

Rt. Hon. Speaker

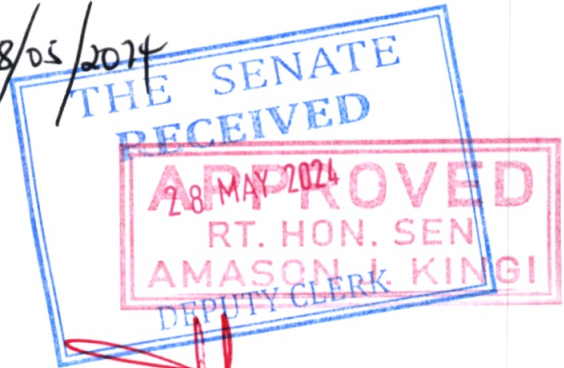
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REPUBLIC OF KENYA



THE SENATE

THIRTEENTH PARLIAMENT - THIRD SESSION



28/05/24

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Recommended for
approval for tabling

28/05/2024

**REPORT OF THE SELECT COMMITTEE ON COUNTY PUBLIC INVESTMENTS
AND SPECIAL FUNDS ON THE CONSIDERATION OF THE AUDIT REPORTS OF
THE FOLLOWING COUNTY WATER SERVICE PROVIDERS FOR THE
FINANCIAL YEAR 2019/2020 (1st JULY, 2019 TO 30th JUNE, 2020):**

NO.	WATER COMPANY	COUNTY
1.	BUSIA WATER AND SEWERAGE SERVICES COMPANY LIMITED	BUSIA
2.	ITEN-TAMBACH WATER AND SEWERAGE COMPANY LIMITED	ELGEYO-MARAKWET
3.	KIRINYAGA WATER AND SANITATION COMPANY LIMITED	KIRINYAGA
4.	MALINDI WATER AND SEWERAGE COMPANY LIMITED	KILIFI
5.	MANDERA WATER AND SEWERAGE COMPANY LIMITED	MANDERA
6.	MIGORI WATER AND SANITATION COMPANY LIMITED	MIGORI
7.	MOMBASA WATER AND SANITATION COMPANY LIMITED	MOMBASA
8.	NANYUKI WATER AND SANITATION COMPANY LIMITED	LAIKIPIA
9.	NITHI WATER AND SANITATION COMPANY LIMITED	THARAKA NITHI

VOLUME V

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

DATE	29/5/2024
TABLED BY	Sen. Kiragu
COMMITTEE	CIPIC
CLERK AT THE TABLE	Angela

DC-EG
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28/05/2024
April, 2024

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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
WRA	- Water Resources Authority
WSP	- Water Service Provider

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 | - Chairperson |
| 2. Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP | - 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 | |

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. Sharon Rotino | - Research Officer |
| 9. Ms. Linet Aseka | - Research Officer III |
| 10. Ms. Raisa Mwithi | - Research Officer III |
| 11. Mr. Martin Mulandi | - Research Officer III |
| 12. Mr. Josphat Ng'enh | - Media Relations officer. |
| 13. Ms. Winfred Ocholla | - Audio officer |
| 14. Mr. Patrick Ngenoh | - Procurement officer |
| 15. Mr. Josphat Ng'enh | - Media Relations Officer. |
| 16. Mr. John Pere | - Serjent-at-arms |

ESTABLISHMENT OF THE COMMITTEE

Hon. Speaker,

The Committee was first constituted on 19th 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 12th 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 2019/2020 (1st July, 2019 to 30th June, 2020) 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 2019/2020.

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 is a record of the audit queries raised in the report of the Auditor-General for Busia Water and Sewerage Company Limited for the Financial Year 2019/20 and observations and recommendations of the Committee on each audit query.

CHAPTER TWO is a record of the audit queries raised in the report of the Auditor-General for Iten-Tambach Water and Sewerage Company Limited for the Financial Year 2019/20 and observations and recommendations of the Committee on each audit query.

CHAPTER THREE is a record of the audit queries raised in the report of the Auditor-General for Kirinyaga Water and Sanitation Company Limited for the Financial Year 2019/20 and observations and recommendations of the Committee on each audit query.

CHAPTER FOUR is a record of the audit queries raised in the report of the Auditor-General for Malindi Water and Sewerage Company Limited for the Financial Year 2019/20 and observations and recommendations of the Committee on each audit query.

CHAPTER FIVE is a record of the audit queries raised in the report of the Auditor-General for Mandera Water and Sewerage Company Limited for the Financial Year 2019/20 and observations and recommendations of the Committee on each audit query.

CHAPTER SIX is a record of the audit queries raised in the report of the Auditor-General for Migori Water and Sanitation Company Limited for the Financial Year 2019/20 and observations and recommendations of the Committee on each audit query.

CHAPTER SEVEN is a record of the audit queries raised in the report of the Auditor-General for Mombasa Water and Sanitation Company Limited for the Financial Year 2019/20 and observations and recommendations of the Committee on each audit query.

CHAPTER EIGHT is a record of the audit queries raised in the report of the Auditor-General for Nanyuki Water and Sanitation Company Limited for the Financial Year 2019/20 and observations and recommendations of the Committee on each audit query.

CHAPTER NINE is a record of the audit queries raised in the report of the Auditor-General for Nithi Water and Sanitation Company Limited for the Financial Year 2019/20 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 Busia Water and Sewerage Company Limited and Kirinyaga Water and Sanitation Company Limited had levels of Non-Revenue Water as high as 54% and 60% respectively in the Financial Year 2019/20.
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, Cap.412B 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, Cap.7N 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 Governments Act, Cap.265 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 Iten-Tambach Water and Sewerage Company Limited had all 49 (100%) of their staff originating from the dominant 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, Cap.197, the Pensions Act, Cap.189 and the Income Tax Act, Cap.470 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, Cap.372. 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, Cap.412A, Public Audit Act, Public Finance Management (County Government) Regulations, 2015, the Water Act, the Companies Act, Cap.486, the Income Tax Act, the Retirement Benefits Act, the Pensions Act, the County Government Act, the Accountants Act, Cap.531 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. **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.

12. **Multiple Levies** – The Committee observed that County Water Service Providers were subjected to multiple water sector levies including-

- i. A 4% regulatory levy on billed revenue, paid to the Water Services Regulatory Board (WASREB);
- ii. Water User Charges of Kshs. 5 per cubic metre of water consumed exclusive of donation sold, paid to Water Resources Authority (WRA);
- iii. A further 5% of the Water User Charges as Conservation fees paid to WRA; and
- iv. Effluent discharge fees which are 80% of Kshs. 0.3 per cubic metre of water sold, paid to WRA.

These levies negatively affected the Water Companies' financial viability thus, putting them at risk of an inability to continue and operate as a going concern. The Committee further noted that these levies were consequently transferred to the consumers through the increment of water prices.

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 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.
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. 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 and Section 65(1) (e) of the County Governments Act 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.

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, the Retirement Benefits Act and the Pensions Act. 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.
9. The Board and accounting officers of the water companies to strictly adhere to the relevant laws such as the Public Finance Management Act, the Public Audit Act, the Public Finance Management (County Government) Regulations, 2015, the Water Act, the Accountants Act, the Companies Act, the Income Tax Act, the Employment Act, Cap.226, the Pensions Act, the Retirement Benefits Act 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 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 Auditor-General within 60 days from the adoption of this report.

12. The Ministry of Water, Sanitation and Irrigation should review the existing policies and regulations related to levies of water companies with the aim of streamlining and harmonizing them.

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:

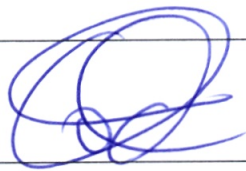
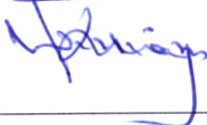
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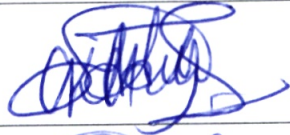
HON. SEN. GODFREY ATIENO OSOTSI, MP
CHAIRPERSON

ADOPTION OF THE REPORT OF THE SENATE SELECT COMMITTEE ON COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS ON THE CONSIDERATION OF THE AUDIT REPORTS OF NINE COUNTY WATER SERVICE PROVIDERS FOR THE FINANCIAL YEAR 2019/2020

NO.	WATER COMPANY	COUNTY
1.	BUSIA WATER AND SEWERAGE SERVICES COMPANY LIMITED	BUSIA
2.	ITEN-TAMBACH WATER AND SEWERAGE COMPANY LIMITED	ELGEYO-MARAKWET
3.	KIRINYAGA WATER AND SANITATION COMPANY LIMITED	KIRINYAGA
4.	MALINDI WATER AND SEWERAGE COMPANY LIMITED	KILIFI
5.	MANDERA WATER AND SEWERAGE COMPANY LIMITED	MANDERA
6.	MIGORI WATER AND SANITATION COMPANY LIMITED	MIGORI
7.	MOMBASA WATER AND SANITATION COMPANY LIMITED	MOMBASA
8.	NANYUKI WATER AND SANITATION COMPANY LIMITED	LAIKIPIA
9.	NITHI WATER AND SANITATION COMPANY LIMITED	THARAKA NITHI

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 (<i>Chairperson</i>)	
2.	Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP (<i>Vice-Chairperson</i>)	
3.	Sen. William Kipkemai 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	

CHAPTER ONE

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR BUSIA WATER AND SEWERAGE COMPANY LIMITED FOR THE FINANCIAL YEAR 2019/2020

The Governor of Busia County, Hon. Dr. Paul Nyongesa Otuoma E.G.H, appeared before the Committee on Thursday 8th June, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor-General on Financial Statements for Busia Water and Sewerage Company Limited for the Financial Year 2019/2020. He was accompanied by-

- | | | |
|------|----------------------|---------------------------|
| i. | Mr. Arthur Odera | - Deputy Governor |
| ii. | Ms. Topister Wanyama | - CECM Finance |
| iii. | Mr. Erick Nakitari | - MD BUWASSCO |
| iv. | Mr. Gypsum Wajala | - Chief Officer – Finance |

The Busia Water and Sewerage Company Limited is wholly owned by the Busia County Government.

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered an **adverse opinion** on the financial statements of Busia Water and Sewerage Company Limited for the period under review on the following basis-

1. Property, Plant, and Equipment

The statement of financial position as at 30 June, 2020 reflects as balance of Kshs.698,102 under property, plant and equipment which was however, not supported by an up to date asset register indicating the nature, dates of acquisition, cost, unique identification number, current value and current location contrary to Regulation 136(1) of the Public Finance Management(County Government) Regulation, 2015 which provides that the Accounting Officer should be responsible for maintaining a register of assets under his or her control.

Further, and as disclosed in note 13 to the financial statements that land and buildings were excluded in the property plant and equipment movement schedule because they belong to the County Government of Busia. However, the ownership of the land and buildings could not be determined in the absence of supporting documentation. In addition, the service provision agreement signed between Lake Victoria North Water Service Board and the Company on the hand over notes of assets and liabilities did not specify the land sizes and valuation on which various water schemes under Busia Water Company operate from.

In the circumstances, the accuracy, completeness and ownership of the property, plant and equipment with the net book value of Ksh 698,102 as at 30 June,2020 could not be confirmed.

Management Response

The management agrees with the audit observations on the lack of Asset Register, however, it has since developed a template of asset register and availed for audit verification. but a certified asset register will be developed after valuation has been carried out by a registered valuer in the next financial year

Committee Observations

The Committee observed that the query remains unresolved from financial year 2018/19 as-

- i. The management failed to provide an updated fixed asset register and ownership documents to the Auditor-General for audit verification in contravention of section 9(1)(e) of the Public Audit Act.
- ii. The service provision agreement signed between Lake Victoria North Water Service Board and the company, on hand over of assets and liabilities, did not specify the land sizes and valuation on which various water schemes under Busia water Company operate.

Committee Recommendations

The Committee recommends that-

- i. **the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9 (1) (e) of the Public Audit Act, Cap.412B, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62 (2) of the Public Audit Act, Cap.412B;**
- ii. **The Governor should engage The Intergovernmental Relations Technical Committee (IGRTC) to ensure that the process of transfer of all assets and liabilities is completed in a timely manner;**
- iii. **The Board of Directors and management to engage Lake Victoria North Water Works Development Authority (LVNWWDA) with the aim of completing the transfer of ownership and provide a status update to the Senate within 60 days from the adoption of this report; and**
- iv. **the Accounting Officer ensures that the water company maintains an up-to-date asset register in the format prescribed by the Public Sector Accounting Standards Board (PSASB).**

2. Trade and other receivables

2.1 Variance in Trade and Other receivables

The statements of financial position reflect a balance of Kshs. 77,524,111 under trade and other receivables. However, the schedules provided for audit review reflects a balance of Kshs. 68,268,111, resulting to an unexplained variance of Kshs.9,256,000. Further, the trade and other receivables balance of Kshs.77,524,111 differ with the balance of 76,724,111 reflected in the corresponding Note 15 to the financial statements, resulting to an unreconciled variance of Kshs. 800,000.

Consequently, the accuracy and completeness of trade and other receivable balance of Kshs.77,524,111 could not be confirmed.

Management response

The management would like to state that it agrees with the audit observations and that the Kshs.68,268,111 was erroneous and has since been replaced with the corrected Kshs.77,524,111. The notes to the financial statements have since been amended and reflect the accurate receivables balances. The errors have been noted and the corrected note 15a, has been attached. Prior year adjustments will be effected in the financial 2022/2023.

Committee Observations

The Committee observed that the query remains unresolved as the variances of Kshs.9,256,000 and Kshs. 800,000 in the trade and other receivables balance within the company's financial statements were errors for which prior year adjustments are yet to be included in the subsequent year's financial statements.

Committee Recommendations

The Committee recommends that-

- i. the Accounting Officer undertakes the necessary reconciliations and submits evidence of the same to the Auditor-General for verification. The Auditor-General to provide a status update on the matter in the subsequent audit cycle;**
- ii. the Accounting Officer should enhance the capacity of officers preparing financial statements to comply with the accounting standards and should prioritize investments in technology and processes aimed at minimizing inaccuracies during preparation of financial statements;**
- iii. the Accounting Officer should strengthen internal audit controls and ensure proper record keeping;**
- iv. the Accounting Officer to take appropriate administrative action on the officers within the Accounts and Finance department who failed to keep complete financial records in accordance with their terms and conditions of**

appointment or employment and as required by the Accountants Act, 2008; and

- v. the water company keeps financial and other records that are accurate, reliable, complete and ensure adherence to accounting standards prescribed by the Public Sector Accounting Standards Board (PSASB).**

3. Bank and Cash Balances

The bank and cash balances figure of Kshs. 3,566,876 reflected in the financial statements under note 16 to the financial statements includes Kshs. 1,440,770 being a closing balance of customer deposits held at the Kenya Commercial Bank Deposit, account number 1266120025. However, the bank balance of Kshs. 1,440,770 was not supported with the certificate of bank balance and bank reconciliation statement as at 30 June 2020.

Further, and as previously reported, the statement of cash flows revealed inaccuracies in changes in the working capital which were used in computing the net cash from operating activities leading to misstatements in the comparative cash and bank balances of Kshs. 603,968

Under the circumstances, the accuracy of the reported bank and cash balance of Kshs. 3,566,876 as at 30 June, 2020 could not be confirmed.

Management response

The management hereby avails the corrected cash flow statements reflecting the correct figure in prior year adjustments. In addition, the comparative of cash and bank balances, bank reconciliations, statements of the balances to the above Kenya Commercial Bank accounts and certificate of bank balance have been availed for audit verification

Committee Observations

The Committee observed that-

- i. The management failed to provide a certificate of bank balance and a bank reconciliation statement to support the closing balance of customer deposits, totaling to Kshs. 1,440,770, held at the Kenya Commercial Bank during the audit period;
- ii. There were inaccuracies in the changes of working capital which led to misstatements in the comparative cash and bank balances of Kshs. 603,968.
- iii. The management has since provided the certificate of bank balance to the Auditor-General and corrected the statement of cash flows, however, the adjustments have not been incorporated in the revised financial statements.

Committee Recommendations

The Committee recommends that-

- i. the Accounting Officer incorporates the corrected the statement of cash flows into the revised financial statements and submits the same to the Auditor-General for verification within 60 days from the adoption of this report;**
- ii. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9 (1) (e) of the Public Audit Act, Cap.412B, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62 (2) of the Public Audit Act, Cap.412B;**
- iii. the Accounting Officer undertakes the necessary reconciliations and submits evidence of the same to the Auditor-General for verification. The Auditor-General to provide a status update of the same in the subsequent audit cycle; and**
- iv. the Water Company keeps financial and other records that are accurate, reliable, complete and ensure adherence to accounting standards prescribed by the Public Sector Accounting Standards Board (PSASB).**

4. Trade and other payables-Unsupported Customer Deposits

The statement of financial position reflects a balance of Kshs. 81,847,183 under trade and other payables which, as disclosed in note 17 to the financial statements includes a balance brought forward of Kshs.8,588,755 in respect of customer deposits. However, supporting schedule and

third party confirmation were not provided for audit review. Further review of the creditors ageing analysis revealed that creditors amounting to 8,188,609 had been outstanding for a period of over ninety days. Under the circumstance, the accuracy of customer deposits of Kshs. 8,588,755 as at 30 June ,2020 could not be confirmed.

Management response

The amount of customer deposits balance brought forward of Kshs 8,588,755 includes the amounts from the defunct Kakamega-Busia Water Supply and by extension National Water whose documentation cannot be traced. We supported the deposits of the periods July 2016-june 2017, July 2017 June 2018 and July 2018 to June 2019 and balancing figure is attributed to the defunct Kakamega Busia Water Supply

Total customer deposits as at 30 June 2019	8,588,755
Deposits for period July 2016-june 2017	1,682,720

Deposits for period July 2017-June 2018	1,352,550
Deposits for period July 2018-June 2019	599,500
Customers refunds for period July 2018-June 2019	-27,000
Deposit from Previous Kakamega	4,980,985
Total deposits	8,588,755

Committee Observations

The Committee observed that the query remains unresolved from financial year 2018/19 as-

- i. the management failed to provide schedules and third-party confirmations to support the customer deposits brought forward balance of Kshs. 8,588,755.
- ii. some of the customer deposit schedules were from the defunct Kakamega-Busia Water Supply and could not be traced.
- iii. the company had long outstanding trade payables totaling to Kshs. 8,188,609, which had been outstanding for more than 90 days.

Committee Recommendations

The Committee recommends that-

- i. **the Accounting Officer submits a complete schedule to support the customer deposits balance of Kshs. 8,588,755 to the Auditor-General within 60 days from the adoption of this report. Furthermore, where originals could not be traced, the Accounting Officer to undertake reconstruction of the necessary financial documents to support the aforementioned amount;**
- ii. **the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9 (1) (e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62 (2) of the Public Audit Act;**
- iii. **the Governor engages The Intergovernmental Relations Technical Committee (IGRTC) to ensure that the process of transfer of all assets and liabilities is completed in a timely manner; and**
- iv. **the Accounting Officer to engage the respective the creditors of the long outstanding trade payables with the aim of developing a payment plan in order to clear the outstanding balances and file a report on the same with the Auditor-General within 60 days of the adoption of this report. The**

Auditor-General to provide a status update on the matter in the subsequent audit cycle.

5. Unsupported Share Capital

The share capital balance of Kshs.100,000 reflected in the statement of financial position was not supported with register of share certificates.

Under the circumstance, the shareholding of the company and the accuracy of the reported balance of Ksh 100,0000 could not be confirmed.

Management responses

The management wishes to state that it agrees with the audit observation the share certificate was not availed as it could not be traced at the time of the Audit. The management has since availed the memorandum of association and articles of association of Busia Water and Sewerage Services Company Limited which has details of shareholding. Currently the management through Chief Executive Committee member convened a meeting with shareholders to revert all the shares which were owned by individual shareholders to ensure that the company is fully owned by the County Government of Busia.

Committee Observations

The Committee observed that the query remains unresolved as the management was yet to secure a register of share certificates to support the share capital balance of Kshs.100,000 reflected in the company's statement of financial position during the audit period.

Committee Recommendations

The Committee recommends that-

- i. the Managing Director to provide copies of share certificates, as well as, an updated CR12 to the Auditor-General within 60 days from the adoption of this report; and**
- ii. the Governor takes immediate measures to ensure that Busia Water and Sewerage Company Limited is fully owned by the Busia County Government and is registered in line with the law.**

6. Statement of Cash flows

The statement of cash flow reflects a balance of Ksh 6,114,753 being cash generated from operation. However, an amount of Ksh 602,192 described as customer adjustment during the year was not supported or explained.

Under the circumstance, the accuracy of the statement of cash flows for the year ended 30, June 2020 could not be confirmed.

Management response

The management agrees with the audit observations. The Customer adjustments of Ksh 602, 192 relates to non-cash adjustment as a result of customer bill adjustment due to wrong billing which has effects on the opening balance of receivables at the beginning of the year. The Company has since installed a new billing system which mitigates against such errors.

Committee Observations

The Committee observed that the query remains unresolved as the company's cashflow statement included an amount of Kshs. 602,192 described as a customer adjustment which was an error due to wrong billing that was yet to be corrected.

Committee Recommendations

The Committee recommends that-

- i. the Accounting Officer undertakes the necessary reconciliations, adjustments and submits evidence of the same to the Auditor-General for verification within 60 days from the adoption of this report. The Auditor-General to provide a status update of the same in the subsequent audit cycle;**
- ii. the Accounting Officer to take appropriate administrative action on the officers within the Accounts and Finance department who fails to keep complete financial records in accordance with their terms and conditions of appointment or employment and as required by the Accountants Act, 2008;**
- iii. the Accounting Officer should comply with section 149 (2) (b) of the Public Finance Management Act, Cap.412A and section 47 (2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records;**
- iv. the Accounting Officer should strengthen internal audit controls and ensure proper record keeping;**
- v. the Accounting Officer should enhance the capacity of officers preparing financial statements to comply with the accounting standards and should further invest in technology and processes that reduce inaccuracies in the preparation of financial statements.**

7. Lack Trial Balance

A trial balance should be generated at the end of an accounting period prior to the creation of the financial statements to allow the management check and identify possible book keeping errors and make necessary adjustments to the financial statements. However, during audit, it was noted that the company did not prepare a trial balance making it difficult to determine the accuracy of the figures in the financial statements.

In the circumstances, the account balances reported in the financial statements may not be fairly stated.

Management response

The Company uses quick book accounting software which provides reports inclusive of a trial balance at the end of the financial year as a basis of preparation of financial statements. The management hereby avails the trial balance for audit verification.

Committee Observations

The Committee observed that the management submitted a trial balance to the Auditor-General for verification, thus the matter was resolved.

Committee Recommendations

The Committee recommends that-

- i. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9 (1) (e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62 (2) of the Public Audit Act; and**
- ii. Noting the mitigation measures taken by the company, the Committee recommends that the matter be marked as resolved.**

Other Matter

Budget control and Performance

The company had a revenue of Kshs.84,319,295 against actual receipt of Kshs.62,982,767 representing an overall under collection of 21,336,828 or 25%. Further, the Company spent a total Kshs.62,063,034 against a budget of Kshs.97,732,871 representing an under expenditure of Kshs.35,669,837 or 37% of the budget. The under collection and under expenditures affected the planned activities and may have impacted negatively on service delivery to the residents of Busia

Management Response

The COVID-19 effects negatively impacted on Water sales as institutions and businesses had closed down. The management has since developed debt management policy which provides guidelines on how to manage our debts and improve on our collection efficiency which will in the long run improve our revenue collection thus meeting our yearly planned activities to run smoothly. Some of the debt recovery methods include the following;

- i. Disconnections of overdue accounts
- ii. Sending of demand notices
- iii. Taking legal action against the defaulters
- iv. Engagement of a debt collection agency

Committee Observations

The Committee observed that the query remains unresolved as-

- i. The company had a revenue shortfall amounting to Kshs. 21,336,828 as a result of unrealistic budgeting and poor planning.
- ii. The company failed to absorb 37% (Kshs. 35,669,837) of its budget at the end of the financial year which may have negatively impacted service delivery to the public.

Committee Recommendations

The Committee recommends that-

- i. **The accounting officer to adhere to Section 42(1) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures; and**
- ii. **the Board of Directors should institute proper and realistic budget planning as well as measures to enhance its own generated revenue, such as review of tariffs, connection of more customers and automation to address revenue leakages. The Auditor-General to confirm the effectiveness of the mitigating measures put in the water company and report in the subsequent audit cycle.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229(6) of the Constitution, based on the audit procedures performed by the Auditor-General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way—

1. Non – Revenue Water

During the financial year under review, the Company produced volume of water totaling 1,330,371 cubic meters, out of which only 606,447 cubic meters was billed to customers, leaving a balance of 723,924 (or about 54%) of the total volume of water

produced as Non-Revenue Water (NRW), Which is 29% over and above the allowable 25% set by Water Services Regulatory Board Guidelines. The non-revenue water of 54% resulted in a loss of sales estimated at Kshs.17,609,895. The significant level of non-revenue water has a negative impact on the company profitability and its ability to sustain services. No evidence was provided of any efforts by the company to address the situation.

Management response

The management wishes to state that it is in agreement with the Auditor's observation that the non -revenue water (NRW) has a negative impact on the company profitability and its ability to sustain services. The high NRW is as a result of:

- (i) Old and dilapidated water infrastructure which requires a lot of financial investment before they can be efficiently utilized.
- (ii) Frequent Bursts and leaks which remain a routine challenge on a month-to-month basis.
- (iii) Stuck and defective water meters which require replacement and frequent meter servicing exercises.
- (iv) Unmetered, illegal and meter by-passes by some of our customers which increases the volumes of water being lost on a month-to-month basis

The company's strategy is to invest more in metering its consumers, repair kit and monitoring of its pipeline network so as to reduce the NRW and improve on revenue generation.

The management has embarked on projects which are expected to significantly reduce non-revenue water to the Water Sector Regulation Board (WASREB) sector bench mark of 25%. These include:

- **New billing system and Smart meter reading** - the company through support of Kenya Towns Sustainable Water Supply and Sanitation Program and Lake Victoria North Water Works Agencies is currently implementing an Enterprise Resource Planning (E.R.P) & Customer Relation Management (CRM) system. This will enhance reduction in commercial non-revenue water since meter reading is going to be done using smart phones which will be GPS enabled.
- **Increase metering ratio-** WASREB requires all Water Service Providers (WSP) to be at 100% metering ratio. The Company has been able to write proposals to partners including Kenya Market Trust (KMT). The partner has come in hand and supported the Company with 300 cold water meters which are already installed and 400 meters have been delivered to the company and are currently being installed. The partner has also trained the Company staff on best practices of NRW management. Metering

is key in reduction of commercial NRW for the company to be able to attain the set benchmark of 25%.

- **Smart metering-** The company has also engaged other experts and partners i.e. Liason, Go soft Africa and Pay go team who are currently carrying out pilots on smart metering in a bid to cut down on NRW. This is being realized through trainings, data analysis, and installation of smart metering technologies.

Committee Observations

The Committee observed that the query remains unresolved as the Non-Revenue water for the company was at 54% which was 29% above the sector benchmark of 25% as set out in WASREB guidelines. However, the water company has made some efforts to reduce the NRW arising from commercial and physical losses.

Committee Recommendations

The Committee recommends that-

- i. the Accounting Officer should put in place comprehensive measures to mitigate on the Non-Revenue Water, that is, both physical and commercial losses. The measures to include replacement of old age dilapidated infrastructure, installation of smart meters for accurate billing and the application of Geographical Information System (GIS) to receive real-time data for the detection of bursts and leakages among other measures. The Auditor-General to review the implementation of the measures put in place to mitigate the Non-Revenue Water and provide a status update on the matter in the subsequent audit cycle; and**
- ii. the County Government to collaborate with the Ethics and Anti-Corruption Commission to ensure pre-emptive measures are put place to reduce cases of theft and illegal connections.**

2. Water Charge Tariffs

The Company last reviewed the water tariffs in 2012, This contravened section 72 (1) (b) of the Water Act of 2016, which requires that the Regulatory Board should evaluate and recommend water and sewerage tariffs to the county water services providers and approve the imposition of such tariffs in line with consumer protection standards. Lack of review of the water charge tariffs may lead to low returns which may affect the operations of the Company.

Further, the company tariff expired in 2018 and no explanation was provided for the delay in obtaining approval for a new tariff from the water services regulatory Board (WASREB). This is contract to section 72 (c) of the water Act, 2016 which requires that WASREB should set license conditions and accredit water services providers. Consequently, the Company Management was in breach of the law.

Management response

The management wishes to state that it is in agreement with the audit observation that lack of review of the water charge tariffs may lead to low returns which may affect the operations of the Company. The management has since applied to the Water Services Regulatory Board (WASREB) for a tariff review.

Committee Observations

The Committee observed that the query remains unresolved as-

- i. Contrary to section 72 (l) (b) of the Water Act of 2016, the Company last reviewed their tariffs in 2012, which led to low returns thus affecting the operations of the company.
- ii. The management failed to obtain approval for a new tariff from the Water Services Regulatory Board (WASREB) after expiry of their tariff in 2018 contrary to section 72 (c) of the water Act, 2016 which requires that WASREB should set license conditions and accredit water services providers.

Committee Recommendations

The committee recommends that-

- i. **The Board and Managing Director of the water company ensure strict compliance with the provisions of section 85(1) of the Water Act, 2016 on water charge tariffs; and**
- ii. **The Accounting Officer engages WASREB to fast-track the approval of a new water tariff and provide a status update within 60 days from the adoption of this report.**

3. Unapproved Transfer from Customers Deposit

During the financial year under audit, an amount of Kshs.650,000 was drawn from Co-operative deposit bank account no. 01141237264002 and transferred to KCB account. However, approval by the board for the transfer from the customer deposit account was not provided for audit review. Further, as it was previously reported that an amount of Kshs.1,513,613 from customers' deposits was transferred to the company's expenditure account for daily operations without the approval of the Board and has not been refunded to date. No explanation was provided on why the amount totaling Kshs. 2,163,613 has not been refunded.

Management response

The management agrees with the audit observations. The management would like to clarify that the cash transfer from Cooperative Bank of Kenya Account number

01141237264002 to a newly opened Kenya Commercial Bank Account number 1266120025 were being used to hold customer deposits paid during new connection applications. The amount of Kshs. 650,000 mentioned above were never loaned to the company but are held in the newly opened KCB deposit bank account. The management commits to refund the Kshs.1,513,613 transferred from customers' deposits account to the company's expenditure account for daily operations.

Committee Observations

The Committee observed that the query remains outstanding as-

- i. customer deposits amounting to Kshs.1,513,613 were transferred to the company's expenditure account for daily operations without the approval of the Board and was yet to be refunded as at the time of audit.
- ii. the management failed to provide the Board's approval for the transfer of Kshs.650,000 from the Co-operative customer deposit account to a KCB account during the audit period. However, the management clarified that the KCB bank account is a newly opened deposit bank account and submitted evidence of the same to the Auditor-General.

Committee Recommendations

The Committee recommends that-

- i. the Accounting Officer should, within 30 days of the adoption of this report, submit to the Committee and the Auditor-General a repayment plan with clear timelines for the repayment of the customer deposits;
- ii. the Board of Directors should put in place a Customer Deposits Management Policy to guide how the water company can access, utilize and refund the money within specified timelines. Further, the Accounting Officer should ensure that there is full disclosure to the water company's customers on the utilization of the deposits; and
- iii. the Accounting Officer should ensure that all customer deposits are deposited in a fixed/call account whose access to the management is limited and where the accrued interests can be used to offset the bank charges. Management to submit evidence of the same to the Auditor-General within 14 days of the adoption of this report for verification.

4. Non-Compliance with the law on Fiscal Responsibility-Wage bill

Review of the personnel emoluments revealed that the staff cost of ksh 32,131,682 was fifty-eight (58%) of the total revenue amount Ksh.55,623,869. This was contrary to Section 25(1)(b) of the Public Finance Management (County Governments)

Regulation, 2015 which limits the wage bill to thirty-five percent (35%) of the total revenue.

Consequently, the Company was in breach of law.

Management response

The management wishes to state that it is in agreement with the Auditor's observation that the wage bill is above thirty -five percent (35%) of the total revenue.

The management would like to state that the basis of computing allocation of staff cost was based on total revenue projections of Ksh 84,319,295 and the actual staff cost was Kshs 32,131,682, which was 38%, which surpassed the recommended 35% by 3%.

This is attributed to the high non-revenue water which reduces the revenue.

The management would like to state that the company is improving its revenue base by:

1. Reduction of non-revenue water
2. Engaging other water sector development agencies which include the County Government of Busia, Lake Victoria North Water Works Development Agency, Ministry of water, Water Sector Trust Fund among others to provide funds for development and implementation of economically viable water projects that will increase the company's revenue base.
3. Application of tariff review.

These improvements in revenue generation will ensure that staff costs are reduced to the required sector benchmark of 35%.

Committee Observations

The Committee observed that the query remains unresolved from financial year 2018/19 as the company incurred an expenditure of Kshs. 32,131,682 (about 58% of the company's total revenue) on compensation of employees during the year under review in contravention of section 25(1)(b) of the Public Finance Management (County Governments) Regulation, 2015 which limits the wage bill to thirty-five percent (35%) of the total revenue.

Committee Recommendations

The Committee recommends that the Company adheres with the provisions of regulation 25(1) of the Public Finance management (County Government) Regulations, 2015 which limits the wage bill to thirty-five percent (35%) of the total revenue and establish a lean staff complement.

5. Unremitted Statutory Deduction and Penalties

The statement of financial position reflects a balance of Ksh 81,047,183 under trade and other payables which, as disclosed in Note 17 to the financial statement, includes an amount of Ksh 21,075,588 in respect of unremitted statutory deductions and penalties as details below.

Item	Amount (Kshs.)
LVN Staff welfare loans	544,425
Ukulima Sacco Society	1,252,461
Wevarsity Sacco Society	148,917
LAPTRUST	14,838,722
Co-operative Bank of Kenya	3,427,392
NHIF Penalties	803,300
PAYE Penalties	60,371
Sub Total	863,671
Grand Total	21,075,588

No explanation on why the deduction and penalties were not remitted to the respective bodies.

Management response

The management wishes to state that it agrees with the audit observation of not having remitted statutory deductions. This was caused by the Company's underperformance in revenue collection hence being unable to meet all its obligations when they fall due.

The management is working on improving its revenue generation and minimizing its operation and maintenance costs so as to be able to meet its obligations. Its doing so based on the four Goals of its five-year strategic plan (2020/21 – 2024/25) namely;

1. Water and Sewerage Infrastructure Development
2. Operational Efficiency and Customer Service
3. Financial Sustainability
4. Institutional Capacity Strengthening

The strategy aims at attaining commercial viability through;

1. Maximizing of revenue generation and
2. Minimizing of the operation and maintenance (O & M) costs.

The increase in revenue to be achieved through;

1. Steady water supply
2. Reduction of non-Revenue water,

3. Increased water connections and
4. Improved billing and collections,

While reduction in O & M costs to be achieved through;

1. Solarization of pumping schemes (Reduction in KPLC bills),
2. Revival of Boreholes (Reduction in cost of water treatment) and
3. Development of gravity water supplies (requires no pumping).

The company will continue to engage other water sector development agencies which include the County Government of Busia, Lake Victoria North Water Works Development Agency, Ministry of water, Water Sector Trust Fund among others to provide funds for development and implementation of economically viable water projects that will increase the company's revenue base from Ksh 53,191,519 to Ksh. 84,000,000 as prescribed in the company business plan. This will enable the company to formulate modalities of ensuring that all statutory deductions are paid on a month-to-month basis to prevent accumulation of more statutory deductions while all accrued statutory deduction are paid through agreed repayment schedules between the company and the respective government agencies.

The high cost of operation and maintenance (O&M) has also contributed to our inability to repay our statutory deduction as and when they fall due as a result of frequent repairs and maintenance cost due to dilapidated infrastructure which will require huge investment for the company to be optimally viable and meets its operational costs. The company is following up on the huge debtors who are Government agencies.

Committee Observations

The committee observed that the query remains unresolved as the management failed to remit a total of Kshs. 21,075,588 in relation to deductions owed to LVN Staff welfare loans, Ukulima Sacco Society, Wevarsity Sacco Society, LAPTRUST, Co-operative Bank of Kenya, National Health Insurance Fund (penalties), Kenya Revenue Authority (PAYE penalties).

Committee Recommendations

The Committee recommends that-

- i. **the Accounting Officer to engage the relevant entities with the aim of formulating a payment agreement to settle the outstanding statutory deductions and provide a detailed status report on the same to the Committee within 60 days from adoption of this report;**
- ii. **the Accounting Officer to engage the relevant entities with the aim of formulating a payment agreement to settle the outstanding statutory deductions and provide a detailed status report on the same to the Senate within 60 days from adoption of this report;**

- iii. **The Board of Directors ensures the water company complies with Section 19 (4) of Employment Act, Cap.226 in regards to remittance of employee remuneration deductions in accordance with the time period specified by the relevant bodies;**
- iv. **The Board of Directors ensures that the water company adheres to the Retirement Benefits Act, Cap.197 and the Pensions Act, Cap.189, with regard to the remittance of statutory deductions and payment of pension; and**
- v. **The Accounting Officer adheres to Section 22(2)(a) of the Public Finance Management (County Government) Regulations, 2015, which provide that the accounting officer to comply with any tax, levy, duty, pension, commitments and audit commitments as may be provided by legislation.**

6. Irregularities in Procurement of Security Services

The statement of profit or loss and other comprehensive income reflects an expenditure of Kshs.41,046,032 under administration costs which, as disclosed in Note 10 of the financial statements, includes an amount of Kshs.2,640,000 relating to security services. However, examination of procurement records revealed that the Securicor firm was engaged by Nzoia Water Services Company Limited (NZOWASCO) after they took charge of Malakisi treatment scheme and Amagoro office which were initially under NZOWASCO but the contract expired on 31st December 2017.

Under the circumstances, the company irregularly engaged Bulls security services limited since January 2018 without a contract agreement which was breach of law.

Management response

The management agrees with the audit observations. The same has been rectified by ensuring that the service providers are procured in line with the public Procurement and Asset disposal act of 2015. The current service providers have been issued with the contracts.

Committee Observations

The Committee observed that the query remains unresolved as the company irregularly engaged Bulls Security Services Limited since January 2018 without a contract agreement. However, the management has since procured security services from two other firms, which have both been issued with contracts.

Committee Recommendations

The Committee recommends that-

- i. **the management complies with Section 135 of the Public Procurement and Asset Disposal Act, 2015 on the creation of procurement contracts; and**

- ii. the Ethics and Anti-Corruption Commission (EACC) investigates if the breach of section 135 of the Public Procurement and Asset Disposal Act, 2015 led to loss of funds, determines criminal culpability and refers the matter to ODPP for prosecution.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT, AND GOVERNANCE

Pursuant to section 7(1)(a) of the Public Audit Act, based on the audit procedures performed by the Auditor-General, the internal control, risk management and governance were not effective—

IT Internal Control Weakness

The Company has been operating without an approved IT strategic plan, IT Strategic committee at the Board level and an IT Steering Committee at the management level.

Consequently, the Company's strategic goals may not be efficiently and effectively met in the delivery of better services.

Management response

The management seeks to clarify that the Company has a board of IT strategic committee embedded within the Finance, Administration, Procurement and ICT Committee of the Board. The company hereby avails ICT Policy document for audit verification

Committee Observations

The Committee observed that the management provided the ICT Policy to the Committee and the Auditor-General for verification, thus the matter was resolved.

Committee Recommendations

The Committee recommends that the Board of Directors ensures that the water company puts in place all internal control systems such as the Internal Audit Committee as provided under section 155 (5) of the Public Finance Management Act, and a Risk Management Policy as provided under section 158 (1) of Public Finance Management (County Governments) Regulations, 2015 among others to guide the internal operations of the water company and submit evidence of the same to the Auditor-General for verification within 60 days from the adoption of this report.

CHAPTER TWO

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR ITEN-TAMBACH WATER AND SEWERAGE COMPANY LIMITED FOR THE FINANCIAL YEAR 2019/2020

The Governor of Elgeyo-Marakwet County, Hon. Wisley Rotich, appeared before the Committee on Tuesday, 1st August, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor-General on Financial Statements for Iten-Tambach Water and sewerage Company (ITWASCO) Limited for the Financial Year 2019/20. He was accompanied by –

- | | | |
|------|----------------------|--------------------------------------|
| i. | Mr. Jason Lagat | - CECM Water and Environment |
| ii. | Mr. Fredrick Linyewa | - Chairperson ITWASCO |
| iii. | Mr. Paul Yator | - Managing director ITWASCO |
| iv. | Mr. Jeremiah Kigen | - CFM ITWASCO |
| v. | Mr. Alphanus Tanui | - CECM Finance and Economic Planning |

Iten-Tambach Water and Sewerage Company Limited is wholly owned by County Government of Elgeyo-Marakwet.

REPORT ON THE FINANCIAL STATEMENTS.

The Auditor-General rendered a **qualified opinion** on the financial statements of Iten-Tambach Water and Sewerage Company Limited for the financial year 2019/2020 on the following basis –

1. Property Plant and Equipment

As disclosed in Note 6(a) to the financial statements, the statement of financial position as at 30th June, 2020 reflects property, plant and equipment balance of Kshs. 4,983,626. The balance includes an amount of kshs.1, 391,841 relating to buildings. As previously reported, the letter does not include the value of the one (1) acre land on which the Sabor forest tanks in Yokot, Tambach and Kamariny treatment works building stands. Further, ownership documents such as title deeds, leases or allotments were not provided for audit verification.

Consequently, the accuracy, validity and completeness of property, plant and equipment figure of Kshs.4, 983, 626 as at 30 June 2020 could not be confirmed.

Management Response

Management concurs with the findings that the value of land had not been disclosed in the financial statement. This was because the company had no title deed of ownership

of the land. Therefore, the company was not able to proceed with valuation and recognize the same in its books.

This parcel of Land belongs to Sirikwa County Council as evidenced by the attached searches certificate, it was reserved for Iten primary under parcel No. 404 of which four other government institutions including ITWASCO were later included.

The process of subdividing the parcel is on course and the County Government Department of water and Company are making follow-ups with a view to resolving this matter once and for all.

Committee Observations

The Committee observed that the query remains unresolved from the financial year 2018/2019 as the water company had no title deed for the said piece of land and had not included the land measuring 1 acre on which the building stands in its financial statements.

Committee Recommendations

The Committee recommends that –

- i. The Governor ensures that the water company secures full ownership of the queried piece of land and provide status update to the committee within 60 days of adoption of this report.**
- ii. The Accounting Officer ensures that the water company maintains an up-to-date asset register in the format prescribed by the Public Sector Accounting Standards Board (PSASB) and the company to carry out a valuation of all its assets and submit the same to the Auditor-General within 60 days from the adoption of this report;**
- iii. The Governor engages the Intergovernmental Relations Technical Committee (IGRTC) to ensure that the process of transfer of all assets and liabilities are completed in a timely manner;**
- iv. The Auditor-General to undertake physical verification of all assets of the water company and provide a status report to the Committee within 60 days from the adoption of this report.**

2. Work in Progress.

As disclosed in note 6(b) to the financial statements, the statement of financial position as at 30 June 2020 reflects Work in Progress balance of Kshs. 16,880,122. The amount has been outstanding in the financial statements for years and relates to construction of

masonry tanks which were completed in the year 2016 and put in use and therefore not qualifying as work in progress.

Consequently, the validity, the accuracy and completeness of work in progress figure of Kshs 16,880,122 as at 30 June 2020 could not be confirmed.

Management Response

Management stated that the Work in Progress figure of Kshs 16,880,122 refers to assets acquired through funding from Water Sector Trust Fund (WSTF) for three proposals Namely: 3rd, 5th and 6th Call proposals awarded to Iten Tambach Water and Sewerage Co. Ltd (ITWASCO). The contracts were signed between Rift Valley Water Service Board (on behalf of ITWASCO) and WSTF. However, after the completion of projects, they were to be handed over Rift Valley Water Service Board who were the custodians of the assets as per the Water Act, 2002 but the process never took place despite our requests.

In the wake of Water Act, 2016 the company has resolved to address this issue as follows; in the Financial Year 2022/2023 financial statements in progress; They have transferred the assets from Work in Progress to completed assets

They have passed Journal Entries and proposed prior year adjustment to take care of depreciation expenses since completion of the projects (as per the certificate of completion) and necessary adjustment made on Revenue reserves.

Committee Observations

Committee observed that the management had resolved to address the issue in Financial Year 2022/2023 by transferring the assets from Work in Progress to completed assets.

Committee Recommendations

The Committee recommends that the Auditor-General follows up the matter on the 2022/2023 Financial Statements for confirmation of the correct accounting entries and adjustments.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCE

Pursuant to Article 229(6) of the Constitution, based on the audit procedures performed by the Auditor-General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way—

1. Excess Non-Revenue Water

The Statement of profit or loss and Comprehensive Income reflects water sales of Kshs.28, 802,676 for the year ended 30th June, 2020. However, available records indicate that the Company produced 1,117,859 cubic meters of water out of which, only 760,199 cubic meters was billed to customers resulting in 357,660 cubic meters of the water unaccounted for or 32% of the produced water which is 7% over the acceptable level of 25% set by the Water Services Regulatory Board (WASREB) Guidelines.

In the circumstances, Management was in breach of the law.

Management Response

It is true that during the year Iten Tambach Water and Sewerage Co. Ltd (ITWASCO) produced 1,117,859 cubic meters (m³) of water. However, out of this volume, only 760,199 m³ was billed to customers. The balance of 357,660 m³ or approximately 32% of total volume represented Unaccounted for Water (UFW) which is 7% over and above the allowable loss of 25% in accordance with the Water Services Regulatory Board guidelines.

One of the targets of the company among others was to reduce the Non-Revenue Water (NRW) to an acceptable rate whereby this was reduced from 42% to 32% in the year under review; this was managed under limited available resources in the year. The company is therefore still committed to reducing this by employing more resources to work on the challenges resulting in such unaccounted-for water and these measures include: -

- i. Proposals to Water Trust Fund to finance purchase of water meters through Urban Project Concept to reduce unmetered connections and replace faulty meters.
- ii. The company in collaboration with the County Government of Elgeyo Marakwet has increased the number of metered connection and is planning to purchase more water meters to reduce NRW.
- iii. In addition to maintaining the line, the patroller team of pipefitter's repairs reported leakages, bursts and assists in eliminating illegal connections and reconnections promptly whenever identified and reported.
- iv. The company already had installed 200 No consumer meters which was funded by County Government of Elgeyo-Marakwet
- v. Also, the county government already has installed master meters in each zone to account for NRW.
- vi. Effective Meter Reading: - Meters are read using a smartphone on site and uploaded automatically into a billing database. The database then runs checks to identify anomalies that would suggest an erroneous reading. The

smartphone is also used to take a photograph of the meter when it is read, which enables anomalies to be resolved without a further site visit, but also provides a means to check that the meter has been actually read. This system provides an effective means of monitoring both consumption and meter readers performance.

- vii. Establishment of District Metered Areas (DMAs): - Creating DMAs has been long established as a key tool to manage leakages through reconciling DMA flows by comparing the monthly water balance with the leakage assessment; and Provision of appropriate incentives to customers and staff who report illegal connections.

Committee Observations

The Committee observed that query remains unresolved from the financial year 2018/2019 as -

- i. The Non-Revenue Water stood at 32%, which is 7% above the sector benchmark of 25% set by the Water Services Regulatory Board (WASREB) guidelines.
- ii. The management of the water company listed measures to address the Non-Revenue Water losses. These measures include, active leak detection, and repair, and termination of cut-off accounts from the mains to curb illegal reconnections among others.
- iii. This high level of Non-Revenue Water has largely contributed to the Company's revenue shortfall as well as the material uncertainty relating to a going concern.

Committee Recommendations

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;**
- 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**

In the circumstances, Management was in breach of the law

Management Response

Management stated that the seven staff members were employed to permanent terms in the year 2013. And up to date the company had not employed any staff in permanent terms. The company established and developed the company's Human Resource Manual on 16th October 2015 which will be used as a guide on employment. It added on that they would be contented to have a multicultural society at the company as they strive forward to excel. They are also in agreement that one third diversity rule promotes national unity and assured the Committee that they shall abide by the regulations in their subsequent recruitments to address this issue.

Committee Observations

The Committee observed that the query remains unresolved from financial year 2018/2019 as all the 49 employees in the company were from the dominant ethnic community in the County.

Committee Recommendations

The Committee recommends that –

- i) **the County Executive should comply with section 7(1) and 2 of the National Cohesion and Integrity Act which states that (1) All public establishment shall seek to represent the diversity of people of Kenya in employment of staff. (2) No public establishment shall have more than one third of its employees from same ethnic group; and**
- ii) **the Board and the accounting officer makes deliberate efforts to progressively comply with section 65 of the County Governments Act, 2012 which provides that at least thirty percent 30% of the vacant posts at entry level be filled by candidates who are not from the dominant ethnic community.**

REPORT ON EFFECTIVENESS INTERNAL CONTROL, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1)(a) of the Public Audit Act, based on the audit procedures performed by the Auditor-General, the internal control, risk management and governance were not effective-

1. Payable Provision and Accruals-Regulatory Levies

Included in payable provision and accruals balance of Kshs.22, 980,053 reflected in note 13 to the financial statements are regulatory levies amounting to Kshs. 16,158,794 out of which Kshs. 14,918,620 relate to financial year 2018/2019 and earlier years. However, the management has not provided explanations for failure to pay the levies as continued failure to pay the levies continue to attract penalties.

In the circumstances, the existence of an effective mechanism to monitor and manage creditors as and when this fall due could not be established.

Management Response

Management concurs with the findings that, the amount in question of Kshs 14,918,620 reflected in the figures of regulatory levies owed to Rift Valley Water Services Board was overstated by Kshs 6,116,678. It came to our realization that with the operationalization of the Water Act 2016 and the transfer of the ownership of Water Service Providers (WSP's) to the County Government necessitated that there would be no more payments to the Water Service Board.

It therefore implies that the company recognized a liability amount of Kshs 6,116,678, which ought not to be reflected in our books and this was correctly done by Rift Valley Water Services Board.

As a corrective measure, the company has passed Journal entries in its records for 2022/2023 Financial year and necessary prior year adjustment would be made in the financial statements.

In order to address the outstanding Kshs. 7,478,483. Which mainly accrued during the formative stages of the company and due to liquidity challenges, the management sought for a write off of the levies from the Agency so as to clear the debts from the company's books as per MIN 270:2022/2023 dated 28th March 2023.

Committee Observations

The Committee observed that the query remains unresolved from financial year 2018/2019 as the balance of Kshs. 7,478,483 owed to former Rift Valley Water Services Board now Central Rift Valley Water Works Development Agency, remains unsettled though the management has provided correspondences on request for write off by the Agency.

Committee Recommendations

The Committee recommends that the Governor of Elgeyo-Marakwet County engages the Central Rift Valley Water Works Development Agency to agree on a repayment plan for the trade and other payables balance of Kshs. 7,478,483 and file a report on the same with the Auditor-General for verification within 60 days from the adoption of this report. Auditor-General to provide a status update on the matter in the subsequent audit cycle.

2. Trade Receivables

The statement of financial position as at 30th June, 2020 reflects trade receivables balance of Kshs.22, 895,027 after deducting specific provision for bad and doubtful debts of Kshs. 2,543,892. Included in the trade receivables balance of Kshs.22, 895,027 are receivables totaling Kshs. 21,600,130 which had been outstanding for more than two months.

In the circumstances, the recoverability of the outstanding receivables could not be confirmed.

Management Response

Management agreed that bills totaling to Kshs 22,895,027 as reported had been pending for more than 2 months. Due to Covid-19 pandemic, the Ministry of Water, Sanitation and Irrigation through circular ref. WD/3/3/1359VOL.1 instructed that Water Service Providers should not disconnect water supplies to clients. This majorly contributed to the outstanding bills.

Also forming a major part of the bills were government (County and National) institutions which had not settled their bills.

Also, debt recovery policy had been finalized and they were implementing.

Committee Observations

The Committee observed that the query remains unresolved from financial year 2018/2019 as company had outstanding bills of Kshs. 22,289,027 owed to for more than two months and had not submitted the requisite documents on aging analysis policy to the Auditor-General during the time of audit

Committee Recommendations

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 regulation 150(1) PFM (County Government) Regulation, 2015;
- ii. The management ensures implementation of the Enterprise Resource Planning (ERP) system and its use in performing periodic debtors aging analysis;
- iii. The management ensures strict compliance with the provisions on losses and write-offs stipulated under regulation 150(1) of PFM (County Governments) Regulations, 2015; and
- iv. The Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62(2) of the Public Audit.

3. Weakness in Internal Control

During the year under audit, the company had an Internal Audit Unit which was manned by one member of staff only. The understaffing in the Internal Audit Unit may lead to weak internal controls resulting in fraud and loss of funds in the operations of the Company.

Further, the Company does not have a formally approved ICT Policy in place to guide ICT operations. The non-existence of a formally approved ICT Policy could lead to misalignment of ICT resources with the organization's overall strategic goals.

In addition, the Company does not have a fire, fraud and risk management policies in place. Consequently, there is no formal way of identifying and mitigating fire or fraud risks that could impact on the performance of the Company.

In the circumstances, the existence of an effective system of internal control, Risk Management and ICT policies to ensure optimum utilization of resources could not be confirmed.

Management Response

The management of the company acknowledged the importance of the internal audit department as per the PFM regulations 2015.

However, the company had been experiencing cash flow challenges which had made it impossible to add more staff in the unit, which was supported by one staff currently. They have forwarded the matter to the Board of Directors for consideration.

It is true that the Company did not have an ICT policy and acknowledges the importance of information technology security policy. The company had laid down plans to develop an ICT policy which would enable the company to realise its long-term strategic objectives.

It is true that the company had no Fire, Risk and Fraud Management policies in place. But the management had initiated the process of putting those policies in place and thereafter presents them to the Board of directors for approval.

Committee Observations

The Committee observed that the Internal Audit department staff position remained the same and that no ICT Policy or Fire Policy had been developed.

Committee Recommendations

The Committee recommends that -

- i. **The Board of Directors ensures that the water company puts in place all internal control systems such as the Internal Audit Committee as provided under section 155(5) of the Public Finance Management Act, Cap. 412A and a Risk Management Policy as provided under regulation 158(1) of Public Finance Management (County Governments) Regulations, 2015 among others to guide the internal operations of the water company and submit evidence of the same to the Auditor-General for verification within 60 days from the adoption of this report; and**
- ii. **The Accounting Officer ensures that the company strengthens its internal control and adhere to the Data Protection Act, Cap. 411C.**

CHAPTER THREE

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR KIRINYAGA WATER AND SANITATION COMPANY LIMITED FOR THE FINANCIAL YEAR 2019/2020

The Governor for Kirinyaga County, Hon. Anne Waiguru, EGH, OGW, appeared before the Committee on Tuesday, 16th May, 2023 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Kirinyaga Water and Sanitation Company for the financial year 2019/2020. The Governor was accompanied by:

- | | | |
|------|-----------------------|--|
| i. | Mrs. Jacqueline Njogu | - CECM Finance |
| ii. | Mr. James Kihia | - Chairman |
| iii. | Mrs. Jane Murage | - Ag. Finance Manager KIRIWASCO |
| iv. | CPA Edward Nyaga | - Chief Officer Finance |
| v. | Mr. Carilns Otieno | - Chief Officer Planning and Procurement |
| vi. | Mr. Peter Murimi | - Chief Officer Water |

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

REPORT ON THE FINANCIAL STATEMENTS

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

1: Unsupported Receivables

As disclosed in Note 4 to the financial statements, the statement of financial position reflects receivables balance of Kshs. 133,292,554. However, the supporting ledger reflected a total of Kshs. 133,127,554 resulting to an unexplained and unreconciled variance of Kshs. 165,000.

Further, the balance includes salary advances amount of Kshs. 1,127,805 and staff loans advanced to four (4) former officers to purchase laptops amounting to Kshs. 170,114, all totaling to Kshs. 1,297,919. However, supporting documentation including approvals and evidence that the Management has initiated recovery of the salary advances was not provided.

In the circumstances, the accuracy, completeness and validity of receivables balance of Kshs. 133,292,554 reflected in the statement of financial position as at 30 June, 2020 could not be confirmed.

Management Response

The Kshs. 165,000 variances were cost implication of performance guarantee of Kshs. 2,000,000 in Co-operative bank (water supply- collateral for SPA). Which had not been posted In the ledger in the time of audit. The omitted charge amounts Kshs. 165,000 has been posted to the ledger.

Out of Ksh 1,127,805 the company has recovered Ksh. 919,340 as per attached recovery schedule. The company is fast-tracking to recover the outstanding balance of Ksh. 208,465.

Currently the company doesn't grant salary advances to employee since the company has partnered with the financial institutions.

The laptops were bought between April 2008 and May 2008 through a loan advanced to the staff which was to be recovered from their salary. However, the said staff left the organization between December 2008 and November 2010 before the full amount was recovered.

In 2019 the company was under new management governance structure and has initiated the recovery process. The company has instituted legal process to recover against them.

Committee Observations

The Committee observed that-

- i. the necessary reconciliations were made to address the variance of Kshs. 165,000 hence the matter be marked as resolved.
- ii. the company has made a recovery of Ksh. 919,340 out of Ksh 1,127,805 in relation to salary advances leaving a balance of Kshs. Ksh. 208,465.
- iii. the company advanced Kshs. 170,114 to four (4) members of staff to purchase laptops and the said staff left the institution before the full amount was recovered. However, supporting documentation including approvals and evidence that the Management has initiated recovery of the salary advances was not provided.

Committee Recommendations

The Committee recommends that-

- i. **the Accounting Officer of the water company takes immediate measures to fully recover the Kshs. 170,114 with interest within 60 days from the adoption of this report. Failure to which, the Board of Directors shall ensure the same is recovered from the Accounting Officer of the water company;**

- ii. **The Accounting Officer undertakes the necessary monthly reconciliations as required by regulation 90(1) of the Public Finance Management (County Governments) Regulations, 2015 and submits evidence of the same to the Auditor-General for verification. The Auditor-General to provide a status update of the same in the subsequent audit cycle;**
- iii. **The Accounting Officer provides the status of recovery of the outstanding salary advances to the Auditor-General within 60 days from the adoption of this report;**
- iv. **the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9 (1) (e) of the Public Audit Act, 2015, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62 (2) of the Public Audit Act, 2015; and**
- v. **The query be marked as unresolved.**

2: Unsupported Short-Term Loan

As disclosed in Note 9 (c) to the financial statements, the statement of financial position reflects short term loan totaling to Kshs. 147,518. However, details on the lending institution, interest charged, period of repayment, principal payments, Board approval and other terms and conditions were not provided.

In the circumstances, the accuracy, completeness and validity of the short term loan totaling to Kshs. 147,518 reflected in the statement of financial position as at 30 June, 2020 could not be confirmed.

Management Response

Management attached the ledger, Contract between Kamweli, KREP Bank & Kiriwasco and the repayment schedule which was provided for audit review and attached the same for review.

Committee Observations

The Committee observed that whereas the management submitted the loans ledger to support the short-term loan of Kshs. 147,518 the submission was made outside the timelines contemplated under the Public Audit Act and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that-

- i. **the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9 (1) (e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62 (2) of the Public Audit Act; and**
- ii. **Noting the mitigation measures taken by the management, the Committee recommends that the query be marked as resolved.**

3: Unsupported Property, Plant and Equipment.

As disclosed in Note 2 to the financial statements, the statement of financial position reflects property, plant, and equipment balance of Kshs. 89,963,318. However, the fixed assets register did not include the balance of Kshs. 89,963,318 and the additions during the year amounting to Kshs. 10,042,212.

In the circumstances, the accuracy, completeness and validity of the property, plant, and equipment balance of Kshs. 89,963,318 reflected in the statement of financial position as at 30 June, 2020 could not be confirmed.

Management Response

We have maintained asset register however the same will be updated after asset inventory at the end of the FY 2022/2023 year.

Committee Observations

The Committee observed that the company did not update its fixed asset register to include a balance of Kshs. 89,963,318 and the additions during the year amounting to Kshs. 10,042,212. Therefore, the query remains unresolved.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures that the water company maintains an up-to-date asset register in the format prescribed by the Public Sector Accounting Standards Board (PSASB) and for the Auditor-General to report on the status in the next audit cycle.

4: Unsupported Gratuity

As disclosed in Note 9 (a) to the financial statements, the statement of financial position reflects creditors and accruals balance of Kshs. 104,891,756. The balance includes gratuity totaling to Kshs. 1,423,838. However, supporting documents reflected an amount of Kshs. 1,140,627 but whose details were not provided.

In the circumstances, the accuracy, completeness and validity of gratuity totaling to Kshs. 1,423,838 reflected in the statement of financial position as at 30 June, 2020 could not be confirmed.

Management Response

The error occurred during migration to the new system in July 2019. The amount of Ksh. 1,140,627 was erroneously posted as gratuity contribution in the ledger of Mr. Charles Maina Wachira which was subsequently corrected.

The revised schedule agreeing with the reported figure in the financial statement for gratuity of ksh. 1,423,838 has been analyzed below:

Account Code	Name	Amount (Kshs.)
9210>0014	Charles Maina Wachira	241,201
9210>0144	Ann Wangari Mbatia	417,345
9210>0234	Patrick Karani Gitimu	1,166
9210>0255	Rosaline Njeri Kabata	143,559
9210>0256	Laban Mwaniki Kara	4,340
9210>0304	Joyce Wanjiru Mugambi	143,925
9210>0307	Ephantus Kamau Maina	328,375
9210>0308	Paul Njau Ndegwa	143,925
Totals		<u>1,423,836</u>

Committee Observations

The Committee observed the amount of Kshs. 1,140,627 was erroneously posted as gratuity and has since been amended to the correct balance of Kshs. 1,423,838 thus the matter was resolved.

Committee Recommendations

Noting the mitigating measures taken by the management, the Committee recommend that the matter be marked as resolved.

Other Matters

1. Budgetary Control and Performance

The statement of comparison of budget and actual reflects final receipts budget and actual on comparable basis totaling to Kshs. 199,400,000 and Kshs. 159,433,044 respectively, resulting to an underfunding amounting to Kshs. 39,966,956 or 20% of the budget on three (3) items. Similarly, the statement reflects final expenditure budget and actual on comparable basis totaling to Kshs. 199,400,000 and Kshs. 162,383,379 respectively, resulting to an underperformance amounting to Kshs. 37,016,621 or 19% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

Management Response

On the observation on underfunding, the company did not achieve the projected revenue target of ksh. 199,400,000 due to reduction in water sales which was occasioned by closure of the institutions and delay in payment caused by covid 19 pandemic where the government issued directives to water companies not to disconnect all unpaid accounts hence a short fall of ksh. 39,966,958 in revenues.

Consequently, the company underperformed on budget implementation due to failure to meet revenue collection. Further the largest underperformance was in minor investments at Kshs. 20,588,963 which related to purchases of meters, motorcycles, motor vehicles which were suspended during Covid 19.

Committee Observations

The Committee observed that-

- i. the statement of comparison of budget and actual reflected final receipts budget and actual on comparable basis totaling to Kshs. 199,400,000 and Kshs. 159,433,044 respectively, resulting in an underfunding amounting to Kshs. 39,966,956.
- ii. The statement reflected final expenditure budget and actual on comparable basis totaling to Kshs. 199,400,000 and Kshs. 162,383,379 respectively, resulting to an underperformance amounting to Kshs. 37,016,621.

Committee Recommendations

The Committee recommends that-

- i. **the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures; and**
- ii. **the Board of Directors should institute proper and realistic budget planning as well as measures to enhance its own generated revenue, such as review of tariffs and connection of more customers and automation to address revenue leakages. The Auditor-General to confirm the effectiveness of the mitigating measures put in place by the water company and report in the subsequent audit cycle.**

2. 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 and Planning Circular Reference No. AG.4/16/3 Vol.1(9) dated 24 June, 2020.

Management Response

The company has revised the financial statement template on the prior year audit issues as per PSASB.

Committee Observations

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 Recommendations

The Committee recommends that the Accounting Officer should try and resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, 2012; and the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.

REPORT OF LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to article 229(6) of the Constitution, based on the audit procedures performed by the Auditor-General, the following matters formed basis of conclusion that public resources were not applied lawfully and in an effective way-

1. Non-compliance with the Law on Fiscal Responsibility - Wage Bill

The statement of profit or loss and other comprehensive income reflects personnel costs totaling to Kshs. 89,046,791 representing fifty-six (56%) of revenue totaling to Kshs. 159,433,044. This is contrary to the provisions of Regulation 25(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which limits the Company's expenditure on wages and benefits to not more than 35% of the total revenue for the year.

In the circumstances, the Management was in breach of the law.

Management Response

The company had a staff establishment of 157 staff where technical department had a total of 105 staff and support staff were 52 in the FY 2019/2020. Since the company offers essential service which requires more technical Staff for efficient public service delivery therefore it's important to retain the total number of 157 staff. As per WASREB bench mark guideline, the company was at 5% staff per thousand connections which is within the set benchmark.

The company has applied the following measures to attain 35% personnel cost to total revenue as per the provisions of Regulation 25(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015.

- Increase in water coverage ratio without increasing workforce.
- The current CBA is based on performance which will ensure the staff salary increment is commensurate on revenue growth.
- Improve on collection efficiency.
- The company strategic plan 2021/2026 has set road map on company revenue growth.

Committee Observations

The Committee observed that the company incurred an expenditure of Kshs. 89,046,791 representing fifty-six (56%) of revenue totaling to Kshs. 159,433,044, contrary to regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which limits the Company's expenditure on wages and benefits to not more than 35% of the total revenue for the year.

Committee Recommendations

The Committee recommends that the Company to adhere with the provisions of regulation 25(1) of the Public Finance Management (County Government) Regulations, 2015 which limits the wage bill to thirty -five percent (35%) of the total revenue and establish a lean staff complement.

2. Long Outstanding Staff Imprest

As disclosed in Note 4 to the financial statements, the statement of financial position reflects receivables totaling to Kshs. 133,292,554. The balance includes staff debtors totaling to Kshs. 5,411,631 which relates to unsurrendered imprest. The imprest has remained outstanding since 2011. This is contrary to Regulation 93(5) of the Public Finance Management Act (County Governments) Regulations, 2015 which states that "a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station".

In the circumstances, the Management was in breach of the law.

Management Response

The amount of unsurrendered imprest was occasioned by instability of management, and uncompounded when the company management was taken over by regulator WASREB. When the company was taken over the management instituted measures to account for the unsurrendered imprests, the unsurrendered imprest reduced by Ksh. 3,414,082 to Ksh 5,411,631 as compared to FY 2018/19 when it was Kshs. 8,825,713.00, Currently the old outstanding imprest have reduced to Ksh. 1,544,338.

Committee Observations

The Committee observed that there was un-surrendered imprests totaling Kshs. 5,411,631 which had been outstanding since 2011, which contravened Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which requires holders of temporary imprests to account or surrender them within seven (7) working days after returning to the duty station.

Committee Recommendations

The Committee recommends that-

- i. **the Accounting Officer to take immediate action to recover the unsurrendered imprests amounting to Kshs. 8,825,713 from the defaulting officer with interest at the prevailing Central Bank rate failure to which the Accounting Officer commits an offence under regulation 93 of the Public Finance Management (County Governments) Regulations, 2015; and**
- ii. **The Accounting Officer ensures strict adherence to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015, which requires holders of temporary imprests to account or surrender them within seven (7) working days after returning to the duty station.**

3. Unclaimed Value Added Tax

As disclosed in Note 4 to the financial statements, the statement of financial position reflects receivables totaling to Kshs. 133,292,554. The balance includes an amount of Kshs. 2,568,971 in respect to VAT 16% control being VAT refundable by Kenya Revenue Authority (KRA) to the Company. This is as per Section 17(5) (b) of the Value Added Tax Act, 2013 which states that “the registered person shall lodge the claim for the refund of the excess tax within twelve months from the date the tax becomes due and payable”. However, no evidence was availed for audit review on the actions taken by the Management to claim the Kshs. 2,568,971.

In the circumstances, the recoverability VAT balance totaling to Kshs. 2,568,971 as at 30 June, 2020 could not be confirmed.

Management Response

The amount was not claimable since the claim was erroneously declared under wrong description as an exempt sales claim of Vat which was corrected attached.

Committee Observations

The Committee observed that the amount of Kshs. 2,568,971 in relation refundable VAT was erroneously declared, thus the amount was not claimable. The error was corrected hence the matter was resolved.

Committee Recommendations

The Committee recommends that the Accounting Officer should enhance the capacity of officers preparing financial statements to comply with the accounting standards and should further invest in technology and processes that reduce inaccuracies in the preparation of financial statements.

4. Lack of Annual Evaluation of Board Performance

Review of records including Board minutes revealed that the Board did not conduct performance evaluation for the financial year 2019/2020. This is contrary to Chapter 1 Paragraph 1.12 of Mwongozo Code of Governance for State Corporations, 2015 which stipulates that the Board should determine its performance criteria and undertake an annual evaluation of its performance.

In the circumstances, the Board was in breach of the law.

Management Response

The annual board performance evaluation was scheduled to be carried out on 21st May 2020 but was disrupted by Covid 19. Hence was carried out in the FY 2020/2021.

Committee Observations

The Committee observed that the company did not conduct the annual evaluation of Board Performance for the year under review, which is a violation of the Cap 1 Paragraph 1.12 of Mwongozo Code of Governance for State Corporations, 2015. The management indicated that this was due to disruption by the Covid-19 pandemic.

Committee Recommendations

The Committee recommends that the Board fulfils the requirements by the Mwongozo Code of Governance for State Corporations, 2015 with regard to the annual evaluation of the Board Performance.

5. Long Outstanding Trade Creditors

As disclosed in Note 9 (a) to the financial statements, the statement of financial position reflects creditors and accruals balance of Kshs. 104,891,756. The balance includes trade creditors totaling to Kshs. 80,239,296. However, trade creditors include an amount of Kshs. 3,416,000 in respect to outstanding audit fees payable to the Office of Auditor-General which has been outstanding since 2006/2007 financial year. This is contrary to Section 41(1)(c) of the Public Audit Act, 2015 which states that the funds of the Auditor-General shall consist of audit fees charged at the rates prescribed by the Auditor-General'.

In the circumstances, the Management was in breach of the law.

Management Response

The company had a negotiation with the Auditor-General and agreed on installment payment plan dated 25th May 2021 of ksh. 100,000 per month to full settlement of the arrears.

Committee Observations

The Committee observed that the company entered into a payment agreement with the Auditor-General in order to clear the outstanding audit fees of Kshs. 3,416,000.

Committee Recommendations

The Committee recommends that the Auditor-General to review the company's compliance with the repayment plan and give a status update of the same in the subsequent audit cycle.

6. Non-Payment of Corporation Tax

Note 9(f) reflects taxation totaling to Kshs. 186,386 which relates to tax payable for the 2018/2019 financial year. However, the balance was not remitted to the Kenya Revenue Authority. Further, the Company has not filed tax returns since incorporation in 2006. This is contrary to Section 92(A) of the Income Tax Act, 2012 which states that "where any person is required to furnish a return under section 52B, the tax chargeable thereunder shall be due and payable on the last day of the fourth month following the end of the year of income or accounting period.

In the circumstances, the Management was in breach of the law.

Management Response

The process to ensure the company is compliant is ongoing.

Committee Observations

The Committee observed that the company was not compliant with the requirements of Kenya Revenue Authority, in regards to filing of tax returns and remitting of corporation tax, contrary to Section 92(A) of the Income Tax Act, 2012.

Committee Recommendations

The Committee recommends that the accounting officer ensures compliance with section 92(A) of the Income Tax Act, Cap. 470 on payment of income tax and the Auditor-General reviews the company's compliance to the same and give a status update in the subsequent audit cycle.

7. Non-Revenue Water (NRW)

Review of records showed that the Company produced a total of 6,258,432 cubic meters (M³) of water at an approximate expected earning of Kshs.22.93 per M³ out of which only 2,491,820 M³ was billed to customers. The balance of 3,766,612 M³ (approximately 60%) of the total water produced with an approximate expected earning totaling to Kshs. 86,368,413 represents Non-Revenue Water (NRW). This is contrary to the Water Service Regulatory Board (WASREB) guidelines which allows a maximum loss of 25% for every cubic meter of water produced and hence out of the 6,258,432 M³ produced 1,564,608 m³ (25%) water loss was allowable while the 2,202,004 m³ (35%) of the non-revenue water with an approximate expected earning of Kshs. 50,491,952 is not allowable.

In the circumstances, the Company was in breach of regulations.

Management Response

NRW is caused by physical losses and commercial losses. Physical losses are caused by old dilapidated infrastructure that has caused high operational costs in repair of bursts and leaks of water. For instance, Githioro water supply system was constructed in 1940, with a design population of 2500 people. Currently, the system is serving more than 12,000 people, which is beyond its design capacity. Commercial losses are caused by faulty meters and illegal connections. The company has taken the following measures in NRW reduction:

1. The company developed Non- Revenue Water reduction plan which has been implemented in the FY 2019/2020.
2. The company has shifted from Upvc pipes to HDPE pipes. this is because HDPE pipes are more durable and elastic than Upvc pipes. further, the company is carrying out gradual rehabilitation of old water supply networks, replacing the old Unplasticized polyvinyl chloride (PVC) pipes with High Density Polyethylene (HDPE) pipes.

3. The company through Tana Water Works Development Agency has procured two ultrasonic flow meters which are helping in detecting areas of water loss.
4. Introduced Metering of production units which has improved accuracy in water production.
5. Mapping of reticulation networks and connections which has enhance real-time monitoring of leak detection/bursts and consumer connections.
6. Having 100% metering ratio.
7. Conversion of all class B meters to class C consumer meters to improve on accuracy.
8. Unearth all illegal connections and bypasses.

In the current financial year, 2022/2023 the NRW is at 56% as compared to the FY 2018/2019 which was at 61%.

Committee Observations

The Committee observed that the Non-Revenue Water stood at 60% which was above the sector benchmark of 25% as prescribed by the Water Service Regulatory Board (WASREB) guidelines.

Committee Recommendations

The Committee recommends that-

- i. **the Accounting Officer should put in place comprehensive measures to mitigate on the Non-Revenue Water, that is, both physical and commercial losses. The measures to include replacement of old age dilapidated infrastructure, installation of smart meters for accurate billing and the application of Geographical Information System (GIS) to receive real-time data for the detection of bursts and leakages among other measures. The Auditor-General to review the implementation of the measures put in place to mitigate the Non-Revenue Water and provide a status update on the matter in the subsequent audit cycle; and**
- ii. **the Governor of Kirinyaga County to collaborate with the Ethics and Anti-Corruption Commission to ensure pre-emptive measures are put in place to reduce cases of theft and illegal connections.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1)(a) of the Public Audit Act, based on the audit procedures performed by the Auditor-General, the internal control, risk management and governance were not effective—

1. Information Technology and Communication (ICT) Control Weaknesses

As reported in the previous year, a review of the ICT Policy provided revealed that the Company does not have an approved ICT policy, security policy, environmental policy and Information Technology (IT) continuity plan, disaster recovery plan and risk assessment policy. Lack of an approved ICT policy may lead to data confidentiality, accuracy, reliability, integrity, and availability being compromised.

In the circumstances, the security, confidentiality, reliability, integrity and availability of the Company's data could not be confirmed.

Management Response

Currently the company has an approved ICT policy which comprises Security policy, Environmental policy and IT Continuity Plan, Disaster Recovery Plan and Risk Assessment Policy.

Committee Observations

The Committee observed that the company lacked an approved ICT management policy at the time of audit, but one was later developed.

Committee Recommendations

The Committee recommends that the Board of Directors ensures that the water company puts in place all internal control systems such as the Internal Audit Committee as provided under section 155 (5) of the Public Finance Management Act, 2012, and a Risk Management Policy as provided under section 158 (1) of Public Finance Management (County Governments) Regulations, 2015 among others to guide the internal operations of all the funds. Further, the managements to submit evidence of the same to the Auditor-General for verification.

CHAPTER FOUR

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR MALINDI WATER AND SEWERAGE COMPANY LIMITED FOR THE FINANCIAL YEAR 2019/2020

The Governor of Kilifi County Hon. Gideon Maitha Mung'aro, OGW, appeared before the Committee on Thursday, 27th April, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor-General on Financial Statement for Malindi Water and Sewerage Company Limited for the year ended 30th June 2020. He was accompanied by-

- | | |
|------------------------------|-----------------------------------|
| i).Mr. Omar Said Omar | - CECM – Water |
| ii).Mrs. Yaye Shosi Ahmed | - CECM- Finance Economic Planning |
| iii).Mr. Isaac Chibule | - Ag. Managing Director |
| iv).Mr. Ezekiah Nguma Mwarua | - County Chief Officer -Water |

The Malindi Water and Sewerage Company Limited is wholly owned by the Kilifi County Government.

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **qualified opinion** on the Financial Statements of the Malindi Water and Sewerage Company Limited for the financial year 2019/2020 on the following basis -

1. Bank and Cash Balances

The statement of financial position reflects a balance of Kshs. 18,102,328 under bank and cash balances which, as disclosed in Note 21(b) to the financial statements, includes an amount of Kshs. 1,582,740 held in the operations bank account. However, the latter balance of Kshs. 1,582,740 differs with the amount of Kshs. 1,213,140 reflected in the bank reconciliation statement. The resultant variance of Kshs. 369,600 has not been reconciled or explained.

Under the circumstances, the accuracy of the bank and cash balance of Kshs.18,102,328 as at 30 June, 2020 could not be confirmed.

Management Response

The management indicated that the variance of Kshs. 369,600 represented unpaid cheques of Kshs. 258,000 and Kshs. 116,000 which were cleared in July 2020 and provided evidence of the same.

Committee Observations

The Committee observed that whereas the management provided evidence of clearance of the unpaid cheques to the Auditor-General for verification and the query marked as resolved, the submission was made outside the timelines contemplated outside the timelines under the Public Audit Act and constitutes an offence under section 62(2).

Committee Recommendations

The Committee recommends that –

- i). the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap 412B, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62(2) of the Public Audit Act, 412B; and**
- ii). the Accounting Officer should ensure strict compliance with the provisions of regulation 90(1) of Public Finance Management (County Government) Regulations 2015 with respect to monthly reconciliation of bank statements.**

2. Undisclosed Going-Concern Material Uncertainty

During the year under review, the Company reported a net loss of Kshs. 45,646,359 (2019 - a net loss of Kshs. 10,044,658) resulting to a cumulative retained deficit of Kshs. 404,440,666 as at 30 June, 2020 (2019 - Kshs. 358,794,307). Further, the current liabilities of Kshs.692,731,824 exceeded the current assets balance of Kshs. 313,136,798, resulting in a negative working capital of Kshs. 379,595,026, an indication that the Company may be experiencing financial difficulties in settling financial obligations as and when they may fall due.

The existence of the above material uncertainty may cast a significant doubt on the Company's ability to continue as a going concern. 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 of Kilifi, its creditors and bankers. However, this material uncertainty in relation to going concern and any mitigating measures put in place by the Company's directors to reverse the undesirable financial position have not been disclosed in the financial statements.

Management Response

The management submitted that they had disclosed the uncertainty due to negative working cash flow on major risks facing the Company on note II under negative working capital in the financial statement.

The mitigation measures provided by the management included;

- i). Increase water coverage in the area to increase revenue base through the on-going Network Expansion and Efficiency Improvement Initiatives.
- ii). Applied for a cost-effective tariff as included on the No objection on tariff application provided.
- iii). Undertake efficient measures like further reduction of water loss (non-revenue water loss) through NRW interventions in progress.
- iv). Address the historical debt issue with the CWSB with a possibility of write off.
- v). The Company was undertaking the Utility Turn Around program on performance improvement.

Committee Observations

The Committee observed that the query remains unresolved as –

- i). the Accounting Officer failed to disclose commercial viability of the water company;
- ii). the company's net loss during the year under review increased to Kshs. 45,646,359 from Kshs. 10,044,658 in the previous financial year;
- iii). the company's cumulative retained deficit as at 30 June, 2020 increased to Kshs. 404,440,666 from Kshs. 358,794,307 as at 30 June, 2019;
- iv). the company's survival was dependent on creditors and the County Government; and
- v). mitigating measures put in place by the Company to reverse the undesirable financial position were inadequate.

Committee Recommendations

The Committee recommends that –

- i). the Governor of Kilifi County should take keen interest in the management and operations of the water company in line with Article 179 (4) of the Constitution;
- ii). the Accounting Officer should ensure that the financial statements prepared adhere to IPSAS 1 on presentation of financial statements specifically on the disclosure requirement for the notes on material uncertainty in relation to going concern;
- iii). the Accounting Officer should prepare and submit quarterly reports in regard to the financial and non-financial status of the water company in line with section 166 of the Public Finance Management Act, Cap 412A;
- iv). the County Executive Committee Member in charge of water should take full responsibility for monitoring the financial performance of the county corporation in line with section 184 of the Public Finance Management

Act Cap 412A and regularly report to the Governor through the County Executive Committee in line with Article 179 (6) of the Constitution;

- v). the County Treasury should undertake annual reporting on County Corporation including an assessment of the commercial viability of the company in line with the standards set by the Water Services Regulatory Board under section 77(2) of the Water Act, Cap 372; and
- vi). the Accounting Officer should, within 60 days of the adoption of this report, put in place strategic and innovative measures for recovery and to boost the financial health of the water company for self-sustainability. Additionally, the management reviews and regularizes the company's existing assets and have updated assets register that reflect the current financial position. Further, management to determine and ascertain their commercial viability as required by the Public Sector Accounting Standards Board (PSASB).

3. Property, Plant and Equipment

3.1. Leased Assets

The statement of financial position reflects a balance of Kshs. 515,948,124 under property, plant and equipment. However, and as previously reported, included in the balance are leased assets from the Coast Water Works Development Agency (formerly Coast Water Services Board) whose value has not been disclosed. The ownership documents for the assets and professional valuation reports to support the values assigned to the assets were not provided for audit verification.

Management Response

The management submitted the Asset Register and Valuation Report done by Ms Leyson Agencies of Box 104702-00101 Nairobi to support the assets and values as disclosed. Further, the management provided ownership documents.

Committee Observations

The Committee observed that whereas the management provided the assets valuation report and the ownership documents to the Auditor-General for verification and the query marked as resolved, the submission was done outside the timelines contemplated under the Public Audit Act and constitutes an offense under section 62(2).

Committee Recommendations

The Committee recommends that –

- i) the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap 412B, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62(2) of the Public Audit Act, 412B; and
- ii) the Accounting Officer ensures that the water company maintains an up-to-date asset register in the format prescribed by the Public Sector Accounting Standards Board (PSASB).

3.2. Revaluation of Assets

As disclosed in Note 16 to the financial statements, the property, plant and equipment balance of Kshs.515,948,124 was arrived at after revaluation of assets completed on 20 June, 2019. However, the revalued assets include motor vehicles, motorcycles, land and buildings of unknown value owned by the Coast Water Works Development Agency. The Management did not separate these assets from the Company's assets and did not provide details of the assets for audit review.

Further, disclosures on revaluation including the effective date of the revaluation; whether an independent valuer was involved; the carrying amount for each revalued class of property, plant and equipment; and the assumptions used in asset valuation were not provided for audit review.

Management Response

The management provided a list of motor vehicles belonging to Coast Water Works Development Agency.

The management contracted an independent Valuer and has since included the values of the assets based on the report by the independent Valuer. The assets valuation report which is also the Asset Register for the year was provided.

Committee Observations

The Committee observed that whereas the management provided the list of motor vehicles belonging to Coast Water Works Development Agency and the valuation report by the independent valuer to the Auditor-General for verification and the query marked as resolved, the submission was done outside the timelines contemplated under the Public Audit Act and constitutes an offense under section 62(2).

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap 412B, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62(2) of the Public Audit Act, Cap 412B.

3.3. Exclusion of Additional Assets Acquired

Records provided for audit review indicated that during the financial year 2018/2019, the Company revalued its assets to a value of Kshs. 617,510,554 as at 30 June, 2019. However, this value excluded additional assets acquired at a cost of Kshs. 13,622,724 during the year. As such, the property, plant and equipment balance of Kshs. 515,948,124 as at 30 June, 2020 is not fairly stated.

Management Response

The management submitted that Asset acquired in the financial year 2019/20 amounting to Kshs. 13,622,724 were highlighted in the Assets Register compiled by the Valuer. The year of acquisition was also indicated in the register. They further stated that assets shall be disclosed in notes in the financial year 2022/2023 as the other subsequent report had already been signed.

Committee Observations

The Committee observed that the query remains unresolved as the value of the additional assets was not disclosed in the financial statement for the financial year under review.

Committee Recommendations

The Committee recommends that –

- i) the Accounting Officer should ensure that the value of the additional assets is disclosed accordingly in the financial statements of the financial year 2022/2023 and the Auditor-General to provide a status update for the same in the subsequent audit cycle; and**
- ii) the Accounting Officer should ensure that the water company has adequate systems and processes in place to plan for, procure, account for, maintain, store and dispose of assets, including an asset register that is current, accurate and available to the relevant County Treasury or the Auditor-General in line with section 149(2)(o) of the Public Finance Management Act, 412A.**

3.4. Transfers and Adjustments

As disclosed in Note 16 to the financial statements, transfers or adjustments to plant and machinery totalling Kshs.18,313,354 were made as detailed below:

Works	Valuation Amount (Kshs.)	Year of Last Payment
Booster Station and Watamu Junction Project	3,250,906	2010
Jimba Pipeline	1,691,040	2009
Mayungu Pipeline	9,912,804	2014
Watamu South Pipeline	3,458,604	2012
Total	18,313,354	

However, certificates of completion of the four (4) projects as well as handing over reports were not provided for audit review.

Under the circumstances, the accuracy, completeness, valuation and ownership of property, plant and equipment balance of Kshs.515,948,124 as at 30 June, 2020 could not be confirmed.

Management Response

The management provided the project concept reports, Certificate of completion and handover reports.

Committee Observations

The Committee observed that whereas the management provided the project concept reports, and Certificate of practical completion to the Auditor-General for verification and the query marked as resolved, the submission was done outside the timelines contemplated under the Public Audit Act and constitutes an offense under section 62(2).

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap 412B, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62(2) of the Public Audit Act, 412B.

4. Trade and Other Receivables

4.1. Long Outstanding Receivables

The statement of financial position reflects a balance of Kshs.245,283,116 under trade and other receivables which, as disclosed in Note 18 to the financial statements, includes receivables of Kshs.174,596,925 which was over 120 days old as at 30 June, 2020. However, the Company has not developed a debtor's collection strategy on how to improve efficiency in collections or recoveries of the debts.

Under the circumstances, the recoverability and completeness of trade and other receivables balance of Kshs.174,596,925 as at 30 June, 2020 could not be confirmed.

Management Response

The management stated that they had put in place a new unit called Debt Recovery Unit to assist in the debt recovery. They have also developed a Debt Management Policy to address the recovery. The Strategy in the policy is to have the debt assigned to individual staff members of the debt recovery unit for close monitoring of the recovery process.

The Company maintained a revenue collection efficiency of 96.5% in the period under review and maintains a revenue collection efficiency of above 95%.

Committee Observations

The Committee observed that the query remains unresolved as –

- i) a debtors' schedule was not provided for audit verification;
- ii) an aging analysis report was not provided for audit verification;
- iii) the water company had developed a Debt Management Policy whose approval status was yet to be verified by the Auditor-General; and
- iv) the debt recovery measures put in place were inadequate.

Committee Recommendations

The Committee recommends that –

- i. the Accounting Officer should, within 60 days of tabling of this report, submit a debtors' schedule to the Auditor-General for verification;**
- ii. the Accounting Officer should, within 60 days of the adoption of this report, submit an approved copy of the Debt Management Policy to the Auditor-General for verification. The Auditor-General to verify**

the policy and submit a status update on the same in the subsequent audit cycle;

- iii. the Accounting Officer should, within 30 days of the adoption of this report, put in place recovery measures for the outstanding amount with clear timelines. The Auditor-General should review the implementation of the measures put in place provide a status update on the matter in the subsequent audit cycle; and
- iv. the Accounting Officer should undertake a detailed analysis of the water company's long outstanding trade receivables and with the approval of the Board of Directors, write off the irrecoverable debts in line with regulation 130(2)(d) of the Public Finance Management (County Governments) Regulations, 2015.

4.2. Unsupported Share Capital Receivable

As previously reported and as disclosed in Note 22 to the financial statements, the statement of financial position reflects authorized share capital of Kshs.5,000,000 divided into 5,000 shares of Kshs.1,000 each, all issued to County Government of Kilifi but which had not been paid for as at 30 June, 2020.

In the circumstances, the validity of share capital of balance of Kshs.5,000,000 reflected in the statement of financial position as at 30 June, 2020 could not be confirmed.

Management Response

The Management indicated that the County was the principal registered shareholder of the Company as included in the Memorandum and Articles of Association and that a reminder letter had been sent to the County Government for the subscription is provided.

Committee Observations

The Committee observed that query had recurred from the previous financial year and that it remains unresolved as –

- i). the share certificate, as evidence of payment for shares, was not availed for audit; and
- ii). the County Government was in breach of the Memorandum and Articles of Association.

Committee Recommendations

The Committee recommends that –

- i).within 60 days of the adoption of this report, the Governor of Kilifi County should ensure that the County Government of Kilifi firms up the ownership of the water company in line with section 72(1) and (3) of the Water Act, Cap 372 by making the necessary payment for the share capital in line with the Company's Memorandum and Articles of Association and submit the Share Certificate as evidence of payment to the Auditor-General for verification; and**
- ii).the Accounting Officer should, within 60 days of the adoption of this report, submit to the Auditor-General a copy of the CR-12 for verification. The Auditor-General to review the matter and provide a status update in the subsequent audit cycle.**

5. Trade and Other Payables

The statement of financial position reflects a balance of Kshs. 555,247,049 under trade and other payables which, as disclosed in Note 28 to the financial statements, comprised of trade payables and tax payables of Kshs.551,512,186 and Kshs.3,734,863 respectively.

Included in the trade payables balance of Kshs. 551,512,186 is an amount of Kshs.500,785,439 due to the Coast Water Works Development Agency. However, records and financial statements for the Coast Water Works Development Agency as at 30 June, 2020 reflected an amount of Kshs. 571,809,922 as due from the Company, resulting in an unreconciled and unexplained variance of Kshs. 71,024,483. Further, supporting schedules for the tax payables of Kshs. 3,734,863 were not provided for audit review.

Consequently, the accuracy, completeness and validity of trade and other payables balance of Kshs.555,247,049 as at 30 June, 2020 could not be confirmed.

Management Response

The management indicated that the variance of Kshs. 71,024,483 resulted from the accumulation of payments that had not been recognized by Coast Water Works Development Agency that were made by the Company on behalf of the agency and that a reconciliation was made. The management also indicated they would liaise with the agency to reconcile the records and provide evidence of all the payments. Further, they stated that the current payments were being fully recognized and disclosed that the balance of Kshs. 3,734,863 referred to a tax obligation that arose out of an assessment done to the Company.

Committee Observations

The Committee observed that the query remains unresolved as –

- i). the water company and Coast Water Works Development Agency were yet to reconcile the loan balances of Kshs.500,785,439 as reflected in the financial statements of the water company and Kshs. 571,809,922 as reflected in the financial statements of Coast Water Works Development Agency that led to a variance of Kshs. 71,024,483, hence the amount due to the Coast Water Works Development Agency could not be ascertained; and
- ii). there was no evidence of any attempts to clear the tax obligations, noting that non-payment could lead to an accumulation of interest and penalties.

Committee Recommendations

The Committee recommends that –

- i). the Governor of Kilifi County should, within 60 days of the adoption of this report, engage Coast Water Works Development Agency for reconciliation of the loan balance and provide evidence of the same to the Auditor-General for verification. The Auditor-General to provide a status update in the subsequent audit cycle;
- ii). the Accounting Officer should ensure strict compliance with regulation 22(2)(a) of the Public Finance (County Governments) Regulations, 2015 which provides that an Accounting Officer shall comply with any tax, levy, duty, pension, commitments and audit commitments; and
- iii). the Accounting Officer should engage the Kenya Revenue Authority and agree on a payment plan and submit the same to the Auditor-General for verification. Auditor-General to monitor the matter and provide a status update on compliance with the plan in the subsequent audit cycle.

6. Variances Between Financial Statement Balances and Supporting Schedules

Review of the financial statements revealed variances between balances reflected in the financial statements and the supporting schedules as detailed below:

Item	Financial Statements Balance (Kshs.)	Supporting Schedule Balance (Kshs.)	Variance (Kshs.)
Trade and Other Payables	555,247,049	552,248,299	2,998,750

Item	Financial Statements Balance (Kshs.)	Supporting Schedule Balance (Kshs.)	Variance (Kshs.)
Customer Deposits	49,362,364	0	49,362,364
Electricity	2,661,060	2,871,769	(210,709)
Office and General Supplies	17,713,151	18,238,555	(525,404)
Bank Charges and Commissions	395,570	982,803	(587,233)

No reconciliation or explanation was provided for the variances casting doubt on the accuracy of the financial statements for the year ended 30 June, 2020.

Management Response

The management provided supporting documents explaining the variances and reasons for adjustments. However, the corrections were made after signing of the final statements of accounts.

Committee Observations

The Committee observed that the query remains unresolved as at the time of the meeting, the Auditor-General had not verified the supporting documents submitted by the Accounting Officer to explain the variances between the financial statements and the supporting schedules and reasons for adjustments.

Committee Recommendations

The Committee recommends that –

- i). the Auditor-General to verify the supporting documents submitted to explain the variance between the financial statement balances and supporting schedules and provide a status update on the matter in the subsequent audit cycle; and**
- ii). the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9 (1) (e) of the Public Audit Act, 2015, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62 (2) of the Public Audit Act, Cap 412B. The Auditor-General to verify the documents and provides a status update on the matter in the subsequent audit cycle.**

7. Cost of Sale

The statement of profit or loss and other comprehensive income reflects cost of sales amounting to Kshs. 137,807,268 which, as disclosed in Note 7 to the financial statements, includes an amount of Kshs. 111,204,763 in respect of cost of water. The latter balance includes an amount of Kshs.76,906,932 paid to the Coast Water Works Development Agency. However, records maintained by the Agency indicated the amount paid by the Company as Kshs.82,405,712, thus resulting in unreconciled and unexplained variance of Kshs.5,498,780.

Consequently, the accuracy and completeness of cost of water paid to the Coast Water Works Development Agency of Kshs.76,906,932 could not be confirmed.

Management Response

The management indicated that they provided copies of invoices received and copies of payments made to Coast Water Services Board.

Committee Observations

The Committee observed the query remains unresolved as evidence of invoices received from the Coast Water Works Development Agency and payment to Coast water Works Development Agency by the water company was not provided for audit review.

Committee Recommendations

The Committee recommends that –

- i).the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, 2015, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62 (2) of the Public Audit Act, 2015; and**
- ii).the Accounting Officer should, within 30 days of the adoption of this report, submit to the Auditor-General for audit verification, copies of invoices received from and the payments made to Coast Water Works Development Agency and evidence of payments made to the Agency and provides a status update on the matter in the subsequent audit cycle.**

Other Matter

The following issues were raised by the Auditor-General under Other Matter -

Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs. 449,015,648 and Kshs. 450,921,746 respectively resulting in a net over-collection of Kshs.1,906,098. Similarly, the

statement reflects final expenditure budget and actual on comparable basis of Kshs. 449,015,648 and Kshs. 496,568,104 respectively resulting to an over expenditure of Kshs. 47,552,456 or 11% of the budget. The over expenditure is attributed to increased distribution of water in the vast rural areas.

Management Response

The management acknowledged the observation made by the Office of the Auditor-General and stated that they considered the period under review to have been exceptionally difficult in costs management due to increased costs of operations and reduced revenues. They also submitted that the fixed costs were not affected however the management reduced all other non-emergence variable costs to a later date.

Committee Observations

The Committee observed that the query remains unresolved as –

- i).no explanation was given for the over collection and over expenditure
- ii).over-collection and over-expenditure in the year under review may have resulted in misuse of funds and that sufficient explanation for the same was not provide;

Committee Recommendations

The Committee recommends that –

- i).the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures;**
- ii).the Board of Directors should institute proper and realistic budget planning to ensure that management sticks to the approved budget. The Auditor-General to confirm the effectiveness of the mitigating measures put in the water company and report in the subsequent audit cycle; and**
- iii).Ethics and Anti-Corruption Commission to commence investigations into the matter of over collection and over expenditure to establish the possibility of misuse of funds and recommend prosecution of officers found culpable.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor-General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

Non-Compliance to a Third Rule on Salary Deductions

Review of the Company's payroll revealed that net pay for fifty-nine (59) employees totalling Kshs.908,161 was less than a third of their corresponding basic pay of Kshs.1,190,103. This is contrary to Section 19(3) of the Employment Act, 2007 which provides that the total amount of all deductions made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

In the circumstances, the Company was in breach of the law.

Management Responses

The management concurred with the Auditor-General and stated they were in the process of correcting the anomaly. The staff involved were made aware and no more deductions are being effected that contravene this recommendation.

Committee Observations

The Committee observed that the Accounting Officer had instituted remedial measures and the same verified by the Auditor-General and considered the query resolved.

Committee Recommendations

The Committee recommends that the Accounting Officer should comply with section 19(3) of the Employment Act, Cap 226 regarding the one third rule on the deductions on the basic salary.

CHAPTER FIVE

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR MANDERA WATER AND SEWERAGE COMPANY LIMITED FOR THE FINANCIAL YEAR 2019/2020

The Governor of Mandera County, Hon. Mohamed Khalif, EGH, appeared before the Committee on Tuesday, 25th July, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor-General on Financial Statement for Mandera Water and Sewerage Company (MADWASCO) for the Financial Year 2019/2020. He was accompanied by-

- i. Mr. Billow Hassan - County Secretary
- ii. Mr. Ibrahim M. Adan - CECM Finance
- iii. Mr. Hussein Somo - County Attorney
- iv. Mr. Kassim H. Abdinoor - MD MADWASCO

The Mandera Water and Sewerage Company is wholly owned by the County Government of Mandera.

REPORT ON FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified Opinion** on the financial statements of Mandera Water and Sewerage Company for the period under review on the following basis.

1. Omissions in the Financial Statements

The Financial Statements submitted did not conform to the requirements of the Public Sector Accounting Standards Board format for reporting on International Financial Reporting Standards. Some of the important reports such as management discussion and analysis, reviews of Company's performance for the financial year under the review, corporate governance statement, corporate social responsibility/sustainability statement and other disclosures on projects implemented by the Company had not been included in the financial statements. In view of the above anomalies, the financial statements did not conform to the requirement of the international financial reporting standards format.

Management Response

It is true that the management discussion and analysis were not included in the company's financial statements for the year under review. During this period, the company was still facing operational and personnel capacity challenges since this was the second year after the company's revival. However, we have taken proactive measures to address this by conducting adequate recruitment and extensive staff trainings on financial statement preparation and presentation, aiming to enhance our overall performance in financial reporting.

It is important to note that the management discussion and analysis reports are non-financial in nature and do not directly impact the company's financial performance. Their purpose is to provide additional context, explanation, and insights into the financial statements, enabling stakeholders to gain a deeper understanding of our operations, strategies, and performance. Explanations and analysis of the financial statements, the company's performance, corporate social responsibility, and sustainability statements have been incorporated under the Chairman's Statements and the report of the CEO on page V and VI of the Financial Statements. Despite these considerations, we remain fully committed to upholding the highest standards of financial reporting. We are confident that our efforts in preparing the management discussions and analysis, along with other key sections of the financial reports, will contribute to a more comprehensive and informative financial reporting process.

Committee Observations

The Committee observed that-

- (i) the company's financial Statements did not conform to the requirements of the Public Sector Accounting Standards Board format for reporting on International Financial Reporting Standards contrary to the provisions of section 149(2) of the Public Finance Management Act, Cap. 412A and section 47(2) of the Public Audit Act, Cap. 412B.
- (ii) the management indicated that this was due to capacity issues and intends to address this by conducting adequate recruitment and extensive staff trainings on financial statement preparation and presentation.

Committee Recommendations

The Committee recommends that-

- i. **The Accounting Officer ensures that the necessary adjustments are made within the required timelines;**
- ii. **The Accounting Officer adheres to section 149(2) of the Public Finance Management Act with regard to preparation and management of financial and accounting records;**
- iii. **the Accounting Officer should enhance the capacity of officers preparing financial statements to comply with the accounting standards and should prioritize investments in technology and processes aimed at minimizing inaccuracies during preparation of financial statement;**

- iv. **The Auditor- General to follow up on the mitigation measures proposed by the management and give a status report on the same to the Senate in the next audit cycle; and**
- v. **The matter remains unresolved.**

2. Variances in Statement of Cash Flows

The Statement of cash flow reflects a balance of Kshs. 214,686,968 relating to purchase of property, plant and equipment under investing activities. However, the corresponding Note 14 on property plant and equipment reflects an amount of Kshs. 216,662,177 as additions to assets resulting to unexplained variance of Kshs. 1,975,209. Consequently, the accuracy and completeness of the statement of cash flows for the year ended 30 June, 2020 could not be confirmed.

Management Response

It is true that the Statement of cash flow reflects an amount of Kshs. 214,686,968 relating to purchase of property, plant and equipment under investing activities while the corresponding Note 14 on property plant and equipment reflects an amount of Kshs. 216,662,177 as additions of assets for the current period resulting to a variance of Kshs. 1,975,209. Included in Note 14 of the Financial Statements is Kshs. 216,662,177 that includes Kshs. 1,975,209 which relates to the value of a pumping set donated to the company by the County Government during the year under review for our intake to increase our pumping hours to provide sufficient water for sanitation during the Covid-19 pandemic period.

The donated value of the pumping set did not result in cash outflow and therefore, was not included in the statement of cash flow as an investing activity.

Committee Observations

The Committee observed that-

- i. the variance of Kshs. 1,975,209 reflected in the property plant and equipment as additions to assets related to the value of a pumping set donated to the company by the County Government during the year under review, and did not result in cash outflow and therefore, was not included in the statement of Cash flow as an investing activity
- ii. This was verified by the Auditor-General thus the matter was resolved.

Committee Recommendations

The Committee recommends that, following the clarification by the management,

the query be marked as resolved.

3. Unsupported Balances

The statement of financial position reflects Kshs. (57,924,483) and Kshs.351,635,986 being members equity and capital grants respectively as disclosed in Note 19 and 21. However, the balances were not supported with detailed ledger analysis. Consequently, the accuracy and completeness of balances for member's equity and capital grants as at 30 June, 2020 could not be confirmed.

Management Response

The negative figure of Kshs 57,924,483 relates to members' equity and includes accumulated losses over time that have depleted retained earnings, and debt incurred by the former dissolved management to cover accumulated losses. The amount of Kshs. 351,635,986 disclosed in Notes 21 of the Financial Statements encompasses Kshs. 184,975,694 grants received from the county executive of Mandera, Kshs. 121,481,788 received from Water Sector Trust Fund, and Kshs. 45,178,504 which is the estimated value of the assets transferred to the company from Northern Service Board as shown in the attached Service Provision Agreement.

Committee Observations

The Committee observed that whereas Management submitted the ledger analysis for the capital grants of Kshs. 351,635,986 to the Auditor-General and the same were verified, the submission was made outside the timelines contemplated under the Public Audit Act and constitutes an offence under section 62(2) of the Public Audit Act.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9 (1) (e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62(2) of the Public Audit Act.

4. Lack of Ownership Documents

The Company inherited intangible assets of Kshs.881,600 from Northern water services Board as reflected under financing activities. However, the same was not supported with a Note as a disclosure and ownership documents were not transferred to the Company. In addition, included in the property, plant and equipment balance of **Kshs.285,717,957** is Kshs. **9,500,000** in respect of land on which the Suftu water intake stands. However, the land had no title deed as evidence of ownership

Further, the additions of **Kshs. 167,257,537** to buildings and civil works includes an amount of **Kshs. 62,989,234** for projects costs that should have been reported under project costs in the statement of profit and loss and comprehensive income since the projects will be owned by the community after completion. In the circumstances, the completeness, accuracy and existence of the property plant and equipment balance of Kshs. 285,717,957 as at 30 June, 2020 could not be confirmed.

Management Response

The figure of Kshs. 881,600 is the netbook value (80% of 1,102,000) of the intangible assets (i.e., company website) acquired in the year under review as disclosed in note 15 on page 17 of the financial statements and not assets inherited from Northern Water Services as observed by the auditor.

The land disclosed is our Suftu intake land and the land on which the current MANDWASCO headquarters was built on. At the time of the audit, the company had initiated the process to obtain the land ownership documents and has since received it. The assets amounting to Kshs 62,989,234 were ongoing Sake and Lanqura water pans projects which were funded through donor funds and were not handed over to community at the time of the audit. The projects were capitalized instead of being expensed at the date of reporting and auditing thus recognized as the company's assets. The projects have since been completed, handed-over and removed from the company's books.

Committee Observations

The Committee observed that-

- i. The management submitted the land ownership documents for the Suftu intake land to the Auditor-General for verification.
- ii. The management clarified that the intangible assets of Kshs. **881,600** were not inherited from Northern Water Services Board. They were actually acquisitions made by the water company during the financial year under review.
- iii. The management failed to provide documents of procurement to support Kshs. **881,600** in respect of intangible assets contrary to section 9(1)(e) of the Public Audit Act.

Committee Recommendations

The Committee recommends that-

- i. **The Accounting Officer to submit the documents of procurement to support the Kshs. 881,600 in respect of intangible assets to the Auditor-General for**

verification within 60 days of the adoption of this report. The Auditor-General to give a status on this matter in the next audit cycle;

- ii. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, 2015, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62 (2) of the Public Audit Act; and
- iii. The matter be marked as unresolved.

Other Matters

Budgetary Control and Performance

The statement of comparison of budget and actual amount reflects final budget and actual on comparable basis of Kshs. 401,526,440 and Kshs. 335,893,675 respectively resulting to an under-funding of Kshs. 65,632,765 or 16% of the budget. Similarly, the Company spent Kshs. 286,335,913 against an approved budget of Kshs. 375,832,111 resulting to an under-expenditure of Kshs. 89,496,198 or 24% of the budget. Further, Statement of comparison of budget and actual amounts omits adjustments or supplementary passed and explanations on material variances made during the financial year under the review.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the stakeholders.

Management Response

Chair, it is true that there were variances between the budgeted amounts and the actual figures for the year. The budget was intended to be funded through sales revenue, grants from the County Government of Mandera, and Donor Funds. However, the company faced challenges in attaining the projected sales target as a result of prolonged and persistent devastating drought experienced which significantly affected the company's water production level. As a result, the company was unable to collect the full expected revenue from sales.

Similarly, the donor grants component was not received as per the signed financing agreements. This was because some of the projects were ongoing and their funds was to be released in phases. For instance, the progress of the EU drought ending project under EUCIPRA program was delayed due to insecurity concerns in the County in the year under review, and although the company budgeted Kshs. 67,517,537.27 as per the signed project financing agreement, it received only Kshs. 3,800,000 at the end of the

financial year 2019/2020 as shown in the bank statements.

The under absorption was as a result of late receipt of grants from both the County Government of Mandera and the donors. In the review period, the County Government did not receive its exchequer from the National Treasury on time as per the approved disbursement schedule and this subsequently impacted releases of grants to the company. This also affected the donor component since donors disburse funds only after the county had paid its portion. Chair, it is worth noting that in the year under review, the actual revenue budget attained of Kshs. 335,893,675 was fully absorbed at an absorption rate of 85% as shown in the statement of comparison of budget and actual amounts on page 5 of the financial statements.

Committee Observations

The Committee observed that the company registered an under-funding of Kshs. 65,632,765 or 16% of the budget and spent Kshs. 286,335,913 against an approved budget of Kshs. 375,832,111 resulting to an under-expenditure of Kshs. 89,496,198 or 24% of the budget.

Committee Recommendations

The Committee recommends that-

- i. the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures; and**
- ii. the Board of Directors should institute proper and realistic budget planning as well as measures to enhance its own generated revenue, such as review of tariffs and connection of more customers and automation to address revenue leakages. The Auditor-General to confirm the effectiveness of the mitigating measures put in place by the water company and report in the subsequent audit cycle.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor-General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

Basis for Conclusion

Unbalanced Budget

A review of the statement of comparison of budget and actual amounts revealed that the Management prepared an unbalanced budget that reflects budgeted income of Kshs.401,526,440 and budgeted expenditure of Kshs.375,832,111 resulting to an unexplained variance of Kshs.25,694,329. This is contrary to Public Finance Management regulations of 2015 section 33(c) which states Unless provided otherwise in the Act, these Regulations or any other guidelines developed in furtherance of the Act or these Regulations, the following guidelines shall be observed at all times during budget formulation and approval (c) budget shall be balanced'. The Management is therefore in breach of the regulations.

Management Response

Mr. Chairman, the company had a balanced budget for the year and the variance shown in the statement of comparison of budget and actual amounts was an error made during the preparation of the financial statements. Chair, Financial Statements are prepared on an excel template and copied to a word template provided by the Public Sector Accounting Standards Board (PSASB) for printing, signing and submission to the authorized entities/offices on time. Regrettably, the error on the statement of comparison was caused in this process.

Committee Observations

The Committee observed that the Management prepared an unbalanced budget that reflects budgeted income of Kshs.401,526,440 and budgeted expenditure of Kshs.375,832,111 resulting to an unexplained variance of Kshs.25,694,329. However, the management indicated that the above was a clerical error, rectified the error and submitted the amended budget to the Auditor-General for verification, thus the matter was resolved.

Committee Recommendations

The Committee recommends that the Accounting Officer should enhance the capacity of officers preparing financial statements to comply with the accounting standards and should further invest in technology and processes that reduce inaccuracies in the preparation of financial statements; and

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1)(a) of the Public Audit Act, based on the audit procedures performed by the Auditor-General, the internal control, risk management and governance were not effective-

Basis for conclusion

1. Lack of an Asset Register

The statement of financial position as at 30 June, 2020 reflects an amount of Kshs.285,717,957 in respect of property, plant and equipment (PPE) as disclosed in Note 14 to the financial statements. However, the Company did not maintain a fixed asset register to record details of the assets contrary to Section 136 (1) of the Public Finance Management Regulations, 2015 that states that the accounting officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

Management Response

Mr. Chairman, the Company provided a schedule of assets for audit. The company has since successfully established an automated asset register system. The automation of the asset register has improved efficiency, accuracy, and overall management of the company's assets. This system enables us to effectively track, record, and monitor our assets, ensuring better control and visibility.

Committee Observations

The Committee observed that the Company did not maintain a fixed asset register to record details of the assets contrary to Section 136 (1) of the Public Finance Management Regulations, 2015, which may expose assets of the water company, such as vehicles and land, to theft, losses, wastage and misuse.

Committee Recommendations

The committee recommends that-

- i. The company to carry out a valuation of all its assets within 60 days of the adoption of this report;**
- ii. the Accounting Officer ensures that the water company maintains an up-to-date asset register in the format prescribed by the Public Sector Accounting Standards Board (PSASB) and submit the same to the Auditor-General within 60 days from the adoption of this report. The auditor-General to report on the status of compliance in the next audit cycle; and**

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

2. Lack of Human Resource Policy and Procedures

Management had not put in place a human resource policy and procedures to assist in enhancing its internal controls regarding the management of its staff. The Company had only a draft human resource policy that had not been adopted and approved by the board this is contrary to section 159(1) of the Public Finance Management (County Government) Regulations, 2015.

Management Response

It is true that the company's draft Human Resource policy was not approved at the time of the audit. However, the company was using the National Public Service Human Resource Manual and policies to ensure effective management of its human capital. The company has since approved its Human Resource Policy and its available for review.

Committee Observations

The Committee observed that the company's draft Human Resource policy was not approved at the time of the audit, however the company has since approved its Human Resource Policy, as was verified by the Auditor-General, thus the matter was resolved.

Committee Recommendations

The Committee recommends that, noting the mitigation measures taken by the water company, the matter be marked as resolved.

CHAPTER SIX

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR MIGORI WATER AND SANITATION COMPANY LIMITED FOR THE FINANCIAL YEAR 2019/2020

The Governor of Migori County, Hon. (Dr.) Ochilo George Mbogo Ayacko, EGH appeared before the Committee on Tuesday 25th April 2023 to respond (under oath) to audit queries raised in the Report of the Auditor-General on Financial Statements for Migori Water and Sanitation Company (MIWASCO) Limited for the Financial Year 2019/2020. He was accompanied by-

- i. Mr. Christopher O. Rusana - CECM Water
- ii. Mr. Phidale Castro Ouma - Chief Officer Water
- iii. Mr. Jacob Maroe - MD MIWASCO

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

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **qualified opinion** on the financial statements for Migori Water and Sanitation Company Limited for the financial year 2019/2020 on the following basis-

1. Unsupported Water Sales

The statement of profit or loss and other comprehensive income reflects water sales of Kshs. 14,953,235 and as disclosed under Note 3 to the financial statements. The amount represents the total customer water consumption billing for the financial year 2019/2020. However, the schedules of the individual customers' accounts billed were not provided for audit review, and it was therefore, not possible to ascertain if all the customers were billed accurately and continuously during the year.

Management response

The management noted the auditor's observation and provided the schedules of monthly billing for each customer for the year for under review.

Committee Observations

The Committee observed that whereas the management provided the schedules of the individual customers' accounts to support the income of Kshs. 14,953,235 from water sales to the Auditor-General for verification, the submission was made outside the timelines contemplated under the Public Audit Act and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that-

- i. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9 (1) (e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62 (2) of the Public Audit Act; and**
- ii. Noting the mitigation measures taken by the management, the Committee recommends that the query be marked as resolved.**

2. Unsupported Trade and Other Payables

Note 22 to the financial statements reflects trade and other payables balance of Kshs. 46,928,659 which includes Kshs. 7,742,096 which was not supported by schedules and ledgers. Further, the payable balance includes Kshs. 845,500 in respect of board allowance arrears which were not supported by the creditor's ledger. In addition, age analysis for the creditors was not provided for audit verification, and therefore it was not possible to ascertain the duration of the outstanding balances. Consequently, the accuracy and completeness of the trade and other payables balance of Kshs. 46,928,659 as at 30 June 2020 could not be confirmed.

Management response

The management noted the auditor's observation and provided aging analysis for all creditors and Schedule supporting the board emoluments arrears of Kshs. 845,500.00.

Committee Observations

The Committee observed that whereas the management provided the schedules and ledgers to support the trade and other payables balance of Kshs. 46,928,659 to the Auditor-General for verification, the submission was made outside the timelines contemplated under the Public Audit Act and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that-

- i. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9 (1) (e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62 (2) of the Public Audit Act; and**

- ii. **Noting the mitigation measures taken by the management, the Committee recommends that the query be marked as resolved.**

3. Unconfirmed Shareholding

The statement of financial position reflects issued capital of Kshs. 100,000 as at 30th June 2020. Note 19 to the financial statements indicates that the issued share capital of the company is divided into 5,000 shares of Kshs. 20 each. The shares as per the business registration service in the Office of the Attorney-General and Department of Justice reflected three directors with two holding 350 shares each and one holding 300 shares, all totaling to 1000 shares. This differs with the financial statement's shareholding of 5000 leading to unreconciled and unexplained variance of 4000 shares. Further, the shares have not been transferred to the County Government of Migori since the advent of devolution. Consequently, the ownership, accuracy, validity and completeness of the issued capital of Kshs. 100,000 as at 30 June 2020 could not be confirmed

Management responses

The management noted the auditor's observation and stated that the County Government had taken up the matter through the office of the county attorney to ensure that legal procedures of transferring the shares are concluded.

Committee Observations

The committee observed that the shares had not been transferred to County Government of Migori since the advent of devolution and the ownership of the capital issued of Kshs. 100,000 could not be confirmed. As such, the query remained unresolved.

Committee Recommendations

The committee recommends that; -

- i) **the Governor takes immediate measures to ensure that MIWASCO is fully owned by the County Government of Migori and registered in line with the law;**
- ii) **the Governor of Migori County should ensure that the County Government of Migori firms up the ownership of the water company in line with section 72 (1) and (3) of the Water Act Cap 372 by making the necessary payment for the share capital in line with the Company's Memorandum and Articles of Association and submit the Share Certificate as evidence of payment to the Auditor-General for verification; and**

- iii) the Managing Director to provide copies of share certificates, as well as, an updated CR12 in accordance with the Companies Act, Cap. 486 to the Auditor-General within 60 days from the adoption of this report.

4. Inadequacies in Presentation of Financial Statements

A review of the company's financial statements for the year under review revealed the following anomalies: -

- i. The company head of finance did not indicate his name and Institute of Certified Public Accountants of Kenya (ICPAK) membership number in the statement of financial position contrary to the requirements of the Public Sector Accounting Standards Board (PSASB) reporting template issued in June 2022;
- ii. The company Secretary did not indicate his Institute of Certified Public Secretary of Kenya (ICPSK) membership number in the financial statements; and
- iii. Report of the director is signed by the chairman instead of the Corporate Secretary, Contrary to the Public Sector Accounting Standards Board (PSASB) template issued in June 2020.

In the circumstances, the financial statements are not prepared in accordance with PSASB prescribed format.

Management response

The management noted the auditor's observation and stated that going forward the membership number of both Head of Finance (ICPAK No 8092) and the Company Secretary (ICPSK NO. R/CPSB/1653) shall be indicated.

Committee Observations

The committee observed that the financial statements for the water company were not prepared in accordance with the Public Sector Accounting Standards Board (PSASB) format. However, the Management provided satisfactory mitigating measures hence the query is marked as resolved

Committee Recommendations

The committee recommends that-

- i. the accounting officer adheres to section 149(2) of the Public Finance Management Act and section 47(2) of the Public Audit Act with regard to preparation and management of financial and accounting records;
- ii. the Accounting Officer should enhance the capacity of officers preparing financial statements to comply with the accounting standards and should

- prioritize investments in technology and processes aimed at minimizing inaccuracies during preparation of financial statement;**
- iii. the Accounting Officer should strengthen internal audit controls and ensure proper record keeping; and**
 - iv. the Accounting Officer to take administrative action on the officers within the Accounts and Finance department who failed to keep complete financial records in accordance with their terms and conditions of appointment or employment and as required by the Accountants Act, 2008.**

Material Uncertainty in Relation to Going Concern

I draw attention to note “Y” ongoing concern in the summary of significant accounting policies under which the management have disclosed that the company made a loss of Kshs. 10,899,237 during the current financial year, compared to a loss of Kshs. 13,994,952 in the previous financial year. The operating loss in the year under review depleted further the revenue reserves from the negative of Kshs. 34,448,829 as at 30 June 2019 to a negative of Kshs. 45,348,066 as reflected on the statement of financial position as at 30 June 2020.

The company’s total current liabilities balance of Kshs. 62,797,148 exceeded its total current assets balance of Kshs. 38,037,277 resulting in a negative working capital of Kshs. 24,759,871 as at 30 June 2020.

The precarious financial situation described above is an indication of the existence of a material uncertainty which may cast a significant doubt on the company’s ability to continue as a going concern and to meet its financial obligations as and when they fall due.

The management have further disclosed in note “Y” that through continuous support from the county government of Migori, they believe that the company would remain a going concern.

My opinion is not qualified in respect of this matter.

Management response

The management noted the auditor’s observation and stated that the current administration had put in place the recovery strategy of the company by:

- i. Recruiting a new board of directors to spearhead the management of the company to operate according to laid down regulations.
- ii. The current administration has increased budgetary electricity allocation to the company and subsequently paid electricity bills for the last eight months, so that water treatment works continuously operate without disruption.

- iii. Ensuring water treatment chemicals are procured and availed to the company in time
- iv. The newly appointed County Executive Committee Member (water and energy) has improved working relationship with various partners and government agencies e.g. Water Sector Trust fund (WSTF), WASREB, LVSWWDA to collectively improve the company's performance.
- v. Through the above-mentioned partnership, the company is expecting an increase in customer connectivity by 4500 new connections and thereby increase the company's revenue base by the end of this year.
- vi. Thus, with the improved revenue collection, the company shall prepare a payment plan with creditors, agencies and staff in an effort to reduce blotted trade payable.
- vii. The department of water has supported the company in buying fittings for repair and rehabilitation of lines at a cost of 2.0 million which shall further improve service delivery and revenue collection.
- viii. The company is in the process of mapping out new customers'/ customer registration and carrying out client identification survey and client satisfactory survey which will further improve service delivery.
- ix. The company has embarked on an aggressive media campaign to inform the public on the ongoing restructuring and reforms by the company

Committee Observations

The committee observed that the company operated on loss of negative of Kshs. 45,348,066 and a negative working capital of Kshs. 24,759,871 as at 30 June 2020.

Committee Recommendations

The committee recommends that-

- i) the Governor of Migori County should take keen interest in the management and operations of the water company in line with Article 179 (4) of the Constitution;
- ii) the Accounting Officer should prepare and submit quarterly reports in regard to the financial and non-financial status of the water company in line with section 166 of the Public Finance Management Act, 2012;
- iii) the County Executive Committee Member in charge of water should take full responsibility for monitoring the financial performance of the county corporation in line with section 184 of the Public Finance Management Act, 2012 and regularly report to the Governor through the County Executive Committee in line with Article 179(6) of the Constitution;

- iv) **the County Treasury should undertake annual reporting on County Corporation, including an assessment of the commercial viability of the company in line with the standards set by the Water Services Regulatory Board under section 77(2) of the Water Act, Cap.372; and**
- v) **the company should put in place mitigating measures to address the physical and commercial water losses in order to reduce the high level of Non-Revenue Water to boost the financial health of the company. Furthermore, the Auditor-General should ascertain the efficacy of the measures taken and report in the subsequent audit cycle.**

Other Matter

Budgetary Control and Performance

The water company had budgeted to collect a total of Kshs. 69,935,000 but realized a total revenue collection of Kshs. 29,485,032 thereby realizing an overall shortfall of Kshs. 40,499,968 or 58% of the budget.

Further, the statement of comparison of budget and actual amounts of the year ended 30 June 2020 reflects expenditure budget of Kshs. 75,709,000 and an actual expenditure of Kshs. 32,290,628 resulting overall under expenditure of Kshs. 43,418,372 or 57% of the budget. The budget under expenditure of Kshs. 43,418,372 is equivalent to services budgeted for but not delivered to the residents of Migori county.

In addition, the water company overspent in personnel costs by Kshs. 969,150. There was no evidence provided for audit review to confirm that the over expenditure of Kshs. 969,150 was approved. This is contrary to section 43(2) of Public Finance Management (County Governments) Regulations, 2015, which states that county government entities shall execute their approved budgets based on the annual appropriation legislation and approved annual cashflow plan except unforeseen and avoidable spending dealt with through the Contingencies Fund of supplementary estimates.

Management response

The company underperformed in both revenue and expenditure estimate due to constraints in operating environment as a result of COVID-19 in the year under review. In addition, Presidential edict not to disconnect any customer with arrears or who don't pay for water compounded with inaccessibility of customers' homes due to COVID-19 restrictions on movement greatly affected revenue collection, billing and operations. In addition, the company was deficient in supply of water utility chemicals and non-payment of electricity bills. Further to this, there were old dilapidated pipelines that needed repair and rehabilitation, whereas the company did not have money. The supply of water was affected in destruction of pipelines by road construction company works.

Committee Observations

The Committee observed that; -

- i) the water company had an overall shortfall of Kshs. 58% of the budget and an under expenditure of 57% of the budget; and
- ii) The water company overspent in personnel costs by Kshs. 969,150. There was no evidence provided for audit review to confirm that the over expenditure of Kshs. 969,150 was approved.

Committee Recommendations

The Committee recommends that-

- i. **the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures; and**
- ii. **the Board of Directors should institute proper and realistic budget planning as well as measures to enhance its own generated revenue, such as review of tariffs and connection of more customers and automation to address revenue leakages. The Auditor-General to confirm the effectiveness of the mitigating measures put in place by the water company and report in the subsequent audit cycle.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES.

Pursuant to Article 229(6) of the Constitution, based on the audit procedures performed by the Auditor-General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way-

1.0 Trade and Other Payables

Note 22 to the financial statements reflects trade and other payables balance of Kshs. 46, 928,659 which includes salary arrears of Kshs. 11,896,077. The salary arrears increased by Kshs. 3,831,843 from Kshs. 8,064,234 in 2018/2019 to Kshs. 11,896,077 as at 30 June 2020. Nonpayment of salary arrears contravenes Section 18(2)(c) of Employment Act Chapter 226 of 2007 which states that “Wages and salaries shall be deemed to be due in the case of an employee employed for a period exceeding one month, at the end of each month or part thereof. “In addition, Section 3.9.2 of MIWASCO Human Resource Policies and Procedures Manual states, “every employee shall be paid a salary at the end of each month.

Further, the trade and other payables balance of Kshs. 46,928,659 includes outstanding audit fees of Kshs. 3,056,000 (2018/2019 - Kshs. 2,824,000). No explanation was given, failure to pay the audit fees owed to the office of the Auditor-General. Consequently, the Management was in breach of the law.

Management response

The management noted the auditor's observation and stated that the Company was facing financial constraints over the years and in particular in the financial year 2019/2020 that made it difficult to pay salaries, and other creditors including the Office of the Auditor-General. This was due to non-operation for 8 months from July 2019 to February 2020 as a result of power disconnection by KPLC, and the effects of COVID-19 containment measures from March 2020 to June 2020, the Company was unable to collect adequate revenues to meet its obligations.

Committee Observations

The Committee observed that there was an outstanding salary arrears of Kshs. 11,896,077 and outstanding audit fees of Kshs. 3,056,000.

Committee Recommendations

The Committee recommends that; -

- i) the Governor ensures that Migori County allocates a conditional grant to enable the water company to settle the outstanding wages of Kshs. 11,896,077 and provide status update within 60 days from the adoption of this report;**
- ii) the water company enter into an agreement with the Auditor-General for the payment of outstanding audit fees. The Auditor-General should review and provide a status update on the implementation of this agreement and provide a report in the subsequent audit cycle;**
- iii) the County Executive Committee Member in charge of water should continuously monitor the financial performance of the water company in line with section 184 of the Public Finance Management Act, 2012 and report on the same to the County Executive Committee, making recommendations on how the water company can improve its performance; and**
- iv) the Accounting Officer should adhere to section 18(2)(c) of Employment Act, Cap.226 which provides that “wages and salaries shall be deemed to be due in the case of an employee employed for a period exceeding one month, at the end of each month or part thereof”.**

2.0 Unremitted Statutory Deductions

Note 22 to the financial statements reflects Kshs. 46,928,659 as trade and other payables, which includes an amount of Kshs. 3,797,591 which was deducted from employees' salaries as follows: - Pay as You Earn Kshs. 3,044,691; NSSF - Kshs. 712,800 and Withholding Tax - Kshs. 40,100. These statutory deductions had not been remitted to the relevant bodies and were outstanding for more than sixty (60) months by 30 June 2020. Non - remittance of the statutory deductions is a breach of law, which may attract penalties and interest.

Management response

The management noted the auditor's observation and stated that the outstanding salary arrears and statutory deductions were necessitated by the company undergoing financial constraints in the period under review due to low billing and revenue collection necessitated by COVID-19 Pandemic and power disconnection for 8 months. However, the company had made strides in paying arrears and statutory obligations, as demonstrated in the annexed schedules. Moving forward, the company commits to renegotiate with the statutory and other creditors with a view to settling all the arrears.

Committee Observations

The Committee observed that; -

- i. there were salary arrears totaling Kshs. 14,540,883 as at 30 June 2021;
- ii. Management made efforts to settle with NSSF and the Payment Order indicates a balance of Kshs. 55,200 due on 30 April 2023;
- iii. debt payment instalment agreement executed with KRA on 23 November 2020 with arrears to be completed on 15 October 2022. Latest KRA Tax Invoice not provided; and
- iv. Acknowledgement and feedback by NHIF on application for waiver on 18 August 2020 not provided.

Committee Recommendations

The committee recommends that:

- i. **the Accounting Officer adheres to section 22(2)(a) of the Public Finance Management (County Government) Regulations, 2015, which provide that the Accounting Officer to comply with any tax, levy, duty, pension, commitments and audit commitments as may be provided by legislation;**
- ii. **the Accounting Officer to engage the NSSF, NHIF and KRA with the aim of formulating a payment agreement to settle the outstanding**

- statutory deductions and provide a detailed status report on the same to the Auditor-General for subsequent reporting within 60 days from the adoption of this report;
- iii. the Board of Directors ensures the water company adheres to section 19(4) of Employment Act in regard to remittance of employee remuneration deductions in accordance with the time period specified by the relevant bodies; and
- iv. the Auditor-General should review and provide a status update on the implementation of this recommendation and provide a report on this matter in the subsequent audit cycle.

3.0 Uncleared Agencies Account

Note 23 to the financial statement reflect agency account balance Kshs. 10,454,259 which comprise Kshs. 7,995,096 and Kshs. 2,459,163 which was due to Lake Victoria South Water Services Board and WASREB), respectively. No satisfactory explanation was given for failure by the Company to meet the cost of all the levies within the stipulated timeline. Consequently, the management is in breach of law.

Management response

The management noted the auditor's observation and stated that failure in remitting agency levies was due to the company undergoing financial constraints in the year under review. However, there were effort to renegotiating a payment plan with LVSWWDA and WASREB to come up with an implementable payment plan

Committee Observations

The committee observed that the financial statement reflects agency account balance Kshs. 10,454,259 which comprise Kshs. 7,995,096 and Kshs. 2,459,163 which was due to Lake Victoria South Water Services Board and WASREB, respectively.

Committee Recommendations

The committee recommends that-

- i) the Governor should engage Lake Victoria South water agency and WASREB and agree on a repayment plan with the view of resolving this matter within 60 days from the adoption of this report;
- ii) the County Executive Committee Member in charge of water should continuously monitor the financial performance of the water company in

line with section 184 of the Public Finance Management Act, 2012 and report on the same to the County Executive Committee, making recommendations on how the water company can improve its performance;

- iii) the Accounting Officer should ensure total compliance with the Company's Accounting and Finance Procedures and Policies Manual, 2015; and
- iv) the Auditor-General to provide a status update on the matter in the subsequent audit cycle.

4.0 Irregular Recruitment of Staff

Note. 8 to the financial statement reflects Kshs. 10,214,150 in respect of personnel and establishment costs, which includes salaries and wages of Kshs. 8,631,000 which further include Kshs. 1,820,000 paid to thirteen (13) newly recruited employees. A perusal of the personnel records maintained by the human resources department revealed the following anomalies: -

- i. There was no advertisement for staff and therefore the requirements and competencies for the posts could not be confirmed; and
- ii. Records relating to vacant posts such as applications, shortlisting of candidates, interview conducted and selection of successful candidates were not presented for audit review.

Therefore, the management contravened section 65 of the County Governments Act, 2012 which provides for open and transparent recruitment process of public servants. Consequently, the Company was in breach of the law.

Management response

The management noted the auditor's observation and stated that the company adherence was undergoing restructuring by appointing a new board of directors who would ensure that the company human resource policy and Public Finance Management Act (PFM Act 2012) in recruitment of personnel.

Committee Observations

The committee observed that the company had not developed a human resource policy and adhered to the public finance act during recruitment of the staff.

Committee Recommendations

The committee recommends that; -

- i) the Board of Directors ensures that the water company puts in place all internal control systems such as the Internal Audit Committee as

provided under section 155 (5) of the Public Finance Management Act, 2012, and a Risk Management Policy as provided under section 158 (1) of Public Finance Management (County Governments) Regulations, 2015 among others to guide the internal operations of the water company and submit evidence of the same to the Auditor-General for verification within 60 days from the adoption of this report; and

- ii) The Company adhere to section 65 of the County Governments Act, 2012 which provides for open and transparent recruitment process of public servants**

5.0 Over Commitment of Salary

Note. 8 to the financial statement reflects Kshs. 10,214,150 in respect of personnel and establishment costs, which further includes salaries and wages of Kshs. 8,631,000. A review of the company payroll revealed that forty-eight (48) employees received net pay of below a third contrary to the provisions of section 19 (3) of the Employment Act, 2007 which states that, “without prejudice to any right of recovery of any debt due, and notwithstanding the provisions of any other written law, the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two thirds”

Management response

The management noted the auditor’s observation and stated that those were partial Salary paid to staff to cover for salary arrears.

Committee Observations

The committee observed that 48 employees received a net pay of below a third, as prescribed by law.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure strict compliance with section 19(3) of the Employment Act, 2007. The Auditor-General to monitor the matter and provide a status update in the subsequent audit cycle.

6.0 Non-Revenue Water (NRW)

During the year, the company produced 315,583 meters (m3) of water. However, only 173,663 (m3) were billed to customers. The balance of 141,920m3 or 55% of the total volume represented Non-Revenue Water (NRW) which is 30% above the allowable loss of 25% in accordance with the Water Services Regulatory Board guidelines. The NRW of 141,920m3 may have resulted in loss of sales estimated at Kshs. 6,724,169 at the average rate of Kshs. 47.38 per m3. This is also an indication of lack of efficiency and

effectiveness in the use of public resources. No evidence was provided for efforts by the Company to address the situation.

In the circumstances, the Kshs. 6,724,169 level of NRW may negatively impact on the Company's profitability and its long - term sustainability.

Management Response

The management noted the auditor's observation and stated that the company experienced a lot of water loss through destruction of main lines due to ongoing road construction works and bursts in the distribution lines, faulty and non-functioning customer meters, estimate production due to faulty master meters at treatment plant.

However, current administration had taken initiative of buying pipes and fittings for quick repairs of bursts/leakages for the company. In addition, a technical staff from department of water have been seconded to the company to assist the technical department in line patrol and spearhead technical office and Enforcing the Migori County Water Act 2021 that enforces order on road work constructors to repair the damaged water structures during construction works. The company is carrying out customer identification survey to weed out illegal connections. There is also an increase in budget allocation for pipeline and related infrastructure.

Committee Observations

The Committee observed that-

- i. the Non-Revenue Water (NRW) of the company during the financial year 2019/2020 stood at 55% against the sector benchmark of 25% as prescribed by 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 NRW losses; and
- iii. this high level of NRW has largely contributed to the Company's revenue shortfall, as well as the material uncertainty relating to a going concern.

Committee Recommendations

The Committee recommends that-

- i. **the company should put into place comprehensive measures to mitigate the NRW. 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;
- 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 matter in the subsequent audit cycle.

7.0 Lack of Staff Ethnic Diversity

A review of the personnel records indicated that the company has a staff composition of 58 out of which 37 or 65% comprises members of the ethnic community dominant in the county. This is contrary to Section 65(1) of the county Government Act, 2012 which require that at least thirty percent of the vacant post at entry level are filled by candidates who are not from the dominant ethnic community in the county. Consequently, the management is in breach of the law.

Management response

The management noted the auditor's observation and stated that Migori County is a cosmopolitan County and all communities are always encouraged to apply for the advertised vacancies in line with National Cohesion and Integration Act. However, the management will continue to strive to consider all inclusivity while recruiting going forward.

Section 7(1) and (2) of the National Cohesion and Integrity act 2008 states that (1) All public establishment shall seek to represent the diversity of people of Kenya in employment of staff.

(2) No public establishment shall have more than one third of its employees from same ethnic group.

Committee Observations

The Committee observed that 65% of the employees comprised of members of the dominant ethnic community in the County.

Committee Recommendations

The Committee recommends that; -

- i) the County Executive should comply with section 7(1) and (2) of the National Cohesion and Integrity Act, Cap.7N which states that (1) All public establishment shall seek to represent the diversity of people of Kenya in employment of staff (2) No public establishment shall have more than one third of its employees from same ethnic group; and

- ii) the Board and the Accounting Officer makes deliberate efforts to progressively comply with section 65 of the County Governments Act, 2012 which provides that at least thirty percent 30% of the vacant posts at entry level be filled by candidates who are not from the dominant ethnic community.

CHAPTER SEVEN

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR MOMBASA WATER SUPPLY AND SANITATION COMPANY LIMITED FOR THE FINANCIAL YEAR 2019/2020

The Governor of Mombasa County, Hon. Abdullswamad Sherrif Nassir, appeared before the Committee on Thursday 22nd June, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor-General on Financial Statement for Mombasa Water Supply and Sanitation Company Limited (MOWASCCO) for the Financial Year 2019/2020. He was accompanied by-

- i. Mr. Evans Oanda - CECM Finance
- ii. Mrs. Emily Achieng - CECM Water
- iii. Mr. Abdurahim Farah - MD MOWASCCO
- iv. Mr. Kinyai Laban - GM MOWASCCO

The Mombasa Water Supply and Sanitation Company Limited is wholly owned by the County Government of Mombasa.

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **qualified opinion** on the financial statements of Mombasa Water Supply and Sanitation Company Limited for the financial year 2019/2020 on the following basis-

1. Presentation of the Financial Statements

The Annual Report and Financial Statements submitted for audit did not have the Chairman's statements, management discussion and analysis on operational and financial performance of the Company, performance of the company against predetermined objectives, corporate governance statement and environmental and sustainability reporting. Further progress on follow up of auditor's recommendations was omitted from the financial statements

Consequently, statements do not fully comply with the Financial reporting guidelines issued by the Public Sector Accounting Standards Board pursuant to the requirements of section 194(1) of the Public Finance Management Act, Cap. 412A.

Management Response

This has now been complied with in 2021/2022 financial statements.

Committee Observations

The Committee observed that the relevant statements and sustainability reporting were omitted from the company's annual report and financial statements contrary to the reporting guidelines issued by the Public Sector Accounting Standards Board (PSASB)

and in contravention of the requirements of section 47(2) of the Public Audit Act, Cap. 412B. However, the management corrected the omission in the subsequent year's (2021/22) report thus the query was resolved.

Committee Recommendations

The Committee recommends that-

- i. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act and section 47(2) of the Public Audit Act with regard to preparation and management of financial and accounting records;**
- ii. the Accounting Officer should enhance the capacity of officers preparing financial statements to comply with the accounting standards and should further invest in technology and processes that reduce inaccuracies in the preparation of financial statements;**
- iii. the Accounting Officer ensures that the water company maintains an up-to-date asset register in the format prescribed by the Public Sector Accounting Standards Board (PSASB); and**
- iv. the Auditor-General to undertake physical verification of all assets of the water company and provide a status report to the Committee within 60 days from the adoption of this report.**

2. Inaccuracies in Financial statements

The Financial Statements for year ended 30 June, 2020 submitted for audit had the following anomalies:

- i. The Statements of comparison of budgets and actual amounts reflects net surplus for the year of Kshs.39,571,009 while the re-casted figure is a loss of Kshs. 64,256,327 resulting to a difference of Kshs. 103,827,336 which has not been explained or reconciled.**
- ii. Note 5 to the financial statements reflects a comparative balance of Kshs. 44,269,844 for property, plant and Equipment while the audited financial statements for the year ended 30 June, 2019 reflect Kshs. 47,597,973, resulting into unexplained and unreconciled variance of Kshs. 3,328,129.**

Management response

- i. There was no net surplus of Kshs. 39,571,009 in the financial statements. The figure referred to by the auditor is a net variance between the actual loss and the budgeted loss which should have been Kshs. 64,256,327.
- ii. A new reporting template was given by the National Treasury which separated tangible and intangible assets. The Kshs. 3,328,129 was therefore categorised separately in the new reporting template but the net total asset balance in the financial statements remains the same.

Committee Observations

The Committee observed that-

- i. The Kshs. 39,571,009 was erroneously captured as an audit query by the Auditor-General.
- ii. The variance of Kshs. 3,328,129 occurred due to the separation of tangible and intangible assets as was required by the new reporting template given by the National Treasury. Thus, the matter was resolved.

Committee Recommendations

Noting the mitigation measures taken by the management, the Committee recommends that the matter be marked as resolved.

3. Failure to Disclose Material Uncertainty Related to Going Concern

The statement of Profit and Loss and Other Comprehensive income reflects a loss before tax of Kshs.120,548,405 (2019 – a loss of Kshs. 78,986,653) which brought the Company's accumulated loss to Kshs. 2,062,438,655 as at 30th June 2020 (2019 – Kshs. 1,941,890,250). Further, the current liabilities of Kshs. 1,933,137,511 exceeding the current assets of kshs.276,050,124 resulting to a negative working capital of Kshs. 1,657,087,387 as at 30th June 2020. The precarious financial position is an indication of the existence of a material uncertainty on the Company's ability to continue as a going concern.

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 of Mombasa, its creditors and bankers. However, the material uncertainty in relation to going concern and any mitigating measure put in place by the company's directors to reverse the undesirable precarious financial position have not been disclosed in the Financial statements.

Management Response

In order to address the problem of going concern, the company has to increase water sales and also reduce NRW. The management has therefore embarked on the following;

- i) Partnering with Development partners for infrastructure development and capacity building to improve efficiency and increase water supply- the company is currently being funded by the world bank to rehabilitate and expand water pipelines which is expected to be complete by December 2023. After rehabilitation we are expecting to reduce NRW through water loss from 50% to 39%. This will consequently increase our revenue by approximately ksh 64,000,000 Further through funding from the development partners, World Bank (WB) and French Development Agency (AFD) water supply to Mombasa will drastically improve in more than three folds after the completion of Mwache Dam and Mwache Water Treatment Plant by December 2026. The designed volume to Mombasa is 180,000m³ per day. This volume translates to 64,800,000m³ of water annually which translates to 3,272,400,000 increase in revenue.
- ii) **Formation of a NRW unit**
A fully and operational unit have been formed and in the new developed organizational structure. The unit have identified the equipment and good required and procurement process initiated and contract signed awaiting delivery.
- iii) **Procurement of Bulk meters and Consumer meters**
For the last three years the company have procured and installed 3,000 consumer meters mainly replacement of non-working meters and installed 1500 new connection through various projects.
Bulk meters were installed at Boundary of the County to accurately measure the bulk supply from the sources.
- iv) **Customer Identification Survey (CIS)**
The company is undertaking Customer Identification Survey (CIS) to identify customers with illegalities and also clean up the customer database.
- v) **Implementation of ERP**
The company have implemented ERP, this will improve the process of the company and mainly on Meter management and reduce the commercial NRW.
- vi) Currently the company has over 50% faulty meters while contributes to NRW water, we are however expecting 10,000 meters from development partners which when installed will greatly reduce water loss.

vii) Purchase of Smart Meters

The company with the partnership with the County Government of Mombasa has initiated the process of asset financing from National Bank towards the purchase of 10,000 smart meters that will go along to reducing NRW as the company will be reading water bills on actuals

Committee Observations

The Committee observed that the query remains unresolved from financial year 2018/2019 as the financial statements of the water company were prepared on a going concern basis despite the company incurring a loss of Kshs. 120,548,405 (accumulated loss of Kshs. 2,062,438,655 as at 30th June 2020) and operating with a negative working capital of Kshs. 1,657,087,387 in the year under review.

Committee Recommendations

The Committee recommends that-

- i. the Governor of Mombasa County should take keen interest in the management and operations of the water company in line with Article 179 (4) of the Constitution;**
- ii. the Accounting Officer should ensure disclosure of material uncertainty in relation to going concern in line with the Public Sector Accounting Standards Board template;**
- iii. the Accounting Officer should prepare and submit quarterly reports in regard to the financial and non-financial status of the water company in line with section 166 of the Public Finance Management Act;**
- iv. the CECM in charge of water should take full responsibility for monitoring the financial performance of the county corporation in line with section 184 of the Public Finance Management Act, and regularly report to the Governor through the County Executive Committee in line with Article 179(6) of the Constitution;**
- v. the County Treasury should undertake annual reporting on County Corporation including an assessment of the commercial viability of the company in line with the standards set by the Water Services Regulatory Board under section 77(2) of the Water Act, Cap. 372; and**
- vi. the Accounting Officer should, within 60 days of the adoption of this report, put in place strategic and innovative measures for recovery and to boost the**

financial health of the water company for self-sustainability. Additionally, the management reviews and regularizes the company's existing assets and have updated assets register that reflect the current financial position. Further, management to determine and ascertain their commercial viability as required by the Public Sector Accounting Standards Board (PSASB).

4. Bank and Cash Balances

The statement of financial position reflects cash and cash equivalent of Kshs. 37,007,106 as at June 2020 which has disclosed under Note 7 to the financial statements included Kshs.5,866,494 for which supporting documents including certificate of bank balance, bank statements and cash were not provided for audit.

Further, Bank reconciliation statements for six (6) bank accounts with a total balance of Kshs. 2,545,604 were not provided for audit.

Consequently, the accuracy, existence and completeness of the reported cash and cash equivalent balance of Kshs. 37,007,106 as at 30 June 2020 could not be confirmed

Management response

- i) The Kshs. 5,866,494 was in respect of Posta Pay where the cash book, bank reconciliation and the bank statements are hereby attached. We are following up with the bank to get the certificate.
- ii) The bank reconciliation for the six banks are also attached.

Committee Observations

The Committee observed that the query remains unresolved from financial year 2018/2019-

- i. the management submitted all required documents to support a balance of Kshs. 5,866,494 in respect to Posta Pay Account to the Auditor-General for verification except the certificate of bank balance, which the company is yet to receive from the bank.
- ii. The management failed to provide bank reconciliation statements for six (6) bank accounts with a total balance of Kshs. 2,545,604 for audit review, during the audit period.

Committee Recommendations

The Committee recommends that-

- i. **the Board of Directors to take administrative action against the Managing Director of the water company for failing to provide the certificate of bank**

- balance and ensure the same is submitted to the Auditor-General for verification within 60 days of the adoption of this report; and
- ii. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act Cap. 412B, failure to which the Committee shall be constrained to recommend investigation and prosecution of the relevant officers in line with section 62 (2) of the Public Audit Act, 2015.

5. Trade and other payables

The statement of Financial position and note 11 to the Financial statements, reflect trade and other payables balance of Kshs. 1,933,137,511. However, an aged analysis for the payables were not provided for audit. Further Kshs.1,443,346,267 of the payables related to debts owed to Coast Water Works Development Agency. Although supporting invoices for the balances were provided for audit, the agency's record indicated an outstanding debt of Kshs. 1,525,422,723 and thus resulting in a variance of KShs. 82,076,456 which has not been explained or reconciled

Consequently, the accuracy, validity and completeness of the Trade and other payable balance of Kshs. 1,933,137,511 as at June 2020, could not be confirmed

Management response

- i) Trade payables age analysis hereby attached
- ii) The correct amount owed to Coast Water Works Development Agency is Kshs 1,175,896,241.38 and therefore the variance is Kshs 349,526,481.62.
- iii) The company is in the process of reconciling the variance and attached the reconciliation done.

Committee Observations

The Committee observed that the query recurred from the previous financial year as the amount recorded in the company's financial statement (Kshs.1,443,346,267) in regards to payables owed to Coast Water Works Development Agency differed from the records of the Agency (Kshs.1,525,422,723) by an amount of KShs. 82,076,456. This variance was not reconciled or explained.

Committee Recommendations

The Committee recommends that-

- i. The Accounting Officer undertakes the necessary reconciliations of the trade payables balances and determine what is owed to the Coast Water

- Works Development Agency. The Auditor-General to provide a status update of the same in the subsequent audit cycle; and
- ii. the Accounting Officer engages Coast Water Works Development Agency with the aim of developing a payment plan for Kshs. 1,175,896,241.38 in order to clear the outstanding balances and provide a status update on the same to the committee within 60 days of the adoption of this report.

6. Trade and other Receivables

The statement of financial position reflects the trade and other receivables balance of Kshs. 139,043,018 which as disclosed at note 9 to the financial statements, comprised total receivables of Kshs. 1,008,917,812 and a provision for bad debts amounting to Kshs. 769,874,795 or 76% of total debtors. However, the Company's policy is to provide for bad and doubtful debts at a rate of 25% of debtors.

Consequently, the accuracy, validity and full recoverability of the trade and other receivables balance of Kshs. 239,043,018 as at 30 June 2020 could not be confirmed

Management response

The company's provision for bad and doubtful debts as below;

- Outstanding for 6 months 25%
- Outstanding for over 6 months but below 2 years 50%
- Outstanding for 2 years and above 100% as approved by the Board

Committee Observations

The Committee observed that the query remains unresolved-

- i. the water company's financial statement included a provision for bad debts amounting to Kshs. 769,874,795 (76% of total debtors) contrary to the company's policy which is to provide for bad and doubtful debts at a rate of 25% of debtors.
- ii. The management submitted that the amount was calculated on a graduated rate of 25%, 50% and 100 % as per the timelines approved by the Board.

Committee Recommendations

The Committee recommends that-

- i. the Accounting Officer should within 60 days of the adoption of this report, submit an approved copy of the Debt Management Policy to the Auditor-General for verification. The Auditor-General to verify the policy and submit a status update on the same in the subsequent audit cycle;

- ii. the Accounting Officer should, within 30 days of the adoption of this report, put in place recovery measures for the outstanding amount with clear timelines. The Auditor-General should review the implementation of the measures put in place provide a status update on the matter in the subsequent audit cycle;
- iii. the Accounting Officer to undertake a detailed analysis of its long outstanding trade receivables and with the Board's approval, write-off the irrecoverable debts in line with the regulation 130 (2) (d) of the Public Finance Management (County Governments) Regulations.

7. Share Capital

As previously reported Mombasa Water Supply and Sanitation Company Limited was incorporated on 18 March, 2011 to take over services of the defunct Mombasa Water and Sewerage Company Limited which had an authorized share capital of Kshs.5,000,000. However, the old Company was not liquidated and no shares had been transferred to the new Company as at 30 June 2020. Further, out of the new Company's authorized share capital of 5000 ordinary shares of Kshs.1000 each, only twelve (12) shares valued at Kshs.12,000 were allotted but not paid for, leaving a balance of Kshs.4,988 shares un-allotted. Further, the financial statements under note 2 reflect issued but not paid 5,012 ordinary shares of par value of Kshs.1000 each and twelve (12) ordinary shares of par value of Kshs.20 each, which is more than the authorized ordinary shares of 5000. Further, the issued but not paid share capital of Kshs.5,000,240 and described as amount due from shareholders is also reflected as non-current assets in the statement of Financial position. In circumstances, the accuracy and validity of the share capital balance of Kshs.5,000,240 as 30 June, 2020 could not be confirmed.

Management Response

- i) The shares have been transferred from the Municipality Council Mombasa to the County Government of Mombasa attached is the Cr12 to show the current shareholding of the company.
- ii) This is a presentation error on the financial statements which will be corrected in the next financial year.

Committee Observations

The Committee observed that-

- i. The management submitted the Company's CR12 to the Committee and the Auditor-General for verification. The document confirmed that the all shares had been transferred from the the Municipality Council Mombasa to the County Government of Mombasa.

- ii. There were errors in the presentation of the financial statements in the financial year under review.

Committee Recommendations

The Committee recommends that-

- i. **the Accounting Officer to take appropriate administrative action on the officers within the Accounts and Finance department who failed to keep complete financial records in accordance with their terms and conditions of appointment or employment and as required by the Accountants Act, Cap. 531.**
- ii. **the Accounting Officer should enhance the capacity of officers preparing financial statements to comply with the accounting standards and should prioritize investments in technology and processes aimed at minimizing inaccuracies during preparation of financial statement; and**
- iii. **the Accounting Officer should strengthen internal audit controls and ensure proper record keeping.**

Other Matters

1. Budgetary Control and performance

As reflected in the statement of comparison of budget and actual amounts, the Company had a budgeted revenue of Kshs.1,081,506,776 in the year ending 30 June 2020 but ended up collecting Kshs.752,070,767 or 70% of the budgeted amount, resulting to under collection of Kshs.329,436,009 or 30%. Further the Company had a total expenditure budget of Kshs. 1,266,311,508 whereas its actual expenditure was Kshs.872,619,172 or 69%, resulting to net under-absorption of Kshs. 393,692,336 or 31% of the total expenditure budget. The revenue under collection and under expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

Management Response

The world witnessed unprecedented Covid 19 Pandemic break out throughout the financial year 2020/2021 and during the period, general hygiene and water in particular was singled out as the strongest weapon of curbing further spread of the virus hence the President of the republic of Kenya directed an uninterrupted provision of water to Wananchi with no disconnection over unpaid bills by water companies. The company therefore implemented the president directive and also setting out public water points and filling them with water at its own cost hence this as a result led to under collection of revenue.

Furthermore, the major customers for the company are mainly hotels and during covid most of the hotels in Mombasa were closed there leading to reduction in bills consequently reducing the revenue.

Committee Observations

The Committee observed that query remains unresolved from financial year 2018/2019-

- i. The company had a revenue shortfall of Kshs. 329,436,009 (30% of the budget).
- ii. The company failed to absorb 31% or Kshs. 393,692,336 of its budget.

Committee Recommendations

The Committee recommends that-

- i. **the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures; and**
- ii. **the Board of Directors should institute proper and realistic budget planning as well as measures to enhance its own generated revenue, such as review of tariffs and connection of more customers and automation to address revenue leakages. The Auditor-General to confirm the effectiveness of the mitigating measures put in place by the water company and report in the subsequent audit cycle.**

REPORT OF LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to article 229(6) of the Constitution, based on the audit procedures performed by the Auditor-General, the following matters formed basis of conclusion that public resources were not applied lawfully and in an effective way-

1. Unaccounted for Water

The statement of Profit and Loss and other comprehensive income for the year ended 30 June 2020 reflects water sales of Kshs.600,460,067. However, Records availed for audit review indicated that during the year under review, The Company purchased 11,022,337 cubic meters of water, out of which only 5,912,194 cubic meters or 54% were billed to customers at Kshs. 600,460,067. The balance of 5,110,143 cubic meters or approximately 46% of the total volume represented Unaccounted for Water (UFW). Given the normal allowable loss of 25% or 2,755,584 cubic meters of water produced, the UFW of 5,110,143 cubic meters or 46.36% may have resulted to a loss of 2,354,559 cubic meters of water sales estimated at Kshs.239,058,375.27 based on an estimated distribution rate of Kshs.101.53 per cubic meter.

The significant level of non-revenue water is an indication of inefficiency and ineffectiveness in the use of public and water resources, which may negatively impact on the Company's profitability and its ability to sustain services.

Management response

The company has embarked on the following strategies to reduce Non-Revenue Water (NRW).

- i) Partnering with Development partners for infrastructure development and capacity building to improve efficiency and increase water supply- the company is currently being funded by the world bank to rehabilitate and expand water pipelines which is expected to be complete by December 2023. After rehabilitation we are expecting to reduce NRW through water loss from 50% to 39%. This will consequently increase our revenue by approximately ksh 64,000,000.
- ii) Formation of a NRW unit
A fully and operational unit have been formed and in the new developed organizational structure. The unit have identified the equipment required and procurement process initiated and contract signed awaiting delivery.
- iii) Procurement of Bulk meters and Consumer meters
For the last three years the company have procured and installed 3,000 consumer meters mainly replacement of non-working meters and installed 1500 new connection through various projects. Bulk meters were installed at Boundary of the County to accurately measure the bulk supply from the sources.
- iv) Customer Identification Survey (CIS)
The company is undertaking Customer Identification Survey (CIS) to identify customers with illegalities and also clean up the customer database.
- v) Implementation of ERP
The company have implemented ERP, this will improve the process of the company mainly on Meter management and reduce the commercial NRW.
- vi) Currently the company has over 50% faulty meters which contributes to NRW water, we are however expecting 10,000 meters from development partners which when installed will greatly reduce water loss.
- vii) Purchase of Smart Meters
The company with the partnership with the County Government of Mombasa has initiated the process of asset financing from National Bank towards the purchase of 10,000 smart meters that will go along to reducing NRW as the company will be reading water bills on actuals

The following is the trend analysis of Non Revenue Water;

Years	2018/2019	2019/2020	2020/2021	2021/2022
% NRW	50	46	51	50

Committee Observations

The Committee observed that the query remains unresolved from financial year 2018/2019-

- i. The Non-Revenue Water of Mombasa Water Supply and Sanitation Company Limited during the financial year 2019/2020 stood at 46% (5,110,143m³ or Kshs.518,832,818.79) against the recommended sector benchmark of 25% as prescribed by Water Services Regulatory Board (WASREB) Guidelines. This was 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. This high-level of Non-Revenue Water has largely contributed to the Company's revenue shortfall.

Committee Recommendations

The Committee recommends that-

- i. **the Accounting Officer should put in place comprehensive measures to mitigate on the Non-Revenue Water, that is, both physical and commercial losses. The measures to include replacement of old age dilapidated infrastructure and the application of Geographical Information System (GIS) to receive real-time data for the detection of bursts and leakages among other measures. The Auditor-General to review the implementation of the measures put in place to mitigate the Non-Revenue Water and provide a status update on the matter in the subsequent audit cycle; and**
- ii. **the Governor of Mombasa County to collaborate with the Ethics and Anti-Corruption Commission to ensure pre-emptive measures are put place to reduce cases of theft and illegal connections.**

2. Property, Plant and Equipment

Disclosed in note 5(a) to the financial statements are various classes of property, plant and equipment with a net book value of Kshs 118,018,456 as at 30 June, 2020. However, the assets had not been tagged for ease of identification and verification.

Management had therefore not complied with regulation 132(1) of public finance management (county government) regulations, 2016 which requires the accounting officer of a county government entity to take full responsibility and ensure that proper control systems exist for assets and that preventive mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse and movement and conditions of assets can be tracked.

Management Response

The asset tagging is being done in phases due to the cost involved and the first phase is complete.

The valuation of the vehicles is complete and is awaiting second phase tagging.

Committee Observations

The Committee observed that the query remains unresolved from financial year 2018/2019 as assets of the company lacked asset tag numbers. However, as was stated by the management and confirmed by the Auditor-General, the assets were being tagged in phases and the process is still ongoing.

Committee Recommendations

The Committee recommends that-

- i. the Accounting Officer ensures that the water company maintains an up-to-date asset register in the format prescribed by the Public Sector Accounting Standards Board (PSASB); and**
- ii. The Auditor-General to undertake physical verification of all assets of the water company and provide a status report to the Committee within 60 days from the adoption of this report.**

3. Payroll Deductions

Included under Note 11 to the financial statements for the year ended 30th June 2020 are other payables (payroll payables) of Kshs. 146,728,684; out of which 100,539,651 is in respect of unlimited and overdue pension deductions. This is contrary to section 53A(1) of the Retirement Benefits Authority Act 1997 which requires an employer who has made deductions from the employee emoluments for the remittance to the scheme and failed to remit the deductions within 15 days

Management response

The company has faced cash flow challenges on high cost of operations and a lower water tariff that is below full cost recovery resulting in monthly cash deficit. This has largely explained its inability to meet its obligations as and when due.

Management has greatly improved on ensuring current monthly contributions for all the pension schemes of employees are remitted.

For the accrued arrears, which form the significant part of the Kshs. 100,539,651, management has been in active discussions with the pension schemes for agreements on payments plans. This includes joint reconciliation forums between the company and the pension schemes to ensure the reported payables are accurate and representative.

Committee Observations

The Committee observed that the water company failed to remit pension deductions totaling to Kshs. 100,539,651 in the financial year under review.

Committee Recommendations

The Committee recommends that-

- i. **The Accounting Officer engages the relevant pension schemes of the long outstanding trade payables with the aim of developing a payment plan in order to clear the outstanding balances and provide a status update on the same to the Senate within 60 days from the adoption of this report;**
- ii. **The Accounting Officer adheres to Section 22(2)(a) of the Public Finance Management (County Government) Regulations, 2015, which provide that the accounting officer to comply with any tax, levy, duty, pension, commitments and audit commitments as may be provided by legislation; and**
- iii. **The Board of Directors ensures that the water company adheres to the Retirement Benefits Act, 1997 and the Pension Act, 1942, with regard to the remittance of statutory deductions and payment of pension.**

4.) Procurement of Goods and Services

During the year under review, Mombasa Water and Sanitation Co. Ltd procured goods and services worth Kshs. 61,046,344.00, out of which, an amount of Kshs.2,723,636.00 or 4.5% of the total procurements related to contracts awarded to youth, women and persons with disabilities under affirmative action. However, the procurements awarded to youth, women and persons with disabilities was below the recommended threshold of 30%, as per the Treasury Circular No. 1/2015 dated 15 January, 2015.

Management response

The management have continued engaging and encouraging the reserved category (youth, women and persons with disabilities) to participate in tendering processes though in most cases they are non-responsive due to the nature of procurements. The company mainly procures technical goods which requires technical knowhow and are capital intensive.

Committee Observations

The Committee observed that the company failed to comply with Treasury Circular No. 1/2015 dated 15 January, 2015 with regards to the awarding of procurement contracts to youth, women and persons with disabilities.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures strict compliance with provisions of section 53(6) of Public Procurement and Asset Disposal Act, Cap. 412C and Treasury Circular No. 1/2015 dated 15 January, 2015 which require that in all procurement and asset disposal, public entities to reserve a minimum of 30% of the budgetary allocation for enterprises owned by women, youth and persons with disabilities and other disadvantaged groups.

CHAPTER EIGHT

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR NANYUKI WATER AND SANITATION COMPANY LIMITED FOR THE FINANCIAL YEAR 2019/2020

The Governor of Laikipia County Hon. Joshua Wakahora Irungu, EGH appeared before the Committee on Thursday 21st September, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor-General on Financial Statements for Nanyuki Water and Sanitation Company (NAWASCO) Limited for the Financial Year 2019/2020. He was accompanied by-

- | | | |
|------|---------------------|--------------------------------------|
| i. | Mrs. Leah Njeri | - CECM Water and Sanitation |
| ii. | Mr. Wachira Gacheri | - CECM Finance and Economic Planning |
| iii. | Mr. Kennedy Gitonga | - MD Nanyuki Water |
| iv. | Mrs. Phoebe Karimi | - Internal Auditor Nanyuki Water |

The Nanyuki Water and Sanitation Company Limited is wholly owned by the County Government of Laikipia.

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **qualified opinion** on the financial statements for Nanyuki Water and Sanitation Company Limited for the financial year 2019/2020 on the following basis-

1.1 Presentation of Financial Statements

A review of the financial statements and other information accompanying the financial statements for the year ended 30th June 2020 presented for audit revealed the following omissions and anomalies:

- i. The statement of comparison of budget and actual amounts was not prepared and included in the financial statements presented for audit as required in the financial reporting template recommended by Public Sector Accounting Standards Board (PSASB).
- ii. The statement of Directors' responsibilities on page 17 does not indicate the applicable legislation under which the company is regulated and was not signed by the Chairperson of the Board. Similarly, the Report of the Directors on page 16 was not signed by the company secretary or Managing Director and therefore ownership of the reports could not be confirmed.
- iii. The statement of profit or loss and other comprehensive income has been placed after the statement of financial position in the financial statements.

Consequently, the accuracy, completeness of the statement of comparison of budget and actual amounts for the year ended 30th June 2020 and ownership of the financial statements could not be confirmed.

Management Response

The Public Sector Accounting Standards Board Template was introduced through the Treasury Circular Ref No. AG.4/4/16/3 Vol 1 (9) dated 24th June 2020. The template came to Company's attention after they had submitted the financial statements to the Office of the Auditor-General. However, the issues had been addressed and the management is adhering to the provisions of the Public Sector Accounting Standards Board Reporting Template in the subsequent years as evidenced in the report of the Auditor-General for the year ended 30th June 2021.

Committee Observations

The Committee observed that-

- i. the financial statements of the water company were not prepared in accordance to the PSASB Template in contravention of section 149(2)(b) of the Public Finance Management Act, Cap. 412A and section 47(2) of the Public Audit Act, Cap. 412B.
- ii. Management's assertion that they did not comply with Treasury Circular Ref No. AG.4/4/16/3 Vol. 1(9) on the applicable accounting standards has no merit because the guidelines were in place as at 30th June, 2020 and financial statements for the period under review were prepared after the end of the respective financial year.

Committee Recommendations

The Committee recommends that; -

- i. **the Accounting Officer adheres to section 149(2)(b) of the Public Finance Management Act and section 47(2) of the Public Audit Act in the preparation and management of financial and accounting records;**
- ii. **The Accounting Officer should enhance the capacity of officers preparing financial statements to comply with the accounting standards and should prioritize investments in technology and processes aimed at minimizing inaccuracies during preparation of financial statement;**
- iii. **The Accounting Officer should strengthen internal audit controls and ensure proper record keeping; and**
- iv. **The Accounting Officer to take appropriate administrative action on the officers within the Accounts and Finance department who failed to keep**

complete financial records in accordance with their terms and conditions of appointment or employment and as required by the Accountants Act, 2008.

2.1 Prior Year Issues

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness in the use of Public Resources. 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 National Treasury Circular Ref: No. AG.4/16/3 Vol.1(9) dated 24th June 2020.

Management Response

The issues raised were resolved in subsequent years and the management is adhering to the provisions of the Public Sector Accounting Standards Board Reporting Template.

Committee Observations

The Committee observed that the Company resolved prior year issues in the subsequent years' financial statements, the query remains unresolved.

Committee Recommendations

The Committee recommends that; -

- i. the Accounting Officer adheres to section 149(2)(b) of the Public Finance Management Act and section 47(2) of the Public Audit Act in the preparation and management of financial and accounting records;**
- ii. the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, 2012; and**
- iii. the Auditor-General to provide a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.**

2.2 Failure to fully comply with the Public Sector Accounting Standard Guidelines

A review of the financial statements and other information accompanying the financial statements for the year ended 30th June 2020 presented for audit revealed the following omissions and anomalies:

- i. Information on the Company's performance for FY 2019/2020 on page 13 to 15 does not have entity's performance against predetermined objectives,**

assessment of performance against strategic pillars or annual work plans contrary to Section 81 (2) (f) of the Public Finance Management Act, 2012.

ii. The financial statements presented for audit do not have information on management discussion and analysis, corporate social responsibility statement and sustainability reporting, related party disclosures, capital commitments and projects, contingent liabilities, company incorporation, events after reporting period and currency used in presenting the financial statements.

iii. The statement of profit and loss and other comprehensive income reflects net surplus (deficit) after tax instead of profit (loss) after taxation stipulated in the recommended financial reporting template.

iv. Notes to the financial statements do not contain general information including authority/Act /legislation under which the company was established, principle activities and ownership structure.

v. Further, summary of significant/principle accounting policies on revenue recognition on grants, intangible assets, amortization and impairment of intangible assets, investment property, leases, trade and other receivables recognition, taxation, deferred tax, borrowings, trade and other payables and budget information adopted in preparation of the financial statements were not disclosed in these financial statements.

vi. Significant judgements and key sources of estimation uncertainty on useful lives of assets and residual values of assets, provisions were not disclosed.

The financial statements presented did not, therefore, comply fully with the financial reporting template recommended by the Public Sector Accounting Standards Board (PSASB).

Management Response

The Public Sector Accounting Standards Board Template was introduced through the treasury Circular Ref No. AG.4/4/16/3 Vol 1 (9) dated 24th June 2020. The template came to their attention after they had submitted the financial statements to the office of the Auditor-General. However, the issues had been addressed and the management is adhering to the provisions of the Public Sector Accounting Standards Board Reporting Template in the subsequent years as evidenced in the report of the Auditor-General for the year ended 30th June 2021.

Committee Observations

The Committee observed that the financial statements of the water company were not prepared in accordance to the PSASB Template in contravention of section 149(2)(b) of the Public Finance Management Act, Cap. 412A and section 47(2) of the Public

Audit Act, Cap. 412B. Management's assertion that they did not comply with Treasury Circular Ref No. AG.4/4/16/3 Vol. 1(9) on the applicable accounting standards has no merit because the guidelines were in place as at 30th June, 2020 and financial statements for the period under review were prepared after the end of the respective financial year.

Committee Recommendations

The Committee recommends that; -

- i. The Accounting Officer to take appropriate administrative action on the officers within the Accounts and Finance department who failed to keep complete financial records in accordance with their terms and conditions of appointment or employment and as required by the Accountants Act, Cap. 531;**
- ii. the Accounting Officer adheres to section 149(2)(b) of the Public Finance Management Act and section 47(2) of the Public Audit Act in the preparation and management of financial and accounting records;**
- iii. The Accounting Officer should enhance the capacity of officers preparing financial statements to comply with the accounting standards and should prioritize investments in technology and processes aimed at minimizing inaccuracies during preparation of financial statement; and**
- iv. The Accounting Officer should strengthen internal audit controls and ensure proper record keeping.**

2.3 Non-Revenue Water

During the financial year under review, the company produced 4,432,963 cubic meters of water out of which 2,880,781 cubic meters of water was billed to consumers. The balance of 1,552,182 cubic meters or approximately 35% of the total volume of water produced represented Non-Revenue Water which is 10% above the allowable water loss of 25% as per the water service Regulatory Board guidelines. The NRW of 35% may have resulted in loss of sales estimated at Kshs. 65,073,589.

The significant level of Non- Revenue Water may impact negatively on the company's profitability and its long-term sustainability.

Management Response

Non-Revenue Water (NRW) exceeds the sector benchmark set by WASREB of 25%. An analysis conducted using the International Water Association (IWA) standards for water balance revealed that a significant portion, 64% of the total NRW, is due to real losses, which can be attributed to the following factors:

2.3.1 Real Losses

- Poor condition of parts of the water network infrastructure

The water supply infrastructure of NAWASCO was established during the period from 1963 to 1980. This infrastructure comprises of aged and deteriorated pipelines crafted from materials such as Galvanized Iron, Cast Iron, and uPVC. Consequently, these pipelines have weakened over time, making them susceptible to leaks and bursts. Additionally, there are aging concrete water storage tanks that have surpassed their intended lifespan and are currently leaking.

2.3.2 Apparent Losses

- Metering Components Inaccuracies

Faulty master and consumer meters accounted for 36% of the total Non-Revenue Water (NRW) during the specified timeframe. Moreover, 9,783 of the consumer meters have been in use for over eight years, leading to under registration.

2.3.3 Mitigation to reduce NRW during the period

1. Water network infrastructure

- Developed a proposal for funding to JICA for pipe network rehabilitation.
- Upgrade and rehabilitation of pipe line network to HDPE in Milimani and baraka, totaling to 22 kms of assorted pipe sizes
- New water elevated storage tanks construction of 108m³ at Njoguini, baraka and yard (Appendix 3: Payment Certificate -Baraka, Njoguini Tank- Page 10)
- Capacity building of commercial staff 11no.were trained at KEWI on best practices on proper meter reading installation and meter servicing.

2. Metering Component Inaccuracies

- Implemented the meter replacement and management policy.
- Modification of a locally assembled meter test bench.
- Replaced 989 no faulty and aged meters with AMR enabled.
- calibration of production and large customer meters
- Serviced 5,401 no. Stopped, under-registering, over-registering customer meters.

The company has devised a comprehensive NRW reduction strategy aimed at achieving water loss levels below the industry benchmark of 18% by the year 2028.

Committee Observations

The Committee observed that the query remains unresolved as the Non-Revenue water for the company was at 35% which was 10% above the sector benchmark of 25% as set out in WASREB guidelines. However, the water company has made some efforts to reduce the NRW arising from commercial and physical losses.

Committee Recommendations

The Committee recommends that; -

- i. The Auditor-General to review the measures put in place with a view to assessing their effectiveness in reducing NRW and report in the subsequent audit cycle; and**
- ii. The County Government to collaborate with the Ethics and Anti-Corruption Commission to ensure pre-emptive measures are put place to reduce cases of theft and illegal connections.**

CHAPTER NINE

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR NITHI WATER AND SANITATION COMPANY LIMITED FOR THE FINANCIAL YEAR 2019/2020

The Governor for Tharaka Nithi County, H.E Muthomi Njuki, appeared before the Committee on Tuesday, 28th March, 2023 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Nithi Water and Sanitation Company Ltd for the financial year 2019/2020. The Governor was accompanied by:

- | | | |
|------|------------------------|--------------------------------------|
| i. | Mr. Njue Njaai | - CECM Water |
| ii. | Mr. Laban Mwaniki | - Managing Director |
| iii. | Mrs. Loise Mutua | - Chief officer Water and Irrigation |
| iv. | Mrs. Irine Kithaka | - Commercial manager |
| v. | Mr. Nduaii .E. K | - Director Accounts |
| vi. | Mr. Erick Munene | - Internal auditor |
| vii. | Mrs. Gloryfine Kathure | - Technical Manager |

Nithi Water and Sanitation Company Limited Company is wholly owned by the County government of Tharaka-Nithi County.

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified opinion** on the financial statements of Nithi Water and Sanitation Company Limited for the period under review on the following basis:

1. Trade and Other Payables

The statement of financial position reflects a balance of Kshs.34,684,802 under trade and other payables which, as disclosed in Note 25 to the financial statements, includes an amount of Kshs.9,663,093 in respect to trade payables. The trade payables of Kshs.9,663,093 includes an amount of Kshs.6,906,968 in respect to eight (8) suppliers whose supporting documents including payment vouchers, approved requisitions, quotations or tenders, Evaluation Committee minutes, Local Purchase Orders, Inspection Committee minutes and stores records on goods received were not provided for audit review.

Further, the trade and other payables balance of Kshs.34,684,802 includes an amount of Kshs.296,000 in respect to outstanding audit fees. In addition, the trade and other payables increased by Kshs.7,713,238 or 29% from Kshs.26,971,564 as at 30 June, 2019 to Kshs.34,684,802 as at 30 June, 2020. No explanation was given on why the Company was not paying its debts as and when they fall due.

Under the circumstances, the accuracy, completeness and propriety of the trade payables of Kshs.6,906,968 could not be confirmed.

Management response

The trade payables increased from 26,971,564 to 34,684,802 that is kshs. 7,713,238 due to Accumulated retention monies due to Kathwana Water & Kibung'a Kakimiki projects contractors. Ie. Mutahi engineering services & Fair heads construction

b. Wasreb do not issue invoices therefore WSPS uses gazette notice NO 12188 to tabulate amounts due. Attached find gazette notice and wasreb memo for reference.

WASREB Levy = 4% of the total revenue billed.

Committee Observations

The Committee observed that-

- i. trade payables of Kshs. 9,663,093 included an amount of Kshs. 6,906,968 in respect to eight (8) suppliers whose supporting documents including payment vouchers, approved requisitions, quotations or tenders, Evaluation Committee minutes, Local Purchase Orders, Inspection Committee minutes and stores records on goods received were not provided for audit review.
- ii. The trade and other payables balance of Kshs.34,684,802 included an amount of Kshs.296,000 in respect to outstanding audit fees.
- iii. The trade and other payables increased by Kshs.7,713,238 or 29% from Kshs.26,971,564 as at 30 June, 2019 to Kshs.34,684,802 as at 30 June, 2020. No explanation was given on why the Company was not paying its debts as and when they fall due.

Committee Recommendations

The Committee recommends that-

- i. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9 (1) (e) of the Public Audit Act, 2015, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62 (2) of the Public Audit Act, 2015.
- ii. the Accounting Officer should, within 30 days of the adoption of this report, put in place recovery measures for the outstanding amount with clear timelines. The Auditor-General should review the implementation of the measures put in place provide a status update on the matter in the subsequent audit cycle;

- iii. **The Accounting Officer to undertake a detailed analysis of its long outstanding trade receivables and with the Board's approval, write off the irrecoverable debts in line with the Section 130 (2) (d) of the Public Finance Management (County Governments) Regulations, 2015.**
- iv. **The Board and the accounting officer to develop a structured payment plan indicating commitment to clear the debt.**

2. Irregular Procurement of Consultancy Services

The statement of profit or loss and other comprehensive income reflects an expenditure of Kshs.63,684,740 under administration costs which, as disclosed in Note 11(a) to the financial statements, includes an amount of Kshs.699,148 in respect to consultancy fees. The latter balance includes an amount of Kshs.578,748 paid for secretarial services to a consultant. However, the supporting procurement documents including requisitions and quotations were not provided for audit review.

Under the circumstances, the accuracy and propriety of the expenditure of Kshs.578,748 incurred on consultancy could not be confirmed.

Management response

Procurement of the said consultancy services was done using request for proposal method. Proposal documents were issued to the registered suppliers. The opening of proposals was done in line with procurement Act 2015 and awarded to the lowest evaluated responsive bidder. The prequalification list, proposal documents, opening minutes, evaluation reports, and professional opinion are attached for your review.

Committee Observations

The Committee observed that included in the financial statements was an amount of Kshs.578,748 paid for secretarial services to a consultant. However, the supporting procurement documents including requisitions and quotations were not provided for audit review.

Committee Recommendations

The Committee recommends that the Accounting Officer to ensure that supporting documents are provided to the Auditor during the audit period as required under section 9(1) (e) Public Audit Act, 2015 and the Public Procurement and Asset Disposal Act, 2015.

3. Irregular Procurement of Chemicals

The statement of profit or loss and other comprehensive income reflects an amount of Kshs. 3,569,439 in respect to cost of sales which, as disclosed in Note 7 to the financial statements, includes an amount of Kshs. 1,528,240 in respect to payment of chemicals to two (2) suppliers. However, the supporting procurement documents including requisitions and quotations were not provided for audit review.

Under the circumstances, the accuracy and propriety of the expenditure of Kshs. 1,528,240 incurred on purchase of chemicals could not be confirmed.

Management response

Procurement of water treatment chemicals was done using open tender procurement method. The opening was done by tender opening committee in line with section 78 of PPADA 2015 and evaluation of the tenders was done in line with section 46 of PPADA 2015 and awarded to the two suppliers to supply and deliver Aluminium sulphate and Chlorine. The advert, opening minutes, evaluation report, and professional opinion are hereby attached for your review.

Committee Observations

The Committee observed that included in the financial statements was an amount of Kshs. 1,528,240 in respect to payment of chemicals to two (2) suppliers. However, the supporting procurement documents including requisitions and quotations were not provided for audit review

Committee Recommendations

The Committee recommends that the Accounting Officer to ensure that supporting documents are provided to the Auditor during the audit period as required under section 9(1) (e) Public Audit Act, 2015 and the Public Procurement and Assets Disposal Act, 2015.

Other matter

1. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a budgeted revenue of Kshs. 166,423,572 and actual income of Kshs. 111,443,017 resulting to an under collection of Kshs. 54,980,555 or 33% of the budget. Similarly, the Company had an approved budgeted expenditure of Kshs. 162,311,600 against an actual expenditure of Kshs. 108,476,213 resulting to an under expenditure of Kshs. 53,835,387. The under collection and under expenditure affected the planned activities and may have impacted negatively on service delivery to the residents of Tharaka Nithi County.

Management response

Income Analysis

(a) The company did not achieve the targeted revenue of Kshs. 67,680,000 due to the effects of Covid 19 Pandemic which affected part of 3rd and 4th Quarters of the financial year under audit.

(b) Transfers from Water sector fund- The Water sector trust Fund disburse funds as per the progress of the project but when budgeting we took the total budget of 94.3M but we received 48.3M for the whole project.

Expenditure Analysis

(a) Compensation of Employees-the Under-utilized funds were due to some of the employees who resigned during the year.

(b) Use of Goods-the underutilized funds was due to the effects of Covid 19 pandemic.

Committee Observations

The Committee observed that-

- i. the statement of comparison of budget and actual amounts reflected a budgeted revenue of Kshs. 166,423,572 and actual income of Kshs. 111,443,017 resulting to an under collection of Kshs. 54,980,555 or 33% of the budget.
- ii. The Company had an approved budgeted expenditure of Kshs. 162,311,600 against an actual expenditure of Kshs. 108,476,213 resulting to an under expenditure of Kshs. 53,835,387.

Committee Recommendations

The Committee recommends that-

- i. **The accounting officer to adhere to regulation 42(1) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures; and**
- ii. **The Company institutes proper and realistic budget planning and the Auditor-General to confirm the effectiveness of the mitigating measures put in place by the Company and report in the subsequent audit cycle;**

2. Trade and Other Receivables

As disclosed in Note 19 (a) to the financial statements, the trade and other receivables increased by Kshs. 13,637,161 or 25% from Kshs. 54,143,990 reported as at 30 June, 2019 to Kshs. 67,781,151 as at 30 June, 2020. This is an indication that the Company

did not institute proper and effective revenue collection mechanism during the year under review. The Company may not therefore, be able to meet its future obligations when due as a result of increasing levels of unrecoverable trade and other receivables.

Management response

Due to the impacts of Covid-19 Pandemic in the entire country, the company was unable to correct debts because water is an essential service to curb spread of the virus so there was a government directive that no water disconnection was to be done.

Committee Observations

The Committee observed that the trade and other receivables increased by Kshs. 13,637,161 or 25% from Kshs. 54,143,990 reported as at 30 June, 2019 to Kshs. 67,781,151 as at 30 June, 2020.

Committee Recommendations

The Committee recommends that the Board to submit the policy on provision for bad and doubtful debt and an analysis of long outstanding trade receivables to the Auditor-General within 60 days of adoption of this report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES.

Pursuant to Article 229(6) of the Constitution, based on the audit procedures performed by the Auditor-General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way—

Basis for Conclusion

1. Non-Revenue Water

During the financial year, the Company produced 3,650,759 cubic meters (m³) of water, out of which 1,274,898 m³ is water billed to customers. The balance of 2,375,861 m³ or approximately 65% of the total volume of water produced represents Non-Revenue Water (NRW) which is 40% over and above the allowable water loss of 25% as per the Water Service Regulatory Board (WASREB) guidelines. The non-revenue water of 65% may have resulted in loss of sales estimated at Kshs. 68, 534,930. The significant level of non-revenue water is an indication of inefficiency and ineffectiveness in use of public and water resources and may negatively impact on the Scheme's profitability and its long term sustainability.

Management response

Non-revenue water has been on reduction trajectory for the last two years however the company is on a continued implementation of interventions to reduce it to the benchmark of 25%.

Committee Observations

The Committee observed that the Non-Revenue Water (NRW) was 40% over and above the allowable water loss of 25% as per the Water Service Regulatory Board (WASREB) guidelines.

Committee Recommendations

The Committee recommends that-

- i. **The accounting officer to 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 age dilapidated infrastructure as well as the introduction of a Geographic Information System (GIS) to provide real-time data on leakages and bursts for monitoring and timely maintenance to prevent water loss among other measures.**
- ii. **The Auditor-General to review the efficacy and the implementation of the measures put in place to mitigate on the non-revenue water and report in the subsequent audit cycle.**

2. Irregular Opening of Fixed Deposit Accounts

During the year under review, the Company earned a total of Kshs.688,632 being interest from commercial banks and financial institutions from two (2) fixed deposit accounts at a commercial bank. However, County Treasury's authority for opening the fixed deposit accounts was not provided for audit review. This is contrary to Regulation 82(4) and (5) of the Public Finance Management (County Governments) Regulations, 2015 which stipulates that, except with the prior authority of the County Treasury, no Accounting Officer may open a bank account for the deposit, custody or withdrawal of public moneys or other moneys for which he or she is responsible in his or her official capacity or for the transaction of official banking business. Further, the County Treasury's authority should be conveyed in writing to the responsible Accounting Officer with a copy to the Controller of Budget and the Auditor-General.

Management response

There were no Fixed deposit accounts that were opened, instead the amounts in KCB-NIWASCO Customer deposit account No. 1125258373 Kshs. 9.5M and KCB NIWASCO Investments account No. 115814856 Kshs. 5M were applied to be fixed for 12 months and thereafter the principal plus interest was repaid back to the bank

accounts. Also note that these monies are for Customer deposits and not for company operations.

Committee Observations

The Committee observed that the Company earned a total of Kshs.688,632 being interest from commercial banks and financial institutions from two (2) fixed deposit accounts at a commercial bank. However, County Treasury's authority for opening the fixed deposit accounts was not provided for audit review, contrary to Regulation 82(4) and (5) of the Public Finance Management (County Governments) Regulations, 2015.

Committee Recommendations

The Committee recommends that-

- i. The Accounting Officer to ensure that supporting documents are provided to the Auditor during the audit period as required under section 9(1)(e) Public Audit Act, 2015; and**
- ii. The accounting officer to adhere to Regulation 82(4) and (5) of the Public Finance Management (County Governments) Regulations, 2015 which stipulates that, except with the prior authority of the County Treasury, no Accounting Officer may open a bank account for the deposit, custody or withdrawal of public moneys or other moneys for which he or she is responsible in his or her official capacity or for the transaction of official banking business.**

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1)(a) of the Public Audit Act, based on the audit procedures performed by the Auditor-General, the internal control, risk management and governance were not effective-

1. ICT Internal Control Weakness

Review of the Company's ICT environment revealed that there was no formal approved ICT Policy in place during the year under review. The Policy would have included Data Security and Disaster Recovery Plans. Further, the ICT organization structure was not provided for audit review.

In the circumstances, the security and reliability of the Company's data including the Management Information System could not be confirmed.

Management response

We have developed an ICT policy.

Committee Observations

- i. The Committee observed that a review of the Company's ICT environment revealed that there was no formal approved ICT Policy in place during the year under review. The Policy would have included Data Security and Disaster Recovery Plans.
- ii. The ICT organization structure was not provided for audit review.

Committee Recommendations

The Committee recommends that-

- i. **The Accounting Officer to ensure that supporting documents are provided to the Auditor during the audit period as required under section 9(1) (e) Public Audit Act, 2015; and**
- ii. **The management and the Accounting officer to ensure strict compliance to the provisions of section 110 of the Public Financial Management (County Governments) Regulations, 2015 in regards to instituting of appropriate access controls to minimize breaches of information confidentiality and ensure data integrity and 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.**

APPENDICES

ANNEX I: MINUTES OF THE COMMITTEE



13TH PARLIAMENT 2ND SESSION

MINUTES OF THE EIGHTY SIXTH SITTING OF THE COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS COMMITTEE WITH THE COUNTY EXECUTIVE OF BUSIA TO CONSIDER REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENT OF THE BUSIA WATER AND SEWERAGE SERVICES COMPANY LIMITED FOR FINANCIAL YEARS 2018/2019, 2019/2020 AND 2020/2021 HELD ON THURSDAY, 27TH JULY, 2023 AT THE SHIMBA HILLS HALL, FIRST FLOOR, KENYATTA INTERNATIONAL CONVENTION CENTRE (KICC) AT 9.30 A.M.

PRESENT

- | | |
|--|---------------------------|
| 1. Sen. Godfrey Atieno Osotsi, MP | - Chairperson |
| 2. Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP | - Vice-Chairperson |
| 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

- | | |
|----------------------------------|----------|
| 8. Sen. Paul Karungo Thangwa, MP | - Member |
|----------------------------------|----------|

IN ATTENDANCE

- | | |
|----------------------------|--------------------------|
| 1. Sen. Okiyah Omtatah, MP | - Senator Busia County |
| 2. Sen. Edwin Sifuna, MP | - Senator Nairobi County |

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. Ms. Raisa Mwithi | - Researcher officer |
| 7. Mr. Kataa Matano | - Researcher officer |
| 8. Mr. Andrew Nyairo | - Legal counsel |

9. Ms. Winfred Ocholla
10. Mr. Josphat Ng'enh
11. Mr. John Pere
12. Mr. Holifield Murimi

- Audio officer
- Media Relations Officer.
- Serjeant-At-arms
- Attachee

IN ATTENDANCE

A. COUNTY EXECUTIVE OF BUSIA

- | | |
|---------------------------|-------------------------------|
| 1. Hon. Dr. Paul Otuoma | - Governor |
| 2. Mr. Arthur Odera | - Deputy Governor, CECM Water |
| 3. Ms. Topister Wanyama | - CECM Finance |
| 4. Mr. Erick Nakitari | - MD BUWASSCO |
| 5. Mr. Gypsum Wajala | - Chief Officer – Finance |
| 6. Hon. Dr. Bonface Erute | - Chairperson CPAIC |
| 7. Hon. David Karani | - CPAIC Member |
| 8. Mrs. Margret Wanyama | - Director Liason |
| 9. Mr. Dancan Kwena | - Revenue Officer |
| 10. Mrs. Miriam Okumu | - Accounts Assistant |
| 11. Mr. Elijah Mwaro | - Ag. County Secretary |
| 12. Mr. Alphonse Okwera | - Clerk Asst. CPAIC |

B. OFFICE OF THE AUDITOR GENERAL

- | | |
|-----------------------|-----------------------|
| 1. Mr. Fred Abugah | - Ag. Director, Audit |
| 2. Mr. Mark Gachanja | - Liaison officer |
| 3. Mr. Patrick Kimani | - Principal Auditor |

C. ETHICS AND ANTI-CORRUPTION COMMISSION

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

MIN NO. SEN/CPICSF/518/2023 PRAYER

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

MIN NO. SEN/CPICSF/519/2023 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Maureen Tabitha Mutinda, MP and seconded by Sen. William Kipkemai Kisang, MP, as follows –

1. Prayer;
2. Adoption of the Agenda;
3. Administration of Oath of Witness and Tabling of Documents;

4. Meeting with the County Executive of Busia to consider Reports of the Auditor-General on the Financial Statements of the Busia Water and Sewerage Services Company Limited for Financial Years 2018/2019, 2019/2020 and 2020/2021;
5. Any Other Business; and
6. Date of the Next Meeting and Adjournment.

**MIN. NO. SEN/CPICSF/520/2023 ADMINISTRATION OF OATH OF WITNESS
AND TABLING OF DOCUMENTS**

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

**MIN. NO. SEN/CPICSF/521/2023 MEETING WITH COUNTY EXECUTIVE
BUSIA TO CONSIDER REPORTS OF THE
AUDITOR-GENERAL ON THE FINANCIAL
STATEMENTS OF BUSIA WATER AND
SEWERAGE SERVICES COMPANY
LIMITED FOR THE FINANCIAL YEARS
2018/2019, 2019/2020 AND 2020/2021**

The Following queries were interrogated for the Financial Year 2020/2021

REPORT ON THE FINANCIAL STATEMENTS		
Audit Query	Concern	Observation and Recommendations
1. Lack of Fixed Assets Register	i. The Accounting Officer did not provide a fixed asset register audit review. ii. Land and buildings of an undetermined value were captured in the company's asset movement schedule as reflected in note 12 to the financial statement.	The Committee observed that the Accounting Officer failed to – i. provide an updated fixed Asset Register for audit review at the time of audit. ii. Provide the value of land and building in the company's asset movement schedule. The Committee directed the Accounting Officer to ensure that the water company carries out a valuation of all its assets within 60 days from the date of the meeting and submit an updated fixed asset register to the Committee and the Auditor-General for audit review.

		The Committee to review the matter in the subsequent audit cycle. Query remains unresolved.
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES		
1. Lack of Legal Instruments	The ownership status of the water company could not be confirmed as the Accounting Officer failed to provide the certificate of share capital and Memoranda and Articles of Association for audit review.	The Committee observed that management did not provide copies of share certificates, memorandum of Association and Articles of Association for audit review at the time of audit. However, the documents were later provided and an examination of the same revealed that the water company was yet to be fully owned by the County Government of Busia. The Committee directed that within 60 days from the date of the meeting, the Governor of Busia County to ensure that the water company is full owned by the County Government of Busia in line with the Water Act, 2016 and Water Services Regulatory Board (WASREB) guidelines. The Committee to review the matter in the subsequent audit cycles. Query remains unresolved.
2. Non – Revenue Water	The water company's Non-Revenue Water stood at 67%, that is 42 percentage points above the sector benchmark of 25% as per the WASREB guidelines.	The Committee observed that the Non-Revenue Water was very high and that the mitigating measures taken by the water company were inadequate. The Committee directed the Governor to put in place comprehensive mitigating measures to address both the physical and the commercial losses. The measures to include replacement of the old, dilapidated pipes and installation of smart meters and deployment of GIS

		systems to detect bursts real-time among others. The Auditor-General to review the measures put in place to ascertain their effectiveness and provide a status update in the subsequent audit cycle. Query remains unresolved.
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The Following queries were interrogated for the Financial Year 2019/2020

REPORT ON THE FINANCIAL STATEMENTS		
Audit Query	Concern	Observation and Recommendations
1. Property, Plant, and Equipment	i. The Accounting Officer did not provide a updated fixed asset register for audit review. ii. The assets movement schedule as disclosed in note 13 to the financial statements did not include the value of land and buildings. iii. The Service Provision Agreement between the water company and the Lake Victoria North Water Works Development Agency (LVNWWDA) did not specify the land sizes and valuation on which the various water scheme under which the water company operate from.	The Committee observed that the Accounting Officer failed to – i. provide an updated fixed Asset Register for audit review at the time of audit. ii. Provide the value of land and building in the company's asset movement schedule. The Committee further observed that some of the company's assets were yet to be handed over to the water company by the LVNWWDA. The Committee directed that i. within 60 days from the date of the meeting, the Governor and the Board of Director to engage LVNWWDA and ensure that the water company takes full ownership of all its assets; ii. the Accountin Officer to maintain an updated affixed asset register in the format prescribed by the Public Sector

		Accounting Standards Board; and iii. The Auditor-General to review the matter and provide a status update in the subsequent audit cycle. Query remains unresolved.
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The Following queries were interrogated for the Financial Year 2018/2019

REPORT ON THE FINANCIAL STATEMENTS		
Audit Query	Concern	Observation and Recommendations
2. Material Uncertainty in Relation to Going Concern	The water company had a negative working capital of Kshs. 1,545,558 as its current liabilities of Kshs 64,560,804 exceeded its current assets of Kshs. 63,015,246. The debtors balance Kshs. 57,047,701 surpassed the years sales of Kshs. 42,718,135	The Committee observed that the water company was technically insolvent that its existence was dependent on allocations from the County Government and its creditors. The Committee further observed that measures put in place by the water company to reserve the undesirable financial position were inadequate. The Committee directed the Governor to ensure that the management of the water company, within 60 days from the date of the meeting, puts in place strategic and innovative measures for the recovery and boosting the financial health of the water company for self-sustainability, and file a report with the committee and the Auditor-General. The Auditor-General to review the matter and provide a status update in the subsequent audit cycle. Query remains unresolved.

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Interventions and Resolutions

Having considered the issues raised by the Office of the Auditor General on the Financial Statements of Busia Water and Sewerage services Company Limited for the Financial Years under review, the Committee resolved as follows;

- i).The Governor to take keen interest on the management and operations of Busia Water and Sewerage services Company Limited in line with article 179 of the Constitution;
- ii).The Governor, within 60 days from the date of the meeting, takes immediate steps to ensure that Busia Water Company is fully owned by the County Government in line with the Water Act, 2016, the Water Services Regulatory Board (WASREB) guidelines and any other guiding laws.
- iii).The Governor to constitute the Board of Directors of the Water Company in line with the Water Act, 2016 and regulation 10 of Water Services Regulations, 2021. once the Board is properly constituted it should regularize the appointment of the Managing Director in line with Regulation 11 of the Water Services Regulations, 2021. Further, the Governor to introduce of performance contracting for all employees to improve productivity;
- iv).The management to maintain an updated Asset Register in the format prescribed by National Treasury and the provisions of Section 136 (1) of the Public Finance Management (County Government) Regulations, 2015 and a copy of the same submitted to the committee within 60 days from the date of the meeting;
- v).The Committee noted that Non-Revenue Water stood at 67 percent for the year under review, that is, 42 percentage points above the recommended sector benchmark of 25 percent as required by Water Services Regulatory board guidelines. The County Government of Busia, within 60 days from the date of the meeting, to put in place a comprehensive plan on how to tackle the high Non-Revenue Water, clearly indicating how both physical and commercial losses will be addressed and a report to be filed with the Committee. Further, the Office of the Auditor-General to verify the measures and report on their effectiveness in the next audit cycle;
- vi).The County Government of Busia, within 14 days from the date of the meeting, to provide a debtors' schedule to the committee and Office of the Auditor-General; and
- vii).The Committee observed that the water company reported a negative working capital in the financial year under review indicating that it was unable to meet its short term and long-term obligations as they fall due thus relying on financial

support from the County Executive. The County Government and management sustainability and, within 60 days from the date of the meeting, puts in place strategic and innovative measures for the recovery and boosting the financial health of the water company for self-sustainability, and file a report with the committee and Office of the Auditor-General.

MIN. NO. SEN/CPICSF/522/2023 ANY OTHER BUSINESS

The secretariat was directed to obtain the report by the Busia County Assembly's County Public Accounts and Investments Committee on the consideration of the audit reports of the water company for information.

MIN. NO. SEN/CPICSF/523/2023 DATE OF NEXT MEETING & ADJOURNMENT

The Chairperson adjourned the meeting at twenty minutes to one o'clock in the afternoon. The next meeting would be held on Monday, 31st July, 2023 at 9:30 am.



11/4/2024

SIGNED: DATE:

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



13TH PARLIAMENT 2ND SESSION

MINUTES OF THE NINETIETH SITTING OF THE COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS COMMITTEE WITH THE COUNTY EXECUTIVE OF ELGEYO MARAKWET TO CONSIDER REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENT OF ITEN - TAMBACH WATER AND SEWERAGE COMPANY LIMITED FOR FINANCIAL YEARS 2018/2019, 2019/2020 AND 2020/2021 HELD ON TUESDAY, 1ST AUGUST, 2023 IN THE SMALL DINNING, NEW WING, MAIN PARLIAMENT 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 | - A friend of the Committee |
| 4. Sen. William Kipkemai Kisang, MP | - Member |
| 5. Sen. Paul Karungu Thangwa, MP | - Member |
| 6. Sen. Eddy Gicheru Oketch, MP | - Member |
| 7. Sen. Miraj Abdillahi Abdulrahman, MP | - Member |
| 8. Sen. Maureen Tabitha Mutinda, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|--------------------------------|----------|
| 9. Sen. Hamida Kibwana Ali, 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. Ms. Raisa Mwithi | - Researcher officer |
| 7. Mr. Kataa Matano | - Researcher officer |
| 8. Mr. Andrew Nyairo | - Legal counsel |
| 9. Ms. Winfred Ocholla | - Audio officer |
| 10. Mr. Josphat Ng'eno | - Media Relations Officer. |
| 11. Mr. James Ngusya | - Serjeant-At-arms |

IN ATTENDANCE

A. ELGEYO/MARAKWET COUNTY EXECUTIVE

- | | |
|-------------------------|--------------------------|
| 1. Hon. Wisley Rotich | - Governor |
| 2. Mr. Jason Lagat | - CECM Water |
| 3. Mr. Fredrick Linyewa | - Chair ITWASCO |
| 4. Mr. Alphanus Tanui | - CECM Finance |
| 5. Mr. Paul Yator | - MD ITWASCO |
| 6. Mr. Jeremiah Kigen | - CFM ITWASCO |
| 7. Mr. Henry Ego | - Communications officer |

B. OFFICE OF THE AUDITOR GENERAL

- | | |
|------------------------|-------------------|
| 1. Mr. Mark Gachanja | - Liaison officer |
| 2. Mr. Bonface Ong'wen | - NRRO |

C. THE NATIONAL TREASURY

- | | |
|--------------------|-------------------|
| Dr. Jackson Ndungu | - Liaison Officer |
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D. ETHICS AND ANTI-CORRUPTION COMMISSION

- | | |
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| Mr. Patrick Kinoti | - Liaison Officer |
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MIN NO. SEN/CPICSF/542/2023 PRAYER

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

MIN NO. SEN/CPICSF/543/2023 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. Administration of oath of witness and Tabling of Documents;
4. Meeting with the County Executive of Elgeyo Marakwet to consider Reports of the Auditor-General on the Financial Statements of the Iten - Tambach Water and Sewerage Company Limited for Financial Years 2018/2019, 2019/2020 and 2020/2021;
5. Any Other Business; and
6. Date of the Next Meeting and Adjournment.

MIN. NO. SEN/CPICSF/544/2023

**ADMINISTRATION OF OATH OF WITNESS
AND TABLING OF DOCUMENTS**

The Governor of Elgeyo Marakwet County took Oath of Witness and tabled the Management responses and supporting documents for the audit reports of Iten - Tambach Water and Sewerage Company Limited for the Financial Years 2018/19, 2019/20 and 2020/21.

MIN. NO. SEN/CPICSF/545/2023

**MEETING WITH THE COUNTY
EXECUTIVE OF ELGEYO MARAKWET TO
CONSIDER REPORTS OF THE AUDITOR-
GENERAL ON THE FINANCIAL
STATEMENTS OF THE ITEN – TAMBACH
WATER AND SEWERAGE COMPANY
LIMITED FOR THE FINANCIAL YEARS
2018/2019, 2019/2020 AND 2020/2021**

The Following queries were interrogated for the Financial Year 2020/2021

REPORT ON THE FINANCIAL STATEMENTS		
Audit Query	Concern	Observation and Recommendations
1. Non – Revenue Water	The Non-Revenue Water for the company was 32%, that is 7 percentage points above the sector benchmark as per the Water Services Regulatory Boars (WASREB).	The Committee observed that the company's Non-Revenue Water exceeded the sector benchmark threshold and that the mitigating measures put in place by the water company to address the matter were inadequate. The Committee directed the Governor to ensure that within 60 days from the date of the meeting, the water puts in place comprehensive measures to mitigate the Non-Revenue Water that is, both the physical and commercial losses. The measures to include replace of old dilapidated pipes, installation of smart metres and application of GIS systems to track bursts and leakages real-time among other measures. Query remains unresolved.

2. Non-Disclosure of Value and Ownership of Land	i. Non-disclosure in financial statements of value of land which the water company buildings are built. ii. Failure to provide ownership documents for the said land.	The Committee observed that – i. the value of land on which the buildings are built was not disclosed in the financial statements. ii. The water did not have a title deed for the said piece of land. The Committee directed the Governor to finalize on the process of acquiring full ownership of the said piece of land within 30 days from the date of the meeting and submit a copy of the same to the Auditor-General for verification. The Accounting Officer to maintain an updated and accurate fixed asset register and submit evidence of the same to the Auditor-General within 30 days from the date of the meeting for verification. Auditor-General to provide a status update on the matter in the subsequent audit cycle. Query remains unresolved.
3. Trade Receivables	The trade receivables increased by Kshs. 4,625,822 from a balance of Kshs. 22,895,027 in the 2019/2020 financial year to Kshs. 27,520,849 in 2020/2021 financial year. No explanation was given for increase and failure to collect the debts. Kshs. 18,136,387 had been outstanding for more than 180 days.	The Committee observed that was an unexplained increase in the trade receivables and that the water company had not demonstrated any efforts to recover the debts. Further the water company had not provided a debtors schedule for audit review The Committee directed that within 30 days from the date of the meeting, the Accounting Officer to put in place comprehensive debt recovery measures to recover money owed to the company and submit evidence of the same to the Auditor-General for audit review. The Committee also directed the Governor to ensure that the water company puts in place a debt management policy and submit the same to the Auditor-General

		within 3 days from the date of the meeting for audit review. Query remains unresolved.
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The Following queries were interrogated for the Financial Year 2019/20

REPORT ON THE FINANCIAL STATEMENTS		
Audit Query	Concern	Observation and Recommendations
3. Lack of Service Provision Agreement	The Company did not have an operating licence.	The Committee observed that the water company had obtained an operating licence from the Water Services Regulatory Board. Query was marked as resolved.

Interventions and Resolutions

Having considered the issues raised by the Auditor-General on the Financial Statements of Iten - Tambach Water and Sanitation Company Limited for Financial Years under review, the Committee directed as follows -

- i).The Committee noted that the Non-Revenue Water stood at 32% that is 7 percentage points above the sector benchmark of 25% as per the Water Services Regulatory Board (WASREB) guidelines. The Committee, within 60 days from the date of the meeting, directed the County Government to put in place clear and actionable measures on how the water company intends to tackle the high Non-Revenue Water, clearly indicating how both physical and commercial losses will be addressed and a report on the same to be filed with the committee and the Office of the Auditor-General to verify the measures and report on their effectiveness in the subsequent audit cycle;
- ii).Noting that the County Government was not in possession of ownership documents of a parcel of land hosting the water company and other public facilities and that the status had remained the same for over 10 years, the Committee, within 30 days from the date of the meeting, directed the County Government to obtain the relevant ownership documents of the said land and submit evidence of the same to the Office of the Auditor-General for varication.

Further, the Office of the Auditor-General to report on the matter in the subsequent audit cycle; and

- iii). Noting that the water company had high trade receivables in the financial year under review, the Committee, within 30 days from the date of the meeting, directed, the County Government to put in place a Debt Recovery Plan and the same be submitted to Office of the Auditor General for verification.

MIN. NO. SEN/CPICSF/546/2023

ANY OTHER BUSINESS

There was no other business.

MIN. NO. SEN/CPICSF/547/2023

**DATE OF NEXT MEETING &
ADJOURNMENT**

The Chairperson adjourned the meeting at fifteen minutes past two o'clock in the afternoon. The next meeting would be held on Thursday, 3rd, August, 2023 at 9:00 am.



11/4/2024

SIGNED: DATE:

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



13TH PARLIAMENT 2ND SESSION

MINUTES OF THE FORTY EIGHTH SITTING OF THE COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS COMMITTEE WITH THE COUNTY EXECUTIVE OF KIRINYAGA TO CONSIDER REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENT OF THE KIRINYAGA WATER AND SEWERAGE COMPANY FOR FINANCIAL YEARS 2018/2019, 2019/2020 AND 2020/2021, HELD ON WEDNESDAY, 17TH MAY, 2023 AT THE VIP LOUNGE, FIRST FLOOR, KENYATTA INTERNATIONAL CONVENTION CENTRE (KICC) AT 11.00 A.M.

PRESENT

- | | |
|---|----------------------|
| 1. Sen. Godfrey Atieno Osotsi, MP | - Chairperson |
| 2. Sen. Paul Karungo Thangwa, MP | - Member |
| 3. Sen. Eddy Gicheru Oketch, MP | - Member |
| 4. Sen. Miraj Abdillahi Abdulrahman, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|--|---------------------------|
| 1. Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP | - Vice-Chairperson |
| 2. Sen. Ledama Olekina, MP | - Member |
| 3. Sen. William Kipkemai Kisang, MP | - Member |
| 4. Sen. Hamida Kibwana Ali, MP | - Member |
| 5. Sen. Maureen Tabitha Mutinda, 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. Mr. Kennedy Owuoth | - Fiscal Analyst |
| 6. Ms. Raisa Mwithi | - Researcher officer |
| 7. Mr. Andrew Nyairo | - Legal counsel |
| 8. Ms. Winfred Ocholla | - Audio officer |
| 9. Mr. Josphat Ng'enh | - Media Relations Officer. |
| 10. Mr. John Pere | - Serjeant-At-arms |

IN ATTENDANCE

A. COUNTY EXECUTIVE OF KIRINYAGA

- | | |
|--------------------------|--------------------------------|
| 1. Hon. Ann Waiguru | - Governor |
| 2. Mrs. Jacqueline Njogu | - CECM Finance |
| 3. Mr. James Kihia | - Board Chairperson |
| 4. Mrs. Jane Murage | - Ag. Fm KIRIWASCO |
| 5. CPA Edward Nyaga | - Co. Finance |
| 6. Mr. Carilns Otieno | - Co. Planning and Procurement |
| 7. Mr. Peter Murimi | - Co. Water |
| 8. Mr. Joseph Mwangi | - Internal Auditor KIRIWASCO |
| 9. Mr. Anthony Munene | - Political advisor |
| 10. Mr. Lawrence Muchira | - County Director Budget |
| 11. Mr. Steven Gikonyo | - Kirinyaga |
| 12. Mr. Jared Wachira | - Kirinyaga |

B. OFFICE OF THE AUDITOR GENERAL

- | | |
|-------------------------|----------------------------|
| 1. Mr. Peter M. Gitonga | - Deputy Director Audit |
| 2. Mr. James Njeru | - Deputy Director of Audit |
| 3. Mr. Fredrick Kitili | - Manager Audit |

C. ETHICS AND ANTI-CORRUPTION COMMISSION

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

MIN. NO. SEN/CPICSF/292/2023 PRAYER

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

MIN. NO. SEN/CPICSF/293/2023 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Paul Karungo Thang'wa, MP and seconded by Sen. Miraj Abdullahi Abdulrahman, MP, as follows –

1. Prayer;
2. Adoption of the Agenda;
3. Administration of oath of witness and Tabling of Documents;
4. Meeting with the County Executive of Kirinyaga to consider Reports of the Auditor-General on the Financial Statements of the Kirinyaga Water and Sanitation Company Limited for Financial Years 2018/2019, 2019/2020 and 2020/2021;
5. Any Other Business; and

6. Date of the Next Meeting and Adjournment

MIN. NO. SEN/CPICSF/294/2023

**ADMINISTRATION OF OATH OF WITNESS
AND TABLING OF DOCUMENTS**

The Governor of Kirinyaga County took oath of witness and tabled the management responses and supporting documents for the audit reports of the Kirinyaga County Water and Sanitation Company Limited for Financial Years 2018/2019, 2019/2020 and 2020/2021.

MIN. NO. SEN/CPICSF/295/2023

**MEETING WITH KIRINYAGA COUNTY
EXECUTIVE TO CONSIDER THE AUDITOR
GENERAL'S REPORT ON THE FINANCIAL
STATEMENTS OF KIRINYAGA WATER
AND SANITATION COMPANY FOR THE
FINANCIAL YEARS 2018/2019, 2019/2020 AND
2020/2021**

The Office of the Auditor-General indicated that the following queries had since been addressed by the management -

Report on the Financial Statements for the Financial Year 2020/2021

- a. Inaccuracies in the Financial Statements;
- b. Statement of Changes in Equity;
- c. Misstatement of Water Sales;
- d. Trade and Other Receivables;
- e. Unsupported Water Bills Adjustments;
- f. Cash and Cash Equivalents;
- g. Unsupported Short-Term Loan; and
- h. Statement of Comparison of Budget and Actual Amounts.

Other matter

- a. Movement of Conditional Liquidity Grants to Deferred Income Without Approved Budget; and
- b. Progress on Follow-up of Prior Year Audit Matters.

The Following queries were interrogated for the Financial Year 2020/2021

REPORT ON THE FINANCIAL STATEMENTS		
Audit Query	Concern	Observation and Recommendations

1. Long Outstanding Receivables	Salary advances of Kshs. 1,134,473 and Kshs. 170,114 for staff loans to four (4) former officers to purchase laptops had no support documentation including approvals and evidence that the Management has initiated recovery of the salary advances.	The Committee observed that the water company had recovered Kshs. 919,340 out of the salary advance of Kshs. 1,134,473, leaving an outstanding unrecovered debt of Kshs. 208,465. The Committee also observed that loans amounting to Kshs. 170,114 were advance to 4 former officer ad that it was yet to be recovered. The Committee directed the Governor to ensure that the water company institute measures to recover the outstanding balances and submit evidence of the same to the Auditor-General for verification. The Auditor-General to provide a status update on the matter in the subsequent audit cycle. The query remains unresolved.
2. Unsupported Property, Plant and Equipment	The accuracy, ownership and completeness of the property, plant and equipment balance of Kshs. 98,644,815 as at 30 June could not be ascertained as – i. the amount was not supported by an updated asset register and the assets had not been valued for a long time. ii. Ownership documents for assets were not provided for audit.	The Committee observed that the Kshs. 98,644,815 in respect of property, plant and equipment was not supported by an updated asset register and other asset ownership documents. The Committee directed the Governor to ensure that the water company secures full ownership of all assets and submit an updated fixed asset register in the required format as prescribed by the Public Sector Accounting Standards Board within 14 days from the date of the meeting. The query remains unresolved.
KEY AUDIT MATTERS		

1. Budgetary Control and Performance	There was unrealised revenue collection of Kshs. 39,353,871 and an under absorption Kshs. 31,142,020, hampering service delivery to the people of Kirinyaga.	The Committee observed that there was an under collection and under absorption of the budget by the water company which could have affected service delivery by the water company. The Committee directed the Accounting Officer exert budgetary control measures in line with regulation 42(1)(b) of the Public Finance Management (County Governments) Regulations 2015, such as instituting proper and realistic budget planning as well as measures to improve revenue. The Auditor-General to confirm the effectiveness of the mitigating measures put in place by the water company and provide a status update in the subsequent audit cycle. Query remained unresolved.
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES		
1. Non-Revenue Water	The Non-Revenue Water stood at 60%, that is 35 percentage points above the sector benchmark of 25% as per the WASREB guidelines.	The Committee directed the Governor of Kirinyaga County to ensure the water company submitted to the Committee and the Auditor-General comprehensive measures on how it intended to tackle the high Non-Revenue Water, clearly indicating how both the physical and the Commercial losses would be addressed within 14 days from the date of the meeting. The query remains unresolved.

2. Non Gazettement of Board of Directors	The Company had seven (7) board members serving during the year ended 30 June, 2021. However, as at the time of audit, the Board of Directors had not been gazetted.	The Committee observed that the water company was not in compliance with the Mwongozo Guidelines with respect to gazettment of the Board of Director. The Committee directed the Governor to ensure that the water company complies with the Mwongozo Guidelines. The Auditor-General to review the matter and provide a status update in the subsequent audit cycle The query remains unresolved.
3. Long Outstanding Staff Imprest	There were long outstanding imprests of Kshs.3,847,011 that have remained unrecovered for periods exceeding six (6) months. Further, eight (8) officers were issued with more than one imprest totalling Kshs.1,418,770 without surrendering the earlier issued imprests, contrary to Section 92(8) of Public Finance Management (County Governments) Regulations, 2015.	The Committee directed Governor to submit a list of staffs owing the Company and detailed plan on how they intend to recover the monies within fourteen (14) days. The query remained unresolved.

Interventions and Resolutions

That the Committee having considered the issues raised by the Office of the Auditor-General on the Financial Statements of Kirinyaga Water and Sewerage Company Limited for Financial Years 2018/19, 2019/20 and 2020/21, it noted that the company had management challenges as demonstrated by the numerous unresolved matters and directed as follows -

- i). The Governor take keens interest in the operations and management of the water company in line with Article 179 of the Constitution;
- ii). The Governor ensures registration and full ownership of the water company in favour of the County Government in line with the provisions of the Water Act 2016;
- iii). Within 60 days from the date of the meeting, the Governor undertakes total restructuring of the water company by

- a. Reviewing its Human Resources Management to introduce performance contracting for all staff including the top management;
 - b. Reconstituting the Board of Directors; and
 - c. Mapping all the assets of the company.
- iv). The County Government in collaboration with the County Assembly to enact a water legislation to support operations of the water company;
- v). Within 14 days from the date of the meeting, the management to prepare and submit to the Committee comprehensive mitigation measures on how they intend to address the issues of Non-revenue Water (NRW), both the Commercial and Physical losses. The NRW stood at 60%, which is way above the 25% recommended threshold as per WASREB Guidelines. Further, the Governor to collaborate with the Ethics and Anticorruption Commission (EACC) to put in place corruption preventive measures to deal with activities that may lead to high Non-Revenue Water;
- vi). The management to provide evidence of communication with Tana Athi Water in its bid to secure ownership of various assets in favour of the water company; and
- vii). The management to update the Asset Register of the water company in line with the format prescribed by the Public Sector Accounting Sector Standards Board.

MIN. NO. SEN/CPICSF/296/2023 ANY OTHER BUSINESS

The Committee received a letter from Hon. Eric Muchina, MCA Kerugoya Ward, Kirinyaga County raising allegations of abuse of Office and Financial Impropriety at Kirinyaga Water and Sewerage Company Limited. The Committee noted that the issues raised in the said letter did not relate to audit matters before the Committee. The Committee resolved to consider the contents of the letter in its subsequent meetings.

MIN. NO. SEN/CPICSF/297/2023 DATE OF NEXT MEETING & ADJOURNMENT

The Chairperson adjourned the meeting at nine minutes to three o'clock in the afternoon. The next meeting would be held on Thursday, 18th May, 2023 at 10:00 am.



11/4/2024

SIGNED: DATE:

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



13TH PARLIAMENT 2ND SESSION

MINUTES OF THE FORTY FOURTH SITTING OF THE COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS COMMITTEE WITH THE COUNTY EXECUTIVE OF KILIFI TO CONSIDER REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF MALINDI WATER AND SEWERAGE COMPANY LIMITED AND KILIFI MARIAKANI WATER AND SEWERAGE COMPANY LIMITED FOR FINANCIAL YEARS 2018/19, 2019/20 AND 2020/21, HELD ON THURSDAY, 27TH APRIL, 2023 AT THE IMPALA ROOM, FIRST FLOOR, KENYATTA INTERNATIONAL CONVENTION CENTRE (KICC) AT 10.00 A.M.

PRESENT

- | | |
|---|----------------------|
| 1. Sen. Godfrey Atieno Osotsi, MP | - Chairperson |
| 2. Sen. Ledama Olekina, MP | - Member |
| 3. Sen. William Kipkemoi Kisang, MP | - Member |
| 4. Sen. Paul Karungo Thangwa, MP | - Member |
| 5. Sen. Eddy Gicheru Oketch, MP | - Member |
| 6. Sen. Maureen Tabitha Mutinda, MP | - Member |
| 7. Sen. Hamida Kibwana Ali, MP | - Member |
| 8. Sen. Miraj Abdullahi Abdulrahman, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|---|---------------------------|
| Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP | - Vice-Chairperson |
|---|---------------------------|

IN ATTENDANCE

- | | |
|---|--------------------------|
| Sen. (Rtd) Justice Stewart Madzayo, CBS, MP | - Senator, Kilifi County |
|---|--------------------------|

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'eno | - 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'enh | - Media Relations Officer. |
| 13. Mr. John Pere | - Serjeant-at-arms |

IN ATTENDANCE

A. COUNTY GOVERNMENT OF KILIFI

- | | |
|-----------------------------|-----------------------------------|
| 1. Hon. Gideon Mung'aro | - Governor |
| 2. Mrs. Yaye Shosi Ahmed | - CECM- Finance Economic Planning |
| 3. Mr. Omar Said Omar | - CECM – Water |
| 4. Mr. Ezekiah Nguma Mwarua | - CO, Water |
| 5. Mr. Seith Kalume | - Finance Manager, MUWASCO |
| 6. Mr. Isaac Chibule | - Ag. MD, MUWASCO |
| 7. Mr. Pascal Jira | - MD KIMAWASCO |
| 8. Mrs. Rhoda Chigiri | - Accountant KIMAWASCO |
| 9. Mr. Kingstone Mulowe | - Internal Auditor |
| 10. Mr. Nelson Mbitha | - Senior Procurement Officer |
| 11. Mr. Martin M. Mwaro | - Ag. County Secretary |
| 12. Mr. Ismail Juma | - Procurement KIMAWASCO |

B. OFFICE OF THE AUDITOR GENERAL

- | | |
|-----------------------|---------------------|
| 1. Mr. Japheth Kasivu | - Principal Auditor |
| 2. Mr. Mark Gachanja | - Liaison Officer |

C. ETHICS AND ANTI-CORRUPTION COMMISSION

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

MIN. NO. SEN/CPICSF/267/2023 PRAYER

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

MIN. NO. SEN/CPICSF/268/2023 ADOPTION OF THE AGENDA

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

1. Prayer;
2. Adoption of the Agenda;
3. Administration of oath of witness and tabling of documents;
4. Meeting with the County Executive of Kilifi to consider Reports of the Auditor-General on the Financial Statements of Malindi Water and Sewerage Company

Limited and Kilifi-Mariakani Water and Sewerage Company Limited for 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/269/2023 ADMINISTRATION OF OATH AND
TABLING OF DOCUMENTS**

The Governor of Kilifi County took Oath of Witness and tabled the Management responses and supporting documents for audit reports of the Malindi Water and Sewerage Company Limited and Kilifi-Mariakani Water and Sewerage Company Limited for Financial Years 2018/2019, 2019/2020 and 2020/2021.

**MIN. NO. SEN/CPICSF/270/2023 MEETING WITH THE COUNTY
EXECUTIVE OF KILIFI TO CONSIDER
REPORTS OF THE AUDITOR-GENERAL ON
THE FINANCIAL STATEMENTS OF
MALINDI WATER AND SEWERAGE
COMPANY LIMITED AND KILIFI
MARIAKANI WATER AND SEWERAGE
COMPANY LTD. FOR THE FINANCIAL
YEARS 2018/2019, 2019/2020 AND 2020/2021.**

The Governor of Kilifi County, Hon. Gideon Maitha Mung'aro, appeared before the Committee to respond to the issues raised in the reports of the Auditor-General on the financial statements of Malindi Water and Sewerage Company Limited and Kilifi-Mariakani Water and Sewerage Company Limited for the financial years for 2018/19, 2019/20 and 2020/21.

The Governor requested the Committee to consider the written management responses of the audit reports and to allow him to travel back to Kilifi following the Shakahola tragedy and the Committee acceded to the request.

MIN. NO. SEN/CPICSF/271/2023 ANY OTHER BUSINESS

- i. The Committee sought to know the status of preparation for the Inquiry into the County Pension Fund Liabilities and was informed by the secretariat that preparations of an advert for public participation and letters to County Pensions Fund, LapTrust and Lapfund were underway. The Committee directed the secretariat to present the draft advert for its consideration during the next meeting.
- ii. Following revocation of the earlier permission granted by the Hon. Speaker of the Senate to hold its sittings on Wednesday mornings, the Committee directed the secretariat to revise the work schedule, proposing other modalities of holding its meetings. Further, the Committee directed the Secretariat to reschedule the meeting with the County Executive of Kirinyaga that was scheduled for Wednesday, 3rd May, 2023 to later date.

MIN. NO. SEN/CPICSF/272/2023

**DATE OF NEXT MEETING &
ADJOURNMENT**

The Chairperson adjourned the meeting six minutes past eleven o'clock. The next meeting would be held on Tuesday, 2nd, May, 2023 at 10:00 am.



14/11/2023

SIGNED: DATE:

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



13TH PARLIAMENT 2ND SESSION

MINUTES OF THE EIGHTY FOURTH SITTING OF THE COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS COMMITTEE WITH THE COUNTY EXECUTIVE OF MANDERA TO CONSIDER REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENT OF THE MANDERA WATER AND SEWERAGE COMPANY LIMITED FOR FINANCIAL YEARS 2018/2019, 2019/2020 AND 2020/2021 HELD ON TUESDAY, 25TH JULY, 2023 IN FIRST FLOOR, SHIMBA HILLS, KENYATTA INTERNATIONAL CONVENTION CENTRE (KICC) AT 9.30 A.M.

PRESENT

- | | |
|--|---------------------------|
| 1. Sen. Godfrey Atieno Osotsi, MP | - Chairperson |
| 2. Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP | - Vice-Chairperson |
| 3. Sen. William Kipkemai Kisang, MP | - Member |
| 4. Sen. Hamida Kibwana Ali, MP | - Member |
| 5. Sen. Maureen Tabitha Mutinda, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|---|----------|
| 1. Sen. Paul Karungu Thangwa, MP | - Member |
| 2. Sen. Eddy Gicheru Oketch, MP | - Member |
| 3. Sen. Miraj Abdillahi Abdulrahman, MP | - Member |

IN ATTENDANCE

- | | |
|------------------------------|--------------------------|
| Senator Roba Ali Ibrahim, MP | - Senator Mandera County |
|------------------------------|--------------------------|

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. Ms. Raisa Mwithi | - Researcher officer |
| 7. Mr. Kataa Matano | - Researcher officer |
| 8. Mr. Andrew Nyairo | - Legal counsel |

9. Ms. Winfred Ocholla
10. Mr. Josphat Ng'eno
11. Mr. Holifield Murimi
12. Mr. John Pere

- Audio officer
- Media Relations Officer.
- Attached to the Committee
- Serjeant-At-arms

IN ATTENDANCE

A. COUNTY EXECUTIVE OF MANDERA

- | | |
|----------------------------|--------------------------------------|
| 1. Hon. Muhamed Khalif | - Governor |
| 2. Mr. Billow Hassan | - County Secretary |
| 3. Mr. Ibrahim. M | - CEC – Finance |
| 4. Mr. Hussein Somo | - County Attorney |
| 5. Mr. Abdirahman Ahmed | - Deputy Director Financial Services |
| 6. Mr. Addikadir Tache | - CEO Finance |
| 7. Mr. Kassin Hafi | - MD MADWASCO |
| 8. Mr. Ahmed Mohamed | - Principal Accountant |
| 9. Mr. Ibrahim Asduwa | - Assistant Director |
| 10. Hon. Abdullahi Ibrahim | - Chairperson PAIC |
| 11. Mr. Abdifafah Kollow | - Clerk Asst. PAIC |
| 12. Hon. Mohamed Mohamud | - Member PAIC |
| 13. Mrs. Susan Gichuchi | - Director Administration |
| 14. Mr. Issadin Edow | - Chief of Staff |
| 15. Mr. Basia Isaack | - Director Energy |
| 16. CPA Najma Suraw | - Deputy CEO Mandera Water |

B. OFFICE OF THE AUDITOR GENERAL

- | | |
|-----------------------|---------------------|
| 1. Mr. Hurrie Njoroge | - Director of audit |
| 2. Mr. Martin Mutiga | - Principal auditor |
| 3. Mr. Mark Gachamja | - Liaison officer |

C. ETHICS AND ANTI-CORRUPTION COMMISSION

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

D. THE NATIONAL TREASURY

- | | |
|--------------------|-------------------|
| Dr. Jackson Ndungo | - Liaison Officer |
|--------------------|-------------------|

MIN NO. SEN/CPICSF/506/2023

PRAYER

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

MIN NO. SEN/CPICSF/507/2023

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. William Kipkemoi Kisang, MP and seconded by Sen. 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 the County Executive of Mandera to consider Reports of the Auditor-General on the Financial Statements of Mandera Water and Sewerage Company Limited for Financial Years 2018/2019, 2019/2020 and 2020/2021;
5. Any Other Business; and
6. Date of the Next Meeting and Adjournment.

**MIN. NO. SEN/CPICSF/508/2023 ADMINISTRATION OF OATH OF WITNESS
AND TABLING OF DOCUMENTS**

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

**MIN. NO. SEN/CPICSF/509/2023 MEETING WITH THE COUNTY
EXECUTIVE OF MANDERA TO CONSIDER
REPORTS OF THE AUDITOR-GENERAL ON
THE FINANCIAL STATEMENTS OF
MANDERA WATER AND SEWERAGE
COMPANY LIMITED FOR FINANCIAL
YEARS 2018/2019, 2019/2020 AND 2020/2021**

The Following queries were interrogated for the Financial Year 2020/2021

REPORT ON THE FINANCIAL STATEMENTS		
Audit Query	Concern	Observation and Recommendations
1. Inaccuracies in the Financial Statements	The accuracy of the financial statements could not be confirmed as note 19 to the financial statements reflected different amounts of members' equity. Members's equity was also not captured in the statement of changes in equity. Statement of financial position and the statement of changes in equity reflected varying retained earnings balances.	The Committee observed that the County Government of Mandera disputed the figures captured by the Auditor-General. The Committee directed the Governor to engage the Auditor and resolve the dispute. The Committee to review the matter in the subsequent audit cycle. The query remains unresolved.
KEY AUDIT MATTERS		

3. Budgetary Control and Performance	There was revenue under collection of Kshs. 75,328,131 and under absorption of Kshs. 101,739,771 which may have negatively impacted on service delivery to the residents of Mandera town of the budget.	The Committee observed the under collection and under expenditure was as a result of low sales volumes of water due to Covid-19 and drought as well as slow disbursements of funds by donors due to security concerns in the county. Further the Committee noted that no budgetary control measures were put in place by the water company. The Committee directed the Governor to ensure that the Accounting officer exerts budgetary control measures in line with regulation 42(1)(b) of the Public Finance Management (County Governments) Regulations, 2015. The query remains unresolved.
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The Following queries were interrogated for the Financial Year 2019/20

REPORT ON THE FINANCIAL STATEMENTS		
Audit Query	Concern	Observation and Recommendations
4. Lack of Ownership Documents	i. Intangible assets amounting to Kshs. 881,600 from Northern Water Works Development Agency were not disclosed in the Notes to the financial statements. ii. Land hosting Suftu Water intake had no title deed. iii. Buildings and civil works amounting to Kshs. 62,989,234 should have been reported under project costs in the statement of Profit and loss and the projects were to be owned by the community.	The Committee observed that – i. the land ownership documents were provided and verified by the Auditor-General. ii. The intangible assets were not inherited from Northern Water Works Development Agency and that they were acquisitions by the water company. iii. The Accounting Officer failed to provide supporting documents

		to verify the acquisition of the intangible assets. The Committee directed the Governor to ensure that the acquisition documents for the intangible assets are submitted to the Auditor-General for audit review with 14 days from the date of the meeting. Query remains unresolved.
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The Following queries were interrogated for the Financial Year 2018/19

REPORT ON THE FINANCIAL STATEMENTS		
Audit Query	Concern	Observation and Recommendations
1. Water Sales Revenue	i. The number and values of monthly bills issued to customers could not be confirmed as the revenue schedule provided for audit review did not have invoice numbers and invoice dispatch registers. ii. The water company had not installed water meters at its water pumps.	The Committee observed that at the time of audit, the water company had not metered its water supply system and therefore relied on a flat rate billing system. The Committee further noted that the water company was in the process of automating its revenue system but failed to address the metering issues. The Committee therefore directed the Governor to ensure that all customers are metered through smart meters for accurate billing. Further, the Governor to ensure that the old infrastructure is replace and that the water company deploys appropriate technologies such as GIS to detect bursts and leakages real time. The Auditor-General to monitor implementation and provide a

		status update in the subsequent audit cycle. Query remains unresolved
2. County Government Grants	The Grants balances of Kshs. 37,010,483 from the County Government of Mandera were not supported with ledger records.	The Committee observed that the management provided the supporting schedule and that the same had been reviewed by the Auditor-General. The Committee directed the Accounting Officer to ensure that documents are submitted within the required timelines in line with section 9(1)(e) of the Public Audit Act. Query was marked as resolved.
3. Equity and Capital Grants	The ledger records on the Equity and Capital balances of Kshs. 28,959,668 and Kshs. 117,106,002 respectively were not provided for audit review	The Committee observed that the Accounting Officer submitted for audit review, the ledgers to support the members' equity and capital grants balances and that the same was reviewed by the Auditor-General. The Committee directed the Accounting Officer to ensure that documents are submitted within the required timelines in line with section 9(1)(e) of the Public Audit Act. Query was marked as resolved.
4. Valuation of Assets	No disclosure has been provided in the financial statements on how the diminution in value of the Company assets during the dormancy period was accounted for in the books of the Company, and how the opening property, plant and equipment balance totalling Kshs. 65,522,125 as at July, 2018 was arrived at.	The Committee observed that the accuracy of the opening property, plant and equipment balance totalling Kshs. 65,522,125 could not be confirmed as the water company failed to demonstrate how the balances were arrived at. Further, the Committee noted that some of the assets and liabilities belonging to the water company were yet to be transferred from the defunct local authorities and the water company had not demonstrated any efforts to pursue the matter with the

		Intergovernmental Relations Technical Committee (IGRTC). The Committee directed that – - the Governor to engage IGRTC for full transfer of assets and liabilities in favour of the water company. - the Accounting Officer to carry out a valuation of all the company's assets within 60 days from the date of the meeting and submit an updated fixed asset register to the Committee and the Auditor-General for verification. Query remains unresolved.
5. Additions in the Year Under Review	- Variance of investment balances on fixed assets of Kshs. 23,458,859 between the statement of cash flows and Note 14 to the financial statements was not explained or reconciled. - The balance of Kshs. 843,427 of financing activities of fixed assets inherited from the Northern Water Services Board was not explained. - Review of records on the assets indicated that the properties were not registered in the Company's name.	The Committee observed that the variance of Kshs. 23,458,859 was adequately addressed in the management response. However, properties amounting to Kshs. 843,427 inherited from the Northern Water Services Board was not explained and the said assets were not registered in the company's name. The Committee directed the Governor to engage IGRTC and ensure full ownership of all the assets of water company within 60 days from the date of the meeting. The Accounting Officer to ensure that all assets of the water company are valued within 60 days from the date of the meeting and maintained an updated fixed asset register in required format and submit a copy of the same to the Auditor-General and the Committee for verification. The Auditor-General to review the matter and provide a status update in the subsequent audit cycle.

		Query remains unresolved.
6. Freehold Land	The water company did have ownership documents of a freehold piece of land valued at Kshs. 4,500,000.	The Committee observed that the ownership documents for the land were availed. Query was marked as resolved.

Interventions and Resolutions

Having considered the issues raised by the Office of the Auditor General on the Financial Statements of Mandera Water and Sewerage Company Limited for the Financial Years under review, the Committee directed as follows;

- i).The Governor takes keen interest in the operations of the water company in the county in line with Article 179 of the Constitution;
- ii).The Governor, within 60 days from the date of the meeting, ensures that the water company complies with the WASREB advisory Ref: WASREB/LEGAL/582 VOL.VI (9) dated 6th April, 2023 to all Governors, and that full ownership of the water company is transferred to the County Government in line with the law (Water Act, 2016) and other guiding laws. Upon completion, the Governor submits a copy of the CR-12 to the Committee;
- iii).The County Government in collaboration with the County Assembly to finalizes the enactment of a County Water Act to support the operations of Mandera Water and Sanitation Company Limited;
- iv).The Committee noted that in some instances the management of the water company submitted documents for audit outside the set timelines during the audit process contrary to the provisions of section 31 of Public Audit Act, 2015. The Water company ensures total compliance with the said provisions of the law going forward;
- v).For Good governance, sound accountability, protection of public resources, and improved service delivery, the management of Mandera Water and Sewerage Company commences metering of its customers;
- vi).The management to maintain an updated asset register in the format prescribed by the National treasury and the provisions of section 136 (1) of Public Finance Management (County Government) regulations, 2015 and a copy of the same to be submitted to the Committee within 60 days from the date of the meeting;
- vii).The Committee noted that the management of the water company had failed to establish an internal audit function and an audit committee contrary to section 167 (1) Public Finance Management (County Government) regulations, 2015. The management to establish internal audit function and an audit committee for

the water company within 60 days from the date of the meeting. Further the County Government ensure that the internal is adequately resourced; and
viii). The Committee noted some assets of the water company had not been transferred from the defunct local authorities (Mandera County Council). The County Government in consultation with the Intergovernmental Relations Technical Committee (IGRTC) ensures all assets are transferred in favour of the County Government within 60 days from the date of the meeting.

MIN. NO. SEN/CPICSF/510/2023 ANY OTHER BUSINESS

There was no other business.

MIN. NO. SEN/CPICSF/511/2023 DATE OF NEXT MEETING & ADJOURNMENT

The Chairperson adjourned the meeting at thirty-seven minutes past eleven o'clock in the afternoon. The next meeting would be held on Thursday, 27th, July, 2023 at 9:30 am.



29/4/2024

SIGNED: DATE:

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



13TH PARLIAMENT 2ND SESSION

MINUTES OF THE FORTY THIRD SITTING OF THE COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS COMMITTEE WITH THE COUNTY EXECUTIVE OF MIGORI TO CONSIDER REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF THE MIGORI COUNTY WATER AND SANITATION COMPANY LIMITED FOR FINANCIAL YEARS 2018/19, 2019/20 AND 2020/21, HELD ON TUESDAY, 25TH APRIL, 2023 AT THE IMPALA ROOM, FIRST FLOOR, KENYATTA INTERNATIONAL CONVENTION CENTRE (KICC) AT 10.00 A.M.

PRESENT

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

ABSENT WITH APOLOGY

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| Sen. Ledama Olekina, MP | - Member |
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SECRETARIAT

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|------------------------|----------------------------|
| 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'enh | - 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 |

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| 11. Mr. Matano Kataa | - Research Officer |
| 12. Mr. Josphat Ng'enh | - Media Relations Officer. |
| 13. Mr. John Pere | - Serjeant-at-arms |

IN ATTENDANCE

A. COUNTY GOVERNMENT OF MIGORI

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|------------------------------|-----------------------------|
| 1. Hon. (Dr.) Ochillo Ayacko | - Governor |
| 2. Mr. Maurice N. Otunga | - CECM Finance |
| 3. Mr. Christopher O. Rusana | - CECM Water |
| 4. Mr. Jacob Maroe | - MD MIWASCO |
| 5. Mr. Shadrack Rioba | - MIWASCO |
| 6. Hon. Thomas Arungu | - MCA |
| 7. Hon. Jacob Calebs | - MCA |
| 8. Mrs. Janet Kagati | - Head of Treasury |
| 9. Mr. Phidale Castro Ouma | - CO – Water |
| 10. Dr. Achwora John | - CO – Finance |
| 11. Mr. Dennis Wasike | - Governor's liaison office |

B. OFFICE OF THE AUDITOR GENERAL

- | | |
|-----------------------|---------------------|
| 1. Mr. Laban Ondara | - Principal Auditor |
| 2. Mr. Japheth Kasivu | - Principal Auditor |
| 3. Mr. Mark Gachanja | - Liaison Officer |

C. ETHICS AND ANTI-CORRUPTION COMMISSION

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| Mr. Patrick Kinoti | - Liaison Officer |
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MIN. NO. SEN/CPICSF/261/2023 PRAYER

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

MIN. NO. SEN/CPICSF/262/2023 ADOPTION OF THE AGENDA

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

1. Prayer;
2. Adoption of the Agenda;
3. Administration of oath of witness and tabling of documents;
4. Meeting with the County Executive of Migori to consider Reports of the Auditor-General on the Financial Statements of Migori County Water and Sanitation Company Limited for 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/263/2023 ADMINISTRATION OF OATH OF
WITNESS AND TABLING OF
DOCUMENTS**

The Governor of Migori County took Oath of Witness and tabled the Management responses and supporting documents for the audit reports of the Migori County Water and Sanitation Company Limited for Financial Years 2018/2019, 2019/2020 and 2020/2021.

**MIN. NO. SEN/CPICSF/264/2023 MEETING WITH THE COUNTY
EXECUTIVE OF MIGORI TO CONSIDER
REPORTS OF AUDITOR-GENERAL ON THE
FINANCIAL STATEMENTS OF MIGORI
COUNTY WATER AND SANITATION
COMPANY LIMITED FOR FINANCIAL
YEARS 2018/2019, 2019/2020 AND 2020/2021**

The Following queries were interrogated for the Financial Year 2020/2021

REPORT ON THE FINANCIAL STATEMENTS		
Audit Query	Concern	Observation and Recommendations
1. Customer Deposits Account	The management of the water company withdrew Kshs. 7,006,448 from the customer deposits account without the approval of the Board of Directors	The Committee noted that refund to the deposits account was yet to be done. The Committee, within 14 days from the date of the meeting, directed the management of the water company submit a comprehensive repayment plan for the customer deposits. Query remains unresolved.
2. Issued Capital	The ownership, of the water company was yet to be transferred from the defunct local authorities to the County Government in line with the Water Act, 2016 and other sector guidelines.	The Governor requested the Committee to allow him resolve the matter within sixty (60) days from the date of the meeting. The Committee acceded to his request and directed that the management submits a copy of the

		CR12 upon the lapse of the 60 days. Query remains unresolved.
3. Comparative Trade and other Receivables	The prior year trade and other receivables comparative balance reflected in the statement of financial position of the year under review of Kshs. 34,892,265 differed with the corresponding balance of Kshs. 34,680,390 reported in the previous year's audited financial statements, resulting in an unreconciled variance of Kshs. 211,875.	The Committee observed that the 2020/2021 final report was finalized before the OAG report for the FY 2019/2020 was finalized due to transition within the Office of the Auditor-General. However, the Office of the Auditor-General confirmed that the certified comparative figures had been adopted while submitting the 2021/2022 annual report and financial statements. The query was considered resolved.
4. Comparative Trade and other payables	The prior year trade and other payables comparative balance reflected in the statement of financial position of the year under review of Kshs. 47,140,532 differed with the corresponding balance of Kshs. 46,928,659 reported in the previous year's audited financial statements, resulting in an unreconciled variance of Kshs. 211,873.	The Committee observed that the 2020/2021 final report was finalized before the OAG report for the FY 2019/2020 was finalized due to transition within the Office of the Auditor-General. However, the Office of the Auditor-General confirmed that the certified comparative figures had been adopted while submitting the 2021/2022 annual report and financial statements. The query was considered resolved.
5. Material Uncertainty Related to Going Concern	The current liabilities totalling Kshs. 69,288,996 exceeded current assets of Kshs. 46,388,281 resulting in a negative working capital of Kshs. 22,900,715.	The Committee observed that the water company was a loss-making trend leading to negative working capital. The Committee directed the Governor to ensure the water company put in place strategic and innovative measures for recovery and boost the financial health of the

		water Company for self-sustainability. The Office of the Auditor-General to provide a status update on the matter in the subsequent audit cycle. Query remains unresolved
Other Matter		
6. Budgetary Control and Performance	The comparison of the budget and actual receipts resulted to an under-funding of Kshs. 29,978,612 or 38% of the budget whereas that of the incurred expenditure and the approved budget resulted to an under-expenditure Kshs 26,601,319 or 38% of the budget. Further, the recomputed total of Kshs 77,731,415 differed with the total final budget amount of Kshs 78,737,415 resulting resulting in an unexplained variance of Kshs 1,006,000	The Committee observed that the underfunding and under expenditure may have had an adverse effect on the water company's planned activities and service delivery to the residents of Migori County. The Office of the Auditor-General informed the meeting the matter of the variance was because of a casting error and that the necessary corrections had been done. The Company's Board of Directors was directed to ensure that the management of the water company comes up with realistic budgets and undertake supplementary budgets as often as possible to ensure the budget is realised. The Committee to review the matter in the subsequent audit cycle. Query remains unresolved.
7. Unresolved Prior Year Matters	A review of the progress on follow up of Auditor's recommendations indicated that the Management had not resolved the issues as at 30 June, 2021.	The Committee observed that that the management had not provided an explanation as to why the matters were not. The Committee directed the management to try to resolve all prior year issues in line with Section 149(2)(l) of the Public Finance Management Act, 2012. The Committee to review the matter in the subsequent audit cycle.

		Query remains unresolved.
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES		
8. Trade and other Payables	The water company had salary arrears of Kshs. 14,540,883 and unremitted Pay-As-You-Earn (PAYE), National Social Security Fund (NSSF) remittances and Withholding Tax arrears totalling to Kshs. 2,908,753 and had been outstanding for more than 12 months as at 30 June 2021.	The Committee observed that i. the matter of salary arrears was not adequately addressed by the management; and ii. the management was taking some steps to address the matter of unremitted statutory deductions. The Governor requested the Committee to allow him to solve the matters within sixty (60) days from the date of the meeting. The Committee acceded to his request and resolved to review the matter in the subsequent audit cycle. Query remains unresolved.
9. Payment of Salaries Below the Minimum Wage	Employees were earning monthly wages totalling Kshs. 10,000 contrary to the Regulation of Wages General Amendment Order of 2018 which sets the minimum monthly wage for employees working in Migori County at Kshs. 12, 523.	The Committee noted that the management of the water company had taken remedial measures to address the staff salary minimum wage. Query was considered resolved.
10. Irregular Payment of Directors' Emoluments	The regularity of the board emoluments totalling Kshs. 1,338,478 could not be confirmed.	The Committee noted that the management of the water company had failed to submit crucial documents that were necessary in responding to the matter as they were not provided by the secretarial service provider. The Committee directed the Governor to ensure that demand letters were written to the said service provider to submit the necessary documents failure to which the Committee shall intervene.

		Query remains unresolved and the matter to be reviewed in the subsequent audit cycle.
11. Non-Revenue Water	The non-revenue water stood at 48% that is 23 percent points above the sector benchmark of 25% as prescribed by the Water Services Regulatory Board (WASREB) guidelines.	The Committee, with 60 days from the date of the meeting directed the management of the water company to put in place comprehensive measures to tackle the high NRW (both physical and Commercial losses). Office of the Auditor-General to verify the measures and report on their effectiveness in the subsequent audit cycle. The Committee further directed the EACC to commence investigations into the operations of the past regime give a preliminary report within seven (7). Query remains unresolved.
12. Unfettered Access to Billing System Vendor	The Billing System's Vendor retained the controls of the system hence the management could not guarantee the security and integrity of the data in the database of the billing system.	The Committee directed the Governor to ensure that the water company took full control of the Billing System within 60 days from the date of the meeting. The query remains unresolved and the matter to be reviewed in the subsequent audit cycle.

Interventions and Resolutions

That the Committee having considered the issues raised by the Office of the Auditor General on the Financial Statements of Migori County Water and Sanitation Company Limited for the Financial Year 2020/21 it resolved as follows;

- i). To consider written management responses for remaining issues raised by the Auditor General on the Financial Statements of Migori County Water and Sanitation Company Limited for the Financial Years 2020/21, 2019/20 and 2018/19;
- ii). The Governor to ensure that the County Government takes full ownership of the water company by transferring all the shares owned by the defunct local authority and submit a copy of the CR-12 within 60 days;

- iii). The Governor to submit to the Committee measures put in place to refund customer deposits with 14 days. The Office of the Auditor General to verify the measure and report in the subsequent audit cycle; and
- iv). The Governor directed to write a demand letter to Kirui Secretaries (service provider) to provide documents in their possession that were necessary in facilitating the audit process. In the event of non-compliance, the Governor to inform the committee for its intervention.

MIN. NO. SEN/CPICSF/265/2023 ANY OTHER BUSINESS

There was no any other business.

MIN. NO. SEN/CPICSF/266/2023 DATE OF NEXT MEETING & ADJOURNMENT

The Chairperson adjourned the meeting at fifteen minutes past two o'clock in the afternoon. The next meeting would be held on Wednesday, 26th, April, 2023 at 10:00 am.



14/11/2023

SIGNED: DATE:

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



13TH PARLIAMENT 2ND SESSION

MINUTES OF THE SIXTH FOURTH SITTING OF THE COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS COMMITTEE WITH THE COUNTY EXECUTIVE OF MOMBASA TO CONSIDER REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENT OF THE MOMBASA WATER SUPPLY AND SANITATION COMPANY LIMITED FOR FINANCIAL YEARS 2018/2019, 2019/2020 AND 2020/2021 HELD ON THURSDAY, 22ND JUNE, 2023 AT THE IMPALA ROOM, FIRST FLOOR, KENYATTA INTERNATIONAL CONVENTION CENTRE (KICC) AT 11.00 A.M.

PRESENT

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

ABSENT WITH APOLOGY

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| 1. Sen. Ledama Olekina, MP | - Member |
| 2. Sen. William Kipkemai Kisang, MP | - Member |

IN ATTENDANCE

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| Sen. Mwinyihaji Faki | - Senator Mombasa County |
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SECRETARIAT

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| 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. Ms. Raisa Mwithu | - Researcher officer |
| 7. Mr. Kataa Matano | - Researcher officer |
| 8. Mr. Andrew Nyairo | - Legal counsel |
| 9. Ms. Winfred Ocholla | - Audio officer |

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| 10. Mr. Josphat Ng'enoh | - Media Relations Officer. |
| 11. Mr. Holifield Murimi | - Attached to the Committee |
| 12. Mr. James Ngusia | - Serjeant-At-arms |

IN ATTENDANCE

A. COUNTY EXECUTIVE OF MOMBASA

- | | |
|-----------------------------|--|
| 1. Hon. Abdullswamad Nassir | - Governor |
| 2. Mr. Evans Oanda | - CECF Finance |
| 3. Mrs. Emily Acheng | - CECM Water |
| 4. Mr. Abdurahim Farah | - MD MOWASCCO |
| 5. Mr. Kinyai Laban | - GM MOWASSCO |
| 6. Mr. Munyi Mugo | - Legal manager Mombasa water |
| 7. Mr. Richard Abiero | - Director Audit |
| 8. Mr. Mejuma Mwinyi | - Principal Accountant |
| 9. Mr. Nicholas Morachini | - Senior Accountant |
| 10. Mrs. Zahra Ahmed | - Chief Accountant |
| 11. Mr. Noah Akala | - Chief of staff |
| 12. Mr. Jimmy Waliaula | - County Attorney |
| 13. Mr. Mohamed Bow | - Director Intergovernmental Relations |

B. OFFICE OF THE AUDITOR GENERAL

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|-------------------------|-------------------------|
| 1. Mr. Paul K. Nzioka | - Deputy Director Audit |
| 2. Mr. Ezekiel O. Omoro | - Audit Associate |

C. ETHICS AND ANTI-CORRUPTION COMMISSION

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| Mr. Patrick Kinoti | - Liaison Officer |
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MIN NO. SEN/CPICSF/388/2023 PRAYER

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

MIN NO. SEN/CPICSF/389/2023 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Maureen Tabitha Mutinda, MP and seconded by Sen. Miraj Abdillahi Abdulrahman, MP, as follows –

1. Prayer;
2. Adoption of the Agenda;
3. Administration of oath of witness and Tabling of Documents;
4. Meeting with the County Executive of Mombasa to consider Reports of the Auditor-General on the Financial Statements of the Mombasa Water Supply and Sanitation Company Limited for Financial Years 2018/2019, 2019/2020 and 2020/2021;
5. Any Other Business; and
6. Date of the Next Meeting and Adjournment.

MIN. NO. SEN/CPICSF/390/2023

**ADMINISTRATION OF OATH OF WITNESS
AND TABLING OF DOCUMENTS**

The Governor of Mombasa County took Oath of Witness and tabled the Management responses and supporting documents for the audit reports of the Mombasa Water Supply and Sanitation Company Limited for the Financial Years 2018/2019, 2019/2020 and 2020/2021.

MIN. NO. SEN/CPICSF/391/2023

**MEETING WITH MOMBASA COUNTY
EXECUTIVE TO CONSIDER THE AUDITOR
GENERAL'S REPORT ON THE FINANCIAL
STATEMENTS OF MOMBASA WATER
SUPPLY AND SANITATION COMPANY FOR
THE FINANCIAL YEARS 2018/2019, 2019/2020
AND 2020/2021**

The Following queries were interrogated for the Financial Year 2020/2021

REPORT ON THE FINANCIAL STATEMENTS		
Audit Query	Concern	Observation and Recommendations
1. Failure to Disclose Material Uncertainty Related to Going Concern	The current liabilities exceeded the current assets resulting to negative working capital of Kshs. 1,464,597,678. The accumulated deficit stood at Kshs. 2,077,362,476 as at 30 June, 2020. The material uncertain in relation to going concern and any mitigating measures put in place by the company's directors the undesirable precarious financial position had not been disclosed in the notes to the financial statements.	The Office of the Auditor-General informed the Committee that the mitigating measures put in place by the management were satisfactory, but they needed to monitor their effectiveness. The Committee considered the matter unresolved pending verification of the effectiveness of the measures put in place by the Office of the Auditor-General. The query remains unresolved.
2. Unconfirmed Share Capital	The accuracy and completeness of the share capital balance of Kshs. 5,000,240 could not be confirmed due to the following reasons – i. Shares valued at Kshs. 5,000,000 of the defunct Mombasa Water and Sewerage Company were not liquidated and transferred to the new Mombasa Water Supply and	The Committee noted that the had been transferred from the defunct local authority to the County Government and a copy of the CR12 to confirm the same was provided. The Office of the Auditor-General indicated that the response

	Sanitation Company Limited as at 30th June 2021. ii. The new water company had 5,000 authorized shares but only 12 had been paid for leaving a balance of 4,988 unallotted shares. iii. Note 2 to the financial statements reflected 5,012 that were issued but unpaid for valued at Kshs. 5,000,240, which was more than the authorized 5,000 shares.	submitted by the water company was satisfactory. The Committee directed the Governor to ensure that the CR12 was submitted to the Office of the Auditor-General within 14 days for verification. The query remains unresolved.
3. Sewerage and Sanitation Management in Mombasa City	Review of the Company's records and an audit inspection carried out in January, 2022 revealed weakness in the management of sewerage and sanitation services within Mombasa City where there were instances of collapsed sewer lines, sewerage treatment plants that had not worked for years and raw sewage was emptied into the ocean posing a health hazard to the residents of Mombasa, contrary to Regulations 10 and 11 of the Environmental Management and Coordination (Waste Management) Regulations, 2006 which requires an operator to have a license for the transportation of waste and to operate a waste disposal site or plant among others. The management was thus in breach of the law.	The Committee noted that the County Government was implementing mitigating measures to improve sewage management in Mombasa County. The Office of the Auditor-General informed the committee that the measures put in place were satisfactory and considered the matter addressed. The committee directed the Office of the Auditor-General to provide a status update on the matter in the subsequent audit cycle. The query remains unresolved.

The Following query was interrogated for the Financial Year 2019/2020

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4. Unaccounted for Water	The Non-Revenue Water stood at 46%, that is 21 percentage points above the sector benchmark of 25% as per the WASREB guidelines, which may have negatively impacted on the Company's profitability and its ability to sustain services.	The Committee noted that the County Government of Mombasa had put in place mitigation measures to address Non-Revenue water. The Office of the Auditor-General indicated that the measures put in place were satisfactory but their effectiveness could only be ascertained in the subsequent audit cycle. The Committee directed the Office of the Auditor-General to verify
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		their effectiveness in the subsequent audit cycle. The query remains unresolved.
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Interventions and Resolutions

The Committee having considered the issues raised by the Office of the Auditor-General on the Financial Statements of the two water companies for the said Financial Years, it noted that they had management challenges and directed as follows;

- i). That the Governor takes keen interest in the management of Mombasa Water Supply and Sanitation Company Limited and ensure efficiency in its operations;
- ii). That to improve efficiency in service delivery and to turn around the water company, the Governor reconstitutes the Board of Directors within 30 days from the date of the meeting;
- iii). That the Governor introduces performance contracting for all employees and the undertake asset mapping of the water company's assets and liabilities to improve the efficiency of the company;
- iv). That the Office of the Auditor-General reviews the measures put in place by the County to turn around the water company and report on their efficacy in the subsequent audit cycle;
- v). That within 14 days from the date of the meeting, the Governor submits the new CR-12 of the water company indicating that the county fully owns the water company;
- vi). That within 30 days from the date of the meeting, the Governor submits to the Committee comprehensive measures to tackle the high Non-Revenue Water that stood at 50% and clearly indicate how they intend to deal with both the physical and commercial losses;
- vii). Noting that the County Government indicated that it had challenges of pending licenses for sewerage operations and management with the National Environment Management Authority (NEMA), the Committee directed the County Government, to engage NEMA on the matter and submit feedback to the Committee on the way forward and any other challenges that may arise. The Committee to engage NEMA on the same thereafter; and
- viii). The Committee to engage Coast Water Works Development Agency on the matter of the long outstanding debt.

MIN. NO. SEN/CPICSF/392/2023 ANY OTHER BUSINESS

The Committee to consider a county visit to Mombasa in the month of august to verify the mitigating measures put in place by the management.

MIN. NO. SEN/CPICSF/393/2023 DATE OF NEXT MEETING & ADJOURNMENT

The Chairperson adjourned the meeting at twenty-six minutes past two o'clock in the afternoon. The next meeting would be held on Monday, 26th, June, 2023 at 10:00 am.



11/4/2024

SIGNED: **DATE:**

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



13TH PARLIAMENT 2ND SESSION

MINUTES OF THE HUNDRED AND SECOND SITTING OF THE COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS COMMITTEE WITH THE COUNTY EXECUTIVE OF LAIKIPIA TO CONSIDER REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENT OF THE NYAHURURU WATER AND SANITATION COMPANY LIMITED AND THE NANYUKI WATER AND SANITATION COMPANY LIMITED FOR FINANCIAL YEARS 2018/2019, 2019/2020 AND 2020/2021 HELD ON THURSDAY, 21ST SEPTEMBER, 2023 AT THE IMPALA ROOM, FIRST FLOOR, KENYATTA INTERNATIONAL CONVENTION CENTRE (KICC) AT 10.00 A.M.

PRESENT

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

IN ATTENDANCE

- | | |
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| Sen. John Kinyua, MP | - Senator Laikipia County |
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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. Ms. Raisa Mwithu | - Researcher officer |
| 7. Mr. Kataa Matano | - Researcher officer |
| 8. Mrs. Angela Kagunyi | - Legal counsel |
| 9. Ms. Winfred Ocholla | - Audio officer |
| 10. Mr. Joshat Ng'enoh | - Media Relations Officer. |

11. Mr. John Pere
12. Mr. Alvin Muzuni

- Serjeant-At-arms
- Attachee

IN ATTENDANCE

A. LAIKIPIA COUNTY EXECUTIVE

1. Hon. Joshua Irungu - Governor
2. Mr. Koinange Wahome - County Secretary
3. Mrs. Leah Njeri - CECM – Water and Environment
4. Mr. Wachira Gacheri - CECM – Finance and Economic Planning
5. Mr. Kennedy Gitonga - MD Nanyuki Water
6. Mrs. Phoebe Karimi - Internal auditor Nanyuki Water
7. Mr. Bernard Mwaura - MD Nyahururu Water
8. Mr. Francis Nelegwa - CM Nyahururu Water
9. Mrs. Esther Muthoni - Finance manager Nyahururu Water
10. Mr. David Muyuki - Director Nyahururu
11. Mr. Martin Muchiri - Director NANAISCO
12. Mrs. Damaris Wanjiku - Director NYAHUWASCO

B. OFFICE OF THE AUDITOR GENERAL

3. Mr. Mutai Philip - Deputy Director of Audit
4. Mr. Mark Gachanja - Liaison officer

C. ETHICS AND ANTI-CORRUPTION COMMISSION

- Mr. Patrick Kinoti - Liaison Officer

MIN NO. SEN/CPICSF/613/2023 PRAYER

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

MIN NO. SEN/CPICSF/614/2023 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. William Kipkemai Kisang, MP and seconded by Sen. Miraj Abdullahi Abdulrahman, MP, as follows –

1. Prayer;
2. Adoption of the Agenda;
3. Administration of oath of witness and Tabling of Documents;
4. Meeting with Laikipia County Executive to consider Reports of the Auditor-General on the Financial Statements of the Nyahururu Water and Sanitation Company Limited and Nanyuki Water and Sanitation Company Limited for the Financial Years 2018/2019, 2019/2020 and 2020/2021;
5. Any Other Business; and
6. Date of the Next Meeting and Adjournment.

MIN. NO. SEN/CPICSF/615/2023

**ADMINISTRATION OF OATH OF WITNESS
AND TABLING OF DOCUMENTS**

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

MIN. NO. SEN/CPICSF/616/2023

**MEETING WITH LAIKIPIA COUNTY
EXECUTIVE TO CONSIDER REPORTS OF
THE AUDITOR-GENERAL ON THE
FINANCIAL STATEMENTS OF THE
NYAHURURU WATER AND SANITATION
COMPANY LIMITED AND NANYUKI
WATER AND SANITATION COMPANY
LIMITED FOR THE FINANCIAL YEARS
2018/2019, 2019/2020 AND 2020/2021**

a. Nyahururu Water and Sanitation Company Limited

The Following queries were interrogated for the Financial Year 2020/2021

REPORT ON THE FINANCIAL STATEMENTS		
Audit Query	Concern	Observation and Recommendations
1. Appointment of Board Members	There was a breach of the law as the information provided for audit review indicated that the Company had ten Board members, contrary to Section 3.4.1 (2) of WASREB guidelines that limits the number of Board members to seven.	The Committee observed that Board of Directors of the water company was irregularly constituted. The Committee directed the Governor to regularize the appointment of the Board members and submit an updated CR-12 within 60 days from the date of the meeting. Query remains unresolved.
2. Excess Non-Revenue Water	The Non-Revenue Water (NRW) for the water company stood at 39.4%, that is, 14.4 percentage points above the sector benchmark of 25% as per WASREB Guidelines.	The Committee observed that the water company registered a high NRW in the period under review and that the significant level of Non-Revenue Water could be an indication of inefficiency and ineffectiveness in the use of public and water resources, which may negatively impact on the Company on the Company's profitability and its ability to sustain services.

		The Committee further observed that the measures put in place were inadequate. The Committee directed the Governor to ensure that within 60 days from the date of the meeting, the water company puts in place comprehensive measures on how it intends to address the NRW, clearly indicating how both the Commercial and Physical losses will be addressed. The Accounting Officer to submit the measures to the Auditor-General for verification. The Auditor-General to provide a status update on the effectiveness of the measures taken in the subsequent audit cycle. Query remains unresolved.
3. Unrecognized Property, Plant and Equipment	Four (4) motor vehicles and granted by the Northern Water Works Development Agency and the County Government of Laikipia had not been transferred and registered in the name of the water company and that the fixed asset register was not up to date.	The Committee observed that the assets belonging to the water company were yet to be transferred in its favour and that the fixed asset register was not up to date as required by the law. The Committee directed the Governor to ensure that the water company takes full ownership of all its assets and that the Accounting Officer maintains an updated fixed asset registered as required by section 149(2)(o) of the Public Finance Management Act, 2012. Query remains unresolved.
4. Unauthorized Expenditure of Customer Deposits	The water company spent customer deposits amounting to Kshs. 26,714,922 without authorization and did not have a policy guideline on how to access, utilize and refund the money within specified timelines.	The Committee observed that the water company utilized customer deposits without approval and that at the time, the water company had made any refunds to the deposits account. The Committee directed the Governor to ensure that within 14 days from the date of the meeting, the water company comes with a repayment plan for the deposits, with clear timelines and submit the same to the Auditor-General and the Committee for verification. The Auditor-General to monitor

		compliance with the repayment plan and provide a status update in the subsequent audit cycle. The Board of Director to come with clear guidelines on how the management of the water company can access, utilize and refund customers deposits within specified timelines. Customer deposits should be held in a fixed/call account where the management cannot easily access it as well as where interest earned can be used to offset bank charges. Query remains unresolved.
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The Following queries were interrogated for the Financial Year 2019/2020

REPORT ON THE FINANCIAL STATEMENTS		
Audit Query	Concern	Observation and Recommendations
5. Unauthorized Over Expenditure	There was a breach of the law the water where the water company incurred an over expenditure of Kshs. 10,755,219 on 17 items without necessary approvals. Further, the water company also incurred an expenditure amounting to Kshs. 4,607,957 without budgetary allocation.	The Committee observed that the water company incurred an authorized over expenditure and expenditure outside the budget in the year under review. The Committee directed the Accounting Officer to exert budgetary control measures in line with regulation 42(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 and also ensure that all expenditure incurred by the water company is within the approved budget in line with the law. The to regularize the expenditure incurred outside the budget. Auditor-General to monitor the matter and provide a status update in the subsequent audit cycle. Query remains unresolved.
1. Failure to Disclose Material Uncertainty in Relation to Going Concern	The water company's current liabilities exceeded its current assets leading to a negative working capital of Kshs. 22,759,607 hence the company could not meet its short term financial obligations as and when they fall due. The company also registered an	The Committee observed that the water company was technically insolvent and that its continued existence as a going concern was dependent on financial support from

	operating loss of Kshs. 5,679,069 leading to a negative reserve balance of Kshs. 52,946,261. Management has not disclosed the material concern in relation to going concern and any measures it has taken, or intends to take, to reverse the unfavourable financial performance and put the Company on a path to profitability.	the County Government and its creditors. The Committee further noted that the Management failed to disclose in the notes to the financial statements, the material uncertainty in relation to going concern and any mitigating measures put in place by the to reverse the undesirable financial situation. The Committee directed the Governor the Governor of Laikipia, within 60 days from the date of the meeting, to put in place comprehensive mitigation measures to boost the financial health of the water company for self-sustainability. Query remains unresolved.
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b. Nanyuki Water and Sanitation Company Limited

The Following queries were interrogated for the Financial Year 2020/2021

REPORT ON THE FINANCIAL STATEMENTS		
Audit Query	Concern	Observation and Recommendations
1. Lack of Ownership Documents	i. Title Deed for the land acquired from the Nanyuki High School by the water company was not provided for audit review. ii. Logbooks for one (1) motor vehicle and (4) motorcycles valued at Kshs. 4,165,708 were not provided for audit review.	The Committee observed that the Accounting Officer failed to provide ownership documents of the piece of land acquired from Nanyuki High School, the four (4) motorcycles and one (1) vehicle. The Committee also observed that the ownership of the four (4) motorcycles and one (1) vehicle was yet to be transferred from the defunct local authorities and the Northern Water Works Development Agency to the County Government. The Committee directed the Governor submit to the Auditor-General, the ownership documents of the land acquired from the Nanyuki High School within 30 days from the date of the meeting.

		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. The Governor, within 30 days from the date of the meeting, should engage the Intergovernmental Relations Technical Committee and secure full ownership of the assets held by the defunct local authorities and the Waer Works Development Agencies. Query remains unresolved.
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Interventions and Resolutions

Having considered the issues raised by the Office of the Auditor-General on the Financial Statements of the water companies for the said financial years, the Committee recommended as follows -

- i).Noting that the Board of Directors of Nyahururu Water and Sanitation Company Limited was irregularly constituted, the Committee directed the Governor of Laikipia County to regularize the appointment of the Board members in line with the Water Act, 2016 and Water Services Regulatory Board (WASREB) Guidelines. Further, the Governor, within 60 days from the date of the meeting, submits an updated copy of the CR-12 to the Committee and the Office of the Auditor-General for verification;
- ii).Noting that the water companies (Nyahururu Water and Sanitation Company Limited and Nanyuki Water and Sewerage Company Limited) had put in place comprehensive strategies on how they intended to address the matter of Non-Revenue Water, the Committee directed the Office of the Auditor-General to verify the measures and report on their effectiveness in the subsequent audit cycle;
- iii).Noting that the water companies (Nyahururu Water and Sanitation Company Limited and Nanyuki Water and Sewerage Company Limited) had made unauthorised utilization of money from customer deposits, the Committee directed the Governor of Laikipia, within seven (7) days from the date of the meeting, to submit to the Committee and the Office of the Auditor-General evidential support to demonstrate that refunds to the deposits accounts were

ongoing. Further, the Office of the Auditor-General to verify the matter and report on the status of the same in the subsequent audit cycle;

- iv). Noting that Nyahururu Water and Sanitation Company Limited has been on a loss-making trend leading to negative working Capital, the Committee directed the Governor of Laikipia, within 60 days from the date of the meeting, to put in place comprehensive mitigation measures to boost the financial health of the water company for self-sustainability;
- v). Noting that the water companies (Nyahururu Water and Sanitation Company Limited and Nanyuki Water and Sewerage Company Limited) had high trade receivables in the years under review, the Committee directed the Governor to put in place a Debt Recovery Plan to guide the recovery process and submit the same to the Office of the Auditor-General for verification within 30 days from the date of the meeting. Further, the Governor to submit to the Office of the Auditor-General and the Committee, a debtors schedule and a schedule of all receivables within 7 days from the date of the meeting; and
- vi). The Committee directed the Governor to pursue securing ownership documents of assets transferred from the Water Works Agencies to the Water Companies.

MIN. NO. SEN/CPICSF/617/2023 ANY OTHER BUSINESS

There was no any other business.

MIN. NO. SEN/CPICSF/618/2023 DATE OF NEXT MEETING & ADJOURNMENT

The Chairperson adjourned the meeting at nine minutes past noon. The next meeting would be held on Thursday, 21st September, 2023 at 11:30 am.



11/4/2024

SIGNED: DATE:

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



13TH PARLIAMENT 2ND SESSION

MINUTES OF THE EIGHTY FIFTH SITTING OF THE COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS COMMITTEE WITH THE COUNTY EXECUTIVE OF THARAKA NITHI TO CONSIDER REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENT OF THE NITHI WATER AND SANITATION COMPANY LIMITED FOR FINANCIAL YEARS 2018/2019, 2019/2020 AND 2020/2021 HELD ON TUESDAY, 25TH JULY, 2023 AT THE SHIMBA HILLS HALL, FIRST FLOOR, KENYATTA INTERNATIONAL CONVENTION CENTRE (KICC) AT 11.00 A.M.

PRESENT

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| 1. Sen. Godfrey Atieno Osotsi, MP | - Chairperson |
| 2. Sen. William Kipkemai Kisang, MP | - Member |
| 3. Sen. Maureen Tabitha Mutinda, MP | - Member |

ABSENT WITH APOLOGY

- | | |
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| 3. Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP | - Vice-Chairperson |
| 4. Sen. Paul Karungu Thangwa, MP | - Member |
| 5. Sen. Eddy Gicheru Oketch, MP | - Member |
| 6. Sen. Miraj Abdullahi Abdulrahman, MP | - Member |
| 7. Sen. Hamida Kibwana Ali, MP | - Member |

IN ATTENDANCE

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| Senator Mwenda Gataya, MP | - Senator Tharaka Nithi County |
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SECRETARIAT

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|------------------------|-----------------------|
| 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. Ms. Raisa Mwithl | - Researcher officer |
| 7. Mr. Kataa Matano | - Researcher officer |
| 8. Mr. Andrew Nyairo | - Legal counsel |
| 9. Ms. Winfred Ocholla | - Audio officer |

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| 10. Mr. Joshat Ng' enoh | - Media Relations Officer. |
| 11. Mr. Holifield Murimi | - Attached to the Committee |
| 12. Mr. John Pere | - Serjeant-At-arms |

IN ATTENDANCE

A. THARAKA NITHI COUNTY EXECUTIVE

- | | |
|----------------------------|--------------------------------------|
| 1. HON. Muthomi Njuki, EGH | - Governor |
| 2. Mr. Laban Mwaniki | - Managing Director |
| 3. Mr. Njue Njaai | - CECM Water |
| 4. Mrs. Loise Mutua | - Chief officer Water and Irrigation |
| 5. Mrs. Irine Kithaka | - Commercial manager |
| 6. Mr. Nduaii .E K | - Director Accounts |
| 7. Mr. Erick Munene | - Internal auditor |
| 8. Mrs. Gloryfine Kathure | - Technical Manager |
| 9. Mr. Dennis Miriti | - Procurement officer |
| 10. Mr. Kennedy Mirithi | - Head of Commercial |
| 11. Mrs. Alice Micheni | - Liaison officer |
| 12. Mr. Andrew Endovo | - Communications officer |
| 13. Mr. Sammy Githinji | - Office of the Governor |
| 14. Mrs. Liz Kwigi | - Communication office |

B. OFFICE OF THE AUDITOR GENERAL

- | | |
|-------------------------|----------------------------|
| 1. Mrs. Jane Kariuki | - Director of audit |
| 2. Mr. Reuben Kamuruchi | - Deputy Director of audit |
| 3. Mr. Mark Gachamja | - Liaison officer |

C. THE NATIONAL TREASURY

- | | |
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| Dr. Jackson Ndungu | - Liaison officer |
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D. ETHICS AND ANTI-CORRUPTION COMMISSION

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| Mr. Patrick Kinoti | - Liaison Officer |
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MIN NO. SEN/CPICSF/512/2023 PRAYER

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

MIN NO. SEN/CPICSF/513/2023 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. William Kipkemoi Kisang, MP and seconded by Sen. Maureen Tabitha Mutinda, MP, as follows

1. Prayer

2. Adoption of the Agenda
3. Administration of oath of witness and Tabling of Documents
4. Meeting with County Executive of Tharaka Nithi to consider Reports of the Auditor-General on the Financial Statements of Nithi Water and Sanitation Company Limited for Financial Years 2018/2019, 2019/2020 and 2020/2021.
5. Any Other Business
6. Date of the Next Meeting and Adjournment

MIN. NO. SEN/CPICSF/514/2023 ADMINISTRATION OF OATH OF WITNESS AND TABLING OF DOCUMENTS

The Governor of Tharaka Nithi County took Oath of Witness and tabled the Management responses and supporting documents for the audit reports of Nithi Water and Sanitation Company Limited for the Financial Years 2018/2019, 2019/2020 and 2020/2021.

MIN. NO. SEN/CPICSF/515/2023 MEETING WITH COUNTY EXECUTIVE OF THARAKA NITHI TO CONSIDER REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF NITHI WATER AND SANITATION COMPANY LIMITED FOR FINANCIAL YEARS 2018/2019, 2019/2020 AND 2020/2021

The Following queries were interrogated for the Financial Year 2020/2021

REPORT ON THE FINANCIAL STATEMENTS		
Audit Query	Concern	Observation and Recommendations
1. Fixed Assets	i. The ownership documents for the cars and land hosting the water company's buildings were not provided for audit review. ii. The value of land parcels belonging to the water company were disclosed in the financial statements.	The Committee observed that – i. The water company was yet to transfer ownership of some of its assets from defunct local authorities and that the water company shared some of its land with a National Government entity (Lands Departments); and ii. The water company failed to disclose the value of its parcels of land in its financial statements.

		The Committee directed the Governor, in consultation with the Intergovernmental Relations Technical Committee (IGRTC) to ensure the County Government of Tharaka Nithi takes full ownership the land within 60 days from the date of the meeting from the defunct local authorities. The Governor to further engage the Lands Department to address on the matter of the parcel of land occupied by the two entities within 120 days from the date of the meeting, that is, the water company and the Lands Department of the National Government. The Auditor-General to review the matter and provide a status update in the subsequent audit cycle. Query remains unresolved.
2. Trade and Other Payables	The opening balances and the associated invoices of payables balances of Kshs. 7,262,572 were not availed for audit.	The Committee observed that the Accounting Officer submitted the support ledgers explaining the build up to the arrears. Query was marked as resolved.
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES		
4. Excessive Non – Revenue Water	The Non-Revenue Water (NRW) stood at 62.6% ratio, that is, 37.6 percentage points above the sector benchmark of 25% as set by Water Services Regulatory Board (WASREB). The high NRW curtailed the Company's profitability in the year under review and may, if not urgently contained by Management, pose a significant risk to the Company's ability to deliver its services in a sustainable way.	The Committee observed that the water company registered very high NRW and that the measures put in place by the water company to address the same were inadequate. The Committee directed the Governor to ensure that within 60 days from the date of the meeting, the water company puts in place comprehensive measures to address the high NRW and the measures to clearly indicate how it intends to tackle both the physical and the commercial losses. The Auditor-General to review the measures and provide a status update on their effectiveness in the subsequent audit cycle. Query remains unresolved.

5. Long Outstanding Trade Receivables	The water company's receivables of Kshs. 60,689,129 remained outstanding for a long time hence their recoverability was doubtful.	The Committee observed that the water company's debts had been long outstanding and that the recovery measures outlined by the management were inadequate. The Committee directed the Accounting Officer to develop a comprehensive debt recovery plan as well as a debt management policy and submit copies of the same to the Auditor-General for verification. The Auditor-General to review the effectiveness of the measures put in place and provide a status update on the same in the subsequent audit cycle. Query remains unresolved.

The Following queries were interrogated for the Financial Year 2019/2020

REPORT ON THE FINANCIAL STATEMENTS		
Audit Query	Concern	Observation and Recommendations
6. Budgetary Control and Performance	The company recorded an under collection of Kshs. 54,980,555 and an under expenditure of Kshs. 53,835,387. The under expenditure affected the planned activities and may have impacted negatively on service delivery to the residents of Tharaka Nithi County.	The Committee observed that the water company recorded an under collection and an under expenditure that may have affected the planned activities and may have impacted negatively on service delivery to the residents of Tharaka Nithi County. The Committee directed the Accounting Officer to exert budgetary control measures in line with regulation 42(1) of the Public Finance Management (County Governments) Regulations, 2015. Further the water company to institute proper and realistic budget planning. The Auditor-General to review the measures put in place and provide a status update in the subsequent audit cycle. Query remains unresolved.

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Interventions and Resolutions

Having considered the issues raised by the Office of the Auditor General on the Financial Statements of Nithi Water and Sanitation Company Limited for Financial Years under review, the Committee directed as follows-

- i). The Committee noted that some of Nithi Water and Sanitation company assets had not been transferred from the defunct local authority (Municipality of Chuka Township) and that the National Government (Lands Department) shared land with County entities. The Committee directed County Government in consultation with the Inter-governmental Relations Technical Committee (IGRTC) ensures all assets are transferred in favour of the County Government within 60 days from the date of the meeting. Further, the Governor, within 120 days from the date of the meeting, to engage the said National Government entity and amicably resolve the matter;
- ii). The Committee noted that the Non-Revenue Water stood at 62.2% that is 37.6 percentage points above the recommended threshold of 25% as per the Water Services Regulatory Board (WASREB) guidelines. The County Government to put in place clear and actionable measures on how the water company intends to tackle the high Non-Revenue Water, clearly indicating how both physical and commercial losses will be addressed and a report on the same to be filed with the committee within 60 days from the date of the meeting and the Office of the Auditor-General to verify the measures and report on their effectiveness in the subsequent audit cycle;
- iii). The Committee noted that trade receivable amounting to Kshs 60,689,129 remained outstanding in the year under review. Further, Government institutions such as Kenya Revenue Authority, Kenya Prisons, Kenya Forests Services among others remained as debtors to the water company. The County Government to put in place a debt recovery plan and submit the same to the Committee and the Office of the Auditor-General for verification within 60 days from the date of the meeting. Further, the County Government to enter into a Payment Agreements with the said institutions and recovers the outstanding amounts within 90 days from the date of the meeting. The Office of the Auditor-General to report on the matter in the next audit cycle; and
- iv). The Governor, within 60 days from the date of the meeting, ensures that Nithi Water and Sanitation Company Limited is fully owed by the County Government of Tharaka Nithi in line with Water Act, 2016 and other guiding laws.

MIN. NO. SEN/CPICSF/516/2023

ANY OTHER BUSINESS

There was no other business.

**MIN. NO. SEN/CPICSF/517/2023 DATE OF NEXT MEETING &
ADJOURNMENT**

The Chairperson adjourned the meeting at Seven minutes to two o'clock in the afternoon. The next meeting would be held on Thursday, 27th, July, 2023 at 9:30 am.



11/4/2024

SIGNED: DATE:

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



13TH PARLIAMENT 2ND SESSION

MINUTES OF A HUNDRED AND SIXTH-SIXTH SITTING OF THE COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS COMMITTEE ON THE CONFIRMATION OF MINUTES AND ADOPTION OF REPORTS HELD ON MONDAY, 29TH APRIL, 2024, AT 11:00 AM AT COMMITTEE ROOM 10, SECOND FLOOR, BUNGE TOWER.

PRESENT

- | | |
|---|----------------------|
| 1. Sen. Godfrey Atieno Osotsi, MP | - Chairperson |
| 2. Sen. William Kipkemai Kisang, MP | - Member |
| 3. Sen. Paul Karungo Thangwa, MP | - Member |
| 4. Sen. Eddy Gicheru Oketch, MP | - Member |
| 5. Sen. Miraj Abdillahi Abdulrahman, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|--|-----------------------------|
| 1. Sen. (Prof.) Tom Odhiambo Ojienda, MP | - Vice – Chairperson |
| 2. Sen. Ledama Olekina, MP | - Member |
| 3. Sen. Hamida Kibwana, MP | - Member |
| 4. Sen. Maureen Tabitha Mutinda, MP | - Member |

SECRETARIAT

- | | |
|-----------------------|----------------------------|
| 1. Mr. David Angwenyi | - Clerk Assistant I |
| 2. Mr. Erick Njogu | - Clerk Assistant III |
| 3. Mr. Godfrey Nyaga | - Clerk Assistant III |
| 4. Ms. Faith Wangoi | - Legal Counsel |
| 5. CPA Kennedy Owuoth | - Fiscal Analyst |
| 6. Ms. Raisa Mwithi | - Researcher Officer |
| 7. Mr. Josphat Ng'enh | - Media Relations officer. |
| 8. Mr. William Omondi | - Audio officer |
| 9. Mr. Julia Gachoki | - Serjeant at- arms |

MIN. NO. SEN/CPICSF/1031/2024 PRAYER

The meeting was called to order by the Chairperson at thirty minutes past 11 O'clock followed by a word of prayer.

MIN. NO. SEN/CPICSF/1032/2024 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Paul Karungo Thang'wa, MP and seconded by Sen. William Kipkemoi Kisang, MP, as follows –

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of Minutes;
4. Matters arising from the previous minutes;
5. Adoption of Reports;
6. Any Other Business; and
7. Date of the Next Meeting and Adjournment.

MIN. NO. SEN/CPICSF/1033/2024 CONFIRMATION OF MINUTES

- i) The Minutes of the Eight second Sitting held on Tuesday, 18th July, 2023; were confirmed as a true record of the proceedings and signed by the Chairperson after being proposed by Sen. William Kipkemoi Kisang, MP and seconded by Sen. Eddy Gicheru Oketch, MP.
- ii) The Minutes of the eighty fourth Sitting held on Tuesday, 25th July, 2023; were confirmed as a true record of the proceedings and signed by the Chairperson after being proposed by Sen. Godfrey Atieno Osotsi, MP and seconded by Sen. William Kipkemoi Kisang, MP.
- iii) The Minutes of the forty Ninth third sitting held on Thursday, 10th August, 2023; were confirmed as a true record of the proceedings and signed by the Chairperson after being proposed by William Kipkemoi Kisang, MP and seconded by Sen. Paul Karungo Thangwa, MP.
- iv) The Minutes of the forty Ninth fourth Sitting held on Thursday, 21st August, 2023; were confirmed as a true record of the proceedings and signed by the Chairperson after being proposed by Sen. Paul Karungo Thangwa, MP and seconded by William Kipkemoi Kisang, MP.
- v) The Minutes of a Hundred and Fourteen Sitting held on Thursday, 19th May, 2023; were confirmed as a true record of the proceedings and signed by the Chairperson after being proposed by William Kipkemoi Kisang, MP and seconded by Sen. Paul Karungo Thangwa, MP.
- vi) The Minutes of a Hundred and Eighteenth Sitting held on Wednesday, 25th October, 2023; were confirmed as a true record of the proceedings and signed by the Chairperson after being proposed by Sen. Eddy Gicheru Oketch, MP and seconded by William Kipkemoi Kisang, MP.

- vii) The Minutes of a Hundred and Twenty First Sitting held on Friday, 27th October, 2023; were confirmed as a true record of the proceedings and signed by the Chairperson after being proposed by Sen. Miraj Abdillahi Abdulrahman, MP and seconded Sen. Eddy Gicheru Oketch, MP.
- viii) The Minutes of a Hundred and Twenty Second Sitting held on Saturday, 28th October, 2023; were confirmed as a true record of the proceedings and signed by the Chairperson after being proposed by Sen. Miraj Abdillahi Abdulrahman, MP and seconded Sen. Eddy Gicheru Oketch, MP.
- ix) The Minutes of the Fifth Seventh Sitting held on Tuesday, 4th July, 2023; were confirmed as a true record of the proceedings and signed by the Chairperson after being proposed by Sen. Miraj Abdillahi Abdulrahman, MP and seconded Sen. Paul Karungo Thangwa, MP.
- x) The Minutes of a Hundred and Twenty Second Sitting held on Thursday, 2nd November, 2023; were confirmed as a true record of the proceedings and signed by the Chairperson after being proposed by Sen. William Kipkemoi Kisang, MP and seconded Sen. Miraj Abdillahi Abdulrahman, MP.
- xi) The Minutes of a Hundred and Sixth Sitting held on Tuesday, 14th November, 2023; were confirmed as a true record of the proceedings and signed by the Chairperson after being proposed by Sen. Miraj Abdillahi Abdulrahman, MP and seconded Sen. Eddy Gicheru Oketch, MP.
- xii) The Minutes of a Hundred and Seventy Seventh Sitting held on Thursday, 16th November, 2023; were confirmed as a true record of the proceedings and signed by the Chairperson after being proposed by Sen. William Kipkemoi Kisang, MP and seconded Sen. Eddy Gicheru Oketch, MP.

MIN. NO. SEN/CPICSF/1034/2024

**MATTERS ARISING FROM THE
PREVIOUS MINUTES**

There were no matters arising.

MIN. NO. SEN/CPICSF/1035/2024

ADOPTION OF REPORTS

The Committee adopted the followings sets of reports and directed the secretariat to prepare them for tabling in the Senate;

1. Report of the Select Committee on County Public Investments and Special Funds on the consideration of the Audit Reports of the following county water service providers for the Financial Year 2018/2019 (1st July, 2018 to 30th June, 2019), having been proposed and seconded by Sen. William Kipkemoi Kisang, MP and Sen. Miraj Abdillahi Abdulrahman, MP -
 - a) Busia Water and Sewerage Services Company Limited – Busia County;
 - b) Iten-Tambach Water and Sewerage Company Limited – Elgeyo-Marakwet County;
 - c) Kirinyaga Water and Sanitation Company Limited – Kirinyaga County;

- d) Malindi Water and Sewerage Company Limited – Kilifi County;
- e) Mandera Water and Sewerage Company Limited – Mandera County;
- f) Migori Water and Sanitation Company Limited – Migori County;
- g) Mombasa Water and Sanitation Company Limited – Mombasa County;
- h) Nanyuki Water and Sanitation Company Limited – Laikipia County; and
- i) Nithi Water and Sanitation Company Limited – Tharaka Nithi County.

2. Report of the Select Committee on County Public Investments and Special Funds on the consideration of the Audit Reports of the following county water service providers for the Financial Year 2019/2020 (1st July, 2019 to 30th June, 2020), having been proposed and seconded by Sen. Paul Karungo Thangwa, MP and Sen. Eddy Gicheru Oketch, MP –

- a) Busia Water and Sewerage Services Company Limited – Busia County;
- b) Iten-Tambach Water and Sewerage Company Limited – Elgeyo-Marakwet County;
- c) Kirinyaga Water and Sanitation Company Limited – Kirinyaga County;
- d) Malindi Water and Sewerage Company Limited – Kilifi County;
- e) Mandera Water and Sewerage Company Limited – Mandera County;
- f) Migori Water and Sanitation Company Limited – Migori County;
- g) Mombasa Water and Sanitation Company Limited – Mombasa County;
- h) Nanyuki Water and Sanitation Company Limited – Laikipia County; and
- i) Nithi Water and Sanitation Company Limited – Tharaka Nithi County.

3. Report of the Select Committee on County Public Investments and Special Funds on the consideration of the Audit Reports of the following county water service providers for the Financial Year 2020/2021 (1st July, 2020 to 30th June, 2021), having been proposed and seconded by Sen. Paul Karungo Thangwa, MP and Sen. William Kipkemai Kisang, MP –

- a) Busia Water and Sewerage Services Company Limited – Busia County;
- b) Iten-Tambach Water and Sewerage Company Limited – Elgeyo-Marakwet County;
- c) Kirinyaga Water and Sanitation Company Limited – Kirinyaga County;
- d) Malindi Water and Sewerage Company Limited – Kilifi County;
- e) Mandera Water and Sewerage Company Limited – Mandera County;
- f) Migori Water and Sanitation Company Limited – Migori County;
- g) Mombasa Water and Sanitation Company Limited – Mombasa County;
- h) Nanyuki Water and Sanitation Company Limited – Laikipia County; and
- i) Nithi Water and Sanitation Company Limited – Tharaka Nithi County.

MIN. NO. SEN/CPICSF/1036/2024

ANY OTHER BUSINESS

The Chairperson informed members that the Committee was finalizing interrogation of Reports of the Auditor-General on the financial statements of funds established in counties and that it would soon embark on interrogation of audited reports of other entities in counties such as –

- a) County Corporations;
- b) Level 4 and 5 Hospitals; and
- c) Conditional Grants administered as Funds.

The secretariate was tasked to liaise with the Office of the Auditor General to establish and generate for its consideration, a list of –

- i).conditional grants that are administered as funds in counties;
- ii).level 4 and 5 hospitals in counties; and
- iii).corporations in Counties.

The Committee noted that there was slow implementation of its numerous interim recommendations that are given out to counties during its meetings. The secretariate was tasked to develop a tracker on the implementation of the interim recommendations and to regularly update the Committee on the same.

MIN. NO. SEN/CPICSF/1037/2024

DATE OF NEXT MEETING & ADJOURNMENT

The Chairperson adjourned the meeting at two minutes past noon. The next meeting would be held on Tuesday, 30th, April, 2024 at 11:00 am.



29/4/2024

SIGNED: DATE:

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