the rates demands were not sent out until 10th July, 1980. Ratepayers were given up to 31st July, 1980, to pay the rates without any addition of interest and therefore legal notices should have been sent out on 1st August, 1980, and legal proceedings instituted against defaulters from 15th August, 1980. In the

event, legal notices were not sent out until 2nd September, 1980, owing to delays in the City Council.

19. A test check carried out in October, 1980, to ascertain the action which had been taken against a number of defaulting ratepayers for the year 1980 revealed that no cases had been filed against any defaulters. Similarly a test check carried out on defaulters for the years 1977, 1978 and 1979 revealed that there was a considerable number of defaulters against whom no action of any kind had been taken. Out of twenty-five cases selected at random and checked, no action had been taken on all the cases. The total revenue involved in the twenty-five random cases was K.Sh. 5,765,544.55 as at 31st December, 1979. It is clearly apparent that effective measures, including legal action have not been taken against defaulting ratepayers for many years and these ratepayers may therefore have taken advantage of the situation.

20. As a result, the number of cases to be brought against defaulting ratepayers is now extremely large and demands upon the time of the City Council's legal section and on the courts will therefore be substantial. This is a problem which could in my view, have been avoided if prompt action had been taken against ratepayers some years ago and when the defaults became actionable.

### **Sundry Debtors**

21. The Sundry Debtors figure at 30th September, 1980, stood at K.Sh. 14,390,060. A systematic check on this figure has not been possible in view of the inadequacy of the records maintained. No list of debts outstanding has been produced for a number of years and in fact, the balances do not appear to be carried forward from year to year. No control account has been maintained over a number of years. From the scanty information available however, it was noted that there were material amounts owing to the Council by councillors, ex-councillors and chief officers. A test check of such records as are available indicated the following amounts as owed to Council:

	<i>K.Sh.</i>
Chief Officers ... ..	56,583.95
Councillors ... ..	202,525.10

It was also noted that councillors and chief officers have owed monies to the Council since 1977. These debts comprise amounts incurred for meals, rents of Council houses, telephone calls, etc.

22. It should however, be noted that the large amount of money due to the Council is not the only problem faced by the Council. Even if all the monies due were collected, the financial problems would still continue to be felt so long as the expenditure control remains weak and the practice of spending more than is collectable continues. The failure to collect debts has simply had the effect of considerably compounding and worsening an existing problem.

### **Budgetary Control—Overexpenditure**

23. The Council has over the years been unable to contain its expenditure within the approved estimates. In fact, at 30th September, 1980, there was a considerable number of expense headings where the actual expenditure had already exceeded the provision for the entire year. Examples of those headings on which over-expenditure was noted are:

	<i>Budget for Year K.Sh.</i>	<i>Actual to 30.9.80 K.Sh.</i>	<i>Over- expenditure K.Sh.</i>
City Hall—			
Maintenance of Buildings ...	200,000	317,640	117,640
Cleaning Materials and Laundry ... ..	180,000	281,880	101,880
Uniforms—Restaurant ...	11,200	20,700	9,500
City Inspectorate—Transport ...	180,000	256,420	76,420
ALGAK ... ..	60,000	83,840	23,840
Replacement of Flags ...	10,000	200,520	190,520
Investigation and Disease Control	200,000	2,117,580	1,917,580
Dustbins ... ..	2,100,000	2,971,080	871,080
Transport—Road Reserve Mail	180,000	362,900	182,900
Staff Housing—			
General Maintenance ...	549,600	1,272,860	723,260
City Market—Salaries ... ..	72,200	182,640	126,440
Wholesale Market Salaries ...	395,600	541,780	146,180

It will be noted that there is material overspending on certain codes and bearing in mind that the Council had budgeted for a very large deficit for the year it is a matter for concern that such overexpenditure has taken place. One heading of expenditure which is clearly very much overspent is that for senior staff housing maintenance and this matter is dealt with under paragraph 33 of this report.

### **Unfinanced Capital Outlay**

24. In local authority accounting it is essential that all capital projects have a source of financing available prior to commencement of capital work. The Ministry of Local Government furthermore, insists that finance for any capital project must first be identified before it will give the necessary approval for the capital expenditure.

25. In the case of the City Council of Nairobi, for many years now, there has been a continuing tendency to commence capital projects of a very material nature without the source of the necessary finance first being identified. The only other way such expenditure could be financed by Council would have been by way of revenue contributions from the General Fund if the General Fund was in surplus. But, since deficits have been incurred on this fund, the Council has resorted to illegal use of monies in the Consolidated Loans Fund, the Renewals Fund and the Water Fund, to finance these projects. As at 31st December, 1979, the total expenditure incurred by Council on unfinanced capital outlay was K.Sh. 28,117,896.40 as follows:

	<i>Total Expenditure K.Sh.</i>	<i>Unfinanced Expenditure K.Sh.</i>
<i>Education</i>		
S. of Kenya Primary School ...	930,423.50	433,269.90
Harambee Primary Phase IV ...	231,119.45	206,898.84
4 Rooms Karen Primary School ...	185,075.10	185,075.10
Nairobi River Primary School ...	920,833.85	620,833.85
Thika Road Primary School ...	1,120,923.00	800,923.00

	<i>Total Expenditure K.Sh.</i>	<i>Unfinanced Expenditure K.Sh.</i>
New Mutuini Primary School ...	586,754.65	306,754.65
Mathare Valley Primary School ...	583,585.40	183,585.40
Eastleigh Primary School I ...	484,908.15	84,908.15
Kenyatta College School ...	1,256,038.50	976,038.50
Kibera II Primary School ...	552,423.50	152,423.50
Moi School I for Armed Forces ...	829,520.00	829,520.00
Nairobi River Phase IV ...	756.00	756.00
Gatena New School ...	748.80	748.80
Buru Buru Phase III ...	748.80	748.80
State House Primary School ...	748.80	748.80
Roysambu Primary School ...	748.80	748.80
<i>Public Works</i>		
Link Road—Ngong Road to Aten Road ...	1,766,197.09	1,766,197.09
Realignment of Upper Hill Road ...	13,787.97	13,787.97
Purchase of Parking Metres ...	(4,548.00)	(4,548.00)
<i>Housing</i>		
Sewage Conversion—Makadara II ...	368,974.75	368,974.75
Kariobangi Riverside ...	34,107.65	34,107.65
Kahawa West Survey Works and Contract ...	10,193,215.25	10,193,215.25
Kariobangi Phase IV Building ...	1,113,578.45	1,113,578.45
Kariobangi Phase IV Wiring ...	519,273.79	519,273.79
Kariobangi Phase IV Supervision ...	392,987.52	392,987.52
Harambee Phase II ...	514,741.15	514,741.15
Inspectorate—Housing Dagoretti ...	1,062,286.40	1,062,286.40
Infrastructure—City Park Housing	2,550,716.57	264,127.07
Kawangware—Land Acquisition ...	3,993,999.00	1,452,747.93
Kawangware Surface Market Drainage Construction ...	2,293,927.51	377,314.90
<i>Social Services</i>		
Jogoo Road Market ...	(1,300.00)	(1,300.00)
Quarry Road Market ...	778,666.56	778,666.56
Kariobangi South Market ...	1,302,282.62	1,222,910.63
Ngara Market ...	2,708,367.00	1,458,367.00
Githurai Market ...	1,716,470.00	466,470.00
Kenyatta Hospital Market ...	2,626,463.20	811,976.20
Kahawa Market ...	1,778,050.00	528,050.00

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K.Sh. 28,117,896.40

26. Among the larger items contained under the above heading of unfinanced capital outlay is that for the Kahawa West Housing Scheme where as at 31st December, 1979, a total of K.Sh. 10,193,215 has been spent. As at the time of audit inspection in October, 1980, the expenditure on this project had risen to K.Sh. 19,393,982 all of which had been spent by taking money from various fund accounts since there was no financial arrangement for the project. Clearly expenditure of this level, nearly K.Sh. 20,000,000 is on its own a major factor in causing the cash shortage of nearly K.Sh. 120,000,000 mentioned earlier in this report. It is understood that the eventual source of finance for this scheme is to be a loan from the National Housing Corporation but so far no amounts have been released by the National Housing Corporation to date. Until such time as this question is resolved the City Council is financing the entire scheme out of monies from elsewhere namely, Consolidated Loans Fund, Renewals Fund and water monies, thereby acting both illegally and against agreements made with the World Bank. Another very major problem concerning the unfinanced outlay relates to the various markets currently being constructed. In view of other irregularities concerning this development reference is made to it in greater detail at paragraph 28 (a) of this report.

### **Overstatement of Assets**

27. As indicated at paragraph 8 above the Council has been incurring deficits for a number of years, when no cash was available to finance those deficits. The deficits included in the accounts of the Council fail to take into account a number of important items of expenditure and are therefore understated. There are three main factors which have led to this situation namely—

- (a) failure to make provisions for bad debts;
- (b) carrying forward of unrecovered expenditure under the heading "Holding Accounts"; and
- (c) failure to write off or make provisions for major overstatements in stores balances.

Thus :

(a) *Bad Debts.*—The Council's Sundry Debtors stood at K.Sh. 18,665,126.80 as at 30th June, 1979, as reflected in the Council's Statement of Debts provided to the World Bank. The figure mainly consists of very small balances, a large number of which have been outstanding for many years and are considered irrecoverable. As stated earlier a systematic check on this figure, however, has not been possible mainly because of the inadequacy of the records maintained. No list of debts maintained has been produced for a number of years and in fact the balances are not carried forward from year to year. No control account has been maintained for a number of years. The Council has, however, not carried out any review of its debtors since 1975 so as to provide for the doubtful element which would have had the effect of reducing any surpluses or increasing any deficit. The bad debts provision of K.Sh. 6,353,220 contained in the accounts as at 31st December, 1979, has been unchanged since 1975 and is very inadequate. Failure to make provision for doubtful debts or write off the irrecoverable debts has resulted in the Council's deficits being considerably understated.

(b) *Holding Accounts.*—Another item contained in the balance sheet of the City Council of Nairobi is the figure for "Holding Accounts". This relates to amounts spent on rechargeable items where those costs should have been passed on to other headings, either revenue or capital. As at 31st December, 1979, the total of such items was K.Sh. 4,238,660. This amount relates to such items as the transport depot, the asphalt plant and uncharged salaries. All the costs of these operations should have been charged on to other user departments either for the purpose of revenue expenditure or capital project. In some cases as for example the asphalt plant, the costs of the operation should have been recovered through charges to third parties for goods supplied to them. Thus this item has accumulated

through failure to charge the correct amounts to users and the balance on the account, which has been carried forward as an asset, has therefore in fact no value. Consequently, the deficits of the City Council of Nairobi have been understated as some part of this balance should have been charged to expenditure items and activities over the years.

(c) *Stores Balances.*—In the previous two reports to Parliament on the Local Authorities, for periods ended 31st December, 1976 and 1978, attention was drawn to the unsatisfactory manner in which the Council's medical and general stores records were maintained and particularly to discrepancies between balances reflected on the bin cards and those on the computer tabulations which should normally agree. This unsatisfactory situation still persists and has led to an overstatement of the stores balances on the Council's accounts which at 31st December, 1979, were shown as K.Sh. 23,082,840. Added to this was a suspense account figure of K.Sh. 7,332,540 relating to the deficiency on stores accounts giving a total of K.Sh. 34,415,380. Since these stores balances are materially overstated therefore, the balance sheet of the Council contains overstated stores balances which should, more properly have been written off to various expenditure heads. The deficits incurred are understated by the amounts which should have been written off.

### **Specific Irregularities**

28. It will be observed from the foregoing that the City Council has very little latitude with regard to operations in that it operates on a budget it is unable to balance. Wastage should therefore be avoided by Council at all costs. Audit examinations have however revealed that monies are wasted through failure to follow laid-down procedures with regard to awarding of contracts or through inability to work within available means. Cases of malpractice have also been noted. These are:

(a) *Umoja Housing Project and Markets.*—An examination of the items contained in the figure of K.Sh. 28,117,896.40 for

unfinanced capital outlay referred to at paragraph 25 above indicated that heavy expenditure has been incurred on the construction of markets in Nairobi for which no funds were available. As at 30th June, 1980, heavy excess expenditure had been incurred on the following contracts:

Contract No.	Contract	Contractor	Tendered	Cost to
			amount	date
			K.Sh.	K.Sh.
PD 2/78	85 Additional Units	Danny Construction ...	4,860,773	10,255,030
PD 1/77	Low Cost Market	Danny Construction ...	563,380	3,056,960
PD/7/2/1/76	547 Housing Units	Coronation Builders ...	16,986,932	23,499,700

Further examination of these contracts revealed the following irregularities:

- (i) *Contract No. PD 2/78.*—This contract was entered into for the construction of 85 additional units of type 1 houses. Tenders were called for the contract and were considered by the Tender Committee meeting held on 11th September, 1978. The lowest tenderer was Messrs. Danny Construction in the sum of K.Sh. 4,860,773.55 and the firm was accordingly awarded the contract. It is, however, noted that the expenditure cost charged against the contract was K.Sh. 10,255,030 as at October, 1980. Furthermore, the entire cost so charged is actually in relation to 170 additional units of type 3 houses. I have not seen any minutes of any committee authorizing the construction of 170 additional units. The rationale for the variation of the contract to cover this type of houses and slot the cost thereof into a contract for the construction of a different size and type of houses has not been explained. The Umoja Housing Estate Committee meeting held on 9th November, 1978, merely resolved that the additional houses, without specifying the number, should be of type 3 and that the Town Clerk and the Project Director be authorized to issue a variation order to this effect. There is no mention of the additional

expenditure involved and neither were additional tenders called for, nor was the tender procedure waived, the matter merely being dealt with by means of a variation order which was approved without the amount involved being mentioned in the minutes. Furthermore the internal audit section who maintain the contract records do not appear, even at this time, to be aware of the revised contract price.

- (ii) *Contract No. PD 1/77.*—With regard to Contract No. PD 1/77 this was originally in respect of 36 stalls and two eating houses comprising a low cost market for the estate. Tenders were called for and considered at a Tender Committee meeting held on 21st November, 1977. The lowest tenderer was again Danny Construction in the sum of K.Sh. 563,380. However, it has been noted that the cost was K.Sh. 3,056,960 as at October, 1980. The situation is similar to that in relation to the contract mentioned above. At a meeting of the Umoja Committee held on 6th April, 1978, it was agreed that the number of stalls and eating houses be increased from 36 and 2 to 306 and 7 respectively. No revised price is mentioned in the minutes of this meeting. This recommendation was approved by the Tender Committee at a meeting held on 10th April, 1978, when it was agreed that a variation order be given to the present contractor based on current prices. However, again no cost figure is mentioned in the minutes. The matter was next considered at the Finance Committee Meeting held on 19th April, 1978, when it was agreed that the contract value be revised from the original of K.Sh. 563,380 for the 36 stalls and 2 eating houses to K.Sh. 3,185,180 for the 306 and 7 units respectively. Tender procedures were neither utilized nor waived and in this case, a 465 per cent increase in the expenditure on the contract was dealt with by way of a variation order rather than by way of a new contract.

(iii) *Contract No. PD/7/2/1/76.*—This contract was originally in relation to 547 housing units and tenders for it were considered at a Tender Committee Meeting held on 6th December, 1976. The lowest tenderer at that time was Messrs. Coronation Builders Limited in the sum of K.Sh. 16,986,932. However, the total expenditure reflected against this contract was K.Sh. 23,499,700 as at October, 1980. As in the contracts mentioned above, the number of units being constructed was increased from 547 to 887 units by way of variation order and a similar situation as in the case of the above contracts pertains with regard to this contract. The matter was considered at a Finance Committee Meeting held on 21st September, 1977, at which the project director reported that there would be a saving of K.Sh. 10 million, the reasons for which are not specified, and which could be used to construct a further 340 houses. He sought approval to let the same contractor do the work. Although at this meeting the Treasurer's Department challenged both the K.Sh. 10 million saving and also the granting of a variation order, suggesting that tenders be called for, the committee approved the issuance of a variation order. Again whilst it was agreed that the variation should be on the basis of the existing contract, the amount of additional expenditure involved is not mentioned in the minutes of the committee. The letter sent by the Town Clerk to the contractor does not also mention any figure for additional cost and the internal audit section who are responsible for maintaining contract records have so far not been notified of the contract amount. So far, a total of K.Sh. 6,512,768 has been paid over and above the original contract amount against the variation order.

(b) *Other Construction Contracts:*

(i) In addition to the Umoja Housing Estate contracts Messrs. Danny Construction were also awarded other

contracts elsewhere in Nairobi. These were dealt with at a Finance Committee Meeting held on 19th October, 1978, when the Umoja Project Director suggested that other markets be constructed at Ngara, Kenyatta National Hospital and Githurai and that the construction of such markets be on the same basis as the terms and conditions in contract PD 1/77. This was approved and the Town Clerk was authorized to issue a letter of offer to the contractors. Subsequent correspondence on the matter has not been made available for audit and it has not therefore been possible to ascertain how the matter was dealt with.

(ii) Subsequent to this, at a Finance Committee meeting held on 8th December, 1978, the construction of a further market at Kahawa was recommended by the Project Director, again recommending Danny Construction on the same basis as the other markets. This was approved but again no figure is mentioned. The total cost for the construction of these markets as at 31st October, 1980, was K.Sh. 23,151,960 made up as follows:

	<i>K.Sh.</i>
Ngara ... ..	3,895,000
Kenyatta National Hospital ... ..	4,513,000
Githurai ... ..	4,207,000
Kahawa ... ..	4,564,000
Umoja ... ..	3,056,960
Electrical Works (all markets) ... ..	2,916,000
	<hr/>
	K.Sh. 23,151,960
	<hr/>

29. Thus in the case of all these contracts substantial amount of capital expenditure was committed without following tender procedures, without authority to waive them specifically being given and without first identifying the source of finance. Whilst all of them were approved by the Finance Committee this was done without any contract amounts being mentioned except in the case of the Finance Committee Meeting of 19th April, 1978, relating

to Contract No. PD 1/77 for K.Sh. 563,380 but where the cost was K.Sh. 3,056,960 as at 31st October, 1980. It should be noted, however, that the minutes being referred to, i.e. those from Umoja Estate Committee dated 6th April, 1978, did not refer to this amount. As indicated above, the Internal Audit Section responsible for maintaining the contract records and ensuring that no overpayment is made, are unaware of the contract amounts involved in nearly all the cases.

30. With regard to the financing of the construction of the markets it is noted that the only finance available was from I.C.D.C in the sum of K.Sh. 5 million, which loan has not yet been released to the Council. As at the date of audit in October, 1980, the invoices received from the contractor totalled K.Sh. 23,151,960. Thus the Council has committed itself to expenditure of K.Sh. 18,151,960 for which no funds are available. I have been unable to ascertain how it is anticipated that this operation will be financed and although the City Council anticipates that deposits will be received from stall holders, these will be nowhere near the project finance required. As at the date of audit in October, 1980, the deposits received totalled K.Sh. 564,487, mainly from the Kenyatta Hospital Market.

31. The markets and the Umoja Scheme therefore involve the following unsatisfactory situations:

- (a) Improper and irregular awarding of contracts.
- (b) The authorization of very heavy expenditure without specifying the contract amounts and apparently without any knowledge of the costs thereon.
- (c) Entering into capital commitments without any finance being available therefor. Total expenditure as at 31st October, 1979, on the project was K.Sh. 23,151,960.

### **Revenue Expenditure**

32. The unsatisfactory state of affairs also prevails with regard to items of revenue expenditure as exemplified by:

(a) *Purchase of street lamps.*—An examination of the contract for the purchase of sodium lamps for street lights revealed that:

(i) In 1979 the City Council requested tenders for the purchase of 5,000 sodium lamps for replacement of street lamps. The lowest tender was that of Zahir Associates who quoted a price of K.Sh. 220 for each of the 5,000 lamps requested for. This quotation was accepted and the tender awarded at a Committee Meeting held on 21st January, 1980, and the acceptance thereof communicated to the supplier on 11th February, 1980.

(ii) An order for 2,000 lamps was then placed with the successful tenderer on 26th March, 1980. When the supplier received the order for the 2,000 lamps, he immediately wrote back noting they required that 60 per cent of the 5,000 be ordered immediately. At the date of issuing of the Local Purchase Order, the Council already had in stock a total of 3,306 lamps against a maximum stock level of 2,000. It is noted that the City Council were at that time using an average of 2,419 lamps per annum. As sufficient bulbs were therefore already held in stock it would have been expected that the matter would be left at this point and the contract allowed to lapse. However, fresh invitations to tender were put out and advertised in a daily newspaper on 24th April, 1980, and the quotations received, opened on 28th April, 1980. The cheapest quotations were from an organization known as Nayala Stores and from another supplier Impexo Enterprises, who both gave quotations of K.Sh. 260 per bulb.

(iii) As it is necessary for prospective suppliers to provide a bond to the City Council, a bond was provided by one of the cheapest tenderers, Messrs. Impexo Enterprises but was not provided by the other equally cheap tenderer, Messrs. Nayala Stores. This, notwithstanding, the contract for the supply of the 5,000 bulbs was

awarded to the Nayala Stores, even though they did not provide the necessary performance bond. From the documents available, the Nayala Stores is owned by a former Councillor of the City Council of Nairobi.

- (iv) A Local Purchase Order was then issued to Nayala Stores for the supply of 500 lamps at K.Sh. 260 each and these were received between 15th May, 1980, and 4th June, 1980. The Council did not order any more lamps from Nayala Stores. Consequently the firm wrote to the Minister for Local Government requesting his assistance in ensuring that the lamps were ordered. His letter was passed on to the City Council by the Minister requesting that the order be made for the balance. The number of street light bulbs held at the time of placing the new order as stated earlier was 1,306 over and above the maximum number of 2,000 bulbs and their value was K.Sh. 287,320.

It is therefore, clear that the City Council had no need to order sodium lamps at the time they put out the tenders and bought the lamps because they already possessed more than were permitted to be held under their own guide-lines and the stock already held was sufficient to provide for usage for an entire year. This apart, it is not understood why an order for the lamps was made under an earlier cheaper contract, then cancelled and a quotation accepted for a price which was 18 per cent in excess of that available elsewhere, from an organization which was not even able to provide the performance bond.

### **Senior Staff Housing Maintenance**

33. As indicated in paragraph 23 above, there was substantial overexpenditure on the maintenance for Senior Staff Housing item at 30th September, 1980. Although the approved estimate for the whole year ending 31st December, 1980, was K.Sh. 549,600 total expenditure charged to the allocation was K.Sh. 1,272,860 as at 30th September, 1980. Thus, the allocation was as of this date overspent by K.Sh. 723,260 or some 131 per cent in the first three

months of the year. A request for an analysis of this expenditure showing the breakdown of the expenditure incurred on each house affected has been made and is awaited. An examination of a number of related payment vouchers has, however, indicated that a substantial part of this expenditure relates to a house on Isaac Gathanju Road in Lavington area. The house is referred to as "Mayoral House" on the vouchers which have been seen. Preliminary information which is available indicates that the total expenditure on this house is in excess of K.Sh. 679,000. It would appear that not all the expenditure incurred on the house has been charged to the Senior Staff Housing maintenance code as some 870 tiles ordered from Messrs. Clayworks Ltd. by the Council on 17th November, 1980, with the order being marked "Mayor's Civic House", has been charged to the account of "Celebrations".

### Cars for Chief Officers

34. During the year 1978 the Council purchased eight cars for its Chief Officers at a total cost of K.Sh. 1,472,120 as follows:

					K.Sh.
Town Clerk	...	Mercedes Benz 230 Saloon KRZ 997	V 3001	...	287,640
City Treasurer	...	Volvo 244GL 1.9 Saloon KVP 553	V 3002	...	172,830
City Engineer	...	Volvo 244GL 1.9 Saloon KVN 400	V 3003	...	172,830
Medical Officer of Health	... ..	Volvo 244GL 1.9 Saloon KVA 230	V 3004	...	147,500
Director Housing Development	...	Volvo 244GL 1.9 Saloon KVP 554	V 3005	...	172,830
Director, Social Services and Housing	... ..	Volvo 244GL 1.9 Saloon KVP 551	V 3006	...	172,830
City Education Officer	... ..	Volvo 244GL 1.9 Saloon KVP 555	V 3007	...	172,830
General Manager W & S Department		Volvo 244GL 1.9 Saloon KVP 552	X 9405	...	172,830
					<hr style="width: 100%; border: 0.5px solid black;"/>
					K.Sh. 1,472,120
					<hr style="width: 100%; border: 0.5px solid black;"/>

In addition to the eight Chief Officers' cars which were bought, a Mercedes 250 (KRY 540) was purchased for K.Sh. 369,461 for use by the Deputy Mayor.

35. The method used to buy the vehicles was highly irregular in that:

- (a) Finance Committee minutes quoted as having authorized the purchase of the vehicles are less than informative but they in any case do not authorize the purchase of the vehicles which have now been bought much less their allocation for use by the chief officers.
- (b) The minutes authorize replacement of departmental service vehicles such as the City Inspectorate, Family Welfare Section and unspecified unroadworthy vehicles in the Engineer's Department. Although the vehicles are described as "replacements" in the minutes of the Council the vehicles being replaced are either not specified or are not similar in any way to the ones which have been bought much less the use to which they have been put.
- (c) The amounts approved have been exceeded in two cases (although the costs were stated as being approximate).
- (d) Normal tender procedures were not followed and, except in one case, they were not waived.
- (e) CT1 forms were not available in accordance with normal procedures.
- (f) Whilst the cars were to be used purely on official Council duties the necessary records have not been maintained to ensure that this is the case.

The vehicles have been allocated to and used exclusively by the chief officers with the running expenses of the vehicles including petrol being met by Council. I have not been informed of the criteria used for the allocation of the vehicles for private use by the chief officers.

36. The Permanent Secretary for Local Government subsequently confirmed to the Town Clerk that the eight vehicles purchased for chief officers and that for the Deputy Mayor were irregularly acquired and without the consent of the Minister. None of them was a true replacement of another vehicle and in any

case the Ministry has not allowed chief officers of Council to have official personal vehicles. The Permanent Secretary for the Ministry however stated that the Minister had "kindly agreed to ratify the acquisition of all these vehicles thereby eliminating the possibilities of surcharges" but had directed that all these vehicles must be put in the Council's pool of vehicles. The vehicles were to bear council pool numbers and "operated strictly on work tickets" and "be used for transporting chief officers and their deputies on official duties which will not include transporting an officer to and from his house". From such scanty information as has been available it is clear that the vehicles have been and continue to be used for private journeys and as personal vehicles of the chief officers.

### **Hire of Vehicles—Anti-Cholera Campaign**

37. When during 1980 the City of Nairobi experienced a Cholera outbreak, the Finance Committee met on 16th April, 1980, and authorized the Medical Officer of Health to hire vehicles for the campaign and pay overtime to the work-force involved, and in addition recruit 505 casual workers. The committee did not, however, specify the amount of expenditure to be incurred although the total amount available for the year was only K.Sh. 200,000.

38. While it is appreciated that an emergency situation had arisen and it was therefore necessary to act with speed and that it might not, under the circumstances, be possible therefore to observe all the rules applicable to the operations of Local Authorities, it is unsatisfactory to note that no subsequent meeting of the Council was held to consider the financial implications of the Cholera outbreak and the financing thereof. In the event the cost of the hire of vehicles alone was K.Sh. 1,746,378 as at October, 1980. No evidence for the request of quotations has been seen. Some of the vehicles were hired on the basis of an amount *per diem* while others were hired on the basis of mileage travelled by them. No record of the usage of the vehicles was however kept by the Council and initially, no mileage sheets were produced by the hirers in support of the invoices submitted to Council and it was not until the City Treasurer insisted that they be so prepared

and produced that the log sheets started to accompany the invoices. It was subsequently determined that many of the vehicles concerned were not insured for hiring to third parties even though some of the hirers were charging K.Sh. 900 per day. Subsequently on the initiative of the City Treasurer's Department a reduction of the charges was obtained from some of the hirers.

39. Generally, apart from the fact that there was little co-ordination and liaison between the City Treasurer's Department and the City's Department of Health, the Council was in problems with regard to the payment of the very large sums involved because there was no source of finance for the payments and the Council did not meet to give guidance. Consequently a number of the suppliers of the vehicles were not paid promptly.

#### **Procurement of Drugs and Dressings for Medical Stores**

40. An audit review of the reports issued by the Council Internal Audit Section revealed that in February, 1977, the Council's Internal Audit Department carried out an investigation into the control of drugs and dressings during the period 1975-1976. Their report indicates that there were irregularities in the purchasing procedure of drugs and dressings. Apart from the fact that drugs were noted to have been bought without following tender procedure, many tenders were observed to have been accepted from firms which had not quoted lowest. Messrs. Assia Pharmaceuticals Ltd. featured prominently among the firms whose tenders were accepted even though they were not the lowest. The acceptance of tenders other than the lowest resulted in the Council having to pay K.Sh. 1,770,910 more than they would have paid if they had awarded one Contract No. PO/15/75 to the lowest tenderers. Out of this overpayment K.Sh. 699,552.50 was paid to Messrs. Assia Pharmaceuticals Ltd. Similarly on Contract No. PO/4/76 the Council paid K.Sh. 1,273,509.20 more than would have been the case had the items bought been supplied by the lowest tenderers.

41. Reasons given for not accepting the lowest tenders vary but one of the main reasons quoted for not accepting the lowest tenders was non-availability of samples. Further it was noted that although an officer of Council was apparently connected with

Assia Pharmaceuticals Ltd. he did not appear to have declared to Council his interest in the firm as required by Local Government Regulations. It is, however, significant that purchases from the firm ceased soon after the matter was raised by the Council Internal Auditors and the company apparently ceased to operate thereafter.

42. An audit review of the situation prevailing during 1977 and 1978 was carried out in 1979. It was noted that the major contract for the supply of drugs and dressings during 1977 was Contract No. PO/6/77 and that for 1978 was Contract No. PO/9/78. In awarding both these contracts, it was observed that a number of tenders which were not the lowest were accepted.

43. In the case of Contract No. PO/6/77, these tenders were accepted at a meeting held on 29th June, 1977, subject to the approval of the Minister. At a subsequent Tender Committee meeting held on 10th October, 1977, it was reported that it had been established that in accordance with specifications the tenders accepted in the earlier meeting were in fact the lowest. The Medical Officer of Health then recommended that the items be accepted and they were so accepted.

44. Test checks carried out on both contracts however revealed that tenders were accepted which were not the lowest for no apparent reason. In the case of Item 2 of Contract PO/6/77 for example, the drug in question was Antacid/Flatulent/indigestion mixture 8,000 two-litre bottles. It was noted that Elys Chemical Industries had tendered at K.Sh. 14 a bottle which would have made the total value of the tender K.Sh. 112,000 with a delivery period of three weeks. The tender accepted was, however, that for Anpi Pharma who had quoted K.Sh. 46/50 a bottle, and therefore a total of K.Sh. 372,000 for the 8,000 bottles, with a delivery period of 16 to 18 weeks.

45. The incidence of tenders under Contract PO/9/78 accepted from Anpi Pharma when they were not the lowest tenderers, is very high. At times, their delivery period was longer than that of

the lowest tenderers. Total saving to Council under this contract had the lowest tenders been accepted would have been K.Sh. 460,850 arrived at as follows:

Item No.	Description	Lowest Tendered Anpi Pharma	
		Price K.Sh.	Price K.Sh.
3	Chlordiazepoxide/Clinidium Bromide Tablets	148,000	187,500
4	Belladonna/Phenbarbitone Tablets .. ..	20,000	25,500
16	Lavamisole 40 mg tablets .. .. .	24,000	59,550
30	Probenacid 50 mg tablets .. .. .	8,320	11,300
63	Ampicilin 25 mg capsules .. .. .	28,000	32,500
78	Sulphadimidin .. .. .	75,000	75,000
85	Chloroquin Tablets 200 mg tablets .. ..	157,500	157,500
93	Multivitamin Tablets A, B, C and D .. ..	7,880	10,000
108	Cough Suppressant for Children .. .. .	140,000	335,000
117	Antibiotic Corticosteroid Skin Ointment 15 mg	35,400	51,750
190	Autoclave Tape .. .. .	22,500	33,750
192	Disposable Blood Recipient .. .. .	9,000	12,000
228	Surgical Gloves BPC 7" .. .. .	28,500	56,250
229	Surgical Gloves BPC 7½" .. .. .	28,500	56,250
269	Tetanus Toxoid single dose vial .. .. .	25,900	115,500
	Total .. .. .	758,500	1,219,350
	Difference .. .. .	460,850	

46. To summarize, the position has been noted to be as follows:

- (a) The City Council of Nairobi has only been able to continue operations by illegally diverting funds which were intended for other purposes. They have also broken agreements made with the World Bank in relation to the provisions of monies for water development in Nairobi.
- (b) A total of almost K.Sh. 120,000,000 had been so diverted as at 31st December, 1979, and an audit check carried out in October, 1980, indicated that the position continued to deteriorate during the year 1980. Although it is clear that such a state of affairs cannot be continued without causing great harm to Council and that it is necessary to reinstate the various funds which have been irregularly used, the Council has continued to budget for deficits which has

resulted in further withdrawals of funds from the various sources, without making any effort to reinstate the funds.

- (c) The deficits which have been incurred by the City Council of Nairobi are in fact greater than those disclosed in the accounts in that inadequate provision has been made for bad debts, and balances properly chargeable to user departments have been carried forward and stores balances which are known to be overstated have been carried forward at incorrect levels.
- (d) Although during 1980 the Council budgeted for a very substantial deficit substantial overexpenditure was incurred on various items.
- (e) Capital projects have been entered into without any finance being available to pay for them with the total expenditure on such projects standing at K.Sh. 28,117,896.40 at 31st December, 1979.
- (f) Losses have been incurred through failing to follow proper tender procedures and by ordering goods not required.
- (g) It is imperative that the Council re-examine and streamline its financial control systems to ensure that the resources that are available are used to the best advantage avoiding waste and extravagance.

I should be grateful if you would take action in accordance with section 27 (2) of the Exchequer and Audit Act (Cap. 412 of the Laws of Kenya).

I have the honour to be,  
Sir,

Your obedient servant,

D. G. NJOROGE,  
*Controller and Auditor-General.*

Dated the 5th March, 1981.