

REPUBLIC OF KENYA



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TENTH PARLIAMENT – FOURTH SESSION - 2012

REPORT OF THE JOINT
DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND
NATIONAL SECURITY; AND JUSTICE AND LEGAL AFFAIRS; ON
THE CONSIDERATION OF A PETITION ON THE ADOPTION OF
THE NATIONAL PEACE BUILDING AND CONFLICT
MANAGEMENT POLICY

CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

JUNE, 2012

PREFACE

Mr. Speaker, Sir,

The Parliamentary Departmental Committees on Administration and National Security; and Justice and Legal Affairs, were constituted pursuant to the provisions of Standing Order No. 198 of the National Assembly and have executed their mandate as a joint Committee, in accordance with the provisions of the said Standing Order 198(3), which mandates the Committees to, inter alia:

- (a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments; and,*
- (b) investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House...*

Mr. Speaker,

The following are the Members of the Joint Committee:

The Hon. Fred Kapondi, MP (Joint Chairman)
The Hon. Ababu Namwamba, MP (Joint Chairman)
The Hon. Peter Kiilu, MP (Vice-Chairman)
The Hon. Njoroge Baiya, MP (Vice-Chairman)
The Hon. Cyprian Omollo, MP
The Hon. Abdikadir Mohammed, MP
The Hon. Danson Mungatana, MP
The Hon. Millie Odhiambo-Mabona, MP
The Hon. Raphael Letimalo, MP
The Hon. Isaac Ruto, EGH, MP
The Hon. Pollyins Ochieng', MP
The Hon. George Nyamweya, MBS, MP
The Hon. Mohamed Hussein Ali, MP
The Hon. Mutava Musyimi, MP
The Hon. Joseph Kiuna, MP
The Hon. Amina Abdalla, MP
The Hon. Olago Aluoch, MP
The Hon. Sophia Abdi Noor, MP
The Hon. Maison Leshoomo, MP
The Hon. Nkoidila ole Lankas, MP
* The Hon. Clement Kung'u Waibara, MP



The matter of the petition on the adoption by the Government of the National Peace Building and Conflict Management Policy was referred to the Committee on Administration and National Security; and Justice and Legal Affairs, on 17th May, 2012.

Mr. Speaker, Sir,

The Joint Committee, in its sitting of 22nd May, 2012, resolved to invite the petitioners and the Minister of State for Provincial Administration and Internal Security to make representations before the Committee on the petition. The Committee intended to establish whether the Government was really committed to the peace process as set out in the peace policy, and what measures had been taken towards the adoption and implementation of the said National Peace Building and Conflict Management Policy, whose development process had been going on since 2003.

The Committee received oral submissions from National Peace Policy Advocacy Network, being the petitioners; on Thursday, 24th May, 2012. The Committee further held a meeting with the Minister of State for Provincial Administration and National Security on Thursday, 31st May, 2012.

During the meeting with the peace advocacy groups, the Committee was informed that the Government had slackened the pace of implementing the peace building initiative. The lack of a clear peace building policy in the past had exacerbated conflicts. The root causes of 2007/2008 post election violence could have been adequately addressed if there was peace and conflict management policy in place.

Mr. Speaker,

The Committee noted that the process of implementing the National Peace Building and Conflict Management Policy by the Government had stalled since the formulation of the first policy draft in 2004. There was need therefore for the Government to make an undertaking to ensure that the policy was adopted and implemented in order to avoid situations as witnessed in 2007/2008 post election clashes.

The Minister, in his submission, informed the Committee that the Government was committed to have the National Peace Building and Conflict Management Policy implemented. However, numerous consultations with the security state organs had delayed the processing of the policy. The consultations had now been finalized, and the Peace Policy was to be presented to the National Security



1.0 BACKGROUND

- 1.1 The concept to develop a National Peace Building and Conflict Management Policy was initiated in 2001. The idea was conceived through a joint effort by the Government and the Civil Society who came together to establish the National Steering Committee (NSC) on National Peace Building and Reconciliation.
- 1.2 The idea to formulate a Peace Building and Conflict Management Policy was borne out of the need to start a coordinated approach to seek long term solutions to conflicts. There was lack of policy guidelines to address root causes of problems. As a result, there has been ad hoc reaction to conflict, which does not resolve problems once and for all, but tends to address short term remedies.
- 1.3 NSC was established in 2001. It was based at the Ministry of State for Provincial Administration and Internal Security. It became operational in November 2002 when a Secretariat was founded. The role of NSC was to primarily bring together representatives from relevant Government Ministries and Departments, umbrella Civil Society Organizations, development partners and UN agencies. The Committee was mandated with the coordination of all peace related activities in Kenya. It also serves as Kenya's Conflict Early Warning and Response Unit (CEWERU).
- 1.4 A key achievement of the NSC has been the development of the Draft National Policy on Peace Building and Conflict Management. The process began in 2004 and has been gone through consultative forums. The initial thinking by policy makers and peace practitioners began with the development of a framework, referred to as the "Zero Draft".
- 1.5 The NSC commenced the review of the policies, strategies, legislations, reports, protocols and publications, in 2005. The review included collection of views from the public. The consultations involved Government Ministries, Departments, academia, development partners, regional organizations, CSOs, women and youth groups, communities, private sector and local authorities. The consultations gave rise to the development of the first draft of the national policy.
- 1.6 A peer review of the first draft was conducted in 2006 which resulted in the refinement of the draft. The draft was then subjected to a stakeholder's validation process in September 2007. Twelve validation workshops were



- iv) A National Peace Forum which is a platform for consultation, collaboration, cooperation and coordination by all peace actors and stakeholders.
- v) County Peace Fora which shall be convened by Counties as platforms for consultations, coordination and accountability at the County levels, within and across the Counties.

- 1.13 The petition on the adoption of the Peace Building and Conflict Management Policy was presented to the House by the Hon. Gitobu Imanyara, MP, on behalf of the petitioners, on 17th May 2012; pursuant to Article 119 of the Constitution, which provides that every person has a right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation.
- 1.14 The matter of the petition on the adoption by the Government of the National Peace Building and Conflict Management Policy was referred to the Committee on Administration and National Security; and Justice and Legal Affairs, on 17th May, 2012.
- 1.15 The Committee thus embarked on receiving submissions from the petitioners' representatives. The Committee intended to establish the facts what measures the Government was taking towards the adoption and implementation of the said National Peace Building and Conflict Management Policy, whose development process had been going on since 2003.
- 1.16 The Committee received oral submissions from National Peace Policy Advocacy Network, being the petitioners; on Thursday, 24th May, 2012. The Committee further held a meeting with the Minister of State for Provincial Administration and National Security on Thursday, 31st May, 2012.
- 1.17 During the meeting with the peace advocacy groups, the Committee was informed that the Government had slackened the pace of implementing the peace building initiative. The lack of a clear peace building policy had exacerbated conflicts. The root causes of 2007/2008 post election violence could have been adequately addressed if there was peace and conflict management policy in place.
- 1.18 The Committee noted that the process of implementing the National Peace Building and Conflict Management Policy by the Government had stalled since the formulation of the first policy draft in 2002. There was need



2007 general election was not advocated by NAPPAN and NYSA, the election violence that the country experienced may have been averted.

2.1.5 The following alternative suggestions on the way forward were proposed:

- a. That the Minister of State for Provincial Administration and Internal Security be moved to see that the policy is adopted.
- b. That Parliament debates the Peace Policy and passes it.
- c. That the Policy be adopted via an Executive Order.

2.2 Submissions by the National Youth Sector Alliance (NYSA)

In their presentation, NYSA informed the Committee that:

2.2.1 Peace was being threatened by ethnic mobilization and clandestine formations going on across the country. It was therefore critical that the Peace Policy was adopted. Once the policy is adopted, all peace building and conflict management efforts would not only have a policy backing from the Government but will also have financially supported budgets to coordinate their activities in achieving sustainable peace for Kenya.

2.2.2 NYSA, in partnership with NAPPAN, Kenya ni Kwetu, YES Kenya and Power 254 had mobilized the support of 10,000 youth to petition Parliament to support the adoption of the Peace Policy.

2.2.3 NYSA pointed out the following key propositions;

- a. Urgent adoption and implementation of the National Peace and Conflict Management Policy and funding from the exchequer to finance its operations.
- b. Declaration of 2012 as the year of peace and the Government agencies to support all initiatives geared towards attaining peace for Kenya
- c. The organs established under the Peace Policy should be supported to conduct activities for conflict prevention, management, and resolution and the ownership of the peace process at community level.

2.2.4 Key issues raised by Committee Members

The Committee Members sought to know what particular areas the petitioners thought the Government was under performing in terms of conflict resolution and how the proposed policy would cater for this.

2.2.5 In response, the petitioners emphasized that the Government currently has a reactive approach to dealing with conflicts, employing law and punitive



transforming conflicts. Additionally, there will be a Department of Peace Building established in the Ministry of State for Provincial Administration and Internal Security as an outcome of the draft peace policy.

- 3.4 The Minister explained that the delay in the policy's implementation was due to the lengthy process in consultation of State and Non-State actors; this was done to ensure formation of a long-term policy framework. The Ministry was now fast-tracking the process to ensure the policy was in place before the next general elections.
- 3.5 The draft policy was currently scheduled for discussion by the National Security Advisory Committee (NSAC) on Monday 4th June 2012. The policy is to be reviewed and harmonized with the Draft National Security Policy before transmission to the Cabinet for final approval and adoption. The Committee was informed that the draft Cabinet Memo on this policy was also ready for presentation to the Cabinet. Once approved by Cabinet, the policy becomes part of the Government's policy framework.
- 3.6 The Committee Members urged the Minister to hasten the process of adoption of this peace policy as much as possible due to its importance in providing stability to the country. The Committee further urged the Minister to bring a Sessional Paper into Parliament with the aim of ensuring that the draft Peace Policy was transformed into an Act of Parliament.

4.0 FINDINGS, OBSERVATIONS AND CONCLUSIONS OF THE COMMITTEE

- 4.1 After meeting the petitioners and the Minister of State for Provincial Administration and Internal Security, the Committee made the following observations:
1. That the pace towards the adoption and implementation of the National Peace Policy had slackened after the conception of the idea, in 2004. There was a lull after the publication of the first draft policy, which was, according to the Minister of State for Provincial Administration, occasioned by lengthy consultations with the various security sector stakeholders.
 2. There was renewed activity from the Civil Society over the adoption of the peace policy after the 2007/2008 post-election violence. This led to increased activity by the Government which sought to establish long term measures to address the root causes of conflicts.



Annextures

Appendix I – Committee Minutes

Appendix II – Petition

MINUTES OF THE 1ST JOINT SITTING OF THE DEPARTMENTAL COMMITTEES ON
JUSTICE AND LEGAL AFFAIRS; AND ADMINISTRATION AND NATIONAL SECURITY,
HELD ON TUESDAY, 22ND MAY, 2012, IN THE COMMITTEE ROOM, 5TH FLOOR,
CONTINENTAL HOUSE, AT 12.00 NOON

PRESENT

The Hon. Njoroge Baiya, MP - Vice Chairman (Ag. Joint Chair)
The Hon. Fred Kapondi, MP - Joint Chairman
The Hon. Peter Kiilu, MP - Vice Chairman
The Hon. Maison Leshoomo, MP
The Hon. Isaac Ruto, EGH, MP
The Hon. Danson Mungatana, M.P.
The Hon. Millie Odhiambo-Mabona, MP
The Hon. Pollyins Ochieng', MP
The Hon. Joseph Kiuna, MP

ABSENT WITH APOLOGY

The Hon. Ababu Namwamba, MP - Joint Chairman
The Hon. Mohamed Hussein Ali, MP
The Hon. Raphael Letimalo, MP
The Hon. Amina Abdalla, MP
The Hon. George Omari Nyamweya, MBS, MP
The Hon. Abdikadir Mohammed, MP
The Hon. Cyprian Omolo, MP
The Hon. Raphael Letimalo, MP
The Hon. Mutava Musyimi, MP
The Hon. Olago Aluoch, MP
The Hon. Sophia Abdi Noor, MP

ABSENT

The Hon. Nkoidila Ole Lankas, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

Mrs. Lucy Wanjohi - Second Clerk Assistant
Mr. Daniel Mutunga - Second Clerk Assistant
Ms. Wanjiru Ndindiri - Third Clerk Assistant
Mr. Abdullahi Keynan - Third Clerk Assistant
Mr. Martin Mugambi - Parliamentary Intern
Mr. Kimathi Muriithi - Parliamentary Intern

MIN.NO. 01/2012 - PRELIMINARIES

The meeting was opened with a word of prayer. Members of the joint Committee were welcomed to the meeting. The Agenda of the meeting was adopted. The Vice Chair of

MINUTES OF THE 2ND JOINT STEERING COMMITTEE PARLIAMENTAL COMMITTEES ON JUSTICE AND LEGAL AFFAIRS; AND IMMIGRATION AND NATIONAL IDENTITY HELD ON THURSDAY, 24TH MAY, 2018, IN THE SMALL DINING ROOM, PARLIAMENT BUILDINGS, AT 10AM

PRESENT

The Hon. Peter Kilu, MP - Vice Chairman (Chairing)
The Hon. Ababu Namwamba, MP - Joint Chairman
The Hon. Danson Mungatana, MP
The Hon. Pollyins Ochieng', MP
The Hon. Joseph Kiuna, MP
The Hon. Raphael Letimalo, MP
The Hon. Maison Leshoomo, MP
The Hon. George Ornari Nyamweya, MBS, MP

ABSENT WITH APOLOGY

The Hon. Fred Kapondi, MP - Joint Chairman
The Hon. Njoroge Baiya, MP - Vice Chairman
The Hon. Mohamed Hussein Ali, MP
The Hon. Millie Odhiambo-Mabona, MP
The Hon. Isaac Ruto, EGH, MP
The Hon. Amina Abdalla, MP
The Hon. Abdikadir Mohammned, MP
The Hon. Cyprian Omollo, MP
The Hon. Mutava Musyimi, MP
The Hon. Olago Aluo, MP
The Hon. Sophia Abdi Noor, MP

ABSENT

The Hon. Nkoidila Ole Lankas, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

Mrs. Lucy Wanjohi - Second Clerk Assistant
Mr. Daniel Mutunga - Second Clerk Assistant
Ms. Wanjiru Ndindiri - Third Clerk Assistant
Mr. Abdullahi Aden - Third Clerk Assistant
Mr. Martin Mugambi - Parliamentary Intern
Mr. Kimathi Muriithi - Parliamentary Intern

IN ATTENDANCE - PETITIONERS

Ms. Priscilla Nyokabi - Chief Executive, Kituo Cha Sheria
Mr. Kevin Ogema - Kituo Cha Sheria
Ms. Odiyo Jackline - Kituo Cha Sheria

- a. That the Minister of State for Provincial Administration and Internal Security be moved to see that the policy is adopted.
- b. That Parliament debates the Peace Policy and passes it.
- c. That the Policy be adopted via an Executive Order.

Submissions by the National Youth Sector Alliance (NYSA)

In their presentation, NYSA informed the Committee that:

Peace was being threatened by ethnic mobilization and clandestine formations going on across the country. It was therefore critical that the Peace Policy was adopted. Once the policy is adopted, all peace building and conflict management efforts would not only have a policy backing from the Government but will also have financially supported budgets to coordinate their activities in achieving sustainable peace for Kenya.

NYSA, in partnership with NAPPAN, Kenya Ni Kwetu, YES Kenya and Power 254 had mobilized the support of 10,000 youth to petition Parliament to support the adoption of the Peace Policy.

NYSA pointed out the following key propositions:

- a. Urgent adoption and implementation of the National Peace and Conflict Management Policy and funding from the exchequer to finance its operations.
- b. Declaration of 2012 as the year of peace and the Government agencies to support all initiatives geared towards attaining peace for Kenya
- c. The organs established under the Peace Policy should be supported to conduct activities for conflict prevention, management, and resolution and the ownership of the peace process at community level.

Key issues raised by Committee Members

The Committee Members sought to know what particular areas the petitioners thought the Government was under performing in terms of conflict resolution and how the proposed policy would cater for this.

In response, the petitioners emphasized that the Government currently has a reactive approach to dealing with conflicts, employing law and punitive measures against the perpetrators after the conflict has already taken place, and lives and property having already been lost. The Peace Policy on the other hand provides for guidelines towards peace building, and aims at preventing the conflicts from happening in the first place.

The petitioners sought to know the timelines within which their grievances would be addressed. They were informed that the Committee would be meeting with the Minister of State for Provincial Administration and Internal Security on Tuesday, 29th May, 2012 to engage him on the issues raised. Further, the Committee would table a report detailing their observations and recommendations within 21 days from the date the petition was

MINUTES OF THE 37TH JOINT SITTING OF THE PARLIAMENTARY COMMITTEES ON
JUSTICE AND LEGAL AFFAIRS; AND ADMINISTRATIVE AND NATIONAL SECURITY,
HELD ON THURSDAY, 31ST MAY, 2012, IN THE COMMITTEE ROOM, 5TH FLOOR,
CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 4.30 PM

PRESENT

The Hon. Peter Kiilu, MP - Vice Chairman (Chairing)
The Hon. Fred Kapondi, MP - Joint Chairman
The Hon. Joseph Kiuna, MP
The Hon. Maison Leshoomo, MP
The Hon. Millie Odhiambo-Mabona, MP
The Hon. Danson Mungatana, MP
The Hon. Pollyins Ochieng', MP

ABSENT WITH APOLOGY

The Hon. Ababu Namwamba, MP - Joint Chairman
The Hon. Njoroge Baiya, MP - Vice Chairman
The Hon. Mohamed Hussein Ali, MP
The Hon. Raphael Letimalo, MP
The Hon. Isaac Ruto, EGH, MP
The Hon. Amina Abdalla, MP
The Hon. George Omari Nyamweya, MBS, MP
The Hon. Abdikadir Mohammed, MP
The Hon. Cyprian Omondi, MP
The Hon. Mutava Musyimi, MP
The Hon. Olago Aluoch, MP
The Hon. Sophia Abdi Noor, MP
The Hon. Nkoidila Ole Lankas, MP

NON-MEMBER OF THE COMMITTEE IN ATTENDANCE

The Hon. Boaz Kaino, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

Mr. Daniel Mutunga - Second Clerk Assistant
Ms. Wanjiru Ndindiri - Third Clerk Assistant
Mr. Abdullahi Aden - Third Clerk Assistant
Mr. Martin Mugambi - Parliamentary Intern

IN ATTENDANCE - MINISTRY OF PROVINCIAL ADMINISTRATION AND
INTERNAL SECURITY

The Hon. (Prof.) George Saitoti, EGH, MP - Minister
Mr. Mutea Iringo, EBS - Acting Permanent Secretary
Mr. Dickson L. Magotsi - Senior Administrative Secretary

formation of a long-term policy framework. The Ministry was now fast-tracking the process to ensure the policy was in place before the next general election.

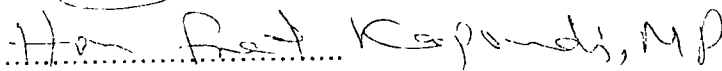
The draft policy was currently scheduled for discussion by the National Security Advisory Committee (NSAC) on Monday 4th June 2012. The policy is to be reviewed and harmonized with the Draft National Security Policy before transmission to the Cabinet for final approval and adoption. The Committee was informed that the draft Cabinet Memo on this policy was also ready for presentation to the Cabinet. Once approved by Cabinet, the policy becomes part of the Government's policy framework.

The Committee Members urged the Minister to hasten the process of adoption of this peace policy as much as possible due to its importance in providing stability to the country. The Committee further urged the Minister to bring a Sessional Paper into Parliament with the aim of ensuring that the draft Peace Policy was transformed into an Act of Parliament.

MIN. NO. 09/2012 - A.O.B/ADJOURNMENT

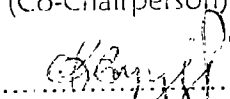
There being no other business, the Chair adjourned the sitting at five minutes after five O'clock. The next meeting would be held on Tuesday, 5th June, 2012 at 10am.

Signed:



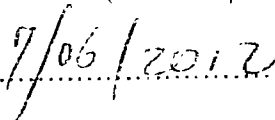
(Co-Chairperson)

Signed:



(Co-Chairperson)

Date:



PETITION

BY THE NATIONAL YOUTH SECTOR ALLIANCE ON THE ADOPTION OF THE NATIONAL PEACE BUILDING AND CONFLICT MANAGEMENT POLICY

WE, THE UNDERSIGNED citizens of Kenya who are members of the National Peace Policy Advocacy Network (NAPPAN), National Youth sector Alliance (NYSA), Picha Mtaani Initiative, YES Kenya and PAWA 254

DRAW the attention of the House to the following;

THAT aware that Peace Policy is critical since the signing of the National Accord and reconciliation Agreement in 2008.

THAT WHEREAS the Government has spearheaded the process of developing of a peace Policy since 2003; the adoption of the same policy has not seen the light of the day.

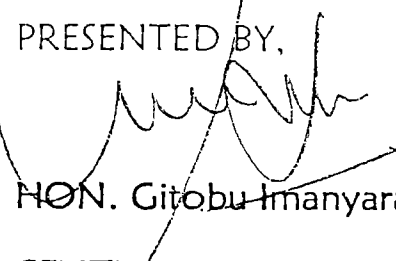
THAT WHEREAS recognizing that sustainable peace in the Country is critical for development and appreciating the fact that the adoption of the policy will guarantee government commitment to finance and coordinate Peace initiatives in one clear direction for impact.

THEREFORE your humble petitioners **PRAY** that;

The National Assembly facilitates with immediate effect the adoption of the National Peace Building and Conflict Management Policy in order to realize sustainable peace in the Country.

And your **PETITIONERS** will ever pray

PRESENTED BY,


HON. Gitobu Imanyara, MP

CENTRAL IMENTI CONSTITUENCY

REPUBLIC OF KENYA



NATIONAL ASSEMBLY



TENTH PARLIAMENT, FOURTH SESSION

THE FIRST REPORT
OF THE
LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE
ON:

1. THE ACCOUNTS OF LOCAL AUTHORITIES
2. COUNTRY WIDE PROJECTS DONE BY THE URBAN DEVELOPMENT DEPARTMENT (UDD) OF THE MINISTRY OF LOCAL GOVERNMENT
3. THE ACCOUNTS OF CDF FOR 2006/2007 & 2007/2008 FINANCIAL YEARS

CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

OCTOBER 2010

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REPORT OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE

1.0.0 PREFACE

Mr. Speaker Sir,

On behalf of the members of the Local Authorities and Funds Accounts Committee and pursuant to the provisions of the Standing order No. 181(3), it is my great pleasure and privilege to present to the House the report and recommendations thereon of the committee on its First Report.

1.1.0 COMMITTEE MANDATE

The Local Authorities and Funds Accounts Committee was constituted in June 2009, just after the commencement of the Third Session of the Tenth Parliament pursuant to the provisions of the Standing Order No. 189 which states that:-

“There shall be a select committee to be designated the Local Authorities and Funds Accounts Committee for the examination of the accounts showing the appropriation of the sum voted by the House to meet the public expenditure in local authorities and all other funds and of such other accounts laid before the House as the committee may think fit”.

It is clear from this mandate that the Committee scrutinizes (on behalf of the House) public expenditure in local authorities and devolved funds so as to ensure that the value for the money voted by the House is realized. The Committee was formed to strengthen parliamentary oversight in local authorities and the emerging devolved funds voted by the House, so as to:-

- Detect, stop and prevent abuse, arbitrary, illegal or unconstitutional application of public funds;
- Hold government to account, in respect of resources and authority exercised on behalf of the public, specifically stop waste and abuse, improve efficiency, effectiveness and impacts;
- Ensure government expenditure as approved by Parliament are expended and delivered;
- Improve transparency of Government operations to enhance public trust and confidence.

The Committee, being an investigatory Committee therefore relies on the special or annual reports of the Controller and Auditor General.

1.2.0 COMMITTEE MEMBERS

The Committee consisted the following members:-

The Hon Thomas L. Mwadeghu, MP (Chairperson)
The Hon. Benjamin Langat, MP (Vice - Chairperson)
The Hon. Charles M. Nyamai, MP
The Hon. Peter Mwathi, MP
The Hon. Abdul Bahari, MP
The Hon. Pollyins O. Anyango, MP

The Hon. Nemesyus Warugongo, MP
The Hon. Wilson Litole, MP
The Hon. Musa Sirma, MP
The Hon. Ferdinand Waititu, MP
The Hon. Simon Mbugua MP

However, two of the Members (Hon. Simon Mbugua, MP and Hon. Ferdinand Waititu, MP) only attended less than five sittings in the whole period. They are therefore not part of the production of this report.

1.3.0 COMMITTEE SITTINGS

The Committee commenced its sittings on 24th June 2009 and **63 sittings** were held during the period. The sittings comprised the following activities: -

- a) Induction workshop
- b) Evidence taking
- c) Inspection tours
- d) Stakeholder's consultative fora

1.4.0 COMMITTEE WORKLOAD

The Committee is expected to examine the accounts of the entire 175 local authorities from 2003/2004 financial year (the period when the public audit Act took effect), together with the accounts of other devolved funds such as Constituencies Development Fund (CDF), Youth Enterprise Development Fund and Women Development Fund. However, most of the accounts of the councils had not been laid before the House and therefore were not ready to be examined to date. Similarly, the accounts of Youth Enterprise Development Fund and Women Development Fund are yet to be ready. The delay and/the non-availability of the accounts is likely to affect the performance of the Committee, owing to the likelihood of creating back log vis-a-vis the challenge of handling current matters of national interest.

1.5.0 EVIDENCE TAKEN DURING THE PERIOD

1.5.1 Evidence from the Urban Development Department (UDD) of the Ministry of Local Government

The Committee held extensive deliberations and took comprehensive evidence from the Urban Development Department of the Ministry of Local Government responsible for multiple huge and questionable projects done across the country. The Committee identified the projects during its inspection tours

1.5.2 Evidence from CDF

The Committee also examined the Accounts of CDF for 2006/2007 and 2007/2008 financial years.

1.5.3 Evidence from councils

During the sittings of the Committee, the Chief Officers of the major councils i.e. from City Council of Nairobi, Mombasa Municipal Council, Kisumu Municipal Council, Nakuru

Municipal Council, Thika Municipal Council, Eldoret Municipal Council and Narok County Council appeared to give evidence.

The Committee was only able to examine (to conclusion) the Accounts of Nakuru Municipal Council for 2004/2005 and 2005/2006 financial years.

The Chief Officers who appeared before the Committee did not adequately respond to financial and management queries raised either by the Committee or in the Controller and Auditor General's report.

Since this was the first time for the accounts of Local Authorities to be examined, the Committee noted with concern the following issues (among others): -

- a) Lack of certified accounts for several councils;
- b) Production of accounts without books of accounts;
- c) Presentation of unsigned accounts to the Controller and Auditor General;
- d) The quality of responses to audit queries were wanting;
- e) Chief Officers brought responses to management letters instead of responses to certified annual accounts;
- f) The level of unpreparedness of Chief Officers: Chief Officers appeared unaware of the expectations from the Committee and how to respond to queries.

1.5.4 All the witnesses were subjected to thorough interrogation by Members of the Committee who analyzed both oral and written submissions critically. Only in a few cases, witnesses gave the required information.

1.6.0 INSPECTION TOURS/STAKEHOLDER EDUCATION

In view of the above issues noted when taking evidence from councils, the Committee during its sitting held on 11th August 2009, resolved:

- a) to suspend the taking of evidence from the councils until a consultative stakeholders' forum/workshop (between the Committee, the Kenya National Audit Office, the Inspectorate of Local Authorities and all the Chief Officers of Councils) was undertaken in regions, in order to address the issues noted during evidence and chart the way forward;
- b) to undertake Public hearings in order to get public views on performance of councils; and
- c) to undertake spot check inspection tours on both queried and on-going projects.

The Committee held stakeholders consultative workshops/seminars in the following venues across the country:

- City Hall for the Nairobi region;
- Mombasa Municipal Hall for the Coast region;
- Nyeri Municipal Hall for the Central region;
- Embu Municipal Council Social Hall for the Eastern region;

- Garissa Municipal Hall for the North Eastern region;
- Eldoret Municipal Hall for the North Rift and Western regions;
- Nakuru Municipal Hall for the South Rift region; and
- Kisumu Municipal Hall for the Nyanza region.

The meetings were attended by the Committee Members, the Chief Officers of the local authorities within the region (i.e. the Town Clerks and the Treasurers), officers from the Ministry of Local Government and officers from the Kenya National Audit Office. The purpose of the seminars/workshops was to sensitize the Chief Officers on the mandate, operations and expectations of the Committee in the financial management of local authorities. It was also an opportunity for stakeholders to interact and share experiences, challenges and chart the way forward in future engagements.

While in the mentioned regions, the Committee undertook spot check inspections on the following projects: -

- Maungu bus park in Taita Taveta County Council.
- Mabomani School, Bondeni Pre-School and Voi slaughter house in Voi Municipal Council.
- Ahero market and bus park in Ahero Town Council.
- Nyamira bus park in Nyamira in Nyamira Town Council.
- Siaya County Council.
- Chavakali Market in Vihiga Municipal Council.
- Kakamega Municipal Council.
- Cemetery Land in Mavoko purchased by the City Council of Nairobi.
- Embu bus park in Embu Municipal Council.
- Garissa bus park and Garissa livestock holding ground in Garissa Municipal Council.
- Social Hall by Nyeri County Council.
- Shamata Lightning arrestors project in Kimetha Primary School and Baari Dispensary project (both in Ndaragwa Constituency)

The observations of the Committee on the projects visited are contained under the specific projects highlighted elsewhere in this report.

1.7.0 SUMMARY OF GENERAL RECOMMENDATIONS

1.7.1 Non-availability of documents for audit verification

The Committee observed that over the years, several Chief Officers continued to perpetuate the culture of not availing documents to the Controller and Auditor General for verification at the time of audit. The Committee noted that such failure to produce documents could lead to concealment of possible fraud. The habit amounts to breach of the government financial regulations & procedures and the law.

The Committee strongly recommends that in future, the local authorities' Chief Officers who fail to avail documents for audit verification at the time of audit without good cause should be barred from holding public office conferred by the Republic of Kenya.

1.7.2 The Urban Development Department (UDD) of the Ministry of Local Government

During its inspection tours, the Committee noted that most of the stalled projects (which involved huge public funds) were conceived, designed, contracts awarded, supervised, and payments made by the UDD. In most cases the projects were undertaken without the involvement of not only the locals and the relevant councils but also the Inspectorate of Local Authorities Department. The projects done include markets, bus parks, access roads, livestock holding grounds, town halls, among others.

As illustrated in the projects on pages 24-32 and 46-50, there are a number of issues that the Committee noted in all the projects undertaken by UDD. These include (among others) poor supervision of projects yet the UDD was supposed to supplement the capacity of local authorities throughout the country, and lack of involvement of both the councils and the department of Inspectorate of Local Authorities.

More questions than answers characterized most of the projects done by UDD. It was appalling to note: -

- Whether the projects were conceived with good intentions;
- Whether the projects were done with any intention to complete;
- Whether the officers involved in implementation were not driven by selfish interests so as to fleece the projects funds;
- Whether proper supervision was deliberately left out in order to allow the contractors to perpetuate the culture of poor workmanship;
- Why the projects portray similar characteristics country wide despite being supervised by different officers; and many more questions.

The Committee observed that since inception, UDD has not achieved the results it was established for, but can only be noted that it has been a Department of siphoning public funds. The Committee also noted that since the good intention and focus of establishing the UDD was to manage urban development arising from rural-urban migration, it should not be lost.

The Committee therefore recommends that UDD should be restructured into a Department of Local Authorities Support Services (DLASS) in the Ministry of Local Government. The proposed restructured UDD will undertake projects in conjunction with the respective local authorities and with the involvement of the residents. In the proposed reforms, all projects should belong to and be implemented by respective local authorities, which will carry out the day to day management of the development activities, only with technical support from the Department. In the new structure, the reformed UDD should be transformed to facilitate the implementation of development projects, whether the resources come from devolved funds or through the efforts of the Ministry. In other words, local authorities will be supported by the restructured UDD to implement all the

projects and programmes, with clearly spelt out separation of roles amongst the key actors as well as checks and balances.

The Committee also recommends that UDD and the projects it has undertaken in the past should be investigated by the Kenya Anti-Corruption Commission (KACC), with a view to prosecuting the officers involved in mismanagement and misappropriation of public funds.

1.7.3 Lack of accounts

Over the years, the Ministry of Local Government has not been effectively carrying out supervisory authority and inspections under sections 227 – 236 of the Local Government Act, Cap 265. The consequences are: -

- Local Authorities have not kept proper books of accounts since inception. Therefore there were no books of prime entry i.e. cash books, expenditure, revenue, bank balances, creditors and debtors, meaning that there were no trial balances and therefore no audited accounts.
- Thus, for over twenty years the councils did not keep proper books of accounts and therefore the law seems to have been set aside.

The above situation contributed to production of abstracts of accounts which could not be supported. The abstracts could therefore not be certified by the Controller and Auditor General.

Out of the 175 local authorities, very few have their accounts tabled in Parliament to date. In fact most of those accounts tabled relate to the financial years prior to 2003/2004, and are mainly from the small councils. The major councils have been the main culprits that have continued to fail to prepare and submit accounts. For example, the City Council of Nairobi has never produced its accounts for audit verification since 2001. Kisumu Municipal Council and Mombasa Municipal Council also have several years of outstanding accounts, despite handling massive resources. This is an indication that financial management and accountability in the councils is wanting.

The Committee recommends that the outstanding accounts should be availed to the Controller and Auditor General by 31st December 2010, failure to which the councils concerned should be denied Local Authorities Transfer Fund (LATF) disbursements. The Committee also recommends that the LATF Act should be amended to ensure that councils only receive further disbursements upon production of certified audited accounts.

1.7.4 Competence of Staff

The level of incompetence reflected in the councils is portrayed by the level of mismanagement and inefficiencies observed across the country. The Committee noted with concern that over the years, the absence of the accounts could be as a result of unqualified staff. The Committee also noted that most of the staff of local authorities (including Chief Officers) are incompetent and do not have the necessary credentials for holding those offices. **The Committee recommends that the appointing authority should appoint qualified officers without further delay.**

1.7.5 Frequent Transfers

The Committee abhorred the manner in which the Chief Officers of local authorities were frequently and habitually transferred. Such frequent and arbitrary transfers negatively impacted on the smooth operations and performance of the councils. The Committee also deplored the failure to implement policy guidelines of the Ministry on this matter and **recommends that the Ministry of Local Government should ensure implementation of the policy guidelines on transfers, failure to which the officers responsible for overseeing the implementation should be disciplined.**

1.7.6 Accounting Firms contracted by various councils

The Committee abhorred the manner in which councils contract accounting firms who prepare accounts without books of prime entry. The accounting firms then leave the council with accounts that are meaningless and are not based on anything despite receiving full payments.

The private accounting firms fail to reciprocate value for the money they are paid. In the presence of these glaring anomalies, the Committee could not rule out possibility of collusion between the Chief Officers and the contracted accounting firms. The Committee could not also rule out professional negligence and unethical standards displayed by the accounting firms.

The Committee strongly recommends that the firms involved should be investigated by the Kenya Anti-Corruption Commission and the Institute of Certified Public Accountants of Kenya (ICPAK), with a view to prosecuting culpable culprits, barring the firms from practicing and precluding them from future award of government contracts.

1.7.7 The supervisory role of the Ministry of Local Government

The Committee noted that the projects undertaken directly by the Ministry of Local Government were supervised by the UDD and ignored the input of the department of Local Authorities inspectorate in the Ministry. The Committee abhorred the manner in which the UDD department allowed resident engineers of projects to also serve at the same time as the project managers of those projects, responsibilities that should have been undertaken by two different officers. It was noted that the engineer was the supervisor and at the same time managing the project, while the officer from the department of Local Authorities inspectorate was not involved at all. Clearly, the supervisory role of the ministry appeared disjointed and the Committee's concern was whether it was a deliberate move by the Ministry to put in place improper systems. It could only be interpreted that the disjointed supervisory role was deliberately designed to affect projects implementation and act as conduit for siphoning funds.

The Committee recommends that the Deputy Prime Minister and Minister for Local Government should ensure that proper systems of supervision are put in place without further delay.

1.8.8 Action on the officers mentioned

In view of the above observations noted, the Committee recommends that the Government should take disciplinary action against the officers established to be responsible for the mess, together with those specifically mentioned in this report. Upon establishing, the officers should face demotion, suspension, dismissal or prosecution.

1.9.0 ADOPTION

Mr. Speaker Sir, all the recommendations contained in this report were arrived at by consensus and after exhaustive and constructive deliberations, taking due regard to ensure that there is adequate machinery within the Public Service to implement these recommendations. The Committee urges the House to adopt the recommendations.

2.0.0 APPRECIATION

Mr. Speaker Sir, allow me to thank the Members of the Committee for their efforts, commitment and exemplary performance in ensuring the successful production of this report.

Finally Mr. Speaker Sir, the Committee further wishes to thank you and the Clerk of the National Assembly for facilitating its work. The Committee also wishes to record its appreciation for the exemplary services rendered by the officers from the Kenya National Audit Office and the Office of the Clerk of the National Assembly. Indeed, their cooperation and commitment to duty has made the work of the Committee and production of this report possible.

HON. THOMAS L. MWADEGHU, MP

SIGNED
CHAIRPERSON

DATE

THE REPORT OF THE COMMITTEE ON THE ACTIVITIES UNDERTAKEN DURING THE PERIOD

2.1.0 INDUCTION WORKSHOP

The Induction Workshop was undertaken on 23rd – 26th July 2009. The workshop was necessitated by the following factors: -

- i. Since the Committee was new, with a new mandate, an induction workshop was essential to enable Members of the Committee to obtain an in-depth understanding of the operations and challenges faced by local authorities;
- ii. The need to familiarize with the relevant laws e.g. the Local Government Act (Cap. 265), the CDF Act, the LATF Act, the Public Audit Act, Financial Management Act, Public Procurement and Disposal Act, among others;
- iii. Sharing views and discussions with stakeholder institutions such as Institute of Certified Public Accountants (ICPAK), Association of Local Government Authorities of Kenya (ALGAK), Institute of Economic Affairs (IEA), Clerks of councils, among others; the institutions have done research and analysis on: Local Government systems and challenges in Kenya, Financial management and reporting in local authorities and local authorities reform programmes.

The induction workshop identified the issues highlighted below: -

2.1.1 The Need for Local Authorities

The local authorities were established pursuant to the Local Government Act (Cap. 265 Laws of Kenya). There are currently 175 local authorities i.e. one city council, 45 municipal councils, 67 county councils and 62 town councils.

The Local Government system in Kenya comprises two major components: - the Ministry of Local Government which is the central regulatory organ, and local authorities which are separate legal entities classified as county, town, municipal and city councils.

Local Government is such an important concept to local community that local residents should know what it entails and find ways of taking part in its activities. The main function of Local Government is to improve the lives of citizens through the provision of basic socio-economic and other services. Local Government activities affect and influence the lives and livelihoods of all residents. Their importance can therefore not be over emphasized.

The local authorities serve to provide the following basic important services to the citizens:-

- (i) Provision of health facilities
- (ii) Burial of destitute persons
- (iii) Environmental conservation
- (iv) Provision and maintenance of roads
- (v) Provision of street lighting
- (vi) Provision of parks and recreational facilities
- (vii) Economic development i.e. provision of housing, markets, licensing, bus parks, public transport, etc

- (viii) Development control i.e. approval of building plans, approval of land subdivision, approval of change of user, etc
- (ix) Provision of water and sewerage services
- (x) Conservancy services
- (xi) Fire fighting etc

It is therefore clear that local authorities, when efficiently run with good financial management can play a critical role in service delivery.

2.1.2 Local Authorities' Finances

- i) Internal Sources: Single business permits, property rates/rent, fees and charges, markets, slaughterhouses, house rents, bus park, parking fees, etc.
- ii) Government grants: Local Authority Transfer Funds (LATF), Roads Maintenance Levy Fund (RMLF), Contribution in Lieu of Rates (CILOR).
- iii) Other sources: Public private partnership, donor funds, NGOs, etc.

2.1.3 Challenges faced by Local Authorities

- i) Due to financial problems carried over for many years, local authorities have accumulated huge debts.
- ii) Some of the local authorities are unable to meet their monthly obligations, further accumulating debts.
- iii) Inadequate professionalism in local authorities; due to the financial problems that local authorities have incurred over a long period of time, they are unable to attract professionals in various disciplines.
- iv) Political interference: decision making in local authorities is highly influenced by councillors.
- v) Indiscipline among staff: since the Public Service Commission has delegated the powers to employ staff in salary scale 10 – 20 to local authorities, councillors have gotten an opportunity to employ their relatives, making it difficult to discipline them.
- vi) Due to constant revenue shortfalls, salaries are not paid in time. Consequently, some of the staff resort to corrupt activities to sustain themselves.
- vii) Election of Mayors/Chairmen: Mayors and Chairmen do not concentrate on their work as they constantly strategize on how to retain their seats. The term before re-election is very short.
- viii) Fragmentation of local authorities: some of the local authorities are not economically viable.

2.1.4 Financial management and reporting in Local Authorities

Over the years, the Ministry of Local Government has not been effectively carrying out supervisory authority and inspections under sections 227 – 236 of the Local Government Act, Cap 265. The consequences are: -

- i) Local Authorities did not keep proper books of accounts in the 1980s and 1990s. Therefore there were no books of prime entry i.e. cash books, expenditure, revenue,

bank balances, creditors and debtors, meaning that there were no trial balances and therefore no audited accounts.

- ii) Thus for twenty years the councils did not keep proper books of accounts and therefore the law seems to have been set aside.

The above situation contributed to production of abstracts of accounts which could not be supported. The abstracts could not therefore be certified by the Controller and Auditor General.

- i) Local authorities also failed to submit the accounts for audit verification.
- ii) Failure to adhere to LATF conditions: local authorities produced fake accounts that were purportedly used to fulfill LATF conditions, thereby irregularly receiving LATF disbursements.

The Ministry is currently implementing the Local Authority Integrated Financial Operations Management Systems (LAIFOMS) in collaboration with the European Union in the Local Authorities. The objective of the program is to assist local authorities to update their primary books of accounts so that they can produce abstracts of accounts that are supported.

2.2.0 EVIDENCE FROM WITNESSES

2.2.1 THE DEPUTY PRIME MINISTER AND MINISTER FOR LOCAL GOVERNMENT

The Committee took evidence from the Deputy Prime Minister and Minister for Local Government Hon. Wycliffe Musalia Mudavadi, EGH, MP on 24th August 2009, 31st August 2010 and 7th September 2010. He elaborated on the financial management and governance in local authorities. He highlighted the following issues: -

i) Establishment of local authorities

A number of local authorities were established as a result of political initiation or even expediency. Over the years, the process that ought to have been followed in creating local authorities, that is, to establish the capacity in a given region and the ability of that region to have an independent local authority, had not been taken into account properly. Looking at their financial positions, only about 40 of these institutions in the country have the capacity to manage themselves a little more decently than others. Otherwise, many of them are surviving just on a lifeline and very thin budgets. They rely heavily on Government intervention either in the form of contribution in lieu of rates or in the form of LATF.

ii) Inability to provide accounts

For several years, local authorities have never been audited directly by the Controller and Auditor-General. Lack of capacity in these local institutions greatly contributed to the problem. As a result of their financial difficulties, they had difficulties in hiring and retaining competent staff. It therefore implies that for a long time, nobody was taking the issue of local government financial systems or management seriously.

iii) Recruitment and Competence of staff

Reliance on the Public Service Commission is one of the biggest problems, in that once an officer has been recruited by the Commission and is posted to a local authority, he is forgotten. The prospects of even rising within the schemes of service are dashed. There are officers who have acted for as long as eight to ten years because there is no proper scrutiny of the scheme of service within the local authority. This is a very serious problem in the local authorities which has a very serious impact in retaining good personnel. As earlier stated, the financial capacity of these institutions to pay commensurate salaries for the skills that they hire is not there. Officers therefore serve for a very short time before looking for greener pastures, as the local authorities cannot afford better pay for the skills they offer. This has depleted the capacity of local authorities in the delivery of services.

iv) Political interference

There has been a lot of political interference in the management of local authorities. Local authorities are political institutions and there has been a lot of politics both from the councillors and Members of Parliament. The number of requests or letters to eliminate officers is a very serious matter in the Ministry. At the grassroots, the

councillors want to wield influence. The local Members of Parliament would also like to impose their authority on the respective local authorities in a given area. There have been many politicians who say "remove this-and/or-that officer." This has interfered with the management of local authorities. These concerns are overwhelming and detrimental to the management of local authorities.

v) Utilization of LATF funds by local authorities

The LATF has been used effectively in some local authorities. In others there has been mismanagement, misuse or poor planning. However, the disparity between the amounts distributed to the local authorities impacts on the utilization of the funds. Even with all the goodwill, if one local authority gets Kshs5 million and another gets Kshs2 billion, bearing in mind that they have to deal with a number of programmes, and their local revenue collection cannot sustain their staff, naturally, when they get the LATF money there is always the temptation from these local authorities to quickly take that money and use it to pay salaries. Out of sheer desperation, some local authorities have used that money to pay salaries when that was never the sole intention of the LATF. At some stage it may be necessary to seriously consider rationalization of the local authorities.

Despite all these, LATF is still an important revenue sharing mechanism between the Central Government and local authorities.

vi) Kenya Local Government Reform Programme

In addressing the above challenges, the Ministry introduced the Kenya Local Government Reform Programme. Under this programme, the Ministry is putting a lot of emphasis in improving the financial management of local authorities. The programme has been running for sometime and it is funded by the Kenyan Government, in conjunction with the European Union. Many manuals, guidelines, training and capacity building have now been ongoing in local authorities in order to try and speed up their financial management process.

vii) Amendment of the Local Government Act, Cap. 265

The draft bill has been lying on the table of the Minister for Local Government for a long time. However, the draft bill was forwarded to the Cabinet for consideration. The draft bill is proposing some fairly radical changes that will assist in better management and governance of local authorities.

The Committee, while appreciating the effort made by the Minister in addressing the challenges and by forwarding the draft bill, notes that some sections of the Local Government Act, Cap. 265 are outdated and recommends that the Minister should ensure that the local authorities operate in accordance with the new Constitution.

2.2.2.0 NAIROBI CITY COUNCIL

The Committee scheduled a meeting with the Chief Officer, City Council of Nairobi for 27th July 2009. However, despite receiving notification in time, the Town Clerk/Chief Officer ignored the meeting and instead sent his deputy to represent him. On Friday 30th October

2009, the Committee also visited the Council after notifying the Town Clerk but he still opted to be away from office on that day, snubbing the Committee. Nevertheless, the Committee went ahead to meet with the Mayor and other staff, including the Deputy Town Clerk.

On the same date, the Committee's effort to visit the unsuitable land for a cemetery in Mavoko/Athi River purchased by the City Council were futile because no officer from the Council was willing to accompany the Committee. The Controller and Auditor General has since presented a special audit report on the purchase of the land.

The Committee noted with concern the lack of serious regard of the Committee by the Chief Officer and took great exception to his habitual absence whenever the Committee scheduled meetings with him.

2.2.2.1 Report by the Controller and Auditor General

According to the Controller and Auditor General, the City Council of Nairobi has been a haven of weak financial management and reporting over the years. For example, since 30th June 2001, the Council has not prepared accounts to date. It was noted to exhibit the following characteristics (among many others): -

i) Non – submission of accounts in regard to LATF receipts

When accounts of public funds such as LATF are not submitted for audit, it is an indication that the accounts are either not prepared at all or are poorly prepared. Lack of accounts is also an indication of possible misappropriation of funds.

ii) Difficulties & delays in providing information/records for audit

Delay or difficulty in availing documents or absence of documents could imply possibility of concealing possible fraud or misappropriation.

iii) Delay in submission of accounts and accounts with suspense figures

Suspense figures or figures not defined could also be a possibility of concealing wrongly applied appropriations. The presence of many of such figures or huge amounts indicated should be a cause for alarm.

iv) Submission of unsigned accounts leading to delays in completion of audits

When accounts are not signed by the authorized officers, it is not only a sign of lack of authenticity of the documents but also lack of ownership and responsibility.

v) Lack of fixed assets register

A fixed assets register helps to identify the assets of the council. The absence of such an important document is an indication that the council may not be able to account for all its assets, including motor vehicles, land, machinery, among others. The assets are

therefore susceptible to theft and any other form of loss without the knowledge or record of the council.

vi) Obvious inaccuracies in the accounts submitted

The accounts so far submitted by the council contain obvious inaccuracies, implying sheer negligence, incompetence or inefficiency in the part of the officers preparing or supervising the work.

The Committee recommends that in future, any Chief Officer who disregards the Committee shall not only be disciplined but also barred from holding such office.

The Committee also recommends that owing to the serious anomalies noted in the council, there is urgent need to strengthen systems of financial management and reporting by the Town Clerk, failure to which he should be disciplined.

The Committee further recommends that in future, if the Chief Officers fail to avail documents for audit verification at the time of audit without good cause, they should be barred from holding public office conferred by the Republic of Kenya.

2.2.3.0 NAKURU MUNICIPAL COUNCIL: 2004/2005 AND 2005/2006 ACCOUNTS

The Committee took evidence from the council on 31 July 2009. During the evidence, the following audit queries were examined: -

2.2.3.1.0 Audit Query

a) Non-submission, opening balances, format and accuracy of the accounts

- i) The council had not submitted audited accounts for 15 years from 1988/1989 to 2001/2002 and 2003/2004 as required by Section 229 of the Local Government Act, Cap.265. The council, therefore, continues to be in breach of the law.
- ii) In the absence of audited accounts for 15 years from 1988/89 to 2001/02 and 2003/2004, the origin and accuracy of the opening balance for 2004/05 as at 1st July, 2004 could not be confirmed. The 2004/2005 abstract of accounts were prepared using the simplified accounting system, a format which had not been approved and gazetted by the Minister for Local Government as required by Section 229(2) of the Act. The council was, therefore, in breach of the law.
- iii) The accounts of 2004/2005 did not balance by an unexplained amount of Kshs281,856,376. Included in the balance sheet are creditors' figures of Kshs529,098,296.40. Further, the accounts did not include a cash flow statement. The general ledger fund, the LATF balance sheets and the approved estimates were also not present. The Consolidated revenue accounts for the year ended 30th June, 2005 reflect a surplus of Kshs10,676,000 while individual departmental revenue accounts surpluses totaled Kshs. 8,272,770. The difference of Kshs. 2,403,230 has not been explained. In view of the above issues, the accuracy of the accounts of the 2004/2005

Financial Year and for all the subsequent years including 2005/2006 could not be confirmed.

2.2.3.1.1 Response

- i) The Committee heard evidence given by the Chief Officer that the accounts were prepared by a contracted accountant. The council and the firm have since made efforts to address the shortfalls of the accounting system applied to be within the approved standards by the Ministry. All errors and anomalies for this particular period have since been corrected and the queries raised have been addressed accordingly.
- ii) Currently, the Ministry of Local Government has addressed the issue of format by introducing a statutory financial reporting time limit which came into force in July, 2008, and the council has complied with the new requirement by preparing 2007/2008 abstract of accounts based on the new approved system.

The Committee noted with concern that over the years, the absence of the accounts could be as a result of unqualified staff. The Committee abhorred the manner in which councils contract accounting firms that prepare accounts without books of prime entry. The accounting firms then leave the councils with accounts that are meaningless and are not based on anything despite receiving full payments. The Chief Officers then accept those accounts and sometimes they do not sign them. In addition, they pay for these services even in advance.

The Committee further deplored the lack of seriousness by the Council to employ even casuals to deal with the accounts, but are only eager to contract and pay for the services to private accountants, who fail to reciprocate value for the money they are paid. In the presence of these glaring anomalies, the Committee could not rule out possibility of collusion between the Chief Officers and the contracted accounting firms. The Committee noted with grave concern the failure by the Council to respond to audit queries or produce documents at the time of audit.

The Committee recommends that the Chief Officer should not only ensure that documents are availed at the time of audit but also respond promptly to all audit queries. The Committee also recommends that municipalities such as Nakuru, with capacity to hire professional staff, should be barred from using the services of private consultants for accounting purposes. The accountants should also ensure that no accounts are produced unless correct balances are obtained.

The Committee further recommends that the firms and the officers involved should be investigated by the Kenya Anti-Corruption Commission and the Institute of Certified Public Accountants of Kenya (ICPAK), with a view to prosecuting culpable culprits, barring the firms from practicing and precluding them from future award of government contracts.

b) Fixed Assets

2.2.3.1.2 Audit Query

- i) The Fixed Assets balances increased by Kshs2,054,339,517 as at 30th of June 2003 to Kshs2,082,747,512 as at 30th June 2004. However, the Council did not maintain a fixed

asset register. It did not keep a Capital Ledger. Its asset movement schedule was not shown. Ownership documents for land and some motor vehicles were not made available for audit review. The Fixed Asset balance did not include value of plant and motor vehicles of Kshs5.9 million purchased through LATF and Local Authority Road Maintenance Levy Fund. The Fixed Asset balances erroneously included an amount of Kshs88,388,842.00 in respect of other long-term capital outlets being expenditure incurred on rehabilitation of public roads which fall under the jurisdiction of the Central Government. Furthermore, although the assets of the Council Water Fund Department were taken by Nakuru Water and Sewerage Company (NAWASCO), which was created in 2004 as a wholly owned company of the Council, no lease agreement between the Council and the water company was produced for audit review.

- ii) Further, no disclosure was made in the accounts on such takeover. Additionally, revenue accruing to the Council from the Company could not be ascertained. In view of the forgoing, it was not possible to confirm the existence, security, location, ownership and accuracy of the fixed assets figure of Kshs2, 082,747,512 reflected in the Balance Sheet as at 30th June 2005. The figures increased by Kshs11.36 million to Kshs2, 294,109,051 as at June 2006.

2.2.3.1.3 Response

The Committee heard evidence given by the Chief Officer that the fixed assets register, movement schedules and capital ledgers are being updated to comply with circular NO. 5/2007 from the Ministry of Local Government which requires updating of registers and valuing of the assets at Market Value as at June 2008. The Council is in the process of acquiring Title Deeds for lands in all the council institutions and public land owned by the Council. The necessary provisions have been made in the council's budget. The Ndungu Report on Land had slowed the process. The council will engage the services of Automobile Valuers to value the Council's vehicles. The vehicles and plants purchased through LARM were done but treated as post balance sheet effect. Further all purchases were factored and fully approved in the budget. The Capital outlay in question, was expensed on roads under the municipal not on central government roads.

The Committee noted with concern that the matter had remained outstanding for a very long time and recommends that the Chief Officer should resolve it without further delay, failure to which he should be disciplined.

c) Debtors

2.2.3.1.4 Audit Query

- i) The debtors' balances increased from Kshs196,530,301 as at June, 2003 to Kshs546,863,726 as at June, 2005. However, the working schedules provided for audit had a balance of Kshs564, 661,216 resulting to unexplained amount of Kshs17, 797,490.
- ii) Further, the council did not maintain proper records including debtors ledger accounts or debtors control ledger, register for property rents and rates, contribution *in lieu* of

rates, a single business permit, urban products, road charges, amount owned by the Government of Kenya and other statutory institutions.

- iii) The staff advances register was also poorly maintained. Most of the staff who had taken advance salaries were omitted from the supporting schedules. No imprest register was made available for audit review. However, an audit inspection carried out in June 2005 indicated that imprests of Kshs4.9 million were owned by staff and councillors as of that date.
- iv) The council did not produce evidence of how these imprests were cleared from the records but they were excluded from the debtors' schedules as at 30th June, 2005. Furthermore, no provision for bad debt was made in the accounts. In view of the above issues, the accuracy and the irrecoverability of the debtors' advances and imprest amounts as at 30th June, 2005 could not be confirmed.
- v) Consolidated balance sheet Debtors decreased by Kshs171,356,606 from Kshs546,863,726 as at 30th June, 2005 to Kshs375,507,120 as at 30th June, 2006. Available information indicated that general debtors, advances to staff and outstanding imprests to staff amounting to Kshs5, 055,063, Kshs6, 015,132.95 and Kshs5, 562,248 respectively were excluded from the accounts as of 30th June, 2006. In addition, no provision for bad and outstanding debts was made available in the accounts.
- vi) Under the circumstances, the accuracy and recoverability of the debtors' amounts reflected in the balance sheet as of 30th June, 2006 could not be confirmed.

2.2.3.1.5 Response

- i) The Committee heard evidence given by the Chief Officer that although the debtors' control ledgers were not maintained by the Council for quite some time, the balance of Kshs564, 853,726 can be supported by schedules available in the Council. Currently, the debtors' control ledgers are fully computerized for efficiency and effectiveness.
- ii) The same applies to the Financial Year 2005/2006 where the Council is computerizing its operations under the Local Government Reform Programme. Hence both payments and receipting will be captured when the exercise has been completed. It is expected to maintain a general ledger among other reports on which accurate and reliable information will be obtained.
- iii) Furthermore, the manual ledgers and registers have been initiated. Some of the council debtors are internal such as staff arrears, advances, invoices and unpaid salaries. The council has improved on maintenance of records such as ledgers and registers. All these schedules are available for verification.
- iv) On outstanding imprests, the imprests register shows some amount of unsurrendered imprests on 30th June, 2005. However, the management has taken up the issue. Letters have been written to the concerned members of staff asking them to surrender all the supporting documents to that effect. Imprest registers have been updated. They are currently up to date and all the rules governing them are currently in force.

The Committee noted that since the National Housing Corporation took over the collection of rent from the Council, the corporation failed to offset the collections with the loan outstanding. The Committee was also concerned that the Council allowed tenants to occupy houses without payment of rent for a long time, resulting in huge debts uncollected, implying possible negligence, incompetence or collusion by the officers concerned.

The Committee abhorred the manner in which the Chief Officer failed to recover funds from the imprest holders forty eight hours after conclusion of business for which the imprest was taken as required by law.

The Committee, while noting the action taken by the Chief Officer, recommends that the full amounts of the imprests outstanding are recovered without further delay.

The Committee further recommends that the Permanent Secretary, Ministry of Local Government should ensure that Chief Officers abide by financial regulations and recover imprest within 48 hours after return to duty station. In the event of the holder failing to account for or surrender the imprest, the Chief Officer must recover the amount in full from the salary of the defaulting officer within 30 days, failure to which the outstanding amount should be recovered from the Chief Officer. The Committee also recommends that the Chief Officer should always ensure that accounting records for the Council are properly maintained and updated, failure to which he should be personally held responsible.

d) Deferred Charges and Income

2.2.3.1.6 Audit Query

Included in the balance sheet current assets are balances referred to as deferred charges and deferred income of Kshs409,680 and Kshs251,695,875 respectively, totalling Kshs252,105,559. However, these amounts remained in the books of the 2002/2003 Financial Year. Further, there were no notes, analysis or explanations to show what they represented.

In the circumstances, the existence of the deferred charges and income could not be confirmed.

2.2.3.1.7 Response

The Committee heard evidence given by the Chief Officer that the matter had been dealt with in (a) above.

e) Cash, Bank and Overdraft Balances

2.2.3.1.8 Audit Query

- i) The net cash in bank and overdraft balances increased from Kshs25,969,094 as at 30th June 2003 to Kshs67,664,115 as at 30th of June 2005. However, no Board of survey report confirmed the cash in hand amount of Kshs1,894,947 and unanalyzed amount of Kshs62,406, as the main cash book, the monthly bank reconciliation statement and the bank balance confirmation certificates were not made available for audit review. Authority to operate bank overdrafts whose balance was Kshs8,122,875 in 2003 and Kshs27,883,794 as at June 2004 was also not made available for audit review. Under the circumstances, it was not possible to ascertain the accuracy and the legality of the cash in bank and overdraft balances as at 30th of June 2005.

- ii) The net cash in bank overdraft balances decreased from Kshs75,886,990 as at June 30th 2004, to Kshs 46,660,521 as at 30th of June 2005. However, the board of survey to reconfirm cash in hand balance of Kshs1,458,886 was not done. Bank balance confirmation certificates were not made available and monthly bank statements for each bank account were not made available. Further, fixed deposits and an overdraft of Kshs5 million and Ksh7,083,327 held in a finance building society and a commercial bank were not disclosed in the accounts. The authority to operate three bank overdrafts totalling Kshs14,676,549 was also not made available. Under the circumstances, the accuracy of the cash in bank and the overdraft balances held by the Council as at 30th of June 2005 could not be confirmed.

2.2.3.1.9 Response

The Committee heard evidence given by the Chief Officer that the Council maintained cash books for every bank account and that updating on the same is being done on a daily basis. The Board of survey which was not in place in 2004/2005 was constituted in the latter year. Regular stock taking and cash counts are done on yearly basis by the audit team that is selected. The issue of un-credited and un-presented cheques which were not factored in, hence the differences in the reconciliation, has now been addressed forthwith. The certificates of balances for cash are now available. The Council actually got them from the banks for verification. The overdraft facility was omitted due to non-consolidation of the transaction in the code amounts which was due to the time deadline given. On bank overdraft, authority by the Ministry through Ministerial Letter No.39903111269 dated 2nd October, 2003, was inadvertently not availed for audit (but has since been availed) and is regretted.

The Committee noted with concern the inordinate delay in availing documents to auditors and recommends that in future, officers who fail to avail documents at the time of audit should be disciplined. Officers who prepare accounts with obvious inaccuracies should be disciplined.

f) Stock

2.2.3.2.0 Audit Query

The stock balance remained the same as in 2003/2004 at Kshs1,298,588 as at 30th June, 2005. However, a review of the ledger cards revealed existence of stock worth Kshs3,301,000 in respect of general stores and accountable documents which were not disclosed in the accounts. Further, notes of the accounts in respect of the policy on the stock were not provided. In addition, no physical stock taking certificates were made available to support the stock balances. In the circumstances, the accuracy of the stock figure of Kshs1, 298,588 as at 30th June, 2005, could not be confirmed.

2.2.3.2.1 Response

The Committee heard evidence given by the Chief Officer that the board of survey had not been constituted during that year 2004/2005. The opening balances and the average were taken the same year and that is why the stock levels remained the same. The Council

could not do anything since there was no board of survey and could not either adjust or edit the stock levels as at that time. This was subsequently corrected in the following year.

The Committee noted with concern at the continued lack of proper book keeping in the Council and recommends that the Chief Officer should go beyond relying on a board of survey and have a proper stock recording system that is able to manage the stocks using the double entry as required in proper management.

g) Nugatory Payments

2.2.3.2.2 Audit Query

During the year under review, the Council incurred and paid nugatory payments totalling Kshs12, 533,195 in respect of penalties levied by the NSSF and Kenya Local Government Superannuation Fund for failing to remit statutory deductions on time. The Council failed to comply with respective statutory requirements.

2.2.3.2.3 Response:

The Committee heard evidence given by the Chief Officer that the council budgets have always been in deficit. This mainly contributed to the 2005 Collective Bargaining Agreement. The deficit is normally reflected as arrears on the non-discretion payments which attract a penalty. The council does not pay gross salaries but net salaries instead. From January to May, payments are made promptly but from then on, the council waits for Government support in form of LATF so that the other part of the gross payment is cleared. During the period, the council lumps up and pays the salaries at once, and still attracts penalties. This is an issue which is hard for councils and will continue with the same for a long time. The institutions know the cycle of the cash flow during the year but still councils are held liable to pay penalties that are five times more whenever payments are delayed.

The Committee while appreciating the difficulty the councils face in handling the matter, recommends that, in the meantime, the councils in consultation with the Ministry of Local Government, should explore the possibility of negotiating for waiver of penalties with the relevant institutions since they are public entities. However, the councils should always ensure that statutory deductions are remitted promptly upon collection to avoid a repeat scenario.

h) Long Term Loans

2.2.3.2.4 Audit Query

The long term loan balance stood at Kshs104, 281,268 as at 30th June, 2005. However, details of this loan which was a brought forward figure were not provided. Further, the Council did not maintain a loan register or supporting schedules showing its breakdown. In addition, information gathered from the council on the debt position indicated that the Council had a loan balance with the NHC of Kshs115, 827,000 as at March 2005. It was not clear whether the balance sheet long-term loan balance was related to the loan with the NHC. Available information indicated that the Council was also servicing two other loans of Kshs10 million and Kshs15 million respectively from two commercial banks. The balance of

these two loans was Kshs15, 915,069 as at 30th June 2005. However, the amount was not disclosed in the accounts. In view of the above issues, the accuracy of the long-term loan balance could not be confirmed.

2.2.3.2.5 Response

- i) The Committee heard evidence given by the Chief Officer that the loans were granted by the NHC in form of material and infrastructure loans in the 1960s, 1970s and 1980s. The Council was appointed as an administrative agent while others were directly invested in the Council. Due to the long history and changes in the Central Government and Ministry structures at some stages locked the information flow on mandated function. This had negative effects on how the pending issues were to be resolved. Also, the high turnover of senior staff contributed to the uncertainty and true nature of the loans. This was further distorted by the disagreement that arose between the Council and the NHC over the management of the houses to recover the loans. But during this year, a thorough reconciliation was done which revealed an outstanding amount of Kshs111, 257,613.05 as the true position of debtors as at 31st March, 2009. So the two organizations agreed to stop the debt for the two estates. Therefore, this will not recur in future.
- ii) There was one more loan which the Water Transfer Act (2002) did not put into account. The Council is therefore, not sure whether the assets were transferred to the water company. But it was frozen at a certain point by the Central Government. For purposes of forming the company and acquiring further loans from Africa Development Bank (ADB) the loan was frozen. The matter has since been resolved with the NHC.

The Committee noted with concern the delay in availing documents for verification at the time of audit and recommends that officers who fail to avail documents or information at the time of audit should be disciplined.

i) Revenue And Expenditure Accounts

2.2.3.2.6 Audit Query

During the years under review, the Council did not maintain daily and monthly abstracts of receipts and payments, cashbooks, income and expenditure ledgers as required. Further, payments made, totalling to Kshs2, 895,875 in 2004/2005 and expenditure amounting to Kshs30, 406,284 captured under Environment Department in 2005/2006 were unsupported. In addition, purchased goods were not taken on charge and unsurrendered imprest was posted to the payment analysis without having been accounted for as required. In addition, expenditure items on local authority road maintenance account showed a difference of Kshs1,309,527 between the supporting totals of Kshs11,121,034 and the amount of Kshs12,430,502 posted in the abstract of accounts. In view of the foregoing issues, the accuracy of revenue and expenditure accounts for the years ended 30th June, 2005 and 30th June, 2006 could not be confirmed.

2.2.3.2.7 Response

The Committee heard evidence given by the Chief Officer that currently, the Council has computerized its operations and has eased the maintenance of records such as daily

abstracts of receipts and payments, expenditure ledgers among others. In addition, the Council has centralized both receipt collection and payments. So, most people come to pay at Town Hall. This ensures that there is no chance of omission of transactions while preparing abstract of accounts.

The Committee recommends that the Chief Officer should always ensure that the council maintains correct and up-to-date accounting records, failure to which he should be personally held responsible.

j) Renewal Funds

2.2.3.2.8 Audit Query

Section 219 (1) of the Local Government Act, Cap.265 required the Council to create and set aside adequate renewal funds to provide for the entire or partial replacement of some or all of its assets which owing to depreciation and other causes, will require, at some future date to be replaced. During the two years, the Council did not make any provision for depreciation in accounts. Further, it did not set aside any renewal funds as required. The Council was, therefore, in breach of the law. It is not clear how the Council intends to replace or finance the replacement of fixed assets in future in the absence of renewal funds.

2.2.3.2.9 Response

The Committee heard evidence given by the Chief Officer that the Council did not factor in the Renewal Funds for the fixed assets and plans. The Council has, however, provided them as depreciation in the current year 2009/2010. Using the current system of the Medium-Term Expenditure Framework Budget (MTEF), the Council actually budgets for the assets.

The Committee noted that the viability of a local authority or any public institution is determined by its ability to sustain service delivery. If all assets are depreciating, and there is no ability to replace them, the sustainability of service delivery is put in doubt. So the principle of depreciating a capital is a way of creating replacement of that capital, and hence, the importance and the need for the section 219 (1) of the above mentioned Act.

k) Budget And Budgetary Control

2.2.3.3.0 Audit Query

During the year 2004/2005, the council exceeded its expenditure budget by Kshs50,299,534 or 28.26 per cent of the approved estimates of Kshs177,890,000, without Ministerial approval. During the subsequent year, the Council incurred over-expenditure and realised a shortfall in revenue collection of Kshs22,880,081 or 26 per cent, and Kshs18,622,697 or 25.8 of the approved budget amount of Kshs86,488,536 and Kshs72,181,448, respectively, without Ministerial approval. The Council was, therefore, in breach of the law.

2.2.3.3.1 Response

The Committee heard evidence given by the Chief Officer that the over-expenditure on a number of Vote Items was occasioned by the general inflation, which affected the Council's running costs in terms of goods and services, and works, particularly the cost of fuel and other petroleum products. Through the Ministry of Local Government's performance contracts, the Council was supposed to comply with the set targets on utilization of funds and cost reduction, which greatly contributes towards budget adherence. The various Ministry budget guidelines have since emphasized on the preparation of a budget that is participatory and inclusive with a number of compliance conditions that enhanced the budget increase. Three years consecutively, from 2007 to 2009, the budget has been prepared on the Local Authority Integrated Financial Operating Managing System (LAIFOMS) module, which identifies the core centre and improves on cost control.

The Committee noted with concern the improper manner in which the Council spent in excess of the approved budget contrary to the law. Further, and in breach of financial regulations, the Council interfered with vote items.

The Committee recommends that the then Chief Officer Mr. Gabriel Kinaiya (current Clerk of Kakamega Municipal Council) should be disciplined for authorizing expenditure in excess of the approved budget. The Committee also recommends that investigations should be undertaken to ascertain possible misappropriation of public funds, with a view to prosecuting the officers concerned.

I) Non – Response to Draft Report

2.2.3.3.2 Audit Query

The abstract of accounts was submitted to the Council for comment on 30th May, 2007. However, no comments have been received to date. In the same note, it appears they were forwarded the same day because the draft report which the Controller and Auditor-General intended to issue for 2005/2006 was submitted on 30th May 2007, but no response has been received to date.

2.2.3.3.3 Response

The Committee heard evidence given by the Chief Officer that the Council accepts the fact that it did not respond to the auditors' draft report for the year 2005/2006, but it had responded to one for the year 2004/2005. This was due to an omission. The Council has since taken the draft to the auditors as a serious matter and this can be observed in the current draft report of 2006/2007 that was responded to on 5th May, 2008. The one for 2004/2005 was responded to on 20th June, 2007, and copies are available for verification.

The Committee noted with concern the inordinate delay in availing documents to auditors and recommends that officers who failed to avail the documents at the time of audit should be disciplined.

m) Local Authority Transfer Fund (LATF)

2.2.3.3.4 Audit Query

- i) During the year 2005/2006, the council received Kshs93,548,916 as the LATF grants. However, the council did not maintain separate and independent LATF books of accounts and records such as daily and monthly abstracts of payments, cash books, vote books and ledgers as required.
- ii) Further, the LATF expenditure items in operations, maintenance, debt resolution, plan and capital projects were not verified due to unavailability of relevant supporting documents. Under the circumstances, it was not possible to confirm that the LATF disbursements for the Ministry of Local Government totalling Kshs63,548,916 were properly accounted for and utilized for the intended purposes only.

2.2.3.3.5 Response

The Committee heard evidence given by the Chief Officer that the Council, as a requirement of the LATF Act, is currently maintaining the required books of accounts, the individual ledger, the cash book and other records for those particular funds effectively.

The Committee while appreciating that measures have since been put in place to address the queries, noted with deep concern that huge public funds could not be properly accounted for in a long time, leaving avenues for possible abuse.

The Committee recommends that the Chief Officer should properly account for the amount of Kshs63,548,916, failure to which investigations should be undertaken so as to hold the officers responsible and prosecute those found culpable.

n) Other Balances

2.2.3.3.6 Audit Query

The balance sheet reflects other balances are under-represented by section comprising revenue account, general reserve fund, capital discharge, capital fund, unapplied capital receipts, stores and labour charges and long-term loans. All these items balance, except for revenue account that remained the same as in the previous year. Further, deferred charges, income deposits and provisions balances also remain the same as the previous year. However, no details, notes or statements of changes were made available for audit review. In the circumstances, the accuracy of these balances could not be determined.

2.2.3.3.7 Response

The Committee heard evidence given by the Chief Officer that the Council will seek ratification and approval from the Minister. Several balances were written-off, but did not have the approval from the Minister.

The Committee noted that the figures in excess of Kshs2.5 billion are not accounted for and even the Council cannot explain their existence. These should not be seen

as simple figures. It means that there are probably many things that are hidden. The Committee recommends that the Chief Officer should ensure that the figures are fully accounted for and verified. The Committee also recommends that officers who deliberately failed to keep proper books of accounts and also failed to account for the funds should be investigated and disciplined.

2.2.4 MOMBASA MUNICIPAL COUNCIL

The Committee took evidence from the Council on 3rd August 2009.

The Committee was informed that the accounts of the Council had not been certified by the Controller and Auditor General. The accounts of the Council from 1990 up to 2000, a gap of ten years, were not prepared, but the subsequent accounts of 2000/2001 were claimed by the council to have been prepared. The Accounts were prepared by a consulting firm, M/s Ken Njoroge & Associates, out of which there were various issues that were raised later on the inadequacy of the work that was done. Investigations revealed that during the ten-year gap of 1990 - 2000, the then Chief Officer might have used incomplete records to come up with the figures. This is reflected in the suspense accounts that have been carried across over the years.

In response to the audit findings, the Chief Officer of the Council informed the Committee that from their records and findings, the then office bearer, during the ten-year gap of 1990-2000, might have used incomplete records to come up with the faulty figures. This is clearly reflected in the suspense accounts that have been carried across over years. However, the Council is now in the process of contacting the consultant who did the work and the previous office bearers.

The Committee noted that the inadequacy observed in those accounts may not even enable the Controller and Auditor-General to authenticate the opening balances and lead to audit certification. The Committee was concerned about how the figures of the opening balances of the accounts of 2000/2001 were arrived at.

It is the duty of the Chief Officer to ensure that proper accounts or records are kept, proper abstracts of accounts are done and that reports are done to the Permanent Secretary in the Ministry. The Committee therefore abhorred the manner in which sub-standard accounts were prepared for the Council by the accounting firm, yet payments were made for the services.

The Committee noted with concern that over the years, the absence of the accounts could also be as a result of unqualified staff. The Committee abhorred the manner in which councils contract accounting firms that prepare accounts without books of prime entry. The accounting firms then leave the councils with accounts that are meaningless and are not based on anything despite receiving full payments.

The Committee noted that most of the Chief Officers did not take their work seriously or do not take accounting work for the local authorities seriously. The Committee could attribute this to laxity, incompetence, inefficiency or sheer negligence.

The Committee further deplored the lack of seriousness by the Council to employ even casuals to deal with the accounts, but are only eager to contract and pay for the services to private accountants, who fail to reciprocate value for the money they are paid. In the presence of these glaring anomalies, the Committee could not rule out possibility of collusion between the Chief Officers and the contracted accounting firm. The Committee noted with grave concern the failure by the Council to respond to audit queries or produce documents at the time of audit.

The Committee recommends that the Chief Officer should not only ensure that documents are availed at the time of audit but also respond promptly to all audit queries. The Committee also recommends that municipalities such as Mombasa, with capacity to hire professional staff, should be barred from using the services of private consultants for accounting purposes. The accountants should also ensure that no accounts are produced unless correct balances are obtained.

The Committee further recommends that the firm M/s Ken Njoroge & Associates and the officers involved should be investigated by the Kenya Anti-Corruption Commission and the Institute of Certified Public Accountants of Kenya (ICPAK), with a view to prosecuting culpable culprits, barring the firm from practicing and precluding it from future award of government contracts.

2.2.5 THIKA MUNICIPAL COUNCIL

The Committee took evidence from the Council on 28th July 2009.

The Committee was unable to commence evidence on the accounts of the Council because the Chief Officer brought responses to management letters as opposed to responses to the certified accounts by the Controller and Auditor General. Since it was the first time for the Chief Officer to appear for evidence, the responses were not only irrelevant but also inadequate.

The Committee noted that most of the Chief Officers did not take their work seriously or do not take accounting work for the local authorities seriously. The Committee could attribute this to laxity, incompetence, inefficiency or sheer negligence.

The Committee recommends that the Chief Officer should always ensure that proper accounts or records are kept and proper abstracts of accounts are done and availed to the Controller and Auditor General at the time of audit as stipulated by law, failure to which he should be disciplined.

2.2.6 ELDORET MUNICIPAL COUNCIL

The Committee took evidence from the Council on 10th August 2009.

The Committee was informed that the accounts of the Council had not been certified by the Controller and Auditor General. However, the Council has since done the accounts up to 30th June, 2008. The accounts were undergoing audit review. No certificate had been issued by then and, therefore, no accounts had been tabled in Parliament as at August 2008.

The reasons for the delays include: the quality of the accounts that had been prepared, the issues that had been raised which had not been responded to, and the several adjustments that the auditor had sought from the Council. A number of those adjustments had not been made. The Accounts for 2003/2004 had a suspense balance of about Kshs. 623 million. When accounts with such a figure are unaccounted for, then the reliability of those accounts altogether could be in doubt. However, the Controller and Auditor-General had promised to look at those accounts and issue certificates up to 30th June, 2007 by October 2009.

The Committee noted that most of the Chief Officers did not take their work seriously or do not take accounting work for the local authorities seriously. The Committee could attribute this to laxity, incompetence, inefficiency or sheer negligence.

The Committee also noted that the delay or difficulty in availing documents or absence of documents could imply possibility of concealing possible fraud or misappropriation. The Committee noted with concern the inordinate delay in availing documents to auditors and recommends that in future, officers who fail to avail documents at the time of audit should be disciplined.

The Committee also recommends that the Chief Officer should ensure that proper accounts or records are kept and proper abstracts of accounts are done and availed for verification at the time of audit as stipulated by law, failure to which he should be held responsible.

The Committee abhorred the manner in which the officers delayed in production of accounts and recommends that Kenya Anti-Corruption Commission should investigate such delays as it indicates possibility of concealing fraud.

2.2.7 KISUMU MUNICIPAL COUNCIL

The Committee took evidence from the Council on 4th August 2009.

The Committee was informed that the accounts for the 2003/2004, 2004/2005 and 2005/2006 financial years had already been laid in Parliament and were therefore due for examination by the Committee.

The Committee was unable to commence evidence on the accounts of the Council because the Chief Officer brought responses to management letters as opposed to responses to the certified audited accounts by the Controller and Auditor General. Since it was the first time for the Chief Officer to appear for evidence, the responses were not only irrelevant but also inadequate.

The Committee noted that most of the Chief Officers did not take their work seriously or do not take accounting work for the local authorities seriously. The Committee could attribute this to laxity, incompetence, inefficiency or sheer negligence.

The Committee noted with concern the casual manner in which the officers of the Council prepared to appear before the Committee and recommends that in future, the habit shall not be tolerated by the Committee.

2.2.8 NAROK COUNTY COUNCIL

The Committee took evidence from the Council on 6th August 2009.

The Committee was informed that the County Council of Narok had the last accounts certified for the year ended 30th June, 1995. This was done on 10th May, 2002. However, they hired a consultant (a firm of accountants) to do the accounts for the 12 years from 1995 up to 30th June, 2007. The hired accountants were M/s Mwema and Associates. When the accounts were presented to the Controller and Auditor-General, they were found not to be supported by the books of accounts. There were no trial balances and schedules to support the numbers. Figures to primary books of accounts could not be traced, opening balances were deferred from year to year, and some obvious balances like unpaid debtors were even missing in the accounts, and creditors as well. So, the inadequacies notwithstanding, such accounts formed the background for the subsequent accounts.

The Committee therefore abhorred the manner in which sub-standard accounts were prepared for the Council by the accounting firm, yet payments were made for the services, let alone retaining the same consultants for the whole period.

The Committee noted that most of the Chief Officers did not take their work seriously or do not take accounting work for the local authorities seriously. The Committee could attribute this to laxity, incompetence, inefficiency, sheer negligence or the frequent transfers done by the Ministry.

The Committee further deplored the lack of seriousness by the Council to employ even casuals to deal with the accounts, but are only eager to contract and pay for the services to private accountants, who fail to reciprocate value for the money they are paid. In the presence of these glaring anomalies, the Committee could not rule out possibility of collusion between the Chief Officers and the contracted accounting firm. The Committee noted with grave concern the failure by the council to respond to audit queries or produce documents at the time of audit.

The Committee recommends that the Chief Officer should not only ensure that documents are availed at the time of audit but also respond promptly to all audit queries. The Committee also recommends that a council such as Narok, with capacity to hire professional staff, should be barred from using the services of private consultants for accounting purposes. The accountants should also ensure that no accounts are produced unless correct balances are obtained.

The Committee further recommends that the firm M/s Muema & Associates and the officers involved should be investigated by the Kenya Anti-Corruption Commission and the Institute of Certified Public Accountants of Kenya (ICPAK), with a view to prosecuting culpable culprits, barring the firm from practicing and precluding it from future award of government contracts.

2.2.9.0 MEETING WITH THE URBAN DEVELOPMENT DEPARTMENT OF THE MINISTRY OF LOCAL GOVERNMENT

The meeting between the Committee and the Urban Development Department (UDD) arose from the observations made during the countrywide Committee inspection tours. During the inspection tours, the Committee noted that most of the stalled projects (which involved huge public funds) were conceived, designed, contracts awarded, supervised, and payments made by the UDD. In most cases, the projects were undertaken without the involvement of not only the locals and the relevant councils, but also the Inspectorate of Local Authorities department. The projects done include markets, bus parks, access roads, livestock holding grounds, town halls, among others.

The Committee met with the Department on 30th November 2009, 17th February 2010 and 3rd March 2010 in order to get explanations on the inadequacies observed and noted. The Committee's observations and recommendations on the individual projects are contained elsewhere in this report.

The Committee therefore sought to know the role, mandate and operations of the Department and whether it has added value to its existence.

According to the Controller and Auditor-General, the audit reports of all the projects done by the Department had not been finalized. Therefore, the Committee was advised to concentrate on the specific projects inspected on the ground. The issues concerning the projects that were inspected by the Committee in general could be highlighted as follows:-

- (i) A number of the projects that were undertaken are incomplete;
- (ii) Some of them commenced late as opposed to the commencement dates that were stipulated in the contracts;
- (iii) Some were stalled or were terminated;
- (iv) Some of the projects required retendering;
- (v) Those that were done on behalf of the councils, the councils themselves were not involved in the preparation of those contracts and the projects;
- (vi) Most projects were characterized by slow progress of works and in some contracts there was poor workmanship;
- (vii) Some of the contracts included huge and unrealistic variations;
- (viii) Some of them were undertaken on land that has disputes;
- (ix) Most of the contracts were also characterized by late payments, unsupported payments, or payments that were not commensurate with the works done;
- (x) Some projects were started even before Environmental Impact Assessment was done;
- (xi) To date, some of those projects are not yet in use despite government spending huge amounts of money on them;
- (xii) According to records, about 69 major projects whose cost runs to billions of shillings were undertaken by the department country wide.

2.2.9.1 The establishment of the UDD

The UDD was created in 1989 with the purpose of providing technical support to the Ministry of Local Government and the local authorities whose technical capacity then could

not cope with the service delivery demands associated with urbanization in the country. It is a multi-disciplinary department that was started as a technical arm to assist the local authorities in designing projects or in executing some of those projects. The thinking then was that anything technical, namely, roads, sewerage and others could be handled by Ministries like the Ministry of Water and Irrigation, Ministry of Public Works and the Ministry of Housing. Experience showed that because this is a local government system, the Central Government has a way of identifying priorities. There are those priorities which are identified by the local authorities which may not necessarily be priority projects for the Central Government. So, the practice then was that a local authority would place an application to the Central Government, say to the Ministry of Local Government, and it was discovered that it was not easy to get that kind of technical support. The Department has a technical capacity of 50 Officers drawn from various fields i.e. Engineers, Architects, Quantity Surveyors, IT specialists among others.

The Department was tasked to explain in depth the inadequacies noted and observed in three main projects i.e. Chavakali Market in Vihiga, Embu Bus Park and Garissa Bus Park as highlighted below: -

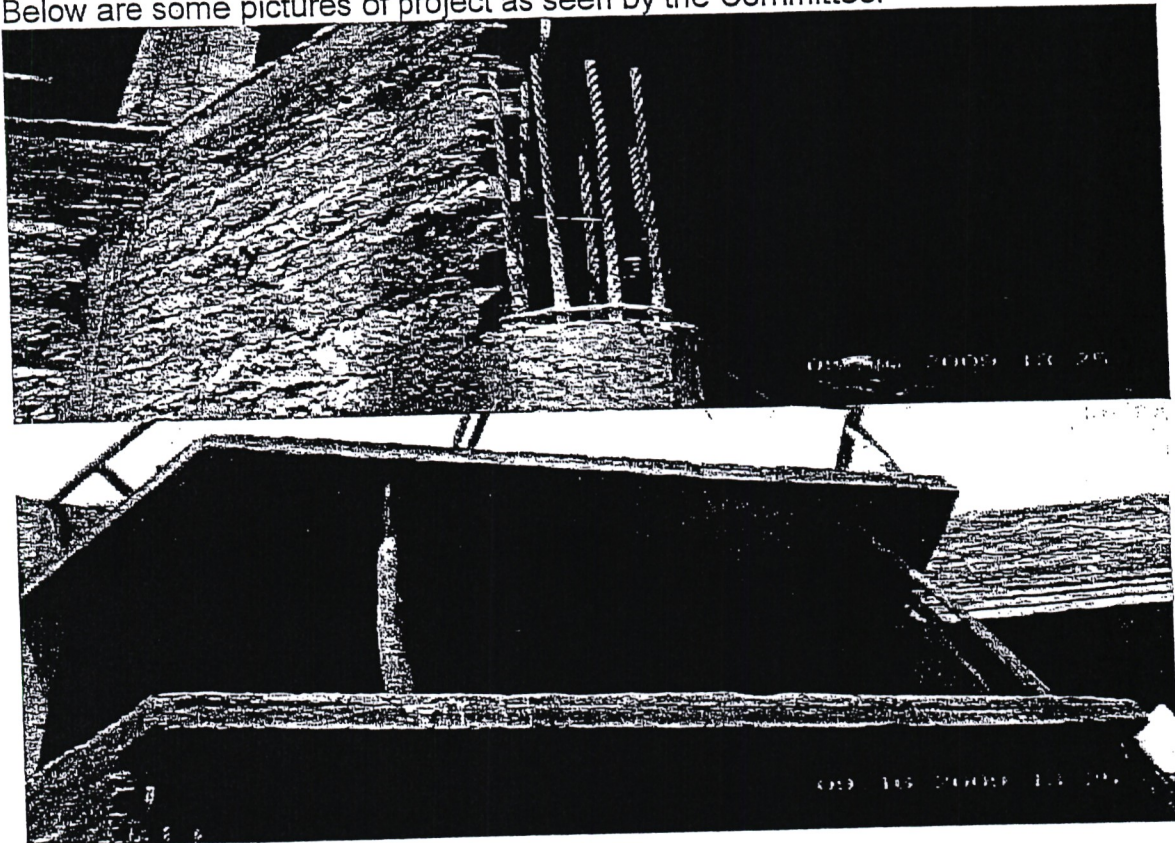
2.2.9.2 Issues with Construction of Proposed Municipal Chavakali Market in Vihiga Municipal Council

- i) The contract works commenced on 31st May 2007 for a period of 78 weeks. It was then extended for 21 weeks to be completed on 25th April 2009. However, the period lapsed with only 50% of the works completed.
- ii) The original **scope of works** included a 3 – storeyed building which was then reduced through a variation order (VO) to 2 – storey in what the department refers to as harmonization of drawings and Bill of Quantities (BQ).
- iii) **Cost of the project:** the contract sum was Kshs. 28,964,151 before variation of the contract was done. After variation, the construction works was reduced to Kshs. 17, 485,100.
- iv) The VO recommended that the following omissions be included in the contract: -storm water drainage, electrical works, gate house/waste cubicle, paving to open air market and fencing. While this decision should be appreciated, it is appalling how construction of a new market could go to tender with these essential items missing. This omission can only be attributed to weaknesses at the pre-contract stage.
- v) The work is about 50 – 60% complete.
- vi) **Building works:** it was observed that the market is constructed of a reinforced concrete (rc) frame (rc columns, rc beams and suspended rc floor slabs). It was observed that this element is substantially complete but the structure is showing SERIOUS signs of FAILURE with a few shattering supports still in place. This problem seems to have been detected by the contractor and the project supervisors since

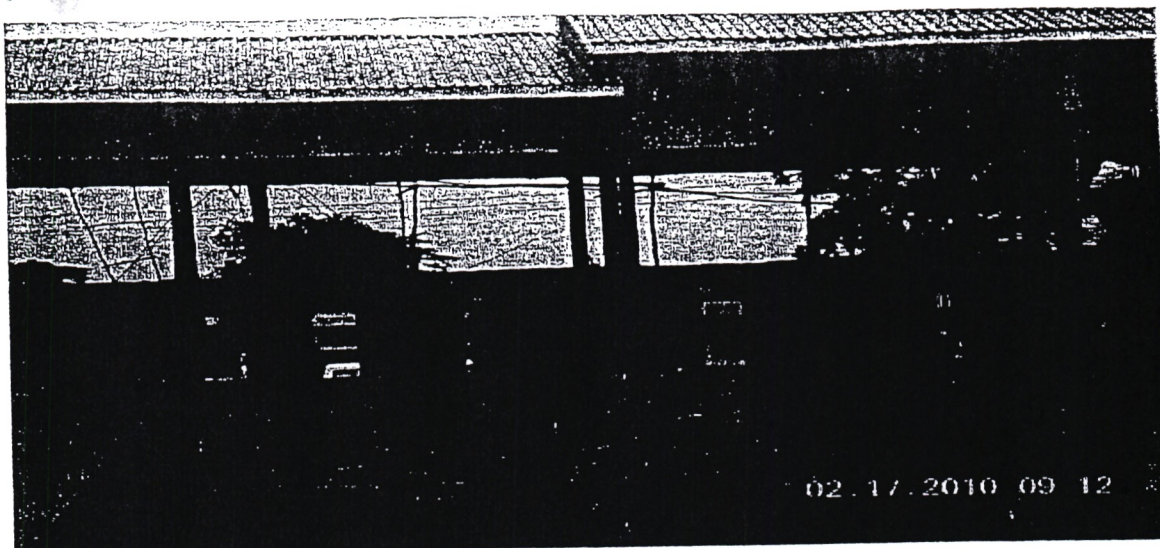
additional column supports were being introduced. The technical reason for this structural failure is possibly the lack of the contractor to adhere to proper standards of concrete mix (cement: sand: ballast ratios), casting process and lack of proper supervision.

- vii) Walling: is of masonry and concrete blocks. It is about 50% complete but of very poor workmanship. Although walling in this case is non-structural to a large extent, it could accelerate the collapsing of the building through its own dead load.
- viii) Public safety: the structural failure detected in this building is likely to be beyond rehabilitation. Since the building is already collapsing under its own dead load, it should be condemned from public use and demolished.

Below are some pictures of project as seen by the Committee:







The Committee recommends immediate cancellation of the contract for this work, and surcharging of the contractor involved. The Committee also recommends that the Contractor (M/s Asoro Construction Co.) should be precluded from award of government contracts.

The Committee further recommends those responsible for the loss of funds through multiple variations, poor design and inadequate supervision should be sanctioned.

The Committee further recommends that the officers involved should be investigated by the Kenya Anti-Corruption Commission and the relevant professional institute should bar them from practicing.

2.2.9.3 Issues with Construction of Garissa Bus Park, Garissa Municipal Council

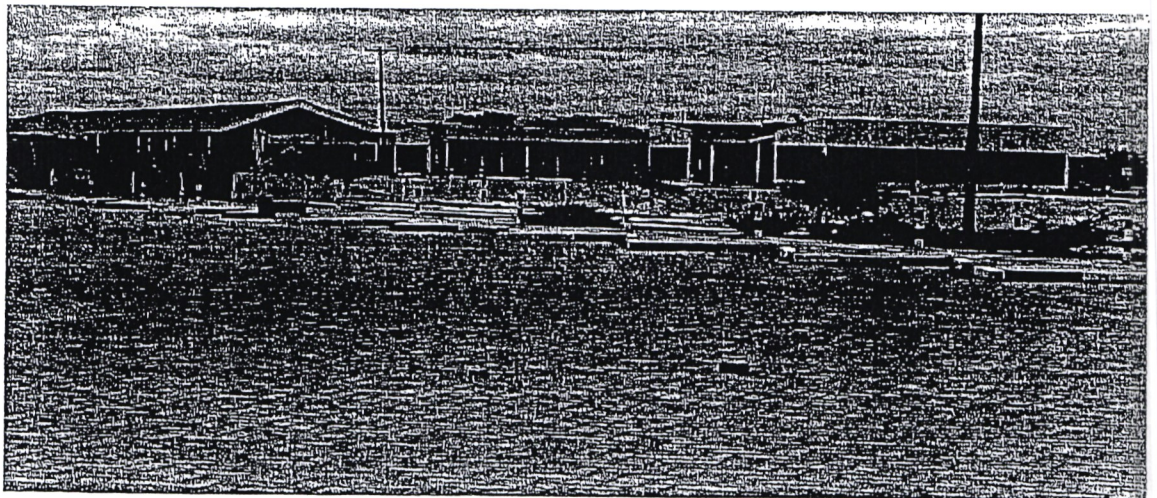
- i) The construction of Garissa Bus Park was awarded to a contractor through competitive bidding on January 2006 at a cost of Ksh. 37,877,989 to be completed in February 2007. However, audit inspection of the status of the Bus Park done on 2nd December 2008 revealed that the works had stalled after payment of five interim certificates amounting to Ksh.31,443,597.70 or 83% payments.
- ii) Examination of the Ministry's records revealed that the Ministry terminated the contract on 12 May 2008 under the provisions of clause 63 of the contract due to non-performance on the part of the contractor. Performance guarantee claim notification was done on 18 June 2008 and a claim made from the guarantor on 18 November 2008. At the time of termination, the work was valued at about 75 per cent completion with the contractor having been paid Kshs20, 951,749.61.
- iii) Evidence available indicate that the project was re-tendered and awarded to another contractor on 4 December 2008 at a contract sum of Ksh.38,063,845.43 slightly above the previous contract sum although the project was about 70% completed. The second contractor was to complete the work in six months from 16th February, 2009 with contact

period of six months and defect liability period of six months. The works were completed on 16th August, 2009. The contract was declared substantially complete by 15th May, 2009.

The Committee noted with concern that the implementers failed to undertake an environmental impact assessment for the project prior to commencement, the result of which led to the dispute on the land which would have been avoided. The dusty road leading to a nearby primary school and the bus park which is just adjacent to the school is a matter of concern not only to the local residents but also to any professional. If adequate consultations were done, the issues noted would have been avoided.

The Committee also noted that if at all the contract was done 75 per cent, about Kshs20 million paid and the 25 per cent which was remaining tendered for about Kshs38 million, does not make economic sense. It noted that Government may not have gotten value for the money spent.

Below is a picture of the project as it appears at present:



The Committee abhorred the manner in which this project was conceived, contracted and implemented.

The Committee recommends that in future the Accounting Officer should ensure that implementation of a project of this magnitude does not begin before proper planning, consultations and effective monitoring and evaluation mechanisms are in place. The Committee also recommends that the then Accounting Officer and the officers involved in the loss by government arising from professional negligence and poor supervision should be held personally liable.

2.2.9.4 Issues with the Rehabilitation and Reconstruction of Embu Township Roads, Embu Municipal Council

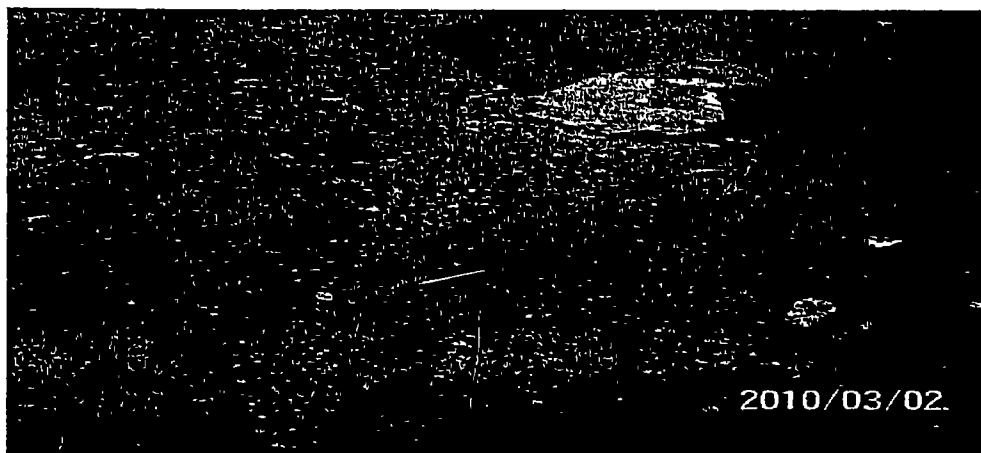
a) According to the Controller and Auditor General, the following observations were noted:

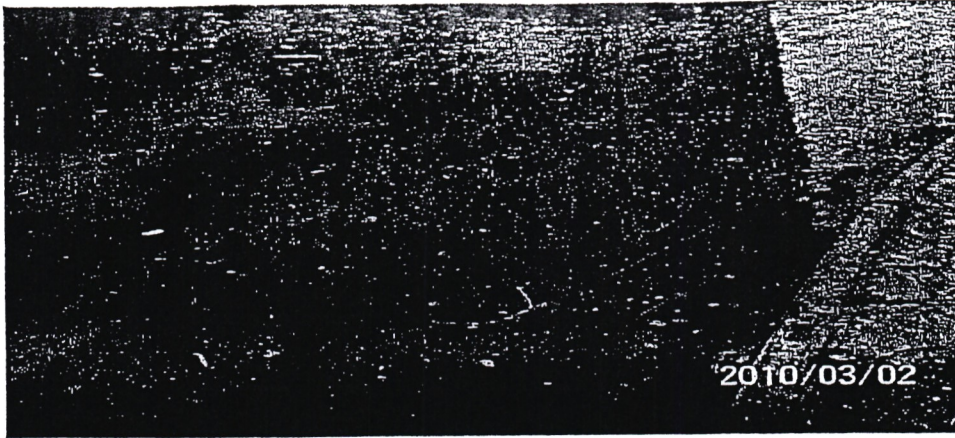
- i) The contract for the rehabilitation and reconstruction of Embu Township Roads project was awarded to a contractor at an estimated cost of Kshs. 80,754,030.30 and financed from Roads Maintenance Levy (RMFL). The scope of works involved reconstruction of some sections of a mosque, Kombo Munyiri, 1A – 5A, Lower Bus Park Roads and rehabilitation of Mutero, Sacco, Mama Ngina, Taifa Hall, Neema and Upper Bus Park roads.
- ii) Financial status: the total certificates paid amounted to Kshs. 72,443,435.18 and interim certificate number ten (10) for Kshs. 4,273,332.44 was paid on 12/10/06 for the release of 5% retention money.
- iii) Handing over and defects: the project was handed over when it was 86% of what had been provided for in the original contract. The original sum got exhausted while 14% of the works remained outstanding. However, the defects noted during the handing over report of 11/8/06 have not been corrected to date and the defects liability period expired on 27/07/07. It was not clear why the Ministry failed to ensure that the defects were corrected during the defects liability period and before release of the retention money to the contractor.

b) The Accounting Officer made the following response:

- i) Several letters were written to the contractor to correct the defects. The contractor did not comply.
- ii) The audit report was made on 3rd December 2008 – (18 months) after the expected date of the end of the defects liability period (i.e. 27th July 2007).
- iii) Payment of retention money: pursuant to clause 60.3, 50% of the retained amount of money should be paid after the issue of the taking over certificate. In this case the amount was Kshs. 4,273,332.44. The remaining 50% should be paid after the correction of defects. He therefore forfeited the remaining 50% of the retention money. The Committee was also informed that the supervising engineer had been transferred from the ministry and was facing investigations from the Kenya Anti Corruption Commission (KACC).

The pictures below show the recent state of the project:







The Committee noted that the contractor, being a businessman may have considered the opportunity cost of the retention fee vis-a-vis going back to do that work which would have cost him more than the retention fee. The Ministry should have made sure that before the certificates were paid, inspections and proper value of the work done would have been ascertained.

The Committee abhorred the manner in which the resident engineer was also the project manager, responsibilities that should have been undertaken by two different officers. The Committee was also appalled by the manner in which contracts are poorly designed to the advantage of the contractors and to the detriment of public interest, leading to poor workmanship and loss of funds.

The Committee recommends that the officers involved should be reprimanded, and investigated by the Kenya Anti-Corruption Commission, with a view to prosecuting them. The relevant professional institute should also bar them from practicing.

2.2.9.5 Meeting with the Minister

The Committee took evidence from the Deputy Prime Minister and Minister for Local Government Hon. Wycliffe Musalia Mudavadi, EGH, MP on 31st August 2010 and 7th September 2010. He provided the following evidence:

a) Ongoing programmes in UDD

In consideration of the way forward for Urban Development Department projects the following should be considered. This is because in addition to the projects in question the Department undertakes the following:-

- (i) The World Bank has just started implementation through the Department, projects and programmes to the tune of 150 Million U.S Dollars. The Department is the key convener of the programmes.

- (ii) The Integrated Solid Waste Management for the City of Nairobi, a study of which was undertaken by JICA is also coordinated by the Department. The Department chairs the Interministerial meetings and is the convener of all stakeholders in the programme. The total funding required to relocate and manage the Solid Waste in Kenya Shillings 17 Billion over a twenty year period.
- (iii) The Solid Waste management for Mombasa and Nakuru is a 17 Million Euro project which is ongoing. The AFD through the Department is funding this programme.
- (iv) The Primary Schools in poor urban areas of Nairobi, Mombasa and Kisumu is another programme being funded by the German Government through KFW. The amount is 10 Million Euros. There is a further 20 Million Euros envisaged to fund more schools in other urban areas. The Department is the main coordinator of this programme.
- (v) The Street Families Rehabilitation is another program being funded by the Kenya Government to help reduce the number of Street Families in our urban centres. Not much funding has been provided but it is also coordinated by the Department.
- (vi) The Integrated Strategic Planning is also continuing and the Department has already covered 7 towns with a further 11 towns envisaged in the current financial year. This has formed a good basis for planning our growing urban centres. It has provided a participatory approach and provided a good base for project identification.
- (vii) Kisumu Urban project is an AFD funded programme to the tune 40 Million Euros. This is a programme for planning and infrastructure development for Kisumu town.
- (viii) Korogocho Slum Upgrading project funded by the Italian Government for the improvement of living conditions in Korogocho. The amount is Kshs. 210 Million.

In addition to the above programmes, the Department is the key contact area for Development partner support to programmes in Local Authorities. We have representations in the following:-

- (i) Kenya Roads Board
- (ii) National Housing Corporation
- (iii) Road Agencies KURA, KERA and KENHA
- (iv) Water Service Boards

The Department works with other development partners like GTZ, UN-Habitat etc in areas of collaboration where Local Authorities are beneficiaries.

b) Proposed Reforms for UDD

The Urban Development Department (UDD) was created in 1989, as the technical arm of the Ministry to facilitate and support Local Authorities (LAs) in the area of infrastructure developments covering solid waste management, bus parks, access roads and storm water drainage, buildings development, planning, land survey, quantity survey, environment and social development. The rationale for the establishment of the department was that technical support to LAs for technical services in such areas as solid waste management, bus parks and markets are only provided by this Ministry.

Currently, the UDD has various sections covering Water and Sanitation (which includes Solid Waste Management and Environment), Roads and Transport (which includes bus parks, accesses and storm water drainage), Architects (which includes buildings development, valuation and quantity survey), Planning, Land Survey, and Social Services.

2.2.9.5.1 Proposed Department Of Local Authorities Support Services (DLASS)

In the past, the mandate of the Department was wide, covering the functions of water provision and roads, but these functions have been transferred to new agencies established to handle them. The Ministry recently created the Markets Development Department, which has taken over the activities related to markets and market development.

Given the high rate of urbanization in the existing local authorities and in emerging urban centres and considering the major weaknesses in skills in such centres, there is need for provision of technical services to all needy urban centres. Currently these technical support services are being provided by UDD, with the department being directly involved in selecting, planning, designing and implementing projects in local authorities. However, the major challenge over time has been that UDD does carry out the above functions without the involvement of the local authorities and their beneficiary communities.

In considering future support to Local Authorities, the Ministry appreciates the current policy on devolution and devolved funding where funds now belong to County Governments. With the adoption of the devolved funding system, UDD will no longer have direct access to funds and thus no major risks of money getting misappropriated by the UDD staff through the projects. The department will remain with the role of facilitation and provision of technical backstopping support to the LAs. It will develop guidelines to be used by the LAs.

As the Ministry reforms the Department it shall bear in mind that its current functions have posed governance and project ownership challenges. For these reasons in the planned reforms, it is proposed that all projects belong to and be implemented by respective LAs, which will carry out the day to day management of the development activities with technical support from the Department. In the new structure the reformed UDD will be transformed to facilitate the implementation of

development projects whether the resources come from devolved funds or through the efforts of the Ministry. In other words LAs will implement all the projects and programmes, with clearly spelt out separation of roles amongst the key actors as well as checks and balances.

Under the new dispensation, the reformed department will:

- (i) Provide technical support to LAs that have funds to undertake their own projects.
- (ii) Support LAs that have centrally developed projects and programmes.

In order to undertake these functions, it is planned that the current sections of the Department be reconstituted or replaced by three distinct Sections with distinct staff members, namely:

- (i) Planning and Design
- (ii) Construction
- (iii) Monitoring, Evaluation and Reporting (M&E)

2.2.9.5.2 Planning and Design Section

This Section will receive requests for project designs from LAs which have resources for development projects and do not have capacity. The section will carry out the designs and then assist LAs to have them checked and approved by relevant authorities. However, in all the projects where the LAs are requesting the Ministry for technical support, there will be requirements for proof that the projects are based on the needs of the specific beneficiaries and that the respective citizens have been formally consulted and have concurred. For this reason, as part of the LA's formal submissions of requests for technical or financial assistance, LAs must attach documentary evidence of involvement of stakeholders through a clear participatory process in the identification and implementation of the projects. In addition, all identified projects must be reflected in the LA's Capital Investment Plans (CIP) and proof for availability of funding. Further, Full Council resolutions supporting the same will be an added requirement.

Once the Ministry has carried out the designs and the same have been returned to the requesting LAs the same will need to be tabled in a Full Council meeting for endorsement. This will be necessary because elected leaders need to see and approve the designs and specifications as well as the actual or projected costs.

For the projects where the LAs require financial and technical support from the Ministry, the latter will vet all requests from LAs that meet the set criteria and prioritize them based on economic justification, national priorities, environmental viability, regional balance and capacity of the LAs to manage the project once it is completed. The support will be awarded to LAs on the basis of objective criteria including:

- (i) Infrastructure projects
- (ii) Impact on service provision

- (iii) Vision 2030 / MDGs goals attainment
- (iv) Community involvement in identification and implementation

Identification of projects and funds will be done by a panel of professional meeting periodically.

The Ministry will then communicate the selected projects to LAs.

As stated above, the whole process of project identification and development, by the LAs, will be initiated through participatory stakeholder process. The process of document preparation by the LAs will be subjected to Ministerial approval at various stages, which will be defined in the Work Plans submitted by the LAs and agreement reached on the Ministry's role in order to ensure that neither the Ministry nor the LAs commit the other party to future costs. In discussing the role of the Ministry it must be made clear that with or without the Ministry's financial support the Ministry will take charge of ensuring compliance with design specifications and standards (including design analysis tests) for quality work.

On their part LAs may undertake the designs in-house, if they have capacity, or outsource consultancy services with technical assistance from the Ministry. Submissions of the necessary documents to the ministry e.g bid documents will be done at the various stages (as may be stated in the agreed Work Plans), which must include submission at the Preliminary Design Stage, for the ministry to make comments and /recommendations in advance of finalization of document preparation by the LAs.

Where funding for projects is to be provided through the Ministry, LAs will advertise for the works after the planning and design documentation is completed and approval of the same is granted by the Ministry, and the project implementation work plans have been jointly agreed upon. The work plans will include the procurement process, which will be subjected to the Ministerial approval. This is to avoid a situation where contracts are awarded without budgeting provision by the Ministry.

2.2.9.5.3 Construction Section

For construction projects funded by the Ministry, at least three distinct key players will be involved as a way to ensure vertical and horizontal accountability, i.e. client LA management, local stakeholders (including relevant civil society organizations) and the Ministry itself.

In the preparation of the Tender Documents, the Planning and Design Section will be required to entrench key project actors, clearly stating the respective roles to be played by the Ministry and LAs during construction stage paying special attention to the roles of each institution in the positions of the "Client", the "Engineer" and the "Resident Engineer" (RE).

The "Client" or the Manager of the Project will be the LA through the Town Clerk, in order to create ownership and responsibility of project. The clerk will be required to

facilitate completion and operation of the Project by the LA and will also ensure that funds for operations and maintenance are included in the LA's budget on completion of the Project. (The Past practice has been that the "Client" is the PS, MoLG, leading to non ownership of MoLG funded projects by LAs during construction stage).

The Project "Engineer" will be the Municipal Engineer or an engineer hired by the LA, with the individual approved by the MoLG, to ensure professional input into the Project. In the past the practice has been that the "Engineer" of the Project is the Director of UDD, which may have created conditions for technical, administrative and conflicts of interests or challenges. The "Client" or owner's "Engineer" will ensure that the project is implemented in an efficient and effective manner with maximum benefit to the community. The "Engineer" will also advise the Town Clerk as appropriate so that the Town Clerk can make necessary decisions, where necessary, to ensure that the project is implemented efficiently and effectively.

The Project's "Resident Engineer" (RE) will be an individual consultant outsourced by the LA. The process of outsourcing and terms of engagement of the RE will be cleared by the MoLG to ensure that the RE has the necessary professional foundation. The RE will have a reporting format to the LA and the Ministry, with an agreed schedule for reports. For projects funded by the LAs, they may use their own engineers for the position of RE, if they have the capacity. However, there must be some additional independent professional input to ensure quality standards.

The Ministry should in all cases be seen as a key partner in ensuring quality and thus be invited to site meetings. This will be a requirement of all projects funded by the Ministry, in which the Construction Section will have to attend all Site Meetings to ensure and confirm that services are provided as per the designs of the project.

For purposes of making payments, it will be a requirement to submit documentary evidence that the services for which the Interim Payment Certificate has been raised have been rendered. As part of the documentary evidence, honouring of Interim Payment Certificates will be made after signatures from the Resident Engineer, Project Engineer, LA (which will also include audit) and the Ministry. After the RE, Project Engineer and the LA have certified and audited the vouchers, the Ministry will Code and validate the vouchers for payment.

After honouring of the Interim Payment Certificates by the LA, the latter will send an expenditure return to MoLG to certify that payments have been effected. Failure by the LA to make these returns will result in the Ministry withholding further disbursements to the defaulting LAs, where funding is through MoLG.

To facilitate smooth running of the project implementation process all LAs will be required to set up or strengthen existing project monitoring mechanisms. In the Ministry's view close monitoring of the implementation process will make the project progress as per the work plan.

2.2.9.5.4 Monitoring, Evaluation and Reporting Section

As part of the reform process the ministry has initiated and put in place a Monitoring and Evaluation (M&E) team, which is composed of professional staff from key departments. The current M&E team excludes anybody previously involved in the management or in the planning & design and construction stages of Ministry funded projects. This trend will be maintained in future as a means of avoiding conflict of interests.

For all future projects the M&E team at the Ministry headquarters will be replicated at the LAs level, by the appointment of M&E teams by the "Client" LAs, for their own internal M&E. The LAs M&E teams will be required to include stakeholders such as professional bodies located within their areas of jurisdiction.

The Ministry's M&E Section will prepare its own monitoring tools and design its work plan for quarterly visits all over the country to check the status of implementation of Ministry-funded and major LA funded projects. To facilitate effectiveness of the M&E exercise, the Ministry's M&E Section will develop guidelines on monitoring of various types of projects. The items in the tools will be derived from the project components and indicators (as shown in the projects implementation matrices) as specifically stated in the Bills of Quantities (BQs). The team will check the work accomplished (based on information derived from the reports of the Construction Section) against physical achievements, and then make an independent report.

The M&E report will be submitted to the PS, Ministry of Local Government, with a copy to the Director, Local Authority Support Services (DLASS). Subsequent to the report, the Director (DLASS) will be required to submit a formal report addressing any variations or discrepancies between the Ministry' M&E report and any other reports submitted from the field. In cases where serious discrepancies are identified the PS may order a full technical audit of the project implementation process.

Mid-term and end-term reviews of all projects will be done by independent consultants, who will present their draft final reports to stakeholders' workshops before forwarding the same to the PS and the Ministry.

3.0.0 INSPECTION TOURS/STAKEHOLDER EDUCATION

As observed earlier that during the sittings of the Committee with the Chief Officers of the major councils, the Committee noted several weaknesses in the financial management and accountability of local authorities.

The Committee decided to visit the councils in order to obtain first hand information on the operations and management of those councils. It also wanted to physically verify projects done in those councils.

The following were the councils and projects visited across the country and the Committee made several observations and recommendations.

3.1.0 NYANZA PROVINCE

3.1.1 Ahero Market and Bus Park in Ahero Town Council

The Committee visited the Council and noted that there were wrangles between the councillors and the Chief Officer. The councillors did not want to cooperate and work with the Clerk of the Council but instead chose to cooperate with the Treasurer and sidelined the Clerk in council operations. It was also reported that there was poor cash management in the Council. An amount of about Kshs.3 million was reported as not banked contrary to regulations. The Council also lent about Kshs.2 million cash to an unknown individual and Kshs.4 million out of the LATF allocation of Kshs.5 million was unaccounted for.

The Market and Bus Park were projects implemented directly by the Urban Development Department (UDD) of the Ministry of Local Government with little or no involvement of both the councils and the locals.

The bus park project was not done despite initially being part of the whole project. The contract for Ahero Market was awarded to a contractor at the contract sum of Kshs. 80,193,065.19. The scope of works involved reconstruction and rehabilitation of the Market.

A visit to the project on 8 December 2008 (by the Kenya National Audit Office) revealed the following unsatisfactory issues:-

- i) Perimeter walling had been done up to 1.2m or 5.2ft but grilling had not been done.
- ii) No work had been done in the bus park although it had been provided for in the contract.
- iii) Sanitary facilities like showers, wash basins, cisterns and taps were of lower quality than what had been provided for in the contract.
- iv) Cleaning of water drains had not yet been done and water gutters were not provided for in the contract.

The delay in completing minor works and opening of the market has denied the Council a lot of revenue. The Ministry has not stated the measures it has put in place to ensure the contractor completes the remaining works and have the market opened to the public.

The Committee noted the following: -

- i) The Council was not involved in the initiation and implementation of the project.
- ii) Poor implementation of the project led to delays in completion.
- iii) There was poor design work, e.g. no drainage included, thus leading to redesigning.
- iv) There was poor supervision of the projects.

The Committee recommends that the Permanent Secretary in the Ministry of Local Government should ensure that the remaining minor works in the market are promptly completed so as to open it up for the public, and start generating revenue.

The Committee also recommends strict financial controls by the Chief Officer in the Council so as to ensure that all revenue collections and expenditure are accounted for and loopholes for siphoning money sealed.

The Committee further recommends that investigations should be undertaken to establish if the council lent out money to individuals. If it is established, the officers involved (i.e. the lender and the receiver) should be prosecuted.

3.1.2 Nyamira Town Council and Nyamira County Council

The Committee visited the two councils and Nyamira Bus Park project and made the following observations:

- i) The rehabilitation and reconstruction of Nyamira Bus Park project was awarded on 12 January 2005 to a contractor at a contract sum of Kshs. 26,787,270.30. The order to commence the work was issued on 14 February 2005 while the actual work commenced on 28 February 2006. The scope of works involved construction and rehabilitation of Nyamira Matatu/Bus Park at Nyamira Township.
- ii) Stalled works: A visit to the site by the Auditors revealed that the works on the project had stalled when it was 70% complete due to a land dispute after vendors who claimed they had been allocated the land went to court and won the case against the Council. Evidence available indicates that the Ministry has now purchased the land for Kshs. 6million from the vendor.

Committee observations during the inspection:

- i) There was little work done on the ground, yet almost Kshs14 million had been spent so far.
- ii) The plans and designs of the project were carried out and kept in Nairobi
- iii) The workers of Nyamira Town Council had not been paid salary (for six months) since March 2009.
- iv) The Chief Officers of Nyamira Town Council do not report to work. They operate from their homes, yet they are the signatories of the Council accounts.
- v) Councillors had their own collectors of market revenue apart from council staff, and the money could not be accounted for.

The Committee recommends that plans and designs of all projects undertaken should be done at the local level instead of the headquarters to reduce constant variations arising from poor designs based on approximations and that the ministry should strengthen supervisory role of the projects.

The Committee also recommends that strict internal control systems should be put in place to ensure all revenues collected and expenditures are accounted for. Any misappropriation of funds should not be tolerated and should be recovered from the Chief Officer or the responsible officers.

The Committee further recommends that investigations should be carried out to establish the officers/persons who are currently collecting the revenue.

3.1.3 Siaya County Council

The Committee made the following observations:

- i) The council covers the jurisdiction of three constituencies, i.e. Alego-Usonga, Ugenya and Gem.
- ii) There were internal conflicts amongst the staff.
- iii) The Council does not collect market levies from Alego-Usonga and Gem constituencies due to political interference from the local area Members of Parliament. It only collects from Ugenya. It was claimed that the politicians incited the locals to defy the Council and to refuse to pay market levies.
- iv) The Committee was informed that an arrangement had earlier been agreed by the three constituencies that the position of Council chair rotates amongst the three areas but Ugenya Constituency failed to honor the agreement and stuck with the position for a long time, necessitating the incitement and stand-off.
- v) The council has 5 major markets and collects about Kshs.385,000 per week.
- vi) It was also claimed that there was Kshs.40 million worth of royalties paid by a local company, Dominion International Ltd, for an undetermined service. It was irregularly deposited into a bank account opened in Kisumu by the Town Clerk and the Treasurer.

The Committee recommends the need for harmonized political existence in these areas for proper operations of the Council, as politicians and the local leaders need to sort out the political differences and forge a way forward.

The Committee also recommends that thorough investigations should be undertaken by the Kenya Anti-Corruption Commission to ascertain the propriety of the amount of Kshs.40 million worth of royalties paid by Dominion International Ltd, with a view to holding the officers involved to account.

3.1.4 Siaya Municipal Council

The following were the observations made by the Committee:

- i) It was claimed that the locals had established a habit of resisting new Clerks whenever they are posted to the Council since the locals want only their own sons/daughters to serve as Chief Officers.
- ii) The Municipal Council does not respond to audit queries at all.
- iii) The Town Hall building had been under construction since 2004 using LATF funds, however, there seems to be no progress, as the hall is still incomplete and poorly constructed.
- iv) The Council constructed the hall in a casual manner without professional regard, i.e. there were no designs or bill of quantities for the building construction.
- v) The contractor for the town hall was also single-sourced.
- vi) The Council also purchased a second hand Nissan vehicle, (quoted to have cost Ksh. 2 million) contrary to Government financial regulations and procedures.
- vii) A cashier (who is a junior officer) in the Council had been made a signatory of the Council's account, also contrary to financial regulations.

The Committee recommends that the Ministry should ensure that junior cadre staff should not be retained in one station for a long time. There is need to transfer them in order to minimize the likelihood of influencing council activities like elections. There is also need to foster teamwork amongst the staff of the councils to enhance overall cooperation.

The Committee also recommends that the Permanent Secretary, Ministry of Local Government should institute disciplinary action against any officer who misappropriates council funds. The Committee further recommends that the officers who failed to adhere to government financial regulations and procedures should be disciplined. In situations where councils disrespect or refuse to acknowledge new chief officers, such councils should be denied LATF disbursements during such period.

3.2.0 WESTERN PROVINCE

3.2.1 Vihiga Municipal Council

The following observations were made:

- i) There were unresolved disputes over division of assets and liabilities especially after delinking from the original larger council.
- ii) Most of the projects had no records, making it difficult to capture them in books of accounts.
- iii) Diversion of 2006/2007 fuel funds and roads funds e.g. fuel funds diverted to salaries, without authority.

- iv) There was failure to adhere to procurement regulations.
- v) Roads funds were unaccounted for.
- vi) Kshs.1 million paid to tax consultants to mitigate with KRA.
- vii) Unqualified accountants working for the council.
- viii) The Committee visited the Chavakali Market project in the area (earlier discussed).

The Committee was concerned that there was lack of adherence to government financial and procurement regulations and recommends that disciplinary action should be taken against officers who flouted government regulations.

The Committee also recommends that adequate professional staff should be deployed to the Council to ensure that accurate books of accounts are kept.

3.2.2 Kakamega Municipal Council

The Committee observed the following, during the visit to the Council:

- i) The Council currently has no market; since the only one which was previously there was condemned.
- ii) The Council has the highest level of financial indiscipline as half of the cash collections are not banked.
- iii) There are also multiple dishonoured cheques.
- iv) Diversion of funds is prevalent.
- v) Failure to adhere to procurement regulations.
- vi) Payments are made without supporting documents.
- vii) Poor record-keeping is the order of the day.
- viii) Presence of poor record of debtors and creditors.
- ix) Presence of multiple unsurrendered imprests.
- x) Salary arrears.
- xi) Purchase of second-hand vehicles.

The Committee recommends that the Permanent Secretary, Ministry of Local Government should ensure that disciplinary action is taken against the officers who do not adhere to laid down financial regulations procedures.

3.3.0 RIFT VALLEY PROVINCE

3.3.1 Eldoret Municipal Council

The Committee made a visit to the Municipal market and Hawkers' market, and noted the following:

- i) The Council was affected by the post election violence.
- ii) The two projects i.e. Municipal market and Hawkers' market observed were relatively good, but had variations which were caused by professional negligence of the supervising and the planning engineers. The initial drawing plans excluded vital elements such as provision for sewer and drainage system, among others. The elements that had been excluded were later included and formed part of the variation.

The Committee recommends that the Institute of Engineers should bar the officers involved in professional negligence from practicing.

3.3.2 Molo Town Council

The Committee noted the following issues:

- i) The Council does not keep proper books of accounts.
- ii) Their accounts lack supporting documents.
- iii) The Council does not respond to audit queries.
- iv) The Council is engulfed by Nakuru County Council and therefore its revenues are affected/restricted by the County Council.
- v) The Council was affected by the post election violence.

The Committee noted with concern at the failure to keep proper books of accounts and recommends that Chief Officers who fail to keep proper books of accounts should be disciplined.

3.3.3 Nakuru Town Council: (Public Hearing)

The Committee held a Public Hearing in Nakuru Town Council Hall. It was noted that the locals appreciate the present efforts of the Municipal Council in improving its general performance. There was great concern on the projects designed and undertaken by the UDD without consulting both the council and the local residents. It was also noted that the Council does not have adequate staffing.

The Committee recommends that UDD should not undertake projects without liaising with the respective local authorities at all stages of project implementation.

3.4.0 NAIROBI PROVINCE

The Committee visited the Cemetery Land in Mavoko purchased by the City Council of Nairobi. The Committee noted the following issues of concern:

- i) The land was not suitable for graves since the topography is rocky.
- ii) The neighbouring community was not consulted and does not accept the land to be used as cemetery.
- iii) The Chief Officers of Nairobi City Council did not seem to know the exact location of the cemetery land.

After the inspection tour, the Committee resolved that the Controller and Auditor General be requested to carry out a special audit on the land.

The Committee noted that the Controller and Auditor General has since presented a special audit report on the matter. The special audit report has also been examined by the Committee and a special report of the Committee on the matter shall be tabled as soon as possible.

3.5.0 CENTRAL AND EASTERN PROVINCES

- (a) The Committee visited Embu Matatu/Bus park. As earlier indicated on pages 29-32, the Committee observed that the works reflected poor workmanship by both the contractor and the supervising engineer. The Ministry did not ensure that before the certificates were paid, inspections and proper value of the work done had been ascertained.

The Committee noted that the resident engineer was also the project manager, responsibilities that should have been undertaken by two different officers. The Committee also noted that the contracts were poorly designed to the advantage of the contractor and to the detriment of public interest, leading to poor workmanship and loss of public funds.

- (b) The Committee also visited a community social hall undertaken by Nyeri County Council. The Committee made the following observations in the Social Hall: -
 - (i) The project was incomplete and stalled;
 - (ii) The structure was semi-permanent, made up of low quality timber, iron sheet walls and a weak floor;
 - (iii) The Council ignored tendering procedures when obtaining the building materials;
 - (iv) The Government did not get value for the money so far spent.
 - (v) About Ksh. 470,000 had so far been spent on the project.
- (c) The Committee further visited the following CDF queried Projects in Ndaragua constituency:
 - (i) Baari Dispensary: The Committee found that the wiring and electric accessories for the dispensary (that had been queried by the auditor) have since been procured and fitted.

- (ii) Lightning arrestors at Kametha Primary School: The Committee verified that the lightning arrestors that were queried by auditors were installed but there was no documentation and proof of purchase. Also, there was no verification as to whether the arrestors were functional or not.

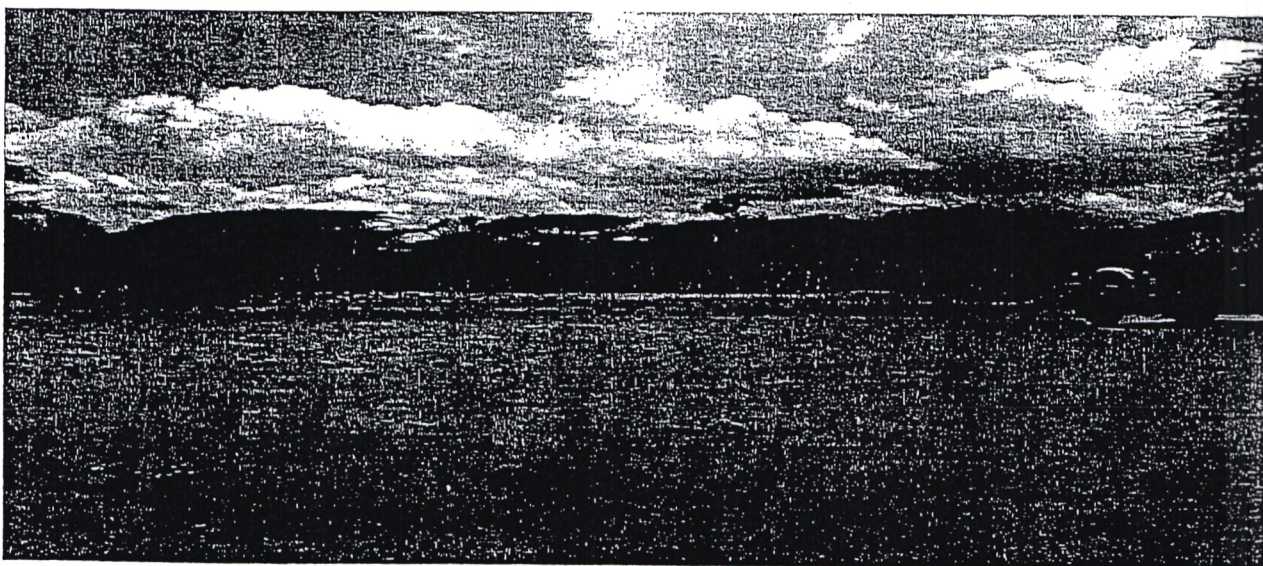
The Committee recommends that a specific audit should be undertaken on the community social hall undertaken by Nyeri County Council with a view to ascertaining propriety of public funds and taking appropriate action against culpable culprits.

3.6.0 NORTH EASTERN PROVINCE

The Committee visited the following projects and made observations:

- 3.6.1.1 Garissa bus park project: This project was exhaustively explained earlier on pages 27-28.
- 3.6.1.2 A livestock holding ground undertaken by the Garissa Municipal Council and had stalled. The area measures 1.7 km². It was to be constructed at a cost of Kshs. 8 million so that the communities from the region would use it for their livestock while vaccinating them before they are exported, and also as holding area for the local market.

Below is a picture of the area:



The holding ground has a loading bay that is situated a few kilometres from the area. The loading bay was to be constructed at a cost of Kshs. 5 Million but has since stalled. The projects stalled due to lack of proper consultation between the leaders and the locals prior to undertaking them.

The Committee noted that the Government did not get value for the money spent on the livestock holding ground and recommends that investigations should be undertaken with a view to ascertaining the propriety of the Kshs.8million, and holding responsible the officers involved in misappropriation.

The Committee further noted that the livestock holding ground is not presently utilized due to political interference. It was noted that the site currently utilized (and which is near Garissa town) is not sustainable in the long run for the growth of the town.

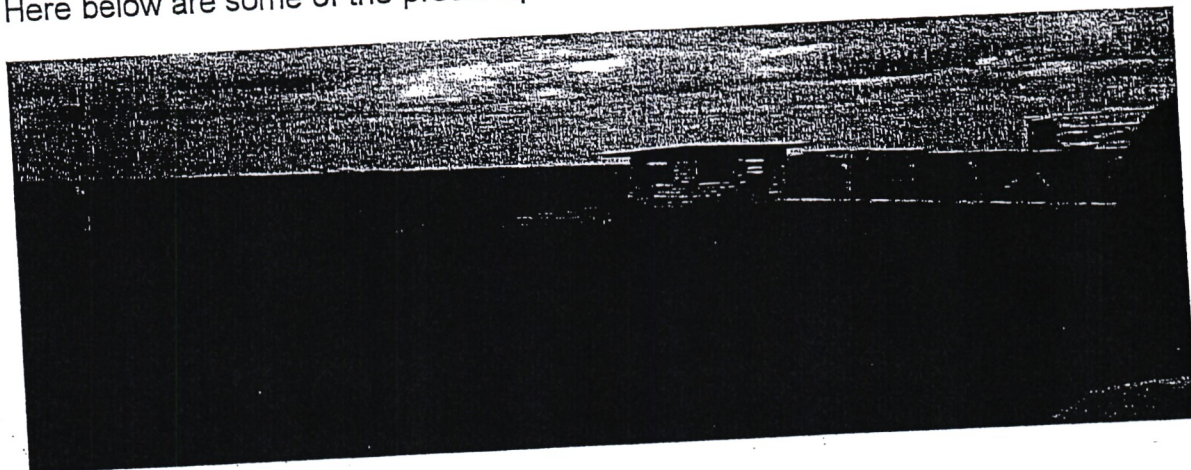
The Committee recommends that Garissa Municipal Council should ensure that the new site is utilized. There is need for the Council to secure the piece of land in its custody.

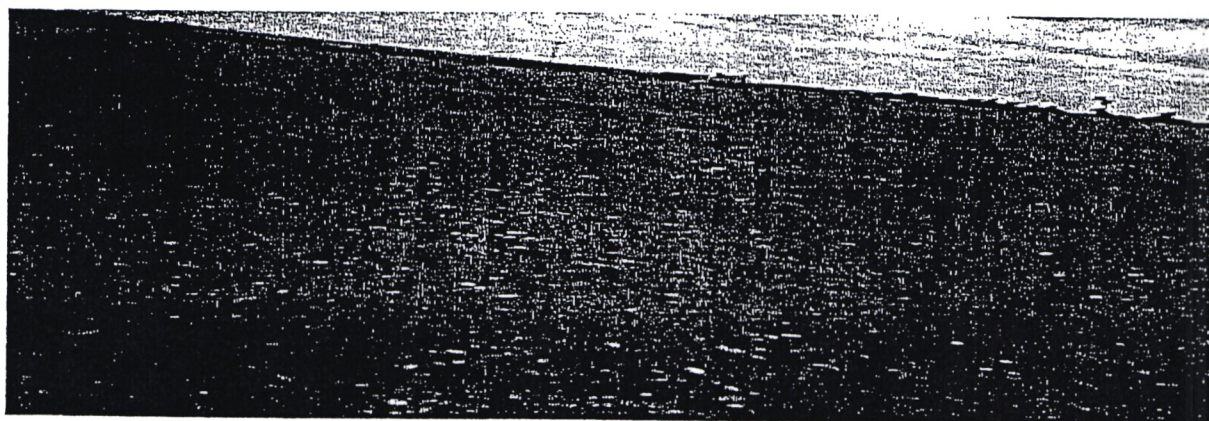
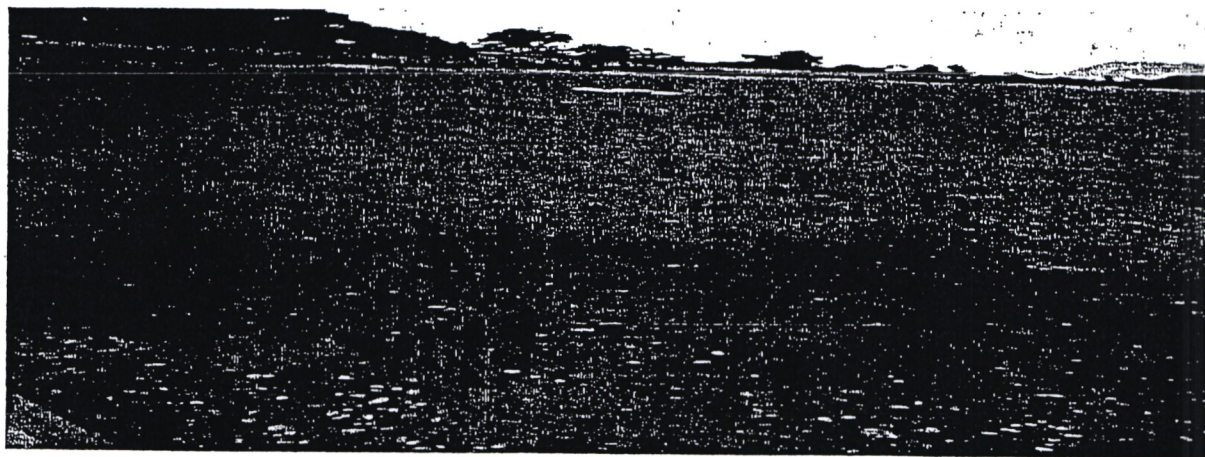
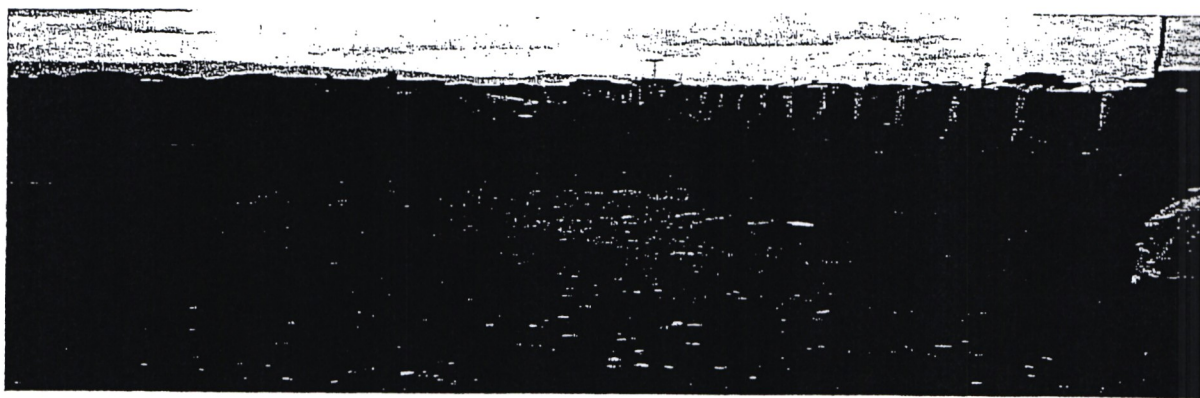
3.7.0 COAST PROVINCE

The Committee visited a number of projects while in the Coast Province that included the following:-

3.7.1 Maungu Lorry/Bus Park along the Mombasa-Nairobi highway. This project was incomplete, though the Council had used Kshs.13 million; there was very little to show for it. The bus park only had a fence, two gates and a bit of murram applied.

Here below are some of the present pictures of the project:





- 3.7.2 Bondeni Pre-school is a project that was funded using LATF funds. It consisted of a classroom and an office that were put up at the cost of nine hundred thousand shillings (Kshs. 900,000).
- 3.7.3 Two classrooms at Mabomani School, an on-going project that was being funded by LATF from the Voi Municipal Council. The two classrooms were put up at a cost of Kshs. 430,000 and were almost complete. The only work left to be done was painting and furnishing.

- 3.7.4 A slaughterhouse being constructed by the Voi Municipal Council in conjunction with the District Agricultural Office from the Ministry of Agriculture.

Issues noted by the Committee in the councils visited:

3.7.5 Mombasa Municipal Council

- a) There is possible mismanagement of funds in the council.
- b) The Council is understaffed in almost every department.
- c) The Council is heavily indebted due to poor financial management by former Council employees.
- d) Government agencies based in Mombasa like Kenya Ports Authority and the several hotels do not pay rates to the Council.
- e) There is poor record keeping by Council Officers.

3.7.6 Voi Town Council

The Committee held a public hearing in the Voi Town hall where a number of issues were raised by the public. The issues included the following:-

- a) The residents were concerned that they did not get value for their money since the Council did not offer them adequate services.
- b) There were a lot of discrepancies in the Council's accounts that were being presented to the public.
- c) Some of the projects that the Council officials claimed were complete in their records were actually not done on the ground.
- d) Some of the projects carried out by the Council were questionable e.g. rehabilitation of KANU offices.

3.7.7 Taita Taveta Town Council

At the Town Council of Taita Taveta, the biggest issue noted was that of the Maungu Lorry Park that had so far consumed Kshs. 13 million, but the work done does not seem to be commensurate to the amount spent. The project is still incomplete, notwithstanding the huge amounts so far spent. It was noted that the contractor inflated the costs soon after winning the tender to construct the lorry park.

The Committee resolved that the Controller and Auditor General should carry out special audits on the mentioned Councils, (i.e. Taita Taveta Town Council, Mombasa Municipal Council, Voi Municipal Council) with a view to enhancing accountability and recommending on the way forward.

URBAN DEVELOPMENT DEPARTMENT (UDD) PROJECT INFORMATION SINCE 2005

BUS PARK PROJECTS

No.	Province	Project Name	Contractor	Contract Sum (Kshs. Millions)	Commencement Date	Completion Date	% of work done	Variation (Kshs. In Millions)	Remarks
1	Rift Valley	Bomet Bus Park	Njuca Consolidated	42	Feb 05	Jan 06	100		Complete
2	Nyanza	Kisii Bus Park	Bin Law Construction Co.	45	Apr 04	Nov 06	100		Complete
3	Central	Maua Bus Park	Njuca Consolidated	37	Apr 05	July 06	100	5.15	Complete
4	Rift Valley	Kericho Bus Park	Njuca Consolidated	66	Feb 05	Dec 06	100	9.89	Complete
5	Coast	Malindi Bus Park	Victory Construction	82	Apr 05	July 06	100		Complete
6	Coast	Voi Bus Park	Casuarina Enterprises	42	Mar 06	Mar 07	0		Terminated following land problem
7	Nyanza	Nyamira Bus Park	Carol Construction	26	Mar 05	Feb 06	100		Complete
8	Nyanza	Completion of Kehancha Bus Park	Tsotsi General Construction	37		Dec 09	100		Completed under 2 nd Retender
9	Nyanza	Awendo/Migori Bus Park	Sacci Civil Engineers	99	Aug 05	Jan 07			Terminated but substantially complete
10	Nyanza	Ogembo Bus Park	Pimka Construction Co.	37	Feb 05	Dec 06			Retendered and substantially complete
11	Rift Valley	Kabarnet Bus Park	Kewal Construction Co.	16	Apr 04	July 05			Retendered and ongoing
12	Rift Valley	Kapenguria Bus Park	Atoll/Associated Construction Co.	34	June 05	Dec 06			To be retendered for completion
13	Rift Valley	Eldama Ravine Bus Park	Atoll General Contractors Ltd	152	Feb 07	Apr 08			Terminated and to be retendered

14	Rift Valley	Maralal Bus Park	Gibraltar Construction Co.	52	Apr 05	May 07	80	Terminated
15	Eastern	Mtito Andei Bus Park	Triple Eight Construction Co.	25	-	-	80	Retendered and ongoing
16	North Eastern	Completion of outstanding works of Garissa Bus Park	Mattan Hardware and Contractors	38	July 05	Aug 09	100	Complete
17	Coast	Taveta Bus Park	Path Ways	94	Feb 07	Aug 08	100	Ongoing
18	North Eastern	Mandera Bus Park and Market Stalls	Mattan Hardware and Contractors	46	Feb 07	Apr 08	31	Complete
19	Eastern	Kitui Bus Park	Kewal Construction Co.	924				To be retendered for outstanding works
			TOTAL CONTRACT SUM					

MARKET PROJECTS 2005 – TO DATE

No.	Province	Project Name	Contractor	Contract Sum (Kshs. Millions)	Commencement Date	Completion Date	% of work done	Variation (Kshs. In Millions)	Remarks
20	Nairobi	Muthurwa Market	Ongata Works Ltd.	611	Mar 07	Mar 08	100		Complete
21	Western	Kapsokwony, Chwele, Malava, Misikhu Mkts	Westbuild General Contractors	125	Apr 06	Feb 07	100		Complete
22	Eastern	Kibirichia, Kianjai, Nkubu Mkts	Yellow House	55	Mar 06	Mar 07	100		Complete
23	Western	Luanda Market	Mukafura Contractors	48	Mar 05	Sept 06	100		Complete
24	Central	Othaya/Kibingoti Markets	Njuca Consolidated Co.	61	Mar 06	Sept 07	100		Complete
25	Rift Valley	Paving & Drainage of	Sivad Construction Co.	11	Feb 07	Aug 07	100		Complete

		Huruma Mkt at OI Kalau										
26	Nyanza	Nyansongo Market	Skillman Construction Ltd.	85	Mar 10	Mar 11	5					Ongoing
27	Nyanza	Kebirigo Market	Mattan Contractors Ltd.	84	May 09	May 10	95	8.6				Ongoing
28	Nyanza	Ahero Market	Carol Construction Co.	80	Sep 05	Dec 08	100					Complete
29	Nairobi	Westlands Market	Square M Contractors	179	Jan 08	Apr 09	25					Stalled
30	Nyanza	Bondo & Siaya Markets	Custom General Construction	65	Mar 09	Mar 10	35	29.21				Ongoing
31	Nyanza	Magombo Market	Carol Construction Co.	64	Feb 06	Apr 08	100					Complete
32	Central	Karuri Market	Njokinwa Construction	45	Apr 07	Apr 08	45					Terminated
33	Western	Port Victoria & Funyula Markets	Hayer Bishan Singh & Sons	85	Oct 07	Oct 09	60					Ongoing
34	Central	Ithanga, Kirwara & Gatura Markets	Sivad Construction Co.	86	Jan 08	Jul 09	100					Complete
35	Central	Mweiga Market	La Femme Engineering	52	Feb 08	Aug 09	10					Ongoing
36	Central	Kiamariga Market	Square M Contractors	23	Jan 08	Aug 09	100					Complete
37	Western	Butere, Chavakali & Nambale Markets	Asoro Construction Co.	99	June 07	Sep 09	73	10.24				Ongoing
38	Western	Shinyalu Market	Asoro Construction Co.	38	Nov 07	Sep 09	95					Substantially complete
39	Western	Kwisero Market	Rapido Contractors	44	May 09	May 10	51					Ongoing
40	Western	Kimilili Market	Custom General Construction	49	May 09	May 10	65					Ongoing
41	Western	Myanga Market	Trapezoid Construction	66	May-09	May-10	11					Ongoing
42	Nyanza	Rongo Market	Custom General Construction	135	Mar-09	Mar-11	40					Ongoing
43	Coast	Taveta Market &	Pathway Construction	318	Mar-10	Mar-11						Site handed over

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		Likoni Road Missing Link in Nairobi	Co. Ltd.									
56	Central	Selected Roads in Kerugoya and Kutus Towns	Westbuild General Construction	208	Nov 07	Nov 08						Substantially Complete
57	Western	Kakamega Municipality Roads	Tai Enterprises	123	May 08	Aug 09						Complete
58	Coast	Selected roads in Kwale Town	Malitan Hardware and Building Contractors	131	Jan 09	Apr 10						Substantially complete
59	Nairobi	Muthurwa Access Roads	Gichocho Building Contractors	51	Mar 09	Jul 09						Suspended following land dispute
60	Western	Gisambai- Mbale Road in Vihiga Municipality	Kensetsu Kaihatsu Ltd.	150	May 09	May 10						Ongoing
61	Rift Valley	Selected Roads, storm water drains and Erection of Street lighting in Bomet Town	Kensetsu Kaihatsu Ltd.	244	May 09	May 11						Ongoing
62	Western	Storm water drains in Webuye Town	Westbuild General Contractors	95	May 09	May 10						Ongoing
63	Central	Reconstruction of selected roads in Sagana Town	Westbuild General Contractors	374	Mar 09	June 10						Ongoing
64	Central	Construction of OI Kalou Drainage	Sivad Construction Ltd	13	Feb 07	Aug 07	100	1.40				Complete
			TOTAL CONTRACT SUM	3591.8								

FEASIBILITY STUDIES

	Project Name	Consultant	Contract Sum (Ksh. Millions)	Commencement Date	Completion Date	% of work done	Variation (Kshs. In Millions)	Remarks
65	Storm water drainage for cluster 3 Towns (Nakuru, Narok, Kisii and Migori)	Bhudia Associates	8	Mar 05	Sep 05	100		Complete
66	Detailed designs on road safety initiatives for Cluster 1 Towns (Thika, Mavoko, Voi and Garissa)	Tertiary Consulting Engineers	9.3	Mar 05	Sep 05	100		Complete
67	Detailed designs on Road Safety Initiatives for cluster 2 Towns (Kisumu, Kakamega, Eldoret and Kisii)	Zamconsult Consulting Engineers	6.7	March 05	Sept 05	100		Complete
68	Detailed Design on Non-Motorised transport for Cluster 5 towns (Nanyuki, Nyahururu, Nyeri, Isiolo and Garissa)	Orina and Partners	8.1	March 05	Sept 05	100		Complete
		TOTAL CONTRACT SUM	32.1					

TECHNICAL ASSISTANCE AND CAPACITY BUILDING ON ROAD MAINTENANCE, DEVELOPMENT, PLANNING AND MANAGEMENT IN LOCAL AUTHORITIES

	Region	Consultant	Contract Sum (Kshs. Millions)	Commencement Date	Completion Date	% of work done	Variation (Kshs. In Millions)	Remarks
69	Nairobi and Central	Uniconsult Consulting Engineers	43.8			100		Complete
70	Eastern, North-Eastern and Coast	Coda and Partners	60.6			100		Complete
71	Western	Abdul and Mulick Associates	63.3			100		Complete

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72	Nyanza		Otieno Odongo and Partners	70.7				100		Complete
			TOTAL CONTRACT SUM	238.4						

SOLID WASTE MANAGEMENT

Solid Waste Management Project for Mombasa and Nakuru – AFD Funded. 1st Phase complete. 2nd phase ongoing.

4.0.0 STAKEHOLDER EDUCATION

After carrying out the inspections in the respective regions, the Committee also held meetings with all the Chief Officers from the respective Local Authorities, so as to brief them on the Committee mandate, responsibility and expectations.

CONSTITUENCIES DEVELOPMENT FUND (CDF) – 2006/2007 ACCOUNTS

The Committee met the CDF Board on 12th October and 16th November 2009.

2006/2007 Accounts

Audit inspection of a few Constituencies Development Fund Committee offices and projects disclosed some unsatisfactory matters. Some of these unsatisfactory matters are detailed in the following paragraphs.

FINANCIAL IRREGULARITIES AT GACHOKA CONSTITUENCY DEVELOPMENT COMMITTEE OFFICE

Nugatory Payment

1307. Between July and October, 2005, Gachoka Constituency Development Committee disbursed grants totalling Kshs.1,100,000.00 to six project committees for scooping one dam and constructing five earth dams. The Kshs.1,100,000.00 contract was awarded to a Nairobi company without competitive bidding contrary to Government procurement requirements that at least five (5) quotations be invited for each purchase and adjudicated by a tender committee. It is, therefore, not clear how the contractor was identified and selected. However, the scooping and construction works were to start on 3 January, 2006 and end on 28 January, 2006 and in any case not later than 15 February, 2006.

1308. Available information indicates that in October and November, 2005, the contractor was paid a total of Kshs.821,000.00 for the six dams, long before commencement of the work and the signing of contract documents. This is contrary to regulations which require payments to contractors to be made only on receipt of suitably certified payment vouchers supported by summary statement for payment on account from the technical Ministry which under the circumstance, was the Ministry of Water and Irrigation.

1309. It is also noted that the contractor abandoned the site some time between December, 2005 and March, 2006 upon receipt of contract part payment but prior to commencing work. An audit inspection carried out at the Gachoka Constituency Development Committee Office and site visits in March, 2007 confirmed that no work was done on the six dams and the contractor had not been traced. The position had not changed as at October, 2007. In the circumstances, I am unable to confirm the propriety of the Kshs.821,000.00 irregularly paid to the contractor or that it should remain charged to public funds.

The Committee heard evidence from the Accounting Officer that the contractor, M/S Deep Blue Construction, was not competitively selected, and received partial payment before construction work began, going against government financial and procurement regulations. The Committee also heard that the project had stalled, with no work ever commencing on the dams, as the contractor abandoned the site. The Committee was further informed that the CDF board had instituted police investigations against the contractor, but this action had not borne fruit.

The Committee noted that the contractor had been paid for work which he never did and recommends that he should be compelled to refund the sum of Kshs.821,000.

The Committee recommends that the Accounting Officer should ensure government financial and procurement procedures are adhered to, failure to which the officers found culpable should be disciplined.

The Committee also recommends that the Accounting Officer should conduct follow up to find out the status of the police investigations so that the contractor accounts for the funds.

The Committee further recommends that the exercise of jump-starting the stalled projects countrywide should be hastened to avoid further loss of public funds.

Payment for Services not rendered

1310. The Gachoka Constituency Development Committee, in January, 2005 and August, 2005, paid a total of Kshs.935,000.00 to Kiambere Mixed Day Secondary School for drilling a borehole. The drilling contract was awarded to another Nairobi company in September, 2005. However, no evidence was made available to confirm that the firm was competitively sourced as required by the Public Procurement regulations. It was therefore, not possible to establish how the contractor was identified, the projects contract price and its time duration. However, the contractor on unspecified date started the drilling works but was unable to continue due to machine breakdowns. By the time he formally discontinued the works, the school Board of Governors had already paid him a total of Kshs.383,950.00.

1311. The Board of Governors decided to waive an amount of Kshs.140,000.00 but demanded a refund of Kshs.243,950.00 of the amount paid to the contractor. This waiver by Board of Governors contravened Government Financial Regulations and Procedures, which places this responsibility on the Treasury. The contractor paid the balance in form of instalments between July and October, 2006. However, the last three cheques totalling Kshs.150,000.00 were dishonoured for lack of funds and have not so far been replaced.

1312. A site visit to the school in October, 2007 revealed that the works had been sub-contracted to another company who had completed the works at a contracted sum of Kshs.674,750.00, bringing the total cost for drilling the borehole to Kshs.1,058,700.00 including Kshs.383,950.00 paid to the former contractor.

1313. Although the project has been completed, no explanation has been provided on how the original contractor had been identified and selected in the absence of competitive bidding, how the waiver for Kshs.140,000.00 by the Board of Governors will be regularized by the Treasury or how and when the outstanding debt for Kshs.150,000.00 owed by the former contractor on the dishonoured cheques will be recovered.

The Committee heard evidence given by the Accounting Officer that the funds disbursed to the borehole drilling were Kshs800,000 and that there was competitive bidding. The winning contractor (M/s Watermax Drilling Systems Ltd) was paid

Kshs383,950 by July 2005. This was 30 per cent of the funds and was meant for drilling 20 metres.

The contractor abandoned the works after drilling 54 metres since a set of drilling tools and fishing hook got stuck after the upper formation collapsed. The contractor abandoned the project after incurring a loss.

On the matter of advance payment, the Board of Governors entered an agreement between the contractor and the school, for the sinking of the borehole. It was stated that 40% would be paid on mobilization of the drilling plant, 30% on drilling 40 metres, 20% on drilling 80 metres and 10% on completion of works. The payment of Ksh. 383,950 which is equivalent to 70% was based on the agreement.

The Committee noted that there was no competitive bidding on the first contractor. The Committee also noted with concern the manner in which the contract agreement was designed without regard to the need for security or a performance bond tagged on the contract.

The Committee further noted the lack of initial contract agreement and the lack of competitive bidding that would have made the contractor consider the opportunity cost of undertaking the contract.

The Committee recommends that the Accounting Officer should ensure that the whole amount is refunded without delay.

UNACCOUNTED FOR FUNDS KAJIADO CENTRAL CONSTITUENCY DEVELOPMENT FUND

1314. Examination of records maintained at Kajiado Central Constituency Development Fund Office revealed that on 7 August, 2006, the Constituency Development Committee (CDC) approved fifteen projects valued at Kshs.37,244,128.00 for funding in 2006/2007 which as at 30 June, 2007 had reached various stages of completion.

1315. The Constituencies Development Fund National Management Secretariat Circular No.NA/PSC/CDF/2004 of 30 November, 2004 requires that funds disbursed to the projects be accounted for through surrender of receipts, invoices, quotations among others, to the appropriate Constituency Development Committee for onward transmission to the District Development Officer.

1316. However, contrary to the above requirement, out of the Kshs.37,244,128.00 disbursed to the projects, documents in support of Kshs.3,300,000.00 disbursed to Enkonka Secondary School have been produced for audit verification leaving unsupported disbursement of Kshs.33,944,128.00. In the absence of the required documentation, I am unable to confirm the propriety of the Kshs.33,944,128.00 expenditure incurred on the projects.

The Committee heard evidence given by the Accounting Officer that the project documents were later forwarded to the auditors.

The Committee recommends that the Accounting Officer should always ensure that documents pertaining to all projects should be availed at the time of audit, failure to which the officers found culpable should be disciplined.

The Committee also recommends that the Accounting Officer should take disciplinary action against the officers who failed to avail the documents.

The Committee further recommends that the CDF Chief Executive Officer should have monthly records to be used as tools for management.

UNACCOUNTED FOR KIMILILI CONSTITUENCY DEVELOPMENT FUND

1317. As indicated above, the Constituencies Development Fund – National Management Secretariat Circular dated 30 November, 2004 requires Constituencies Development Fund (CDF) disbursed to projects be accounted for through surrender of receipts, invoices, quotations, bank statements etc by the project committees to the Constituency Development Committee.

1318. Examination of records held by Kimilili Constituency Development Committee disclosed that an amount of Kshs.18,855,000.00 was disbursed to various CDF projects. However, the required documentation in form of quotations, receipts, invoices, minutes of Projects Tender Committee on adjudication and award of tenders, among others, to account for projects' expenditure at different levels of construction were not produced for audit verification. In the absence of documentary evidence, it has not been possible to confirm the propriety of the Kshs.18,855,000.00 expenditure.

The Committee received evidence from the Accounting Officer that all the documentation from the Project Management Committees (PMCs) had now been received by the CDF Board with the exception of Tongaren Horticulture Project. The Committee also heard that there was insufficient information pertaining to this project, but the issue was under scrutiny by the CDFC, and would possibly be forwarded to the Kenya Anti-Corruption Commission for further investigation and action. The Committee also noted that there was poor bookkeeping done on the projects during the handing-over to the new PMC.

The Committee recommends that the Accounting Officer should put measures in place to ensure proper documentation is done for all projects and handed over once the projects are completed. The CDF Chief Executive Officer should design standard forms for proper documentation of accounting.

The Committee further recommends that the Accounting Officer should ensure that documents are availed for audit verification at the time of audit.

IRREGULAR FUNDING OF AN ASSOCIATION THROUGH FUNYULA CONSTITUENCY DEVELOPMENT FUND

1319. Examination of records held by Funyula CDF, revealed that an amount of Kshs.1,010,000.00 was irregularly set aside and deposited at the Funyula Financial Services Association for the purpose of lending upcoming businessmen, women and self-help groups initiated by individuals with a profit motive. This is contrary to the Constituency Development Fund (CDF) Act, 2003, section 21(1) which requires projects under the Act to be community based in order to ensure that the prospective benefits are available to a widespread cross-section of inhabitants of a particular area. It is noted that the prospective benefits of the projects funded through Funyula Financial Services Association are not for a widespread cross-section of Funyula Constituency inhabitants. The Association does not therefore in my view, appear to qualify as a community based project for the purpose of the Constituency Development Fund. The recoverability of the Kshs.1,010,000.00 held in the above stated Financial Association cannot also be confirmed.

The Committee heard evidence given by the Accounting Officer that the project was approved in the financial year 2003/2004 which was the commencement year of the fund, and was faced with a myriad of challenges in the identification and planning of projects. The Board has since streamlined some of the operational challenges and built capacity.

The Committee also heard that the Board has since terminated the services of the Chairman of Funyula Financial Services Association and he has been asked to refund the principal amount of Ksh. 1,010,000.

The Committee noted with concern at the lack of operational guidelines in the initial stages of the CDF in terms of identification and implementation of projects.

The Committee recommends that appropriate action should be taken by the Board to recover the funds allocated irregularly.

PROCUREMENT IRREGULARITIES – MBITA CONSTITUENCY DEVELOPMENT COMMITTEE (CDC)

Procurement of Schools Desks, Chairs and Lockers

1320. Mbita Constituency Development Committee on 18 December, 2006 entered into contract with two firms to supply school furniture. One company was to supply 3,030 school desks at a unit cost of Kshs.1,550.00 per desk and total contract price of Kshs.4,496,500.00. The other company was to supply 3,030 school desks, 960 chairs and 960 lockers at unit costs of Kshs.1,550.00, Kshs.1,728.40 and Kshs.1,975.30 respectively and total contract price of Kshs.8,052,052.00.

1321. The contracts were entered into without competitive bidding contrary to Government Financial Regulations and it is therefore, not possible to establish how the two firms were identified to supply the furniture.

1322. It was also observed that in January, 2007, one of the companies was paid Kshs.1,878,600.00 and the other one Kshs.1,422,220.00, long before delivery of any of the furniture items. Although the latter contractor, had in returning the quotations, indicated that the works would be completed within 120 days after the award of contract, in May, 2007, deliveries for 3030 desks, 512 lockers and 128 chairs had not been made while only a balance of Kshs.951,316.80 out of contract sum of Kshs.8,052,052.00 remained unpaid. The delay in completion of the contract and partial delivery of the school furniture, had inconvenienced the beneficiaries of the project.

1323. The District Development Officer explained that the Constituency Tender Committee (CTC) resolved to pay a 40% advance of the contract sum to each contractor in order to facilitate urgent completion of the works as a number of pupils were sitting on the floor, thus making learning difficult. He also explained that the committee preferred request for quotations procedure to open tendering procedure, to ensure funds allocated to the constituency were used to promote local business community. The explanation does not however, justify breach of the Public Procurement and Disposal Act and Regulations.

The Committee heard evidence given by the Accounting Officer that the CTC considered the matter to be urgent given that the schools had opened and many pupils lacked the said facilities, and paid Ksh. 7,100,735.20 for part delivery of 3030 desks, 512 lockers and 128 chairs. 40% was paid in advance to both contractors in order to facilitate urgent completion of the works. The CTC preferred request for proposal so as to promote local business community, though it is contrary to procurement regulations.

The Committee noted with concern that the CTC acted against the Public Procurement and Disposal Act regulations by making payments to the contractors before delivery of the goods. The Committee also observed that the Accounting Officer failed to provide documentation supporting the purchase at time of audit.

The Committee recommends that the Accounting Officer should ensure that officers who flout government procurement regulations and those responsible for loss of public funds are disciplined.

The Committee also recommends that all the desks should be delivered without further delay. The Accounting Officer must also ensure that, in future, three quotations are received as per the law, instead of single-sourcing.

Irregular Payment for Drawing Plans and Bills of Quantities for CDF Projects

1324. Government Financial Regulations and Procedures require all receipts of money by officers in their official capacity to be acknowledged promptly on an authorized form or a standard miscellaneous receipt form and be paid to revenue or Appropriations-in-Aid.

1325. The following case was however noted to contravene these regulations. In a CDC meeting held on 30 June, 2006 and attended by the District Works Officer – Suba District, it was agreed that the District Works Office draws Plans and Bills of Quantities for Mbita CDF projects at a cost of Kshs.3,500.00 per plan. On 23 and 31 March, 2007 cheque

Nos.061931 and 061932 for Kshs.69,730.00 and Kshs.7,082.00 both totalling Kshs.106,812.00 were issued in the name of the officer instead of the District Works Officer for the services rendered.

1326. Although the above amount was supposed to be paid to the District Works Office, no evidence was provided to show that was ever done. No explanation was also given for paying Kshs.106,812.00 to an individual instead of the Government office. It is further not clear how the fee of Kshs.3,500.00 per plan was arrived at.

The Committee also heard that the irregular payments of drawing plans and BQ for CDF projects done to the District Works Officer (DWO) were for costs incurred in purchasing of materials to draw the plans and BQs which were not within his annual workplan as opposed to payments for services rendered. The consideration of Kshs. 3,500 was an approximation by the DWO during the CDFC Meeting but not the actual charge for each BQ or plan drawn.

The Committee noted with concern that the payment was done in the personal name of the District Works Officer and not with the office, which appears to be fraudulent.

The Committee also noted with concern that the payment was made to the personal name of the DWO and not the office. This amounts to fraud and the Committee recommends that the full amounts should be recovered from the DWO, and the officers responsible for such approval should be disciplined.

FINANCIAL MISMANAGEMENT OF THE SABOTI CONSTITUENCY DEVELOPMENT FUND

Unexplained Expenditure at Kitale Medical Training College

1327. In October, 2006, it was observed that Saboti CDF incurred expenditure of Kshs.1,700,000.00 on renovation of the rented Kitale Medical College buildings. Kitale Medical Training College is a Government School operating on buildings rented from a private developer.

1328. In the same month, October, 2006, the Saboti Constituency Development Committee approved a further Kshs.4,000,000.00 million towards purchase of equipment and college renovation. It was observed that the Kshs.4 million cheque was deposited on 3 October, 2006 into a KCB account which had a nil balance. On the same day, 3 October, 2006, before the cheque was cleared a cash withdrawal of Kshs.1 million was made. On 4 October, 2006, two cash withdrawals of Kshs.1 million and Kshs.500,000.00 were made thereby overdrawing the bank account by Kshs.2,500,000.00 prior to the cheque being cleared. No explanation was given for these enormous cash withdrawals. As at 6 November, 2006, the bank account balance had been reduced to only Kshs.11,384.00.

1329. Physical audit verification conducted at the college in May, 2007 confirmed that no renovations were done in the college and no equipments were purchased in the financial year 2006/2007. There was also no documentary evidence produced by the Saboti C.D.F. to support the Kshs.4 million expenditure. The propriety of the Kshs.4 million payment

could not therefore be confirmed. Further, the lease agreement between Kitale Medical Training School and the owner of the buildings was not also produced for audit verification. I was therefore unable to vouch and confirm the justification of Kshs.1,700,000.00 renovation expenditure on rented private buildings or the propriety of rent paid during the period to 30 June, 2007.

Expenditure on Kiminini Water Supply that is unfit for human consumption.

1330. The Saboti C.D.F. as at 30 June, 2007 had spent a total of Kshs.6.400,000.00 on Kiminini water supply project. However, records available indicate that Trans-Nzoia District Public Health Officer on 8 April, 2005 wrote to the Trans-Nzoia District Water Officer advising him not to allow human consumption of Kiminini Water supply project as it had not been "conventionally pre-treated." The water had been tested and found to be unfit for human consumption. The same information was communicated to the Saboti C.D.F. Office by the District Water Officer. It is not clear why Saboti C.D.F. spent Kshs.6.4 Million Public Funds on a project that had not been sanctioned by the Public Health department and could endanger people's lives.

Failure by Saboti C.D.F. to maintain Projects Accounting Documentation

1331. Examination of Saboti C.D.F. records revealed that a total of Kshs.56,359,045.00 was disbursed to various projects within the constituency. However, contrary to the Constituencies Development Fund – National Management Secretariat's circular No.NA/PSc/CDF/2004 dated 30 November, 2004 that require funds disbursed to projects be accounted for, no supporting documents were made available for audit verification to support the disbursements. In the circumstances, I am unable to confirm the propriety of the Kshs.56,359,045.00 expenditure disbursed.

The Committee heard from the Accounting Officer that the financial improprieties that occurred in Saboti Constituency had been brought to light, and were already under investigation by the Kenya Anti-Corruption Commission.

The Committee recommends that the Accounting Officer tighten the structures in place that govern the use of or access to project funds to reduce or eliminate the opportunities for misappropriation. The Committee also recommends that the Accounting Officer should follow up on this matter with the Kenya Anti-Corruption Commission to its conclusion.

2007/2008 Accounts

OUTSTANDING TEMPORARY IMPREST – KITUI WEST CONSTITUENCY DEVELOPMENT FUND

388. Records held at the Kitui West Constituency Development Fund show that imprest totalling Kshs.2,470,394.00 were outstanding as at 30 June 2008 from various officials. Out of the above total, imprest amounting to Kshs.1,158,300.00 related to 2006/2007 and earlier years. Failure to have the latter balance retired or otherwise accounted for has not been explained.

The Committee heard that the imprest had since been surrendered in full.

The Committee, while noting the action taken by the Accounting Officer, recommends that in future, the full amounts of imprests should be surrendered within the stipulated 48 hours.

OUTSTANDING TEMPORARY IMPREST – MUTITO CONSTITUENCY DEVELOPMENT FUND

389. Examination of imprest records maintained at the Kitui District Treasury revealed that temporary imprests totalling Kshs.4,651,256.00 issued to Mutito Constituency Development Fund officials between 12 June 2006 and 30 October 2007 had not been surrendered or accounted for as at 30 June 2008. No reason has been provided for failure to have the imprests surrendered or otherwise accounted for.

The Committee heard that the imprest had since been surrendered in full, despite the delay in the surrender.

The Committee, while noting the action taken by the Accounting Officer, recommends that in future, imprests should be surrendered within the stipulated 48 hours, failure to which the officers responsible should be disciplined.

LOSS OF CASH AT GATUNDU SOUTH CONSTITUENCY DEVELOPMENT FUND

390. Examination of bank records maintained in respect of the Gatundu South Constituency Development Fund revealed that a loss of Kshs.246,000.00 against the Fund occurred in November 2006. According to information available, the loss arose from theft of two cheque leaves numbers 000099 and 000100 which were later forged and used on 15 November 2006 and 23 November 2006 to withdraw amounts of Kshs.80,500.00 and Kshs.165,500.00 respectively from the Funds Administration Account maintained at the Kenya Commercial Bank, Thika Branch.

391. Although the matter was reported to the Banking Fraud Unit, Nairobi for investigation, the outcome of the investigations have not been disclosed and the amount of Kshs.246,000.00 has also not been recovered.

The Committee was appalled by this possible outright theft, implying possible collusion between the payee and the bank officials and the fact that investigations by the bank seemed to be taking too long.

The Committee recommends that the Accounting Officer should hold the custodian of the cheques responsible for negligence and should seek to establish who the payee was. The Committee also recommends that investigations be conducted to ascertain the bank's role in precipitating this loss.

UNACCOUNTED FOR PROJECT FUNDS - NDARAGWA CONSTITUENCY DEVELOPMENT FUND

392. Examination of project records maintained at the Ndaragwa Constituency Development Fund Committee Office revealed that an amount of Kshs.500,000.00 allocated to two projects during the year under review was not accounted for as detailed below:-

Baari Dispensary

393. During a Ndaragwa Constituency Development Committee meeting held on 20 August 2007, Baari Dispensary was allocated Kshs.200,000.00 for purchase of unspecified wiring supplies and electrical accessories. Payment of Kshs.200,000.00 was subsequently made to Ndaragwa Dispensary Project Committee on 13 September 2007 through payment voucher No.290632.

394. An audit inspection carried out at Baari Dispensary in October, 2008 however revealed that no wiring had been fitted at the Dispensary and the electrical accessories purportedly bought were not in the store.

395. In the absence of any evidence to the contrary, it would appear that the amount of Kshs.200,000.00 was not used for the intended purpose and has not been accounted for.

Lightning Arrestors

396. The Ndaragwa Constituency Development Fund Committee, in another meeting held on 16 April 2007, allocated a sum of Kshs.300,000.00 to Shamata Lightning Arrestors Project from the Emergency Reserve Fund. The funds were released to the project through payment voucher No.290616 of 29 August 2007.

397. A visit to the Ndaragwa Constituency Development Fund Office in October 2008 however revealed that the lightning arrestors had not been installed and no records for the project were maintained at the office. The amount of Kshs.300,000.00 had also not been accounted for or refunded to the Fund.

398. As in the previous instance and in the absence of any other evidence to the contrary, the amount of Kshs.300,000.00 was clearly not spent for the intended purpose.

The Committee heard evidence given by the Accounting Officer that the Kshs. 200,000 for wiring the dispensary had been fully accounted for and the installation is complete. The projects were funded through the emergency item.

The Committee also heard that the four lightning arrestors had been installed in Kametha Primary School amounting to Kshs. 195,000 and the bank balance as at 29th December 2008 was Kshs. 102,956.50. The PMC is faced with leadership wrangles and it is therefore not possible to access all the accounting documents although there is pictorial evidence of the installation of the lightning arrestors.

The Committee noted that the response from the Accounting Officer was not satisfactory and resolved to undertake an inspection tour for the two projects in order to physically ascertain the accuracy of the facts presented.

Upon visiting the sites on 2nd November 2009, the Committee found that the wiring and electric accessories for the dispensary have since been procured and fitted. The Committee also visited Kametha Primary School and verified that the lightning arrestors were installed but there was no documentation and proof of purchase. Also, there was no verification as to whether the arrestors were functional or not.

The Committee recommends that the remaining funds of Ksh. 102,956.50 should be used to purchase the arrestors for the remaining buildings in the school and should not be used for other purposes.

IRREGULAR EXPENDITURE - JUJA CONSTITUENCY DEVELOPMENT FUND OFFICE

399. Audit inspection exercise carried out at the Juja Constituency Development Fund Office, Ruiru in November, 2008 revealed the following unsatisfactory matters:-

Kwihota Secondary School Water Borehole Project

400. Records made available for audit review indicate that during the year 2007/2008, Kwihota Secondary School Water Borehole Project was allocated Kshs.1,379,000.00, through payment voucher number 0279 of 26 April, 2007. Out of the above amount, a sum of Kshs.400,000.00 was paid in cash to an engineering firm as part payment for construction of a steel tower tank.

401. An audit inspection exercise carried out in November 2008 at the project site however revealed that neither the water tank nor the tower had been erected by the firm. Further, it was observed that although the payment of Kshs.400,000.00 made to the firm was received by its representative, the firm however denied having received the cash, and at the same time denounced the authenticity of the receipt purported to have been issued by the representative on the firm's behalf. It is therefore not clear as to the circumstances under which the payment of Kshs.400,000.00 was made. Further, no documents/records

were held by the Constituency Development Committee to show how the firm had been identified before eventually being awarded the contract. Consequently, and in the absence of any further information to the contrary, the propriety of expenditure of Kshs.400,000.00 could not be confirmed.

BTL Water Project

402. The Juja Constituency Development Fund Committee released a sum of Kshs.500,000 to BTL Water Project, through payment voucher No.739 of 8 November 2007. Out of the above sum, an amount of Kshs.200,000.00 was paid to a supplier through cheque No.000018 dated 11 December 2007. However, information and records made available for audit review do not disclose the purposes for which the payment was made.

The Committee heard evidence given by the Accounting Officer that the Board is investigating the Kwihota secondary school water borehole project with an intention of instituting appropriate mechanisms to recover in full the Ksh. 400,000 paid to the PMC. The Committee also heard that the payment of Ksh. 200,000 was for procurement of a water tank for the BTL water project (borehole) but the payee, Mr. Sammy Peter Onyango (former CDF coordinator), did not make good the purchase of a tank.

The Committee was concerned with the lack of adherence to laid down procurement regulations that led to loss of government funds. The Committee was also informed that the Board was investigating the officer involved with a view to recovering the money.

The Committee recommends that the Accounting Officer should hastily recover the Kshs.400,000 paid to the PMC and the Kshs.200,000 paid to the former CDF Coordinator, Mr. Sammy Peter Onyango.

The Committee also recommends that the officers who flouted procurement regulations should be disciplined.

MATHIOYA CONSTITUTENCY DEVELOPMENT FUND

403. At a meeting held on 18 April 2006, the Mathioya Constituency Development Fund Committee awarded a contract for construction of Kiambuthia – Gikoe footbridge in Mathioya Constituency, Muranga District, at a total cost of Kshs.855,000.00.

According to the Bills of Quantities (BQ) for the project, the construction works included; Provision of temporary pedestrian crossing including maintenance during the construction period; Provision and compaction of class 15 concrete for blinding (50 mm thick); Provision of framework including support as necessary; and Provision of hard core for foundation.

404. Information available appears to indicate that there existed no contract agreement between the Constituency Development Fund Committee and the contractor on the project and as a result, it was not possible to establish the terms of the contract including the

period of time required to complete the project. This notwithstanding, the Committee authorized on 3 March 2007 an additional expenditure of Kshs.432,755.00 purportedly for extra-works undertaken or in progress, that were necessary for completion of the footbridge. According to the District Works Officer's letter reference No.MR/MUR119.VOL.1/138 of 2 March 2007, the additional works involved; Increase of concrete; Extension of rail guards to the extra staircase; Installation of edge protection bars; Installation of gabions including rock fill, Provision of longer props and Removal of damaged old footbridge, among others.

The additional works brought the cost of the project to Kshs.1,287,775.00, representing an increase of about 50% over and above the original cost.

405. A review of expenditure records in respect of the project in April 2008 indicated that out of the total contract sum of Kshs.1,287,775.00, an amount of Kshs.1,057,775.00 had been paid to the contractor as at 30 April 2008 leaving a balance of Kshs.230,000.00. A physical verification conducted at the project site during the same month however revealed that the footbridge had been poorly constructed and was almost collapsing and curving inwards at the middle. The staircases had also collapsed, posing a serious risk to the users. Further observation revealed that the footbridge was not in use and the community had resorted to alternative and unsafe methods to cross the river.

406. No action appears to have been taken so far to rectify the defective sections of the footbridge although an expenditure of Kshs.1,057,775.00 had already been incurred on the project as at 30 June 2008.

The Committee heard evidence given by the Accounting Officer that there was a variation of the project cost after the District Works Officer's (DWO) recommendation for extra works occasioned by the site condition. The project was supervised by the DWO on three occasions. Although an independent technical report by Ebatech Engineering Associates Ltd on 22nd September 2008 revealed the shortcoming, site inspections on 14th November 2006 and 8th January 2007 by the DWO gave no adverse report on the workmanship.

The Committee observed that there was failure by the CDFC to adhere to procurement regulations, since there was no contract agreement between the CDFC and the contractor. In addition, the DWO offered poor technical advice and provided fake variations leading to higher cost overruns which could have been avoided. The possibility of collusion for misappropriation between the officers and the engineers involved could not be ruled out.

The Committee was appalled by the manner in which supervising engineers certify for payments to be made which are possibly not commensurate with works done. This amounts to professional negligence and fraud.

The Committee noted that although the CDFC sought the necessary support and proper expertise from the technical departments of Government for the project, the support did not help much as it appeared misleading.

The Committee also recommends that the officers involved in the loss by Government arising from professional negligence and poor supervision should be held personally liable. The professional institutes that those officers serve should be notified to bar them from practicing.

The Committee further recommends that the Accounting Officer report the District Works Officer to the Parent ministry for possible disciplinary action and surcharge.

CONSTRUCTION OF OFFICE BLOCK - KANDARA CONSTITUENCY DEVELOPMENT FUND OFFICE

407. Examination of records maintained at the Kandara Constituency Development Fund (CDF) office revealed that the Kandara Constituency Development Fund Committee invited qualified bidders for the construction of the Kandara CDF office on 13 November 2006.

408. Out of the four (4) bids received, the lowest bidder was awarded the contract at a tender sum of Kshs.6,012,069.00. The construction works were to commence on 15 December 2006, while the completion and handing over date was agreed on as 15 June 2007. The works involved construction of a single storey office block and included; site clearance, demolitions of stone house, sub-structural works, reinforcement concrete, steel sub-structure and wallings, roof works, windows/doors finishes, electrical installation, plumbing and drainage.

A review of the project records and an audit inspection carried out at the site in February 2009 revealed the following observations:

- (i) Although the project was scheduled for completion and handing over on 15 June 2007, this had not been done as at the date of the inspection.
- (ii) Although the contractor had been paid a total of Kshs.6,035,950.00 which exceeded the contract price of Kshs.6,012,069.00 by an amount of Kshs.23,881.00, the following construction defects were noted:-
 - Cracks on the building
 - Non-functioning water system
 - Malfunctioning gutters all round the building
 - Defective window handlers
 - Malfunctioning electrical system

409. It was further noted that the project committee did not involve the Ministry of Public Works in the implementation and supervision of the project as required by Section 30(1) of the Constituency Development Fund Act, 2003, but instead engaged the services of a private firm of architects. No reasons have however been provided for the poor and inadequate handling of this project.

The Committee heard evidence given by the Accounting Officer that the handing over of the project to the CDFC was occasioned by the death of the contractor

although the project is in use. The variation of the contract was due to variation of works that had not been taken into account although it is within the variation threshold of 10% of the works. The CDFC entered into an MOU with the widow of the contractor for the completion of the project. On 7th January 2009, the CDFC communicated with the widow of the contractor for her to make good the noted defects. A follow up letter was sent on 2nd March 2009 but no action had since been taken. In the meantime, the retention money of Kshs. 125,000.00 will cater for the noted defects.

The Committee recommends that the Accounting Officer should seek necessary support and proper expertise from the technical departments of Government when undertaking such projects.

The Committee also recommends that the Accounting Officer should ensure that the project is done and completed without further delay.

The Committee recommends that the Accounting Officer ensure that the professional institutes the contractor serves should be notified to bar the company from practicing due to occasioning the loss of public funds.

UNACCOUNTED FOR EXPENDITURE - VIHIGA CONSTITUENCY DEVELOPMENT FUND

410. Examination of records held at the Vihiga Constituency Development Fund Office revealed that at a meeting held on 15 October 2007, the Vihiga Constituency Development Fund Committee allocated a sum of Kshs.500,000.00 to Londondo Community Water Project for construction of a water tank in the area. Disbursement of the sum of Kshs.500,000.00 was made to the Project Committee through payment voucher No. 001503 of 30 November 2007. Further scrutiny of records revealed that the project had earlier received an initial funding of Kshs.600,000.00 through cheque No. 0274 of 21 July 2006. The total outlay for the project therefore stood at Kshs.1,100,000.00.

411. Although no project documents including the design and bills of quantity were made available for audit verification, information gathered nevertheless brought out the following unsatisfactory observations;

- (i) A physical verification of the project carried out on 14 December 2008 revealed that the construction work was set on what appears to be a weak foundation. Indications therefore are that the foundation may not withstand inclement weather conditions.
- (ii) The Ministry of Water and Irrigation was not involved during design, implementation and supervision of the project as required by Section 30(1) of the Constituency Development Act, 2003, and as a result, it was not possible to ascertain the basis on which the contractor was paid the amount of Kshs.1,100,000.00 for the work done.

The Committee heard evidence given by the Accounting Officer that the project has faced leadership wrangles and the PMC was taken to court. The District Auditor's report dated 17th February 2009 and the DDO report dated 18th February 2009 shows that the PMCs declined to submit the project books of account for accountability. The matter is in the Senior Resident Magistrate Court, Vihiga through case No.SRMCC.NO. 1342008T.

The Committee was concerned that the members of the public have not been informed about the existing law – the CDF Act - that they cannot sue a PMC as a body but the CDF Board could be sued instead.

The Committee recommends that the possible fraud or misappropriation of funds amounting to Kshs.1,100,000.00 should be investigated by the Kenya Anti-Corruption Commission with a view to establishing the propriety of the funds and prosecuting culpable culprits.

CONSTITUENCY DEVELOPMENT FUND – KWANZA

412. Imprest records in respect of the Kwanza Constituency Development Fund revealed that temporary imprests issued between February 2007 and January 2008 and amounting to Kshs.711,475.00 had not been surrendered or accounted for as at 30 June 2008. No reasons have been provided for failure to surrender or otherwise account for the imprests.

The Committee heard evidence given by the Accounting Officer that Ksh. 665,350.00 has been surrendered leaving a balance of Ksh. 45,125 still outstanding. The Board is still pursuing the outstanding imprest to ensure full accountability.

The Committee abhorred the manner in which the Accounting Officer failed to recover funds from the imprest holders 48 hours after conclusion of business for which the imprest was taken as required by law.

The Committee, while noting the action taken by the Accounting Officer, recommends that the amounts of the imprests outstanding are recovered without further delay.

The Committee further recommends that the Accounting Officer should ensure that Officers abide by financial regulations and recover imprest within 48 hours after return to duty station. In the event of the holder failing to account for or surrender the imprest, the Accounting Officer should recover the amount in full from the salary of the defaulting officer within 30 days, failure to which the outstanding amount should be recovered from the Accounting Officer.

IRREGULAR SALARY PAYMENTS - KAPENGURIA CONSTITUENCY DEVELOPMENT FUND OFFICE

413. Examination of records maintained at the Kapenguria Constituency Development Fund (CDF) Office revealed that two Constituency Development Fund Committee

members, a Treasurer and a Secretary were irregularly paid monthly salaries of Kshs.25,000.00 each for a period of ten months between July 2007 to April 2008, all totalling Kshs.500,000.00. In addition, the two members were also drawing sitting allowance at the rate of Kshs.2,500.00 per sitting during the same period.

414. The payment of monthly salaries totalling Kshs.500,000.00 would however appear to have been irregular in that the two CDF officials were not fulltime employees of the Fund and were therefore only entitled to sitting allowance.

The Committee heard evidence given by the Accounting Officer that there were weak structures at the Constituency level and the Fund Account Managers have been given instructions through Circular letters to improve on the Human Resource Management at the Constituency level. The services of the former Treasurer and the Secretary were terminated and their salaries paid up to 12th June 2008 as per the CDFC's minuted resolution Min/no. 03/06/2008.

The Committee abhorred the manner in which the salary was irregularly paid to the two CDFC members and recommends that the Board should ensure that the amounts are pursued and recovered by 30th September 2010.

INELIGIBLE EXPENDITURE - MARAKWET WEST CONSTITUENCY DEVELOPMENT FUND OFFICE

415. The Marakwet West Constituency Development Committee in a meeting held on 23 August 2007 approved an allocation of Kshs.1,000,000.00 to the African Inland Church (AIC) Kapsowar Medical Training College for construction of lecture rooms at the college. Payment to the college was made on 7 February 2008 through Cheque No.000710 of the same date.

416. The above expenditure however appears to contravene Section 23 (4) of the Constituencies Development Fund Act, 2003 which disallows use of funds to support political bodies or/and activities, or religious bodies and/or activities.

The Committee heard evidence given by the Accounting Officer that the project was approved by the CFC and NMC since the CDFC had not stated the connection of the project with the AIC in the 3rd Schedule. From 2006/07 & 2007/08 financial years, the project has been funded by both Marakwet East & West Constituencies to the tune of Kshs. 4,600,000.00. Previous audits by the Internal Auditor General and the Board have noted the weakness but have recommended a contractual agreement be arrived at to ensure the whole community benefits.

The Committee noted that government funds were used on private property, which is highly irregular and prohibited under the CDF Act. Therefore, the Committee recommends that no more funds should be used on this project, because it is a private entity.

CONSTITUENCY DEVELOPMENT FUND - GARSEN

417. The Garsen Constituency Development Fund Committee allocated and paid Ngao Secondary School amounts of Kshs.1,000,000.00 and Kshs.450,000.00 in 2005/2006 and 2006/2007 respectively for construction of two (2) classrooms and one (1) small office. An audit inspection carried out at the school in September 2008 however revealed that the project had not been completed as at that date.

418. According to information available, the reasons for the delay in the completion of the project were inadequate funding, resulting from variation of the initial cost of the project and lack of additional building materials required by the architect, which materials had not been taken into account at the start of the project.

The Committee heard evidence given by the Accounting Officer that the delay in the disbursement of funds was caused by failure of the CDFC to submit project proposals and delay in requesting for the funds from the Board. The original design plan was to construct only two classrooms but was later changed to include office and toilets. The CDFC has since allocated an additional Ksh.400,000.00 to complete the projects and have since been completed.

The Committee recommends that the Board should always strive to ensure timely completion of projects to avoid non-utilization of funds.

CONSTITUENCY DEVELOPMENT FUND – WAJIR EAST

Payment for Undelivered Goods

419. The Constituency Fund Committee paid a total of Kshs.8,071,200.00 to the Constituency Tender Committee for the supply and transportation of 2800 desks, 160 chambers and chairs to forty (40) Primary Schools and two (2) Secondary Schools in the Constituency. Payments were made through payment voucher Nos.2141 of 4/12/07; 2151 of 23,11/07; 2152 of 4/12/07; 2153 of 4/12/07 of Kshs.2,500,000.00, Kshs.2,621,200.00, Kshs.2,500,000.00 and Kshs.450,000.00 respectively.

420. In support of the payment vouchers were quotations Nos. WECDF/1/9/07 and WECDF/3/917 dated 28 September 2007, and a written contract agreement between the Wajir East Project Tender Committee and a local construction company signed on 21 October, 2007 for supply of desks, chambers and chairs.

421. A physical verification carried out at the forty (40) Primary Schools, and two (2) Secondary Schools between 12 and 13 August 2008 confirmed that, only ten (10) Primary Schools had been supplied with five hundred and ninety (590) desks while one (1) Secondary School had received sixty (60) chambers and chairs, all valued Kshs.1,584,580.00. The balance of Kshs.6,486,620.00 was therefore not accounted for. Further the desks supplied were noted to be of very low quality, and made from timber off-cuts.

The Committee heard evidence given by the Accounting Officer that the Board, the District Development Officer and the Chairman of the Wajir East CDFC visited nine schools that benefitted and verified some of the desks, chambers and chairs that were delivered. On 4th August, 2009, the Office of the Controller and Auditor-General, North Eastern Province (NEP), accompanied by the Fund Account Manager and other CDFC officials, also visited some of the schools. Due to the impassable roads caused by the recent heavy rains in NEP at the time of inspection, it was not possible to verify all the beneficiary schools, but the Board will make a follow up with the CDFC to conclusion.

The Committee noted that the response by the Board was not satisfactory and recommends that the presence of the goods should be ascertained and reported to the Controller and Auditor General.

The Committee also recommends that the Board should ensure that all the goods have been supplied and all the funds are fully accounted for, with due regard to getting value for the money spent.

CONSTITUENCY DEVELOPMENT FUND – MANDERA CENTRAL

Fencing of Rhamu District Education Board (DEB) Primary School

422. In a meeting held on 3 December 2007, the Mandera Central Constituency Development Fund Committee awarded a local construction firm a contract to build a perimeter fence at Rhamu DEB Primary School in Mandera Central Constituency at a cost of Kshs.2,300,000.00.

Examination of the contract records revealed the following unsatisfactory matters:-

- (i) Although proper procurement procedures were followed in the award of the tender, the contract agreement was not however signed between the parties. Consequently, the basis on which government was to seek redress in the event, that later became necessary was not clear.
- (ii) Although payment of Kshs.2,300,00.00 was made in full to the contractor vide payment voucher No.290169 of 24 December 2007, a physical verification of the project carried out on 3 July 2008 revealed that only about 50% of the contracted works had been completed. Further, most of the sections of the erected chain link were unstable and crumbling, implying that the workmanship was below the expected standard. There was also no evidence to confirm that the work was inspected before payment was effected. Consequently, the propriety of the expenditure of Kshs.2,300,000.00 could not be ascertained.

Emergency Funds

423. The Mandera Central Constituency Development Fund (CDF) Committee, in a meeting held on 16 October, 2007 at Rhamu CDF Office awarded a contract for water

tankering and supply of foodstuff to a local firm at a cost of Kshs.2,020,000.00. The water and foodstuff were to be supplied to the residents of Elete, Chachabole, Garsa damu, Kobadadi, Sukela, Sotowa, Oro, Chab, Issak, Kora, Aba busune and Waldiri villages within the constituency.

Examination of the contract records during the year however revealed the following unsatisfactory matters:-

- (i) No contract agreement between government and the firm was drawn and signed. As a result, the government did not have a basis for seeking redress in the event of inadequate performance by the firm.
- (ii) No records were maintained to show how the water and foodstuff were distributed to the villages. Under the circumstances, it was not possible to confirm the propriety of the expenditure of Kshs.2,020,000.00.

The Committee heard evidence given by the Accounting Officer that although the project is now complete, the Board will resort to legal redress. The contract agreement that was signed between the Managing Director, Kullow Mohamed Sheikh, on behalf of M/s Aboyo Contractors, and Mr. Mutker Mohamed on behalf of the CDF Secretary, on 10th December, 2007, provides for legal redress in case of breach of the contract.

The Committee also heard that on the emergency funds, although there were no records maintained to show how the water and foodstuff were distributed, the Board has copies of letters from six Assistant Chiefs acknowledging receipt of 100 Bales of Unga, 100 Bales of Rice, 100 Bags of sugar, 10 Boxes of Tea Leaves, and 20 Boxes of powder Milk. The same contractor also made 45 trips of water tankering to various villages.

The Committee noted with concern the level at which mere letters from Assistant Chiefs confirming the supplies could be relied upon for any serious proof of accountability.

The Committee recommends that the Accounting Officer should ensure that the government gets value for the funds spent on the perimeter fence of the DEB primary school. The Committee also recommends that the propriety of the expenditure of Kshs.2,020,000.00 emergency funds should be investigated to ascertain the facts, and if established to have been misappropriated, then the culprits should be held to account and prosecuted.

The Committee further recommends for the Accounting Officer to ensure that in future, proper procurement procedures are followed and adhered to.

CONSTITUENCY DEVELOPMENT FUND – MANDERA WEST

424. Examination of records maintained at the Mandera West Constituency Fund Office disclosed that the Constituency Development Committee at a meeting held on 20 October 2007 resolved and subsequently hired on a single source basis, the services of a local Non-Governmental Organization (NGO) to purchase and distribute household materials worth Kshs.1,178,000.00, for the pastoral dropouts camping at Kob-Adabi, Dandu and Did-Koba Centres in the Constituency. This was contrary to Constituencies Development Fund Act, 2003 which requires that all works and services relating to projects be sourced using the Public Procurement and Disposal Act, 2005.

425. Apart from the fact that the procurement procedures were not followed, it was also not possible to confirm that the NGO purchased the goods and that such goods were delivered and properly accounted for.

The Committee heard evidence given by the Accounting Officer that the Board received an acknowledgement letter from the elders that confirmed the supply of the said items and a certificate of Registration from the said NGO. The Board has faced logistical and accounting challenges in the implementation of the emergency projects especially distribution of food stuff and water. However, the Board is developing procedures of managing the same.

The Committee noted with concern the level at which a mere letter confirming the supplies could be relied upon for any serious proof of accountability, notwithstanding that the letter does not even indicate the cost of the goods. The Committee recommends that the propriety of the expenditure of Kshs.1,178,000.00 emergency funds should be investigated to ascertain the facts, and if established to have been misappropriated, then the culprits should be held to account and prosecuted.

The Committee also recommends that the Accounting Officer facilitates the creation or design of forms for easier tabulation and record-keeping of food or goods distribution. The Committee additionally recommends strict adherence to procurement procedures in future.

CONSTITUENCY DEVELOPMENT FUND - LAGDERA

Irregular Payment

426. The Lagdera Constituency Development Fund Committee, in a meeting held on 28 February 2006, allocated an amount of Kshs.6,600,000.00 to the Shanta Abaq Project Management Committee, for completion of various water projects at Shanta Abaq and Afweiyne areas within the Constituency. Two boreholes were to be sunk under the projects.

the two projects had not been implemented and no boreholes had been sunk at Shanta Abaq and Afweiyae areas. The amount of Kshs.6,600,000.00 had nevertheless been spent.

Unaccounted for Expenditure

428. The Constituency Development Fund Committee made payments totalling Kshs.1,700,000.00 to four (4) Project Management Committees. Four (4) projects were to be implemented at Elan Dispensary, Jilango Primary School, Afweiyne Dispensary and Burufa Primary School. An audit inspection exercise carried out in October 2008 at the institutions however revealed that none of the projects was in existence or in a plan. The amount of Kshs.1,700,000.00 was therefore not spent on the projects as indicated and it has not been accounted for.

The Committee heard evidence given by the Accounting Officer that in October 2008, the CFC and the Board visited the Constituency with an aim of addressing the issue (Afwiyei and Shanta Abaq boreholes) among others. Following a meeting with the Contractor and the CDF Board Project Technical Committee in October 2008, the Board communicated to the contractor on 19/11/08 through letter reference CDF/BOARD/LAGDERA/2008/ (64) for the project to be completed. The contractor has to date failed to carry out the contract and the Board is planning to refer the matter to the KACC.

The Committee also heard that on paragraph 428, three of the projects namely Elan Dispensary, Gurufa primary school, and Afweine dispensary were complete by 31st August, 2009 while Jilango primary is at completion stage. There is no project named Burufa primary school but Gurufa primary school as stated above. The Committee noted that the projects were completed using additional funds. The Committee recommends that the amount of Kshs.1,700,000 should be investigated with a view to recovering from the contractor and surcharging the officers responsible for the payment.

The Committee noted that, with regard to the boreholes, there was sheer misappropriation of funds and recommends that the matter should be investigated by the Kenya Anti-Corruption Commission, with a view to holding responsible and prosecuting the officers involved.

**MINUTES OF THE FIRST SITTING OF THE LOCAL AUTHORITIES AND FUNDS
ACCOUNTS COMMITTEE HELD ON WEDNESDAY 24TH JUNE 2009 IN COMMITTEE
ROOM NO. 9, PARLIAMENT BUILDINGS AT 12.30 PM**

PRESENT:

Hon. Thomas L. Mwadeghu, MP
Hon. Charles M. Nyamai, MP
Hon. Simon Mbugua, MP
Hon. Benjamin Langat, MP
Hon. Musa Sirma, MP
Hon. Pollyins O. Anyango, MP
Hon. Wilson M. Litole, MP
Hon. Peter Mwathi, MP
Hon. Abdul Bahari, MP
Hon. Nemesysus Warugongo, MP
Hon. Ferdinand Waititu, MP

IN - ATTENDANCE

NATIONAL ASSEMBLY

Mrs. C. W. Munga	-	Deputy Director, Committee Services
Mr. Julius Ariwomoi	-	Clerk Assistant
Mr. Gideon Kidenda	-	Parliamentary Intern

MIN. NO.01/2009

**REMARKS BY THE DEPUTY DIRECTOR, COMMITTEE
SERVICES**

The Deputy Director welcomed the Members and cited the relevant sections of the Standing Orders that directly relate to the establishment, mandate, role and operations of the Committee i.e. Standing Orders 162, 165, 167, 168, 169, 180 and 189. She also informed the Committee that although Standing Order No. 189 (3) stipulates that the Chairperson shall be a Member who does not belong to a party in Government, the current political scenario does not have an official opposition in place, leaving the Members of the back bench to take the role. Consequently, any Member of the Committee was eligible for the position of Chairperson and Vice-Chairperson.

MIN. NO.02/2009

ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON

The Deputy Director explained that where more than one candidate is proposed and seconded, the election shall be by secret ballot.

- (i) The Deputy Director conducted the proceedings for the election of the Chairperson. She called for proposals and the names of Hon. Simon Mbugua, MP and Hon. Thomas Mwadeghu, MP were proposed and seconded.

The votes were cast to determine the Chairperson. Upon receiving the highest number of votes cast, Hon. Thomas Mwadeghu, MP was declared the duly elected Chairperson of the Local Authorities and Funds Accounts Committee.

Thereupon, Hon. Thomas Mwadeghu, MP assumed the Chair.

- (ii) The Deputy Director also conducted the proceedings for the election of the Vice-Chairperson. She called for proposals and the names of Hon. Benjamin Langat, MP and Hon. Abdul Bahari, MP were proposed and seconded.

Votes were cast to determine the Vice-Chairperson. Upon receiving the highest number of votes cast, Hon. Benjamin Langat, MP was declared the duly elected Vice-Chairperson of the Committee.

MIN. NO.03/2009

REMARKS BY THE CHAIRPERSON AND THE VICE -
CHAIRPERSON

- (i) The Chairperson thanked the members for the honour of electing him and the confidence they had bestowed upon him. He pledged to serve the Committee with dedication and called for cooperation and the need to work as a team.
- (ii) The Vice-Chairperson also thanked the Members for electing him and pledged to work closely with the Chairperson in serving the Committee with commitment. He requested the Committee Members that since the work before the Committee was so much, there was need to sacrifice busy personal schedules. He further called for a non-partisan approach towards dealing with Committee issues in order to perform effectively.

MIN. NO.04/2009

ANY OTHER BUSINESS

The Committee resolved to consider its work-plan/programme in the next meeting.

MIN. NO.05/2009

ADJOURNMENT

And the time being forty minutes past one O'clock, the Chairperson adjourned the sitting until Thursday 25th June 2009 at 5 p.m.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 25/6/2010

THE MINUTES OF THE SECOND SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE HELD ON THURSDAY 25TH JUNE 2009 IN COMMITTEE ROOM 9, PARLIAMENT BUILDINGS AT 5:00PM

PRESENT

Hon. Thomas L. Mwadeghu, MP (Chairperson)
Hon. Benjamin Langat, MP (Vice-Chairperson)
Hon. Abdul Bahari, MP
Hon. Musa Sirma, MP

ABSENT

Hon. Charles M. Nyamai, MP
Hon. Pollyins O. Anyango, MP
Hon. Wilson M. Litole, MP
Hon. Peter Mwathi, MP
Hon. Nemesyus Warugongo, MP
Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

IN - ATTENDANCE

NATIONAL ASSEMBLY

Mr. Julius Ariwomoi	-	Clerk Assistant II
Mr. Gideon Kidenda	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. George Otieno Nashon	-	Assistant Director of Audit
Mr. Joash Manasseh Ogutu	-	Principal Auditor

The Chairperson commenced the meeting upon leading with prayers.

MIN. NO.06/2009

CONFIRMATION OF MINUTES

The minutes of the first sitting held on Wednesday 24th June 2009 were confirmed by the Members present and signed by the Chairperson.

MIN. NO.07/2009

MATTERS ARISING

Since the agenda of the previous meeting was primarily on elections, there were no matters arising.

MIN. NO.08/2009

CONSIDERATION OF WORK PLAN

- a) The Committee approved the draft work plan with the addition that during the Induction Workshop, the resource persons could include the following:-

- i) Chief Executive Officer of the Constituencies Development Fund and other technical staff;
 - ii) Director of Local Authorities;
 - iii) Officers in Charge of Youth Enterprise Fund and Women Enterprise Development Fund from their respective Ministries;
 - iv) Officer in-Charge of Pensions of Local Authorities;
 - v) Officer in-Charge of LATF funds in Treasury.
- b) On Foreign Study Tours, the Committee resolved that it would split into two groups in order to separately visit Tanzania and South Africa.

MIN. NO.9/2009

ADJOURNMENT

There being no other business, the meeting was adjourned at 6:15 pm until Monday 13 July, 2008 at 11:00 am.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 19/11/2009

**THE MINUTES OF THE THIRD SITTING OF THE LOCAL AUTHORITIES AND FUNDS
ACCOUNTS COMMITTEE HELD ON MONDAY 13TH JULY 2009 IN COMMITTEE ROOM
9 AT 11.00 AM**

PRESENT

Hon. Benjamin Langat, MP (Ag. Chairperson)
Hon. Musa Sirma, MP
Hon. Pollyins O. Anyango, MP
Hon. Wilson M. Litole, MP
Hon. Peter Mwathi, MP
Hon. Nemesyus Warugongo, MP
Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

ABSENT WITH APOLOGY

Hon. Thomas L. Mwadeghu, MP
Hon. Charles M. Nyamai, MP
Hon. Abdul Bahari, MP

IN – ATTENDANCE

NATIONAL ASSEMBLY

Mr. Julius Ariwomoi	-	Clerk Assistant
Ms. Catherine Wangechi	-	Parliamentary Intern
Mr. Gideon Kidenda	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. B. F. N. Kiguongo	-	Director of Audit
Ms. Elizabeth W. Nguringa	-	Deputy Director of Audit
Mr. Abednego N. Omwebu	-	Deputy Director of Audit
Mr. William K. Kalu	-	Deputy Director of Audit
Mr. David O. Gichana	-	Deputy Director of Audit
Mr. George O. Nashon	-	Assistant Director of Audit
Mr. Joash O. Mannaseh	-	Principal Auditor

The meeting commenced after prayers were said by the Acting Chairperson.

MIN. NO.10/2009

**PERUSAL OF ACCOUNTS OF UPCOMING LOCAL
AUTHORITIES**

- a) The Director of Audit explained the progress and current status of audits and examination of the accounts of Local Authorities as follows:-
- i) All the field work had been completed and all the local authorities had been audited until the financial year ending 30th June 2008;

- ii) Out of the 175 Local Authorities, 96 had already been issued with certificates;
 - iii) Out of the remaining Local Authorities, about 40 are in the final stages of review by the Controller and Auditor General and will be ready in the next 3 or 4 weeks; about 30 are under review with the Deputy Directors of Audit and would be ready by the end of August 2009.
- b) The Director of Audit also cited the following as some of the challenges faced by auditors while auditing the accounts of local authorities:-
- i) The inability of most local authorities to keep proper books of accounts due to laxity, incompetence or inadequate capacity;
 - ii) The lack of cooperation from the office of the Inspectorate of Local Authorities in the Ministry of Local Government;
 - iii) Political interference in Local Authorities, resulting in frequent transfers of Chief Officers;
 - iv) Illiteracy of most Councillors.

MIN. NO.11/2009

ANY OTHER BUSINESS

- a) The Committee was informed that the Induction Seminar could not be allowed to take place in Mombasa because the Liaison Committee had not met to approve Committees' work plans;
- b) It was resolved that the Chairperson would meet with the Clerk of the National Assembly, in order to discuss the way forward, including the alternative of holding the seminar in Naivasha;
- c) The Draft Induction programme was approved subject to the amendment that:-
 - i) the Chief Executive Officer of the CDF be invited to attend;
 - ii) a fourth session be included on the morning of the departure day.

MIN. NO.12/2009

ADJOURNMENT

There being no other business, the meeting was adjourned at thirty minutes past twelve o'clock until Monday 27 July, 2009 at 2.30 pm.

Signed

HON. THOMAS MWADEGHU, MP

(Chairperson)

Date

19/11/2009

**MINUTES THE FOURTH SITTING OF THE LOCAL AUTHORITIES & FUNDS
ACCOUNTS COMMITTEE HELD ON MONDAY 27TH JULY 2009 IN COMMITTEE
ROOM 9, PARLIAMENT BUILDINGS AT 2.30 PM**

PRESENT

Hon. Thomas L. Mwadeghu, MP (Chairperson)
Hon. Benjamin Langat (Vice- Chairperson)
Hon. Nemesys Warugongo, MP
Hon. Pollyins O. Anyango, MP
Hon. Musa Sirma, MP
Hon. Charles M. Nyamai, MP
Hon. Peter Mwathi, MP

ABSENT WITH APOLOGY

Hon. Abdul Bahari, MP

ABSENT

Hon. Wilson Litole, MP
Hon. Simon Mbugua, MP
Hon. Ferdinand Waititu, MP

IN - ATTENDANCE

NATIONAL ASSEMBLY

Mr. Julius Ariwomoi	-	Clerk Assistant II
Mr. Gideon Kidenda	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. B. F. N. Kiguongo	-	Director of Audit
Mr. D. O. Gichana	-	Deputy Director of Audit
Mrs. Elizabeth Nguring'a	-	Deputy Director of Audit
Mr. George Otieno Nashon	-	Assistant Director of Audit

MINISTRY OF LOCAL GOVERNMENT

Mr. James Muoki Mulatya	-	Chief Inspector
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MIN.NO.13/2009

EVIDENCE: NAIROBI CITY COUNCIL

Omar Abdi Farah, Deputy Town Clerk, Nairobi City Council, was accompanied by Messrs.:

(i) Jacob Munge	-	City Treasurer
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MINUTES OF THE FIFTH SITTING OF THE LOCAL AUTHORITIES AND FUNDS
ACCOUNTS COMMITTEE HELD ON TUESDAY, 28TH JULY, 2009 IN COMMITTEE ROOM
9, PARLIAMENT BUILDINGS AT 9.00 AM

PRESENT

Hon. Thomas Mwadeghu, MP (Chairperson)
Hon. Benjamin Langat, MP (Vice-Chairperson)
Hon. Charles Litole, MP
Hon. Peter Mwathi, MP
Hon. Abdul Bahari, MP
Hon. Pollyins Anyango, MP
Hon. Nemesyus Warugongo, MP

ABSENT WITH APOLOGY

Hon. Charles M. Nyamai, MP

ABSENT

Hon. Ferdinand Waititu, MP
Hon. Musa Sirma, MP
Hon. Simon Mbugua, MP

IN - ATTENDANCE

NATIONAL ASSEMBLY

Mr. Samuel Njoroge	-	Clerk Assistant II
Mr. Gideon Kidenda	-	Parliamentary Intern
Ms. Wanjiru Ndindiri	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. B.F.N. Kiguongo	-	Director of Audit
Mr. D. O. Gichana	-	Deputy Director of Audit
Mr. George Otieno Nashon	-	Assistant Director of Audit
Mr. G. G. Gitau	-	Principal Auditor

MINISTRY OF LOCAL GOVERNMENT

Mrs. Grace W. Muchoki	-	Chief Inspector, Local Authorities
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MIN. NO.15/2009

EVIDENCE: MUNICIPAL COUNCIL OF THIKA

Mr. J. N. Kariuki, Accounting Officer, Municipal Council of Thika accompanied by Messrs:-

(i)	F. G. Mbiuki	-	Municipal Treasurer
(ii)	Obadiah M. Mbindyo	-	Internal Auditor

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(ii) L. M. Gatima - Chief Accountant

The Committee could not proceed to take evidence from the witnesses due to the following reasons:-

- i) The Committee noted with concern the absence of the Accounting Officer (Town Clerk) without prior notice and failure to give any reasons;
- ii) The Committee was informed that to date, there were no certified audited accounts for the council.

The Committee therefore could not receive evidence from junior officers without the Accounting Officer present. The Committee directed that the Accounting Officer be informed that in future, he should treat Committee summons with the seriousness they deserved.

MIN. NO.14/2009

ADJOURNMENT

There being no other business, the sitting was adjourned at three o'clock until Tuesday 28th July 2009 at 9.00 am.

Signed

HON. THOMAS MWADEGHU, MP

(Chairperson)

Date

19/11/2009

(iii)	Henry M. Waweru	-	Senior Accountant
(iv)	Bedan Ndegwa	-	Accountant
(v)	Simon Gatuni	-	Accountant

appeared before the Committee and gave evidence on the queries raised in the 2003/2004 and 2005/2006 accounts.

MIN. NO.16/2009

DEFERRED EVIDENCE

The Committee noted that the original copies of the responses were not on official letterhead and thus could not be treated as authentic. It further noted that the responses were inadequate and unsatisfactory in addressing the audit queries and directed the Accounting Officer to appear (at a later date) with more comprehensive responses to all the audit queries raised.

The Committee also directed the Accounting Officer to ensure that the responses are submitted to the Controller and Auditor-General prior to the next appearance.

MIN. NO.17/2009

ADJOURNMENT

And the time being ten minutes past ten o'clock, the meeting was adjourned until Friday 31st July 2009 at 9.00 a.m.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 19/11/2009

**MINUTES OF THE SIXTH SITTING OF THE LOCAL AUTHORITIES & FUNDS
ACCOUNTS COMMITTEE HELD ON FRIDAY 31ST JULY 2009 IN COMMITTEE ROOM 7,
PARLIAMENT BUILDINGS AT 9.00 AM**

PRESENT

Hon. Musa Sirma, MP (Acting Chairperson)
Hon. Charles M. Nyamai, MP
Hon. Peter Mwathi, MP
Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

ABSENT WITH APOLOGY

Hon. Thomas L. Mwadeghu, MP
Hon. Benjamin Langat, MP
Hon. Nemesys Warugongo, MP
Hon. Pollyins O. Anyango, MP
Hon. Abdul Bahari, MP
Hon. Wilson M. Litole, MP

IN - ATTENDANCE

NATIONAL ASSEMBLY

Mr. Julius Ariwomoi	-	Clerk Assistant II
Mr. Gideon Kidenda	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. B. F. N. Kiguongo	-	Director of Audit
Mr. W. K. Kalu	-	Deputy Director of Audit
Mr. R. O. Nyangwachi	-	Assistant Director of Audit
Mr. George Otieno Nashon	-	Assistant Director of Audit

MINISTRY OF LOCAL GOVERNMENT

Mr. Peter K. Ng'ang'a	-	Deputy Director, Local Authorities Inspectorate
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MIN. No.18/2009:

EVIDENCE: NAKURU MUNICIPAL COUNCIL

Mr. Abdirizak Sheikh, Accounting Officer, Nakuru Municipal Council, accompanied by Messrs:

(i) John Gicaci Giturwa	-	Municipal Treasurer
(ii) Gilbert Mbugua Njihia	-	Assistant Municipal Treasurer
(iii) Jane Mumbi Mungai	-	Accountant II

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(iv) Oscar Muraguri	-	Accountant
(v) Samuel Mbugua	-	Accountant

appeared before the Committee and gave evidence on the following Paragraphs:-

- i) Paragraph 3.1 of 2004/2005 and 2005/2006 Accounts on Non Submission, Opening Balances, Format and Accuracy of Accounts.
- ii) Paragraph 3.2 of 2004/2005 and 2005/2006 Accounts on Fixed Assets.
- iii) Paragraph 3.3 of 2004/2005 and Paragraph 3.4 of 2005/2006 Accounts on Debtors.
- iv) Paragraph 3.4 of 2004/2005 Accounts on Deferred Charges.
- v) Paragraph 3.5 of 2004/2005 and 2005/2006 Accounts on Cash, Bank and Overdraft Balances.
- vi) Paragraph 3.6 of 2004/2005 Accounts on Stock.
- vii) Paragraph 3.7 of 2004/2005 and Paragraph 3. 6 of 2005/2006 Accounts on Creditors.
- viii) Paragraph 3.8 of 2004/2005 Accounts on Long Term Loans.
- ix) Paragraph 3.9 of 2004/2005 and Paragraph 3.3 of 2005/2006 Accounts on Renewal Funds.
- x) Paragraph 3.10 of 2004/2005 and Paragraph 3.8 of 2005/2006 Accounts on Revenue Expenditure Accounts.
- xi) Paragraph 3.11 of 2004/2005 and Paragraph 3.10 of 2005/2006 Accounts on Budget and Budgetary Controls.
- xii) Paragraph 3.12 of 2004/2005 and 2005/2006 Accounts on Non Response to Draft Report.
- xiii) Paragraph 3.7 of 2005/2006 Accounts on Nugatory Payments.
- xiv) Paragraph 3.9 of 2005/2006 Accounts on Local Authorities Transfer Funds.
- xv) Paragraph 3.11 of 2005/2006 Accounts on Other Balances.

MIN.NO.19/2009

PAPER LAID

The following Paper was laid on the table:-

Minister's consent for the handing over of houses in Ngei and Kabachia Estates to National Housing Corporation relating to Paragraph 3.8 of 2004/2005 on Long Term Loan

MIN. NO.20/2009

PENDING ISSUE: PARAGRAPH 3.8 OF 2004/2005 ON LONG TERM LOANS

The Committee directed the Accounting Officer to provide the valuation reports of the two estates handed over to the National Housing Corporation.

MIN. NO.21/2009

PENDING ISSUE: PARAGRAPH 3.11 OF 2004/2005 ON BUDGET AND BUDGETARY CONTROL

The Committee noted that the response on this matter did not reflect accurate information and was therefore unsatisfactory. The Accounting Officer was directed to provide an accurate and comprehensive submission to both the Committee and the Controller and Auditor General for verification within two weeks.

MIN. NO.22/2009

ADDITIONAL INFORMATION

The Committee noted that the contracted accounting firms failed to prepare proper books of accounts despite receiving payments from the council.

The Committee directed the Accounting Officer to provide a list of contracted accounting firms during the period under review.

MIN.NO.23/2009

ADJOURNMENT

There being no other business, the sitting was adjourned at forty five minutes past one o'clock until Monday 3rd August 2009 at 2.30 pm.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 19/11/2009

MINUTES OF THE SEVENTH SITTING OF THE LOCAL AUTHORITIES & FUNDS
ACCOUNTS COMMITTEE HELD ON MONDAY 3RD AUGUST 2009 IN CONFERENCE
HALL. COUNTY HALL. PARLIAMENT BUILDINGS AT 2.30 PM

PRESENT

Hon. Thomas L. Mwadeghu, MP (Chairperson)
Hon. Benjamin Langat (Vice- Chairperson)
Hon. Pollyins O. Anyango, MP
Hon. Wilson M. Litole, MP
Hon. Nemesys Warugongo, MP

ABSENT WITH APOLOGY

Hon. Ferdinand Waititu, MP
Hon. Charles M. Nyamai, MP
Hon. Abdul Bahari, MP

ABSENT

Hon. Musa Sirma, MP
Hon. Simon Mbugua, MP

IN - ATTENDANCE

NATIONAL ASSEMBLY

Mr. Julius Ariwomoi	-	Clerk Assistant II
Mr. Gideon Kidenda	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. B. F. N. Kiguongo	-	Director of Audit
Mr. D. O. Gichana	-	Deputy Director of Audit
Mr. George Otieno Nashon	-	Assistant Director of Audit
Mr. Kennedy M. Mwaniki	-	Principal Auditor

MINISTRY OF LOCAL GOVERNMENT

Mrs. Ruth Kiiru	-	Director of Local Authorities
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MIN. NO. 24/2009

EVIDENCE: MOMBASA MUNICIPAL COUNCIL

Mr. Tubman Otieno, the Accounting Officer, Mombasa Municipal Council accompanied by Messrs:

(i) Andrew Mkhisa Wanyonyi	-	Town Treasurer
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appeared before the Committee to respond to queries raised in the 2003/2004 accounts to date.

MIN. NO.25/2009

DEFERRED EVIDENCE

The Committee was informed that, to date, there were no certified audited accounts for the council.

In the absence of audited accounts, the Committee directed the Accounting Officer to liaise with the Controller and Auditor General to ensure that upon receipt of the certified accounts, the responses were to be prepared and submitted without delay. The Committee also directed the Accounting Officer to report back to the Committee in one month. He should also avail information on the level of indebtedness of the council.

MIN. NO.26/2009

ADDITIONAL INFORMATION

The Committee noted that the accounting firms contracted by various councils prepared accounts without books of accounts.

The Committee directed the Director of Local Authorities to provide (in one month), a report on all the private accounting and auditing firms that were subcontracted by various councils and the amounts paid to each one of them during the period under review.

MIN. NO.27/2009

ADJOURNMENT

There being no other business, the sitting was adjourned at fifteen minutes past three o'clock until Tuesday 4th August 2009 at 9.00 am.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 23/11/2009

MINUTES THE EIGHTH SITTING OF THE LOCAL AUTHORITIES & FUNDS ACCOUNTS
COMMITTEE HELD ON TUESDAY 4TH AUGUST 2009 IN COMMITTEE ROOM 9.
PARLIAMENT BUILDINGS AT 9.00 AM

PRESENT

Hon. Thomas L. Mwadeghu, MP (Chairperson)
Hon. Charles M. Nyamai, MP
Hon. Pollyins O. Anyango, MP
Hon. Nemesys Warugongo, MP

ABSENT WITH APOLOGY

Hon. Benjamin Langat, MP
Hon. Wilson M. Litole, MP
Hon. Ferdinand Waititu, MP
Hon. Abdul Bahari, MP

ABSENT

Hon. Musa Sirma, MP
Hon. Simon Mbugua, MP

IN - ATTENDANCE

NATIONAL ASSEMBLY

Mrs. Lucy Wanjohi	-	Clerk Assistant II
Ms. Wanjiru Ndindiri	-	Parliamentary Intern
Mr. Gideon Kidenda	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. B. F. N. Kiguongo	-	Director of Audit
Mr. A. N. Omwebu	-	Deputy Director of Audit
Mr. George O. Nashon	-	Assistant Director of Audit
Mr. J. M. Mutinda	-	Principal Auditor (Kisumu)

MINISTRY OF LOCAL GOVERNMENT

Mrs. Ruth Kiiru	-	Director of Local Authorities
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MIN. NO.28/2009

EVIDENCE: KISUMU MUNICIPAL COUNCIL

Mr. Benjamin Orwa, Accounting Officer, Kisumu Municipal Council, accompanied by
Messrs:

(i) Charles M. A. Andima - Town Treasurer

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(ii) Augustine N. Aron - Chief Accountant

appeared before the Committee to respond to queries raised in the 2003/2004 accounts to date.

MIN. NO.29/2009

DEFERRED EVIDENCE

The Committee was informed that, to date, the certified audited accounts for the council were not ready, but would be ready in the next one month.

In the absence of audited accounts, the Committee directed the Accounting Officer to liaise with the Controller and Auditor General to ensure that upon receipt of the certified accounts, the responses are prepared and submitted without delay. The Accounting Officer will be required to appear before the Committee within one month.

MIN. NO.30/2009

ADJOURNMENT

There being no other business, the sitting was adjourned at ten minutes past ten O'clock until Thursday 5 August, 2009 at 9.00 am.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 23/11/2009

MINUTES OF THE NINTH SITTING OF THE LOCAL AUTHORITIES & FUNDS
ACCOUNTS COMMITTEE HELD ON THURSDAY 6TH AUGUST 2009 IN CONFERENCE
ROOM, COUNTY HALL AT 9.00 AM

PRESENT

Hon. Charles M. Nyamai, MP (Ag. Chairperson)
Hon. Pollyins O. Anyango, MP
Hon. Nemesyus Warugongo, MP
Hon. Musa Sirma, MP
Hon. Peter Mwathi, MP

ABSENT WITH APOLOGY

Hon. Thomas L. Mwadeghu, MP
Hon. Benjamin Langat, MP
Hon. Ferdinand Waititu, MP
Hon. Abdul Bahari, MP

ABSENT

Hon. Simon Mbugua, MP
Hon. Wilson M. Litole, MP

IN - ATTENDANCE

NATIONAL ASSEMBLY

Mr. Julius Ariwomoi	-	Clerk Assistant II
Mr. Gideon Kidenda	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. B. F. N. Kiguongo	-	Director of Audit
Mr. D. O. Gichana	-	Deputy Director of Audit
Mr. Richard Nyagwachi	-	Assistant Director of Audit
Mr. George Otieno Nashon-	-	Assistant Director of Audit

MINISTRY OF LOCAL GOVERNMENT

Mrs. Ruth Kiiru	-	Director of Local Authorities
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MIN. NO.31/2009

EVIDENCE: NAROK COUNTY COUNCIL

Mr. Joseph M. Malinda, Accounting Officer, Narok County Council, accompanied by Messrs:

(i) Wesley C. Kimeo	-	Accountant
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appeared before the Committee to respond to queries raised in the 2003/2004 accounts to date.

MIN. NO.32/2009**DEFERRED EVIDENCE**

The Committee was informed that, to date, the certified audited accounts for the council were not ready, but will be ready in the next one month.

In the absence of audited accounts, the Committee directed the Accounting Officer to liaise with the Controller and Auditor General to ensure that upon receipt of the certified accounts, the responses are prepared and submitted without delay.

The Accounting Officer should appear before the Committee in (one month) with proper responses.

MIN. NO.33/2009**ADJOURNMENT**

There being no other business, the sitting was adjourned at forty five minutes past ten o'clock until Monday 10 August, 2009 at 2.30 pm.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 23/11/2009

MINUTES OF THE TENTH SITTING OF THE LOCAL AUTHORITIES & FUNDS
ACCOUNTS COMMITTEE HELD ON MONDAY 10TH AUGUST 2009 IN COMMITTEE
ROOM 7, PARLIAMENT BUILDINGS AT 2.30 PM

PRESENT

Hon. Charles M. Nyamai, MP (Ag. Chairperson)
Hon. Pollyins O. Anyango, MP
Hon. Abdul Bahari, MP
Hon. Wilson M. Litole, MP
Hon. Musa Sirma, MP
Hon. Peter Mwathi, MP

ABSENT WITH APOLOGY

Hon. Thomas L. Mwadeghu, MP
Hon. Nemesys Warugongo, MP

ABSENT

Hon. Benjamin Langat, MP
Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

IN - ATTENDANCE

NATIONAL ASSEMBLY

Mr. Julius Ariwomoi - Clerk Assistant II
Mr. Gideon Kidenda - Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. B. F. N. Kiguongo - Director of Audit
Mr. W. K. Kalu - Deputy Director of Audit
Mr. George O. Nashon - Assistant Director of Audit
Mr. F. M. Mogere - Senior Auditor

MINISTRY OF LOCAL GOVERNMENT

Mr. Patrick Karanja - Deputy Director, Inspectorate of Local Authorities

MIN. NO.34/2009

EVIDENCE: ELDORET MUNICIPAL COUNCIL

Mr. Stansilus Ondimu, Accounting Officer, Nakuru Municipal Council, accompanied by Messrs:

(i) Allan Mabuka - Town Treasurer

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|-----------------------|--------------------------|
| (ii) Millicent Okonjo | - Deputy Town Treasurer |
| (iii) Isaac K. Taalam | - Chief Internal Auditor |

appeared before the Committee to respond to queries raised in the accounts for the financial years 2003/2004 to date.

MIN. NO.35/2009

DEFERRED EVIDENCE

The Committee was informed that, to date, the certified audited accounts for the council were not ready, but will be ready in the next one month.

In the absence of audited accounts, the Committee directed the Accounting Officer to liaise with the Controller and Auditor General to ensure that upon receipt of the certified accounts, the responses are prepared and submitted without delay.

The Accounting Officer would then appear before the Committee in (one month) with proper responses.

The Committee also directed the Director of Local Authorities to avail a comprehensive report detailing the list of all the serving Chief Officers together with background and status of accountability in the Local Authorities served previously prior to their current postings.

MIN. NO 36/2009

ANY OTHER BUSINESS

- i) The Committee deliberated on an invitation from the Ministry of the East African Community on a consultative meeting with Parliamentary Committees on the proposed EAC framework on good governance to be held in Bujumbura, Burundi. Since the invitation required one representative, the Committee nominated Hon. Pollyins O. Anyango, MP to attend.
- ii) The Committee also considered a request by the Clerk of Nyeri Municipal Council, for postponement of meeting that was scheduled for Tuesday 11th August 2009. The Clerk had cited his inability to attend due to other official engagements. The Committee agreed to the request and resolved to reschedule the meeting to a later date.

MIN. NO.37/2009

ADJOURNMENT

There being no other business, the sitting was adjourned at fifteen minutes past four O'clock until Tuesday 11 August, 2009 at 9.00 am.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 23/11/2009

MINUTES OF THE ELEVENTH SITTING OF THE LOCAL AUTHORITIES & FUNDS
ACCOUNTS COMMITTEE HELD ON TUESDAY 11TH AUGUST 2009 IN COMMITTEE
ROOM 9, PARLIAMENT BUILDINGS AT 9.00 AM

PRESENT

Hon. Thomas L. Mwadeghu, MP (Chairperson)
Hon. Benjamin Langat, MP (Vice- Chairperson)
Hon. Nemesys Warugongo, MP
Hon. Charles M. Nyamai, MP
Hon. Abdul Bahari, MP
Hon. Peter Mwathi, MP

ABSENT WITH APOLOGY

Hon. Wilson M. Litole, MP

ABSENT

Hon. Musa Sirma, MP
Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP
Hon. Pollyins O. Anyango, MP

IN - ATTENDANCE

NATIONAL ASSEMBLY

Mr. Julius Ariwomoi	-	Clerk Assistant II
Mr. Gideon Kidenda	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. George Otieno Nashon	-	Assistant Director of Audit
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MIN. NO.38/2009

REVIEW OF THE PREVIOUS EVIDENCE SESSIONS

- a) The Committee reviewed its last seven sittings, where the Accounting Officers from City Council of Nairobi, Mombasa Municipal Council, Kisumu Municipal Council, Nakuru Municipal Council, Thika Municipal Council, Eldoret Municipal Council and Narok County Council appeared to give evidence.
- b) Since this was the first time for the accounts of Local Authorities to be examined, the Committee noted with concern the following issues (among others):-
- i) Lack of certified accounts for several councils;
 - ii) Production of accounts without books of accounts;
 - iii) The quality of responses to audit queries;

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- iv) Procurement of accounting and auditing services for local authorities;
 - v) Lack of set standards for accountability in local authorities;
 - vi) Competence of Chief Officers;
 - vii) Frequent transfers of Chief Officers;
 - viii) LATF disbursements done contrary to the Public Audit Act;
 - ix) Possible negligence in overseeing local authorities.
- c) The Committee deliberated on the above observations and resolved to:-
- i) suspend the taking of evidence from the councils until further notice;
 - ii) invite the Deputy Prime Minister and Minister for Local Government for a meeting to address the above issues;
 - iii) undertake a one-day consultative stakeholders forum/workshop between the Committee, the Kenya National Audit Office, the Inspectorate of Local Authorities and all the Chief Officers of councils; to be organized by the Ministry of Local Government to take place in Nairobi, in order to address the above issues and chart the way forward.
- d) The Committee also resolved that, where accounting or auditing firms are established to have been paid after presenting accounts without books of accounts, the said firms should be identified and barred from practicing, by the Institute of Certified Public Accountants of Kenya (ICPAK).

MIN. NO.39/2009

MEMBERS' ATTENDANCE DURING COMMITTEE MEETINGS

- a) The Chairperson reminded Members of the Committee on the need for commitment and working as a team, if significant progress and better performance was to be achieved.
- b) He further reminded the Members that public accountability demanded commitment in Committee attendance by each Member and that courtesy calls for prior information to the Chairperson or the secretariat in case of inability to attend.
- c) It was noted that some Members of the Committee had failed to attend four consecutive meetings without the written permission of the Chair as stipulated in Standing Order 169 (1). The Committee mandated the Chairperson to speak with the concerned Members before any further decision is taken.
- d) It was further noted that lack of commitment and failure to attend Committee sittings may lead to lack of quorum, cancellation of meetings and may negatively impact on the performance of the Committee.

MIN. NO 40/2009

ANY OTHER BUSINESS

- i) The Committee noted the absence of a clear policy pertaining to the catering of and allowances to Members' personal staff (especially security officers and drivers) when Members attend Parliamentary activities away from Parliament Buildings. The Committee resolved that the Chairperson could take up the matter with the Liaison Committee in order to address and find the way forward.
- ii) The Secretariat was asked to avail Committee Annual Budget and work plan for further consideration in the next meeting.

There being no other business, the sitting was adjourned at eleven o'clock until Wednesday 19 August 2009 at 12.30 pm.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 23/11/2009

**MINUTES OF THE TWELFTH SITTING OF THE LOCAL AUTHORITIES & FUNDS
ACCOUNTS COMMITTEE HELD ON WEDNESDAY 19TH AUGUST 2009 IN COMMITTEE
ROOM 9, PARLIAMENT BUILDINGS AT 12.30 PM**

PRESENT

Hon. Thomas L. Mwadeghu, MP (Chairperson)
Hon. Benjamin Langat, MP (Vice- Chairperson)
Hon. Charles M. Nyamai, MP
Hon. Abdul Bahari, MP

ABSENT WITH APOLOGY

Hon. Pollyins O. Anyango, MP
Hon. Nemesys Warugongo, MP

ABSENT

Hon. Peter Mwathi, MP
Hon. Musa Sirma, MP
Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP
Hon. Wilson M. Litole, MP

IN - ATTENDANCE

NATIONAL ASSEMBLY

Mr. Julius Ariwomoi - Clerk Assistant II
Mr. Gideon Kidenda - Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. D. O. Gichana - Deputy Director of Audit
Mr. George Otieno Nashon- Assistant Director of Audit

MIN. NO.42/2009

**EVIDENCE: OFFICE OF THE DEPUTY PRIME MINISTER
AND MINISTER FOR LOCAL GOVERNMENT**

Mr. Sammy Kirui, Accounting Officer, Office of the Deputy Prime Minister and Ministry of Local Government accompanied by Messrs:

- i) Ruth N. M. Kiiru - Director, Local Authorities Inspectorate
- ii) Patrick Karanja - Deputy Director, Inspectorate of Local Authorities
- iii) P. M. Kamau - Deputy Director, Inspectorate of Local Authorities
- iv) Angeline A. Hongo - Program Co-ordinator

appeared before the Committee to respond to issues relating to the management and accountability of local authorities.

MIN. NO.43/2009

DEFERRED EVIDENCE

The Committee was informed that the Deputy Prime Minister and Minister for Local Government could not attend the meeting because of other commitments. He opted to have his Permanent Secretary represent him in the Committee.

The Committee deliberated and resolved that in the absence of the Deputy Prime Minister and Minister for Local Government, the meeting could not continue as the issues under discussion were matters of policy and fell squarely in the purview of the Minister.

The Committee therefore directed the Permanent Secretary to liaise with the Deputy Prime Minister and Minister for Local Government so as to ensure that the meeting is re-scheduled to be within the next one week.

MIN. NO 44/2009

ANY OTHER BUSINESS

- i) The Chairperson informed the Committee that the Liaison Committee had resolved that until the supplementary budget was passed, each Committee will operate on a budget of Kshs. 11.5 million this financial year.
- ii) The Secretariat was requested to provide the Members with the proposed work plan and the proposed Budget prior to their approval in the next meeting.
- iii) The Permanent Secretary informed the Committee that the Ministry had organized a workshop for all Chief Officers to be held on 1st - 3rd September 2009 in Nairobi. The Committee directed the Permanent Secretary to forward (in advance) the programme of the workshop to the Committee, for it to be verified whether it contains Committee intentions.
- iv) The Committee deliberated on the invitation to the Annual Association of Public Accounts Committees (APAC) conference 2009 to be held in Cape Town (South Africa) from 27th - 30th September 2009. It was resolved that the Chairperson could appeal to the Clerk of the National Assembly to allow only the Committee to represent the Assembly in the Conference.

MIN. NO.45/2009

ADJOURNMENT

There being no other business, the sitting was adjourned at half past one o'clock until further notice.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 23/11/2009

MINUTES OF THE THIRTEENTH SITTING OF THE LOCAL AUTHORITIES & FUNDS ACCOUNTS COMMITTEE HELD ON MONDAY 24TH AUGUST 2009 IN CONFERENCE ROOM, COUNTY HALL, PARLIAMENT BUILDINGS AT 2.30 PM

PRESENT

Hon. Thomas L. Mwadeghu, MP (Chairperson)
Hon. Benjamin Langat, MP (Vice- Chairperson)
Hon. Charles M. Nyamai, MP
Hon. Abdul Bahari, MP
Hon. Pollyins O. Anyango, MP
Hon. Peter Mwathi, MP
Hon. Wilson M. Litole, MP

ABSENT WITH APOLOGY

Hon. Musa Sirma, MP

ABSENT

Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP
Hon. Nemesys Warugongo, MP

IN - ATTENDANCE

NATIONAL ASSEMBLY

Mr. Julius Ariwomoi	-	Clerk Assistant II
Mr. Gideon Kidenda	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. B. F. N. Kiguongo	-	Director of Audit
Mr. D. O. Gichana	-	Deputy Director of Audit
Mr. George Otieno Nashon-		Assistant Director of Audit

MIN. NO.46/2009

EVIDENCE: OFFICE OF THE DEPUTY PRIME MINISTER AND MINISTER FOR LOCAL GOVERNMENT

Hon. Wycliffe Musalia Mudavadi, EGH, MP, Deputy Prime Minister and Minister for Local Government, accompanied by Messrs:-

i)	Sammy Kirui	-	Permanent Secretary
ii)	Ruth Kiiru	-	Director, Local Authorities Inspectorate
iii)	P. M. G. Kamau	-	Deputy Director, Local Authorities Inspectorate
iv)	Angeline Hongo	-	Program Coordinator, Kenya Local Government Reforms

appeared before the Committee to respond to the following issues relating to the management and accountability of local authorities:-

- i) Lack of certified accounts for several councils;
- ii) Production of accounts without books of accounts;
- iii) The quality of responses to audit queries;
- iv) Procurement of accounting and auditing services for local authorities;
- v) Lack of set standards for accountability in local authorities;
- vi) Competence of Chief Officers;
- vii) Frequent transfers of Chief Officers;
- viii) LATF Funds disbursed/utilized contrary to the LATF Act;
- ix) Possible negligence in overseeing local authorities.

MIN. NO.47/2009

OUTSTANDING ISSUES

- (a) The Committee noted that the Minister did not adequately respond to some of the issues and directed that:-
 - i) a report on the Ministry's proposals for the amendments to the LATF Act be forwarded to the Committee;
 - ii) the report detailing the economic viability and rationalization of local authorities and the suggested actions for each one of them be availed to the Committee;
 - iii) a report on the structures put in place to address staffing and capacity building in local authorities be availed to the Committee.
- (b) The Committee was concerned that the Ministry had taken too long to amend the outdated Local Government Act (CAP. 265 – Laws of Kenya). The Minister informed the Committee that the bill to amend the Act is at the Cabinet level.

MIN. NO.48/2009

ADJOURNMENT

There being no other business, the sitting was adjourned at ten minutes to six o'clock until Wednesday 26 August 2009 at 4.00 pm.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 23/11/2009

**MINUTES OF THE FOURTEENTH SITTING OF THE LOCAL AUTHORITIES & FUNDS
ACCOUNTS COMMITTEE HELD ON WEDNESDAY 26TH AUGUST 2009 IN COMMITTEE
ROOM 7, PARLIAMENT BUILDINGS AT 4:30 PM**

PRESENT

Hon. Thomas L. Mwadeghu, MP (Chairperson)
Hon. Benjamin Langat, MP (Vice- Chairperson)
Hon. Charles M. Nyamai, MP
Hon. Wilson M. Litole, MP
Hon. Musa Sirma, MP
Hon. Pollyins O. Anyango, MP

ABSENT WITH APOLOGIES

Hon. Nemesys Warugongo, MP

ABSENT

Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP
Hon. Abdul Bahari, MP
Hon. Peter Mwathi, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. Julius Ariwomoi	-	Clerk Assistant II
Mr. Gideon Kidenda	-	Parliamentary Intern

MIN. NO.49/2009

MEETING WITH THE CHIEF OFFICERS

The Chairperson informed the Committee that the Minister for Local Government had organized an interactive forum between the Committee and the Chief Officers of Local Authorities, together with their Mayors and Finance Committee Chairmen on Tuesday 1st September 2009 at 3.00pm at KICC, during the Local Authorities Performance Contracting function. The Committee agreed to attend.

MIN. NO.50/2009

ATTENDANCE OF COMMITTEE MEETINGS

It was noted that some Members were not committed to Committee meetings and activities, contrary to Standing Order 169. The Committee agreed that the Chair could invoke the provisions of Standing Order No. 169 accordingly.

MIN. NO.51/2009

ADJOURNMENT

There being no other issues, the sitting was adjourned at forty minutes past four o'clock until Wednesday 2 September 2009, at 12.30 pm.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 23/11/2009

MINUTES OF THE FIFTEENTH SITTING OF THE LOCAL AUTHORITIES & FUNDS
ACCOUNTS COMMITTEE HELD ON WEDNESDAY 2ND SEPTEMBER 2009 IN
COMMITTEE ROOM 7, PARLIAMENT BUILDINGS AT 12:30 PM

PRESENT

Hon. Thomas L. Mwadeghu, MP (Chairperson)
Hon. Wilson M. Litole, MP
Hon. Musa Sirma, MP
Hon. Pollyins O. Anyango, MP
Hon. Nemesyus Warugongo, MP

ABSENT WITH APOLOGIES

Hon. Benjamin Langat, MP
Hon. Charles M. Nyamai, MP

ABSENT

Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP
Hon. Abdul Bahari, MP
Hon. Peter Mwathi, MP

IN - ATTENDANCE

NATIONAL ASSEMBLY

Mr. Julius Ariwomoi	-	Clerk Assistant II
Mr. Gideon Kidenda	-	Parliamentary Intern

MIN. NO.52/2009

DELIBERATION ON COMMITTEE WORK PLAN

(a) Local Tours:

The Committee resolved to deliberate on the matter in the next meeting.

(b) Evidence Sessions:

The Committee noted that the Reports of the Controller and Auditor General together with the Appropriation Accounts, Other Public Accounts and the Accounts of the Funds for the years 2006/2007 and 2007/2008 were ready. The Committee resolved to take evidence from the Accounting Officer of the CDF on Monday 12 October at 2:30 pm and Tuesday 13 October at 9:00am on the queries raised in paragraphs 1307- 1331 (2006/2007 accounts) and 388- 428 (2007/2008 accounts).

MIN. NO.53/2009

ANY OTHER BUSINESS

The Chairperson informed the Committee that he will meet with the Clerk of the National Assembly on the possibility of all the members of the Committee attending the 11th APAC Conference to be held in Cape Town, South Africa.

MIN. NO.54/2009

ADJOURNMENT

There being no other business, the sitting was adjourned at ten minutes to one o'clock until Monday 7 September 2009, at 2.30 pm.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 23/11/2009

MINUTES OF THE SIXTEENTH SITTING OF THE LOCAL AUTHORITIES & FUNDS
ACCOUNTS COMMITTEE HELD ON MONDAY 7TH SEPTEMBER 2009 IN COMMITTEE
ROOM 9, PARLIAMENT BUILDINGS AT 2:30 PM

PRESENT

Hon. Thomas L. Mwadeghu, MP (Chairperson)
Hon. Benjamin Langat, MP (Vice- Chairperson)
Hon. Charles M. Nyamai, MP
Hon. Abdul Bahari, MP
Hon. Wilson M. Litole, MP
Hon. Pollyins O. Anyango, MP
Hon. Nemesys Warugongo, MP

ABSENT WITH APOLOGIES

Hon. Peter Mwathi, MP

ABSENT

Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP
Hon. Musa Sirma, MP

IN - ATTENDANCE

NATIONAL ASSEMBLY

Mr. Julius Ariwomoi	-	Clerk Assistant II
Mr. Gideon Kidenda	-	Parliamentary Intern

MIN. NO.55/2009

DELIBERATION ON COMMITTEE WORK PLAN

(a) Review of evidence sessions:

The Committee took an in-depth review of its last ten sittings where some major councils appeared to give evidence. Since it was the first time for the accounts of Local Authorities to be examined, the Committee observed and noted several issues of concern. The Committee resolved:-

- i) to suspend (with immediate effect) the taking of evidence from the councils until further notice;
- ii) that a consultative stakeholders' forum/workshop (between the Committee, the Kenya National Audit Office, the Inspectorate of Local Authorities and all the Chief Officers of Councils) be undertaken in regions, in order to address the issues and chart the way forward;
- iii) to undertake spot check inspection tours on both queried and on-going projects; and,

- iv) to undertake Public hearings in order to get public views on the performance of councils.

(b) Local Tours:

The Committee approved its proposed work plan to go round the country to meet the Chief Officers of Local Authorities. In order to cover the entire country within the limited time, the Committee resolved to sub-divide itself into two groups (A and B), each comprising of five Members. Each group would cover four provinces within the period provided.

- i) Group A would cover Nyanza, Western, Rift Valley, and Nairobi provinces.
- ii) Group B would cover Central, Coast, Eastern and North Eastern provinces.

MIN. NO.56/2009

ANY OTHER BUSINESS

The Committee was informed that the Clerk of the National Assembly had advised that it was not possible for all Members of a Committee to go for foreign travel and the Speaker concurred. Three Members were authorized to attend. The Committee nominated Hon. Benjamin Langat, MP, Hon. Wilson M. Litole, MP, and Hon. Nemesyus Warugongo, MP.

MIN. NO.57/2009

ADJOURNMENT

There being no other business, the sitting was adjourned at thirty minutes past three o'clock until further notice.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 23/11/2009

MINUTES OF THE SEVENTEENTH SITTING OF THE LOCAL AUTHORITIES & FUNDS
ACCOUNTS COMMITTEE HELD ON MONDAY 12TH OCTOBER 2009 IN COMMITTEE
ROOM 9, PARLIAMENT BUILDINGS AT 2:30 PM

PRESENT

Hon. Benjamin Langat, MP (Ag. Chairperson)
Hon. Charles M. Nyamai, MP
Hon. Abdul Bahari, MP
Hon. Wilson M. Litole, MP
Hon. Pollyins O. Anyango, MP
Hon. Nemesysus Warugongo, MP
Hon. Musa Sirma, MP
Hon. Peter Mwathi, MP

ABSENT WITH APOLOGIES

Hon. Thomas L. Mwadeghu, MP

ABSENT

Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

IN - ATTENDANCE

NATIONAL ASSEMBLY

Mr. Julius Ariwomoi	-	Clerk Assistant II
Mr. Gideon Kidenda	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mrs. Agnes C. Mita	-	Deputy Director of Audit
Mr. George O. Nashon	-	Assistant Director of Audit
Mr. Walter O. Owele	-	Senior Auditor

MIN. NO.58/2009

EVIDENCE: CONSTITUENCIES DEVELOPMENT FUND

The Appropriation Accounts, Other Public Accounts and the Accounts of the Funds for the years 2006/2007 and 2007/2008.

Mrs. Agnes Odhiambo, Accounting Officer and Chief Executive Officer, Constituencies Development Fund, accompanied by Messers:-

(i) Emmanuel Y. Ouya	-	Chief Accountant
(ii) Boniface Makongo	-	Legal Officer
(iii) Lucy Makau	-	Program Coordinator

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- | | | |
|-------------------------|---|-------------------|
| (iv) Isaac Kamau Nganga | – | Internal Auditor |
| (v) V. K. Gacahara | – | Senior Accountant |

appeared to give evidence on the following paragraphs:

- i) Paragraphs 1307 - 1313 of 2006/2007 Accounts on Financial Irregularities at Gachoka Constituency Development Committee Office.
- ii) Paragraphs 1314 - 1316 of 2006/2007 Accounts on Unaccounted for Funds Kajiado Central Constituency Development Fund.
- iii) Paragraphs 1317 - 1318 of 2006/2007 Accounts on Unaccounted for Kimilili Constituency Development Fund.

MIN. NO.59/2009

OUTSTANDING EVIDENCE: PARAGRAPH 1307-1313 OF 2006/2007 – FINANCIAL IRREGULARITIES AT GACHOKA CONSTITUENCY DEVELOPMENT COMMITTEE OFFICE

The Committee while noting that the response provided was unsatisfactory, resolved that the Accounting Officer should provide further information (within two weeks) on the following:

- (i) How the contractor was identified and whether the law allowed for single sourcing;
- (ii) The identity and owners of the company;
- (iii) Whether the work was actually done;
- (iv) Why the contractor was paid in advance;
- (v) Whether there was a security or performance bond;
- (vi) The position of the recovery of dishonored cheques of ksh. 150,000 by the contractor M/s Watermax drilling systems.

MIN. NO.60/2009

OUTSTANDING EVIDENCE: PARAGRAPH 1314-1316 OF 2006/2007 – UNACCOUNTED FOR FUNDS AT KAJIADO CENTRAL CONSTITUENCY DEVELOPMENT FUND

The Committee directed the Accounting Officer to confirm (within two weeks) when the District Development Officer initially received the documents, when the documents were sent to the CDF Board and why they were not availed for audit in time.

MIN. NO.61/2009

ADJOURNMENT

There being no other business, the sitting was adjourned at forty minutes past five o'clock until Tuesday 13th October at 9.00am

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 23/11/2009

**MINUTES OF THE EIGHTEENTH SITTING OF THE LOCAL AUTHORITIES & FUNDS
ACCOUNTS COMMITTEE HELD ON TUESDAY 13TH OCTOBER 2009 IN COMMITTEE
ROOM 9, PARLIAMENT BUILDINGS AT 9:00 AM**

PRESENT

Hon. Benjamin Langat, MP (Ag. Chairperson)
Hon. Charles M. Nyamai, MP
Hon. Abdul Bahari, MP
Hon. Wilson M. Litole, MP
Hon. Pollyins O. Anyango, MP
Hon. Nemesys Warugongo, MP
Hon. Musa Sirma, MP
Hon. Peter Mwathi, MP

ABSENT WITH APOLOGIES

Hon. Thomas L. Mwadeghu, MP

ABSENT

Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

IN - ATTENDANCE

NATIONAL ASSEMBLY

Mr. Julius Ariwomoi	-	Clerk Assistant
Mr. Gideon Kidenda	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mrs. Agnes C. Mita	-	Deputy Director of Audit
Mr. George O. Nashon	-	Assistant Director of Audit
Mr. Walter O. Owele	-	Senior Auditor

MIN. NO.62/2009

REMARKS BY THE CHAIRPERSON

The Chairperson introduced the following visiting delegation from Canada i.e. the Canadian Comprehensive Audit Foundation:

(i) Hon. Shawn Murphy, MP	-	Member of Parliament of Charlotte Town & Chairperson of Public Accounts Committee
(ii) Elwin Hermason	-	Chief Commissioner & Chief Executive Officer
(iii) Geoff Dubrow	-	Principal Associate

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The Chairperson welcomed them and informed them that since the proceedings were open, they were free to attend and listen to the proceedings, provided that they do not participate.

MIN. NO.63/2009

EVIDENCE: CONSTITUENCIES DEVELOPMENT FUND

The Appropriation Accounts, Other Public Accounts and the Accounts of the Funds for the financial years 2006/2007 and 2007/2008.

Mrs. Agnes Odhiambo, Accounting Officer and Chief Executive Officer, Constituencies Development Fund, accompanied by Messers:

- | | | |
|-------------------------|---|---------------------|
| (i) Emmanuel Y. Ouya | – | Chief Accountant |
| (ii) Boniface Makongo | – | Legal Officer |
| (iii) Lucy Makau | – | Program Coordinator |
| (iv) Isaac Kamau Nganga | – | Internal Auditor |
| (v) V. K. Gacahara | – | Senior Accountant |

appeared and gave evidence on the following paragraphs:-

- i) Paragraph 1319 of 2006/2007 accounts on Irregular Funding on an Association through Funyula Constituencies Development Fund.
- ii) Paragraph 1320 - 1326 of 2006/2007 accounts on Procurement Irregularities - Mbita CDC.
- iii) Paragraph 1327- 1331 on 2006/2007 accounts on Financial Mismanagement of the Saboti CDF.
- iv) Paragraph 388 of 2007/2008 accounts on Outstanding Temporary Imprest, Kitui West CDF
- v) Paragraph 389 of 2007/2008 accounts on Outstanding Imprest, Mutito Constituency CDF.
- vi) Paragraph 390-391 of 2007/2008 accounts on Loss of Funds at Gatundu South CDF.
- vii) Paragraph 392-398 of 2007/2008 accounts on Unaccounted for Project Funds for Ndaragwa CDF.
- viii) Paragraph 399-402 of 2007/2008 accounts on Irregular Expenditure in Juja CDF.

MIN. NO.64/2009

OUTSTANDING EVIDENCE: PARAGRAPH 1320-1326 OF 2006/2007 - PROCUREMENT IRREGULARITIES AT MBITA CONSTITUENCY DEVELOPMENT COMMITTEE

- (i) The Committee requested the auditors to confirm the existence of the companies that were awarded tenders for the procurement of school desks, chairs and lockers in Mbita Constituency.
- (ii) The Accounting Officer was directed to avail information pertaining to the payments made to the District Works Officer (DWO) amounting to Ksh. 69,730 and Ksh. 7,082.

MIN. NO. 65/2009

OUTSTANDING EVIDENCE: PARAGRAPH 389 OF 2007/2008
- OUTSTANDING IMPREST AT MUTITO CDFC

The Accounting Officer was directed to avail an analysis and documentation of figures adding up to the imprest issued and surrendered.

MIN. NO. 66/2009

OUTSTANDING EVIDENCE: PARAGRAPH 390-391 OF
2007/2008 - LOSS OF FUNDS AT GATUNDU SOUTH CDF

- i) The Committee directed the Accounting Officer to provide the name of the payee of the cheques for the amounts of Ksh. 80,000 and Ksh. 165,000 whose leaves were reported to be stolen.
- ii) The Committee directed the Accounting Officer to write a demand letter to the bank to recover the loss arising from the negligence of the bank.

MIN. NO. 67/2009

OUTSTANDING EVIDENCE: PARAGRAPH 392-398 OF
2007/2008 - NDARAGWA CONSTITUENCY DEVELOPMENT
FUND

The Committee noted that the explanation on the installation of lightning arrestors at Kametha Primary School and installation of electrical accessories and wiring supplies at Baari Dispensary was unsatisfactory and resolved that an inspection tour of the projects will be undertaken at a later date.

MIN. NO. 68/2009

ADJOURNMENT

There being no other business, the sitting was adjourned at thirty minutes past twelve o'clock until Monday 16th November at 2.30pm

Signed

HON. THOMAS MWADEGHU, MP
(Chairperson)

Date

23/11/2009

MINUTES OF THE NINETEENTH SITTING OF THE LOCAL AUTHORITIES & FUNDS ACCOUNTS COMMITTEE HELD ON MONDAY 16TH NOVEMBER 2009 IN COMMITTEE ROOM 9, PARLIAMENT BUILDINGS AT 2:30 PM

PRESENT

Hon. Benjamin Langat, MP (Ag. Chairperson)
Hon. Charles M. Nyamai, MP
Hon. Abdul Bahari, MP
Hon. Wilson M. Litole, MP
Hon. Pollyins O. Anyango, MP
Hon. Nemesyus Warugongo, MP
Hon. Musa Sirma, MP
Hon. Peter Mwathi, MP

ABSENT WITH APOLOGIES

Hon. Thomas L. Mwadeghu, MP

ABSENT

Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

IN - ATTENDANCE

NATIONAL ASSEMBLY

Mr. Julius Ariwomoi	-	Clerk Assistant II
Mr. Gideon Kidenda	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mrs. Agnes C. Mita	-	Deputy Director of Audit
Mr. Obed K. Chweya	-	Assistant Director of Audit
Mr. Nicholas Kagundu	-	Assistant Director of Audit
Mr. George O. Nashon	-	Assistant Director of Audit
Mr. Walter O. Owele	-	Senior Auditor

MIN. NO.69/2009

EVIDENCE: CONSTITUENCIES DEVELOPMENT FUND

The Appropriation Accounts, Other Public Accounts and the Accounts of the Funds for the financial years 2006/2007 and 2007/2008.

Mrs. Agnes Odhiambo, Accounting Officer and Chief Executive Officer, Constituencies Development Fund, accompanied by Messers:-

(i) Emmanuel Y. Ouya – Chief Accountant

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(ii) Boniface Makongo	-	Legal Officer
(iii) Lucy Makara	-	Program Coordinator
(iv) Isaac Kamau Nganga	-	Internal Auditor

appeared and gave evidence on the following paragraphs:-

- i) Paragraphs 403- 406 of 2007/2008 accounts on Mathioya CDF;
- ii) Paragraphs 407- 409 of 2007/2008 accounts on Construction of Office Block by Kandara CDF Office.
- iii) Paragraphs 410- 411 of 2007/2008 accounts on Unaccounted for Expenditure by Vihiga CDF.
- iv) Paragraphs 412 of 2007/2008 accounts on CDF Kwanza.
- v) Paragraphs 413- 414 of 2007/2008 accounts on Irregular Salary Payments by Kapenguria CDF Office.
- vi) Paragraphs 415- 416 of 2007/2008 accounts on Ineligible Expenditure by Marakwet CDF Office.
- vii) Paragraphs 417- 418 of 2007/2008 accounts on CDF Garsen.
- viii) Paragraphs 419- 421 of 2007/2008 accounts on Payment for Undelivered Goods by Wajir East CDF.
- ix) Paragraphs 422- 423 of 2007/2008 accounts on Mandera Central CDF.
- x) Paragraphs 424- 425 of 2007/2008 accounts on Mandera West CDF.
- xi) Paragraphs 426- 428 of 2007/2008 accounts on Lagdera CDF.

MIN. NO.70/2009

OUTSTANDING EVIDENCE: PARAGRAPH 422-423 OF 2007/2008 - MANDERA CENTRAL CDF

The Committee requested the Controller and Auditor General to undertake physical verification of the queried projects in the Constituency and report to the Committee at the report writing stage.

MIN. NO. 71/2009

OUTSTANDING EVIDENCE: PARAGRAPH 424-425 OF 2007/2008 - MANDERA WEST CDF

The Accounting Officer was directed to provide the names of the Directors of the NGO which engaged in the supply of household materials to the mentioned pastoral dropouts camping.

MIN. NO. 72/2009

OUTSTANDING EVIDENCE: PARAGRAPH 426-428 OF 2007/2008 - LAGDERA CDF

- i) The Committee directed the Accounting Officer to provide the list of beneficiaries of the unapproved projects which were undertaken.
- ii) The Committee also resolved that the Accounting Officer could be called upon to appear before it (at a later date) with the contractor of the projects in question in order to give further evidence.

The following paper was laid on the table:

The Board's letter to the Permanent Secretary Ministry of State for Planning and Vision 2030 dated 12th October 2009 on Mathioya CDF Fund - KENAO Audit Query 2007/2008.

MIN. NO.74/2009

ANY OTHER BUSINESS

Arising from the results of the Inspection tour and matters in the public domain, the Committee resolved to request the Controller and Auditor General to carry out special audit on **Purchase of Cemetery Land at Embakasi/Mavoko by the City Council of Nairobi** within two (2) weeks, effective from 23 November 2009, in order to give urgent attention to any issues raised.

MIN. NO.75/2009

ADJOURNMENT

There being no other business, the sitting was adjourned at six o'clock until Tuesday 17th November at 10.00am

Signed HON. BENJAMIN LANGAT, MP
(Chairperson)

Date 16/3/2010

MINUTES OF THE TWENTIETH SITTING OF THE LOCAL AUTHORITIES & FUNDS
ACCOUNTS COMMITTEE HELD ON TUESDAY 17TH NOVEMBER 2009 IN COMMITTEE
ROOM 9, PARLIAMENT BUILDINGS AT 10:00 AM

PRESENT

Hon. Charles M. Nyamai, MP (Ag. Chairperson)
Hon. Abdul Bahari, MP
Hon. Pollyins O. Anyango, MP
Hon. Nemésyus Warugongo, MP

ABSENT WITH APOLOGIES

Hon. Thomas L. Mwadeghu, MP
Hon. Benjamin Langat, MP
Hon. Peter Mwathi, MP

ABSENT

Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP
Hon. Wilson M. Litole, MP
Hon. Musa Sirma, MP

IN - ATTENDANCE

NATIONAL ASSEMBLY

Mr. Julius Ariwomoi	-	Clerk Assistant II
Mr. Gideon Kidenda	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. David O. Gichana	-	Deputy Director of Audit
Mrs. Tabitha N. Waweru	-	Assistant Director of Audit
Mr. George Otieno Nashon	-	Assistant Director of Audit

MIN. NO.76/2009

REMARKS FROM THE CHAIRPERSON

The Chair reminded the Committee that due to the Speaker's Kamukunji scheduled for eleven o'clock there was need for the meeting to take a short time.

MIN. NO.77/2009

BRIEF BY THE KENYA NATIONAL AUDIT OFFICE

The Deputy Director of Audit briefed the Committee on the common features and issues noted in the various projects that were funded and undertaken by the Urban Development Department. He cited the following as the main features:-

- i) Delay in commencement of projects;
- ii) Poor workmanship;
- iii) Stalled/terminated projects;
- iv) Variation of Contract sum;
- v) Projects undertaken without involvement of relevant councils and residents;
- vi) Slow progress;
- vii) Payments made without supporting documents and not commensurate with work done;
- viii) Some projects have land disputes; and many others.

The Committee requested the Deputy Director of Audit to compile a summarized report of the issues on the various projects and avail to the Committee during the day of evidence.

MIN. NO.78/2009

ANY OTHER BUSINESS

(a) Foreign Study Tour:

The Committee resolved to undertake a foreign study tour of the National Assembly of South Africa and Parliament of New Zealand in January/February 2010.

MIN. NO.79/2009

ADJOURNMENT

There being no other business, the sitting was adjourned at fifteen minutes past eleven o'clock until Thursday 19th November at 10.30am.

Signed HON. BENJAMIN LANGAT, MP
(Chairperson)

Date 16/3/2010

MINUTES OF THE TWENTY FIRST SITTING OF THE LOCAL AUTHORITIES & FUNDS
ACCOUNTS COMMITTEE HELD ON THURSDAY 19TH NOVEMBER 2009 IN
COMMITTEE ROOM 9, PARLIAMENT BUILDINGS AT 10:30 AM

PRESENT

Hon. Thomas L. Mwadeghu, MP (Chairperson)
Hon. Benjamin Langat, MP (Vice- Chairperson)
Hon. Charles M. Nyamai, MP

ABSENT WITH APOLOGIES

Hon. Abdul Bahari, MP
Hon. Peter Mwathi, MP
Hon. Nemesys Warugongo, MP
Hon. Pollyins O. Anyango, MP
Hon. Wilson M. Litole, MP

ABSENT

Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP
Hon. Musa Sirma, MP

OTHER MEMBERS PRESENT

Hon. Shakeel Shabbir, MP (Chair, Departmental Committee on Local Authorities)
Hon. David Ngugi, MP (Vice-Chair, Departmental Committee on Local Authorities)

IN - ATTENDANCE

NATIONAL ASSEMBLY

Mr. Julius Ariwomoi	-	Clerk Assistant II
Mr. Gideon Kidenda	-	Parliamentary Intern

MIN. NO.80/2009

CONFIRMATION OF MINUTES

The minutes of the following sittings were confirmed by the Members present and signed by the Chairperson:

- i) Minutes of the 2nd sitting held on 25th June 2009
- ii) Minutes of the 3rd sitting held on 13th July 2009
- iii) Minutes of the 4th sitting held on 27th July 2009
- iv) Minutes of the 5th sitting held on 28th July 2009
- v) Minutes of the 6th sitting held on 31st July 2009

MIN. NO.81/2009**MATTERS ARISING**

Under Min.No. 8/2009, Members sought to know the status of the planned study tours to South Africa and Tanzania. Members resolved to visit South Africa and Australia and directed that the process of the arrangements for the travel be commenced with immediate effect.

MIN. NO.82/2009**ANY OTHER BUSINESS**

Hon. Shakeel Shabbir, MP, the Chairperson of the Departmental Committee on Local Authorities briefed the Committee on the issues of the purchase of Cemetery Land currently under his Committee's investigation. He also discussed:-

- i) the need for both Committees to work together in dealing with the issues of the Cemetery land under query;
- ii) the need for the two Committees to hold a joint meeting on the same matter mentioned above and chart the way forward.

MIN. NO.83/2009**ADJOURNMENT**

There being no other business, the sitting was adjourned at forty five minutes past eleven o'clock until Monday 23rd November at 2.30pm.

Signed HON. BENJAMIN LANGAT, MP
(Chairperson)

Date 16/3/2010

MINUTES OF THE TWENTY SECOND SITTING OF THE LOCAL AUTHORITIES &
FUNDS ACCOUNTS COMMITTEE HELD ON MONDAY 23RD NOVEMBER 2009 IN
COMMITTEE ROOM 7, PARLIAMENT BUILDINGS AT 2:30 PM

PRESENT

Hon. Thomas L. Mwadeghu, MP (Chairperson)
Hon. Peter Mwathi, MP
Hon. Wilson M. Litole, MP
Hon. Charles M. Nyamai, MP

ABSENT WITH APOLOGIES

Hon. Abdul Bahari, MP
Hon. Benjamin Langat, MP
Hon. Pollyins O. Anyango, MP
Hon. Nemesys Warugongo, MP

ABSENT

Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP
Hon. Musa Sirma, MP

IN - ATTENDANCE

NATIONAL ASSEMBLY

Mr. Julius Ariwomoi	-	Clerk Assistant II
Mr. Gideon Kidenda	-	Parliamentary Intern

MIN. NO.84/2009

CONFIRMATION OF MINUTES

The minutes of the following sittings were confirmed by the Members present and signed by the Chairperson:

- i) Minutes of the 7th sitting held on 3rd August 2009
- ii) Minutes of the 8th sitting held on 4th August 2009
- iii) Minutes of the 9th sitting held on 6th August 2009
- iv) Minutes of the 10th sitting held on 10th August 2009
- v) Minutes of the 11th sitting held on 11th August 2009
- vi) Minutes of the 12th sitting held on 19th August 2009
- vii) Minutes of the 13th sitting held on 24th August 2009
- viii) Minutes of the 14th sitting held on 26th August 2009
- ix) Minutes of the 15th sitting held on 2nd September 2009
- x) Minutes of the 16th sitting held on 7th September 2009
- xi) Minutes of the 17th sitting held on 12th October 2009
- xii) Minutes of the 18th sitting held on 13th October 2009
- xiii) Minutes of the 19th sitting held on 16th November 2009
- xiv) Minutes of the 20th sitting held on 17th November 2009
- xv) Minutes of the 21st sitting held on 19th November 2009

MIN. NO.85/2009**MATTERS ARISING**

- i) Under Min. No. 39/2009, the Chairperson informed the Committee that the Liaison Committee had resolved that since most of the Members were not very conversant with the new standing orders, those who had contravened standing order 169 could be warned and given another last chance to adhere to the rules in subsequent meetings.
- ii) Under Min 47/2009, the Committee noted that the outstanding issues had not been resolved or provided and resolved that a reminder letter could be sent to the Office of the Deputy Prime Minister and Minister for Local Government.

MIN. NO.86/2009**ANY OTHER BUSINESS**

- i) The Committee was informed that Australia was not willing to receive Kenyan Parliamentary delegations until August 2010. The Committee therefore resolved to visit New Zealand (instead of Australia) and South Africa.
- ii) The Committee was informed that a letter had been written to the Controller and Auditor General requesting for a special audit on the purchase of cemetery land at Mavoko/Embakasi by City Council of Nairobi.
- iii) The Committee noted with concern the issues in the public domain pertaining financial management of the Youth Enterprise Development Fund. Of particular concern was the alleged misappropriation of funds by the Chief Executive (Accounting Officer). The Committee therefore resolved to request that the Controller and Auditor General carries out a special audit on **Youth Development Fund** within two (2) weeks, effective from 25 November 2009.
- iv) The Committee noted that during the recent Joint induction workshop of Watchdog Committees held in Naivasha, it was informed that a donor fund component is available (at the Treasury) for the capacity building of Watchdog Committees. Noting that Tanzania was the first East African country to establish a separate investigatory Committee that exclusively examines the accounts of local authorities, the Committee was interested in visiting the Parliament of Tanzania with a view to benefiting from the experiences of the counter part Committee. The Committee resolved to undertake the visit on 13 – 15 January 2010.

MIN. NO.87/2009**ADJOURNMENT**

There being no other business, the sitting was adjourned at four o'clock until Monday 30th November at 2.30pm.

Signed HON. BENJAMIN LANGAT, MP
(Chairperson)

Date 16/3/2010

**MINUTES OF THE TWENTY THIRD SITTING OF THE LOCAL AUTHORITIES & FUNDS
ACCOUNTS COMMITTEE HELD ON MONDAY 30TH NOVEMBER 2009 IN COMMITTEE
ROOM 7, PARLIAMENT BUILDINGS AT 2:30 PM**

PRESENT

Hon. Thomas L. Mwadeghu, MP (Chairperson)
Hon. Benjamin Langat, MP (Vice- Chairperson)
Hon. Peter Mwathi, MP
Hon. Charles M. Nyamai, MP
Hon. Pollyins O. Anyango, MP

ABSENT WITH APOLOGIES

Hon. Wilson M. Litole, MP
Hon. Abdul Bahari, MP
Hon. Pollyins O. Anyango, MP
Hon. Nemesys Warugongo, MP

ABSENT

Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP
Hon. Musa Sirma, MP

IN - ATTENDANCE

NATIONAL ASSEMBLY

Mr. Julius Ariwomoi	-	Clerk Assistant II
Mr. Gideon Kidenda	-	Parliamentary Intern

KENYA NATIONAL AUDIT OFFICE

Mr. David O. Gichana	-	Deputy Director of Audit
Mr. George Otieno Nashon	-	Assistant Director of Audit

MIN. NO.88 /2009
AND

EVIDENCE: OFFICE OF THE DEPUTY PRIME MINISTER
MINISTRY OF LOCAL GOVERNMENT

Mr. Sammy Kirui, MBS, CBS, Accounting Officer, Office of The Deputy Prime Minister and Ministry for Local Government, accompanied by Messrs:

(i) Enosh M. Onyango	-	Acting Director, Urban Development Department
(ii) Eng. Joshua Ndiangui	-	Senior Superintendent Engineer

appeared to give evidence on projects undertaken by the Urban Development Department (UDD).

MIN. NO.89/2009

DEFERRED EVIDENCE

The Committee noted that the Accounting Officer was not adequately prepared to address the anomalies observed in various UDD projects across the country, and specifically issues relating to Chavakali market. The Committee therefore directed the Accounting Officer to go and prepare adequately before reporting back in seven days.

MIN. NO.90/2009

ADJOURNMENT

There being no other business, the sitting was adjourned at forty five minutes past four o'clock until Tuesday 8th December at 9.00am.

Signed HON. BENJAMIN LANGAT, MP
(Chairperson)

Date 16/3/2010

MINUTES OF THE TWENTY FOURTH SITTING OF THE LOCAL AUTHORITIES & FUNDS ACCOUNTS COMMITTEE HELD ON TUESDAY FEBRUARY 9TH 2010 IN THE CONFERENCE HALL, 1ST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT 9.30 AM.

PRESENT:

Hon. Thomas Mwadeghu, MP (Chairperson)
Hon. Wilson Litole, MP
Hon. Charles M. Nyamai, MP
Hon. Pollyins O. Anyango, MP
Hon. Musa Sirma, MP
Hon. Abdul Bahari, MP

ABSENT:

Hon. Benjamin Langat, MP
Hon. Peter Mwathi, MP
Hon. Nemesyus Warugongo, MP
Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

IN ATTENDANCE

Mrs. Lucy Wanjohi
Ms. Wanjiru Ndindiri
Ms. Leah Wanjiru
Mr. Samuel Kalama

NATIONAL ASSEMBLY

- Clerk Assistant
- Clerk Assistant III
- Clerk Assistant III
- Clerk Assistant III

KENYA NATIONAL AUDIT OFFICE

Mr David O. Gichana - Deputy Director of Audit
Mr. George Otieno Nashon- Assistant Director of Audit

MIN. NO.91/2010

EVIDENCE: OFFICE OF THE DEPUTY PRIME MINISTER & MINISTRY OF LOCAL GOVERNMENT

Mr. Sammy Kirui, MBS, CBS, Accounting Officer, Ministry of Local Government, accompanied by Messrs:

- | | |
|---------------------------|--|
| (i) Mr. H.S. Chavera | - Chief Finance Officer |
| (ii) Mr. E.M. Onyango | - Director, Urban Development Department |
| (iii) Mr. J.O. Ogutu | - Assistant Director |
| (iv) Mr. B.O. Misera | - Head, Supply Chain Management |
| (v) Eng. Joshua Ndiangui | - Senior Superintendent Engineer (Roads) |
| (vi) Mr. Moses Mak'Ogweno | - Architect |

appeared to continue giving evidence on various projects done by the Urban Development Department (UDD) of the Ministry of Local Government. The Committee deliberated and

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resolved that since the matters under discussion touch on policy decisions, it would not be prudent to continue with the meeting in the absence of the Deputy Prime Minister and Minister for Local Government, so as to conclusively deal with the matter. The Ministry was informed that notification would be sent regarding the date of the next meeting as soon as possible.

MIN. NO. 92/2010

ADJOURNMENT

And the time being twenty minutes past ten o'clock, the meeting was adjourned sine die.

Signed HON. BENJAMIN LANGAT, MP
(Chairperson)

Date 16/3/2010

MINUTES OF THE TWENTY FIFTH SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE HELD ON WEDNESDAY FEBRUARY 17TH 2010 IN THE CONFERENCE HALL, 1ST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT 10.00 AM.

PRESENT:

Hon. Thomas Mwadeghu, MP (Chairperson)
Hon. Benjamin Langat, MP
Hon. Wilson Litole, MP
Hon. Charles M. Nyamai, MP
Hon. Pollyins O. Anyango, MP
Hon. Peter Mwathi, MP
Hon. Musa Sirma, MP

ABSENT WITH APOLOGY :

Hon. Nemesyus Warugongo, MP

ABSENT:

Hon. Abdul Bahari, MP
Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri

NATIONAL ASSEMBLY

- Clerk Assistant II
- Clerk Assistant III

KENYA NATIONAL AUDIT OFFICE

Mr David O. Gichana - Deputy Director of Audit
Ms. Tabitha N. Waweru - Assistant Director of Audit
Mr. George O. Nashon - Assistant Director of Audit

MIN. NO. 93/2010

EVIDENCE: OFFICE OF THE DEPUTY PRIME MINISTER & MINISTRY OF LOCAL GOVERNMENT

Mr. Sammy Kirui, MBS, CBS, Accounting Officer, Ministry of Local Government, accompanied by Messrs:

- | | | |
|---------------------------------|---|--|
| (i) Mr. H.S. Chavera | - | Chief Finance Officer |
| (ii) Mr. Enosh M. Onyango | - | Director, Urban Development Department |
| (iii) Ms. Ruth N. Kiiru | - | Director, Local Authorities |
| (iv) Mutua P. Nzoka, OGW | - | Director, Market Development |
| (v) Mr. Reuben K. Rotich | - | Senior Deputy Secretary |
| (vi) Eng. (Mrs) Veronica Maundu | - | Senior Assistant Director |
| (vii) Mr. J.O. Ogutu | - | Assistant Director |

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(viii) Mr. B.O.Misera	-	Head, Supply Chain Management
(ix) Mr. Joseph O. Warega	-	Principal Accountant
(x) Eng. Joshua Ndiangui	-	Senior Superintendent Engineer (Roads)
(xi) Eng. Raphael Murimi	-	Superintendent Engineer
(xii) Mr. Moses Mak'Ogweno	-	Architect
(xiii) Mr. Silas Nyambok	-	Engineer
(xiv) Mr. Tom N. Omai	-	Engineer
(xv) Mr. Ephantus Kamau	-	Engineer
(xvi) Q.S. Michael Mwendwa	-	Quantity Surveyor

appeared to continue giving evidence on various projects done by the Urban Development Department (UDD) of the Ministry of Local Government. The Committee wanted to get further clarification on observations noted during a tour conducted in 2009 for various projects implemented by UDD around the country. The Accounting Officer was directed to highlight on the following issues:

- Poor supervision & implementation of the projects by UDD
- Failure to involve Councils in the implementation of the projects
- Justification for the existence of UDD

MIN. NO. 94/2010

PENDING ISSUES

The Accounting Officer was directed to provide the following information at the Ministry's next appearance :

- The costs of supervision of all UDD projects across the country
- The number of vehicles allocated to each project
- The breakdown of the amount spent so far on the Chavakali Market project
- The complete list of technical staff working in the Urban Development Department

MIN. NO. 95/2010

ADJOURNMENT

And the time being twenty five minutes past one o'clock, the meeting was adjourned until Tuesday 23rd February 2010 at 10 am.

Signed HON. BENJAMIN LANGAT, MP
(Chairperson)

Date 16/3/2010

MINUTES OF THE TWENTY SIXTH SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE HELD ON TUESDAY FEBRUARY 23RD 2010 IN THE CONFERENCE HALL. 1ST FLOOR. COUNTY HALL. PARLIAMENT BUILDINGS AT 10.00 AM.

PRESENT:

Hon. Wilson Litole, MP (Ag. Chairperson)
Hon. Charles M. Nyamai, MP
Hon. Pollyins O. Anyango, MP

ABSENT WITH APOLOGY :

Hon. Thomas Mwadeghu, MP
Hon. Nemesyus Warugongo, MP

ABSENT:

Hon. Benjamin Langat, MP
Hon. Peter Mwathi, MP
Hon. Musa Sirma, MP
Hon. Abdul Bahari, MP
Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri

NATIONAL ASSEMBLY

- Clerk Assistant II
- Clerk Assistant III

KENYA NATIONAL AUDIT OFFICE

Mr David O. Gichana - Deputy Director of Audit
Mr. George Otieno Nashon - Assistant Director of Audit

MIN. NO.96/2010

EVIDENCE: OFFICE OF THE DEPUTY PRIME MINISTER & MINISTRY OF LOCAL GOVERNMENT

The Committee was informed that the Accounting Officer, Ministry of Local Government had travelled out of the country on official duties and thus had requested for postponement of his appearance. The Committee decided to re-schedule the meeting for Tuesday March 2nd 2010.

MIN. NO. 97/2010

ANY OTHER BUSINESS

The Committee deliberated and resolved that the following issues of concern, among others should be discussed in the next meeting:

- (i) Non-attendance of meetings by some Committee Members.

- (ii) Special audit report from the Controller & Auditor-General on the purchase of cemetery land by the Nairobi City Council.
- (iii) The way forward on reports to be reviewed by the Committee, that is, the Urban Development Department report, council reports, and other special audit reports, so as to reduce backlog.

MIN. NO. 98/2010

ADJOURNMENT

And the time being fifty five minutes past ten o'clock, the meeting was adjourned until Monday 1st March 2010 at 2.30 pm.

Signed HON. BENJAMIN LANGAT, MP
(Chairperson)

Date 16/3/2010

MINUTES OF THE TWENTY SEVENTH SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE HELD ON MONDAY MARCH 1ST 2010 IN THE CONFERENCE HALL, 1ST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT 2.30 PM.

PRESENT:

Hon. Thomas Mwadeghu, MP (Chairperson)
Hon. Wilson Litole, MP
Hon. Nemesyus Warugongo, MP
Hon. Charles M. Nyamai, MP

ABSENT WITH APOLOGY :

Hon. Peter Mwathi, MP

ABSENT:

Hon. Benjamin Langat, MP
Hon. Pollyins O. Anyango, MP
Hon. Musa Sirma, MP
Hon. Abdul Bahari, MP
Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri

NATIONAL ASSEMBLY

- Clerk Assistant II
- Clerk Assistant III

MIN. NO.99/2010

HOUSEKEEPING ISSUES

The Committee discussed a number of issues and made the following conclusions :

i) **Evidence on Projects done by Urban Development Department (UDD) :**

The Committee resolved that it will finalize taking of evidence from the department at the next sitting scheduled for Tuesday March 2nd 2010, and thereafter proceed to prepare the report on the matter.

ii) **Replacement of Absentee Members :**

The Committee was informed that the names of Hon. Waititu Ferdinand, MP and Hon. Simon Mbugua, MP had been forwarded to the Liaison Committee, for consideration and further action.

iii) **Canadian Comprehensive Audit Foundation (CCAF) :**

The Committee was informed that the organization would like to have a one day retreat with the Committee at Windsor Golf & Country Club. The

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proposed date was Tuesday 13th April 2010, but the Committee preferred the meeting to take place on Monday 12th April 2010 since the House will be sitting on Tuesday. The Secretariat was requested to inform CCAF about the proposal, for logistical purposes.

iv) Special Audit Report on Purchase of Cemetery Land by NCC :

The Committee was informed that the report would be tabled in the House the following day, after which it would be forwarded to the Committee for discussion. The Chairperson was requested to liaise with the Chairperson of the Departmental Committee on Local Authorities so as to harmonize areas of conflict in the two committees' mandates, in order to avoid duplication.

v) Foreign Study Tour :

The Members were informed that new proposals had to be submitted to Liaison Committee, as the earlier ones had countries that had been visited by other committees in the recent past. After deliberations, the Committee decided to visit Turkey and Greece for one week, and Brazil the following week. It was resolved that priority for the travel should be given to Members who have not represented the Committee in foreign travel, in addition to considering attendance to meetings.

vi) Workplan for March – April 2010 :

The Committee resolved to have a report-writing retreat on 21st – 27th March 2010. The proposed hotel is Kilili Beach in Malindi. The Committee also proposed to conduct local tours in April, in addition to considering the special audit report.

MIN. NO. 100/2010

ADJOURNMENT

And the time being thirty minutes past three o'clock, the meeting was adjourned until Tuesday 2nd March 2010 at 10.00 am.

Signed HON. BENJAMIN LANGAT, MP
(Chairperson)

Date 16/3/2010

MINUTES OF THE TWENTY EIGHTH SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE HELD ON TUESDAY MARCH 2ND 2010 IN THE CONFERENCE HALL, 1ST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT 10.00 AM.

PRESENT:

Hon. Thomas Mwadeghu, MP (Chairperson)
Hon. Benjamin Langat, MP
Hon. Wilson Litole, MP
Hon. Charles M. Nyamai, MP
Hon. Pollyins O. Anyango, MP

ABSENT WITH APOLOGY :

Hon. Peter Mwathi, MP
Hon. Nemesys Warugongo, MP

ABSENT:

Hon. Musa Sirma, MP
Hon. Abdul Bahari, MP
Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri

NATIONAL ASSEMBLY

- Clerk Assistant II
- Clerk Assistant III

KENYA NATIONAL AUDIT OFFICE

Mr David O. Gichana
Ms. Tabitha N. Waweru
Mr. George Otieno Nashon

- Deputy Director of Audit
- Assitant Director of Audit
- Assistant Director of Audit

MIN. NO.101/2010

EVIDENCE: OFFICE OF THE DEPUTY PRIME MINISTER & MINISTRY OF LOCAL GOVERNMENT

Mr. Sammy Kirui, MBS, CBS, Accounting Officer, Office of the Deputy Prime Minister and Ministry of Local Government, accompanied by Messrs :

(i)	Mr. H.S. Chavera	-	Chief Finance Officer
(ii)	Mr. Enosh M. Onyango	-	Director, UDD
(iii)	Mr. Mutua P. Nzoka, OGW	-	Director, Market Development
(iv)	Mr. Patrick Karanja	-	Deputy Director, Local Authorities
(v)	Mr. Reuben K. Rotich, MBS	-	Senior Deputy Secretary
(vi)	Eng. (Mrs) Veronica Maundu	-	Senior Assistant Director (UDD)
(vii)	Mr. V.O. Ogutu	-	Assistant Director
(viii)	Eng. Joshua Ndiangui	-	Senior Superintendent Engineer

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(ix)	Mr. B.O. Misera	-	Head, Supply Chain Management
(x)	Eng. Raphael M. Githinji	-	Superintendent Engineer
(xi)	Mr. M.M. Mwendwa	-	Quantity Surveyor I
(xii)	Mr. M.O. Mak'Ogweno	-	Architect I
(xiii)	Mr. Ephantus Kamau	-	Engineer
(xiv)	Mr. T.N. Omai	-	Engineer
(xv)	Mr. Alphonse O. Okuke	-	Engineer
(xvi)	Mr. Silas O. Nyambok	-	Engineer

appeared and continued giving evidence on various projects done by the Urban Development Department (UDD) in the Ministry of Local Government around the country.

MIN.NO.102 /2010

PAPERS LAID

The following Papers were laid on the table:-

- (i) *Summary of Staff in the Urban Development Department as at February 2010.*
- (ii) *Sample of Successful Projects completed by the Urban Development Department.*

Both papers were in response to the request under Min. No. 94/2010.

MIN. NO. 103/2010

ADDITIONAL INFORMATION

The Committee directed the Accounting Officer to provide the following information, within a week's time, so as to assist in finalizing recommendations :

- (i) A comprehensive letter detailing all the issues and problems faced by UDD while in the field.
- (ii) A list of all projects done since the Accounting Officer and the Senior Supervising Engineer joined the Ministry. The list should contain:
 - (a) Name of the project
 - (b) Contract sum, and variations, if any.
 - (c) Resident Engineer's name
 - (d) Project Manager's name
 - (e) Contractor information
 - (f) Current project status, and indication of whether the Ministry is satisfied or not with the work.
- (iii) In reference to the Garissa bus park, the Ministry should provide specifications of works, performance bonds and agreements for both contractors who did the job.
- (iv) A list of the contractors involved in all projects discussed by the Committee, and indication of whether the said contractors were awarded contracts by other ministries thereafter.
- (v) A list of projects done without variations or redesigns, and completed within the specified contract period.

MIN. NO. 104/2010

ADJOURNMENT

And the time being ten minutes past one o'clock, the meeting was adjourned until Tuesday 9th March 2010 at 10.00 am.

Signed HON. BENJAMIN LANGAT, MP
(Chairperson)

Date 16/3/2010

MINUTES OF THE TWENTY NINTH SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE HELD ON TUESDAY MARCH 9TH 2010 IN THE TV ROOM, MAIN DINING HALL, PARLIAMENT BUILDINGS AT 10.00 AM.

PRESENT

Hon. Thomas Mwadeghu, MP (Chairperson)
Hon. Abdul Bahari, MP
Hon. Pollyins O. Anyango, MP
Hon. Charles M. Nyamai, MP

ABSENT WITH APOLOGY

Hon. Benjamin Langat, MP
Hon. Wilson Litole, MP
Hon. Peter Mwathi, MP
Hon. Nemesys Warugongo, MP
Hon. Musa Sima, MP

ABSENT

Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri

NATIONAL ASSEMBLY

- Clerk Assistant II
- Clerk Assistant III

MIN. NO.105/2010

HOUSEKEEPING ISSUES

The Committee discussed and resolved the following:

- i. **Special audit report on the purchase of cemetery land :** The Chairperson is to consult the Speaker on the way forward for the report to avoid duplication of work done by the Departmental Committee on Local Authorities. The Committee will also deliberate on the special audit report along with the Departmental Committee's report, so as to ensure that all the issues have been captured, and thereafter decide on the way forward.
- ii. **Report-writing retreat:** the Committee will await the Chairperson's return from an official visit to Brazil before embarking on the retreat, possibly in the first week of April. The venue will now be a North Coast hotel in Mombasa, not Malindi as earlier stated (preferably Whitesands, Serena or Continental).
The Committee was informed that the report to be done will cover the Induction Workshop, general issues based on information gathered through Committee sittings and inspection tours.

MIN. NO. 106/2010

ANY OTHER BUSINESS

The Committee was also informed that the Controller and Auditor-General was still working on the special audit report for the Youth Enterprise Development Fund requested.

MIN. NO. 107/2010

ADJOURNMENT

And the time being twelve noon, the meeting was adjourned until Tuesday 16th March 2010 at 10.00 am.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 25/3/2010

**MINUTES OF THE THIRTIETH SITTING OF THE LOCAL AUTHORITIES AND FUNDS
ACCOUNTS COMMITTEE HELD ON TUESDAY MARCH 16TH 2010 IN THE SMALL
DINING ROOM, PARLIAMENT BUILDINGS AT 10.00 AM.**

PRESENT

Hon. Benjamin Langat, MP (Ag. Chairperson)
Hon. Pollyins O. Anyango, MP
Hon. Charles M. Nyamai, MP
Hon. Peter Mwathi, MP
Hon. Musa Sirma, MP

ABSENT WITH APOLOGY

Hon. Thomas Mwadeghu, MP
Hon. Wilson Litole, MP
Hon. Nemesyus Warugongo, MP
Hon. Abdul Bahari, MP

ABSENT

Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri

NATIONAL ASSEMBLY

- Clerk Assistant II
- Clerk Assistant III

KENYA NATIONAL AUDIT OFFICE

Mr. D.O. Gichana - Deputy Director of Audit
Mr. George Otieno Nashon - Assistant Director of Audit

MIN. NO.108/2010

CONFIRMATION OF MINUTES

The minutes of the following sittings were confirmed by the Members present and signed by the Ag. Chairperson:

- i) Minutes of the 22nd sitting held on Monday 23rd November 2009
- ii) Minutes of the 23rd sitting held on Monday 30th November 2009
- iii) Minutes of the 24th sitting held on Tuesday 9th February 2010
- iv) Minutes of the 25th sitting held on Wednesday 17th February 2010
- v) Minutes of the 26th sitting held on Tuesday 23rd February 2010
- vi) Minutes of the 27th sitting held on Monday 1st March 2010
- vii) Minutes of the 28th sitting held on Tuesday 2nd March 2010

MIN. NO. 109/2010

MATTERS ARISING

- i) Under Min.No.86/2010 (iii), the Committee requested the Controller and Auditor General to verify and report back, at the next meeting, on the status of the Youth Enterprise Development Fund special audit report.
- ii) Under Min. No.86/2010 (iv), the Committee was informed that the donor fund component at the Treasury is only for local travel, not foreign tours. The Committee resolved to go ahead and conduct trips to Tanzania and Uganda for capacity-building towards the end of April.
- iii) Under Min. No.99/2010 (iv), the Committee decided to have a special meeting to consider the special audit report on the purchase of cemetery land by the NCC and the report on the same issue by the Departmental Committee on Local Authorities.
- iv) Under Min. No.99/2010 (v), regarding foreign trips, the Committee was informed that the proposed trip to Brazil & Turkey/Greece had been reduced from two weeks to one week. The Committee resolved that the Chairperson and one other Member could appeal to the Clerk of the National Assembly, so as to extend the travel duration.
- v) Under Min.No.99/2010 (vi), the Committee was informed that owing to the review of the Constitution, all sittings away from the precincts of the National Assembly have been suspended until March 25th 2010. The report writing retreat would then take place from Monday 5th April to Saturday 10th April 2010.
- vi) Under Min. No.103/2010, the Committee directed that reminder letters be sent to the various witnesses who had promised to forward documents requested by the Committee during evidence.

MIN. NO. 110/2010

ANY OTHER BUSINESS

The Committee noted the need to ensure that the Committee's mandate vis-à-vis that of the Departmental Committee on Local Authorities is synchronized so as to avoid overlaps. The Committee also resolved that Members should be proactive in engaging with current issues of national interest to avoid being overtaken by time and events.

MIN. NO. 111/2010

ADJOURNMENT

And the time being forty five minutes past eleven o'clock, the meeting was adjourned until Thursday 25th March 2010 at 10.00 am.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 25/3/2010

MINUTES OF THE THIRTY FIRST SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE HELD ON THURSDAY MARCH 25TH 2010 IN THE SMALL DINING ROOM, PARLIAMENT BUILDINGS AT 10.00 AM.

PRESENT

Hon. Thomas Mwadeghu, MP (Chairperson)
Hon. Benjamin Langat, MP (Vice-Chairperson)
Hon. Peter Mwathi, MP
Hon. Charles M. Nyamai, MP

ABSENT WITH APOLOGY

Hon. Pollyins O. Anyango, MP
Hon. Musa Sirma, MP
Hon. Wilson Litole, MP
Hon. Nemesyus Warugongo, MP
Hon. Abdul Bahari, MP

ABSENT

Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri

NATIONAL ASSEMBLY

- Clerk Assistant II
- Clerk Assistant III

KENYA NATIONAL AUDIT OFFICE

Mr. D.O. Gichana	-	Deputy Director of Audit
Mrs. Tabitha N. Waweru	-	Assistant Director of Audit
Mr. George Otieno Nashon	-	Assistant Director of Audit

MIN. NO.112/2010

CONFIRMATION OF MINUTES

The minutes of the following sittings were confirmed by the Members present and signed by the Chairperson:

- i) Minutes of the 29th sitting held on Tuesday 9th March 2010
- ii) Minutes of the 30th sitting held on Tuesday 16th March 2010

MIN. NO. 113/2010

MATTERS ARISING

- i) Under Min. No. 109/2010 (ii), the Committee was informed that the Clerk of the National Assembly had advised for finalization of the itinerary for the Brazil/Turkey trip before planning the Tanzania and Uganda trips. This would enable Members to avoid spending too much time away from House sittings.

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- ii) Under Min. No. 109/2010 (iv), the Committee received an update from the Chairperson that the duration for the trip to Brazil & Turkey had been increased from the initial 1 week to 12 days. The time to be spent in each country would be determined later. The Committee was informed that communication had been sent to the Ambassadors in the two countries, and also to the Ministry of Foreign Affairs, and a response was being awaited before commencing preparations. The Members will discuss and decide on who attends this study tour.
- iii) Under Min.No.109/2010 (v), the Committee was informed that the report-writing retreat would take place from Wednesday April 7th to Sunday April 11th 2010. Departure would be on Wednesday evening. The hotel to be booked would be Serena, Mombasa Continental or Whitesands.

MIN. NO. 114/2010

ANY OTHER BUSINESS

The Committee was reminded of the one-day workshop with the Canadian Comprehensive Audit Foundation (CCAF) on Monday 12th April 2010 at Windsor Golf & Country Club.

Due to time and quorum limitations, the Committee opted to discuss the reports on the issue of the Nairobi City Council cemetery land purchase during their report-writing retreat with the full Committee Membership present.

MIN. NO. 115/2010

ADJOURNMENT

And the time being twenty minutes past eleven o'clock, the meeting was adjourned until Wednesday 7th April 2010.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 8/4/2010

MINUTES OF THE THIRTY SECOND SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE DURING THE REPORT-WRITING RETREAT HELD ON THURSDAY APRIL 8TH 2010 IN THE FUNCTION ROOM, MOMBASA CONTINENTAL RESORT, MOMBASA AT 2.30 PM.

PRESENT

Hon. Thomas Mwadeghu, MP (Chairperson)
Hon. Benjamin Langat, MP (Vice-Chairperson)
Hon. Peter Mwathi, MP
Hon. Pollyins O. Anyango, MP
Hon. Musa Sirma, MP
Hon. Nemesyus Warugongo, MP
Hon. Abdul Bahari, MP

ABSENT WITH APOLOGY

Hon. Charles M. Nyamai, MP
Hon. Wilson Litole, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri
Ms. Resian Ndilai

NATIONAL ASSEMBLY

- Clerk Assistant II
- Clerk Assistant III
- Hansard Reporter

KENYA NATIONAL AUDIT OFFICE

Mr. B.F.N. Kiguongo - Director of Audit

MIN. NO. 116/2010

CONSIDERATION OF THE DRAFT COMMITTEE REPORT

The Committee approved (with amendments) the Executive Summary of the draft report. The Executive summary highlighted the observations and general recommendations of the draft report.

MIN. NO. 117/2010

ADJOURNMENT

And the time being ten minutes past five o'clock, the meeting was adjourned until Friday 9th April 2010 at 9.00am.

Signed **HON. THOMAS MWADEGHU, MP**
(Chairperson)

Date **11/5/2010**

MINUTES OF THE THIRTY THIRD SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE DURING THE REPORT-WRITING RETREAT HELD ON FRIDAY APRIL 9TH 2010 IN THE FUNCTION ROOM, MOMBASA CONTINENTAL RESORT, MOMBASA AT 09.00 AM.

PRESENT

Hon. Thomas Mwadeghu, MP (Chairperson)
Hon. Benjamin Langat, MP (Vice-Chairperson)
Hon. Peter Mwathi, MP
Hon. Pollyins O. Anyango, MP
Hon. Nemesyus Warugongo, MP
Hon. Charles M. Nyamai, MP

ABSENT WITH APOLOGY

Hon. Musa Sirma, MP
Hon. Abdul Bahari, MP
Hon. Wilson Litole, MP

ABSENT

Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri
Ms. Resian Ndilai

NATIONAL ASSEMBLY

- Clerk Assistant II
- Clerk Assistant III
- Hansard Reporter

KENYA NATIONAL AUDIT OFFICE

Mr. B.F.N. Kiguongo - Director of Audit

MIN. NO. 118/2010

THE DRAFT REPORT

The Committee discussed the contents and body of the draft report, mainly covering the Nairobi City Council. The Committee also amended the format of the report to make it easier to highlight the salient issues captured.

MIN. NO. 119/2010

ANY OTHER BUSINESS

The Committee, while observing that Nairobi City Council being the largest council in the country, handling huge funds and massive resources, noted the need to urgently examine the council's accounts without further delay. It was resolved that a request be made to the Controller and Auditor General to forward all the certified audited accounts of the council from 30 June 2004 to date.

And the time being thirty minutes past one o'clock, the meeting was adjourned until later in the afternoon.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 11/5/2010

MINUTES OF THE THIRTY FORTH SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE DURING THE REPORT-WRITING RETREAT HELD ON FRIDAY APRIL 9TH 2010 IN THE FUNCTION ROOM, MOMBASA CONTINENTAL RESORT, MOMBASA AT 2.30 PM.

PRESENT

Hon. Thomas Mwadeghu, MP (Chairperson)
Hon. Benjamin Langat, MP (Vice-Chairperson)
Hon. Peter Mwathi, MP
Hon. Pollyins O. Anyango, MP
Hon. Nemesys Warugongo, MP
Hon. Charles M. Nyamai, MP

ABSENT WITH APOLOGY

Hon. Musa Sirma, MP
Hon. Abdul Bahari, MP
Hon. Wilson Litole, MP

ABSENT

Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri
Ms. Resian Ndilai

NATIONAL ASSEMBLY

- Clerk Assistant II
- Clerk Assistant III
- Hansard Reporter

KENYA NATIONAL AUDIT OFFICE

Mr. B.F.N. Kiguongo - Director of Audit

MIN. NO. 121/2010

THE DRAFT REPORT

The Committee continued with discussions on the main body of the report, especially on evidence gathered from the Urban Development Department (UDD), the inspection tours, and a few councils examined.

MIN. NO. 122/2010

ANY OTHER BUSINESS

- i) The Committee while noting that the Public Audit Act provided for only the Chairpersons of Public Accounts Committee and Public Investments Committee (or their designates) to be Members of the Kenya National Audit Commission, observed the need to amend the Act to also include the Chairperson of this Committee (or his designate). It was also noted that there was need to amend the LATF Act to withhold LATF funds from councils that do not produce certified audited accounts. The amendments should be incorporated in the miscellaneous amendments.

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- ii) The Committee resolved that due to inadequate time, it will deal with the recommendations of CDF in the Draft report at a later date, in Parliament Buildings.
- iii) The Committee also resolved to adopt the finalized report in readiness for tabling in the House within two weeks.

MIN. NO. 123/2010

ADJOURNMENT

And the time being forty minutes past five o'clock, the meeting was adjourned until a later date.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 11/5/2010

MINUTES OF THE THIRTY SIXTH SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE HELD ON TUESDAY MAY 11th 2010 IN THE COMMITTEE ROOM, 4th FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 AM.

PRESENT

Hon. Thomas Mwadeghu, MP (Chairperson)
Hon. Wilson Litole, MP
Hon. Nemesyus Warugongo, MP
Hon. Pollyins O. Anyango, MP
Hon. Peter Mwathi, MP
Hon. Charles Nyamai, MP
Hon. Musa Sirma, MP

ABSENT WITH APOLOGY

Hon. Benjamin Langat, MP
Hon. Abdul Bahari, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri

NATIONAL ASSEMBLY

- Clerk Assistant II
- Clerk Assistant III

KENYA NATIONAL AUDIT OFFICE

Mr. Nashon Otieno - Assistant Director of Audit

MIN. NO. 129/2010

CONFIRMATION OF MINUTES

The minutes of the following sittings were confirmed by the Members present and signed by the Chairperson:

- i) Minutes of the 32nd sitting held on Thursday 8th April 2010 at 10.00am.
- ii) Minutes of the 33rd sitting held on Thursday 8th April 2010 at 2.30pm.
- iii) Minutes of the 34th sitting held on Friday 9th April 2010 at 10.00am.
- iv) Minutes of the 35th sitting held on Friday 9th April 2010 at 2.30pm.

MIN. NO. 130/2010

MATTERS ARISING

- (i) Under Min. No.117/2010 (i), the Committee was informed that :
 - (a) the visit to Brazil had been shelved because the Departmental Committee on Local Authorities had also been scheduled to visit there and that it had not been possible to combine the two delegations.
 - (b) the Republic of Turkey had requested that the visit be rescheduled to a later date after May 2010.

- (c) A response was being awaited from Italy confirming the dates of travel.

The Committee further resolved to travel to Italy and Turkey in June/July 2010. The Committee will also create a travel plan for the year so that its trips receive early consideration, and if possible or necessary, consolidate with other delegations. The secretariat was requested to consider making arrangements for study visits to Israel and Singapore as an alternative to Brazil.

- (ii) Under Min. No. 124/2010, the Committee was informed that only the 2003/2004 accounts for the City Council of Nairobi are ready. All other accounts from 2004 to present are currently being prepared by a private auditor authorized by the Controller and Auditor General. The Committee will be officially notified when the accounts are submitted to the Minister for Finance for tabling in the House.
- (iii) Under Min. No. 127/2010 (i), the secretariat was advised to have the Parliamentary Legal Counsel liaise with the Attorney General as soon as possible regarding the Committee's proposed amendments to the Public Audit Act and LATF Act.

MIN. NO. 131/2010

ANY OTHER BUSINESS

The Chairperson informed the Committee that the Association of Local Government Authorities of Kenya (ALGAK), was holding a workshop in Mombasa where all Mayors, Councillors, Town Clerks and City Treasurers would be present. He suggested the need for the Committee to attend the workshops on Thursday morning (13th May 2010) in order to highlight the issues of non-submission of audited accounts and disbursement of LATF. The Chairperson and Hon Anyango were requested to attend the meeting.

The Committee also resolved to summon the City Council of Nairobi, Mombasa Municipal Council and Kisumu Municipal Council the following week in order to obtain the reasons for delay in submission of certified accounts to the National Audit Office.

On the evidence for the cemetery saga, the Committee resolved to wait for the results of the case in court the following day before deciding whether to summon any more witnesses on this matter.

MIN. NO. 132/2010

ADJOURNMENT

And the time being forty five minutes past three o'clock, the meeting was adjourned until Tuesday 17th May 2010 at 10.00am subject to confirmation.

Signed **HON. THOMAS MWADEGHU, MP**
(Chairperson)

Date **24/6/2010**

MINUTES OF THE THIRTY SEVENTH SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE HELD ON TUESDAY MAY 18TH 2010 IN THE CONFERENCE HALL, 1ST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT 10.00 AM.

PRESENT

Hon. Thomas Mwadeghu, MP (Chairperson)
Hon. Wilson Litole, MP
Hon. Pollyins O. Anyango, MP
Hon. Abdul Bahari, MP
Hon. Charles M. Nyamai, MP
Hon. Musa Sirma, MP

ABSENT WITH APOLOGY

Hon. Benjamin Langat, MP
Hon. Peter Mwathi, MP
Hon. Nemesysus Warugongo, MP

IN ATTENDANCE

Mr. Julius Ariwomoi

NATIONAL ASSEMBLY

- Clerk Assistant II

KENYA NATIONAL AUDIT OFFICE

Mr. Nashon Otieno

- Assistant Director of Audit

MIN. NO. 133/2010

MEETING WITH THE NAIROBI CITY COUNCIL

- a. The Committee was informed that the officers from the Council had requested for postponement of the meeting because they had not been notified by the Ministry of Local Government in time.

The Committee directed that the notifications should (in future) be sent to the Councils directly.

- b. It was resolved that the meeting with the council be rescheduled to Thursday 20th May 2010 at 2.30pm.
c. It was also noted that the Council was notorious in ignoring summons from the Committee. The matter would be addressed in their next appearance.

MIN. NO. 134/2010

COMMITTEE WORKPLAN

The Committee resolved to deliberate and adopt another workplan for the next financial year that includes :-

- (i) Evidence from the councils on the Accounts laid.

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- (ii) Regular inspection tours on queried and ongoing projects.
- (iii) Foreign study tours.
- (iv) Report writing retreats.

The workplan would be approved by the first week of July 2010.

MIN. NO. 135/2010

ADJOURNMENT

And the time being eleven o'clock, the meeting was adjourned until Wednesday 19th May 2010 at 10.00am.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 24/6/2010

MINUTES OF THE THIRTY EIGHTH SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE HELD ON WEDNESDAY MAY 19TH 2010 IN THE CONFERENCE HALL, 1ST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT 10.00 AM.

PRESENT

Hon. Abdul Bahari, MP (Ag. Chairperson)
Hon. Wilson Litole, MP
Hon. Pollyins O. Anyango, MP
Hon. Charles M. Nyamai, MP
Hon. Musa Sirma, MP

ABSENT WITH APOLOGY

Hon. Thomas Mwadeghu, MP
Hon. Benjamin Langat, MP
Hon. Peter Mwathi, MP
Hon. Nemesys Warugongo, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri

NATIONAL ASSEMBLY

- Clerk Assistant II
- Clerk Assistant III

KENYA NATIONAL AUDIT OFFICE

Mr. A.W. Kariuki
Mr. Nashon Otieno
Mr. Kennedy M. Mwaniki

- Deputy Director of Audit
- Assistant Director of Audit
- Principal Auditor

MINISTRY OF LOCAL GOVERNMENT

Mrs. Ruth Kiiru

- Director, Local Authorities
Inspectorate

MIN. NO. 136/2010

EVIDENCE : MOMBASA MUNICIPAL COUNCIL

Mr. Tubmun Otieno, Clerk, Mombasa Municipal Council, accompanied by :
a. Ms. Nuru Khams - Ag. Deputy Town Treasurer
b. Mr. Edward Gichana - Chief Internal Auditor
c. Mr. Moses N. Njuguna - Ag. Chief Accountant

appeared and gave an oral response to the issues raised in the invitation letter regarding the submission of accounts. He confirmed that Mombasa Municipal Council had submitted all its accounts up to the 2008/2009 financial year. The accounts from the 2006/2007 financial year onwards are yet to be certified by the Controller & Auditor General.

The Council Clerk was directed to provide his written response on the issues raised, to the Committee within seven days.

MIN. NO. 137/2010

PAPERS LAID

The following documents were laid on the table :

- (i) *Certified letter showing submission of the Council accounts to the Ministry of Local Government.*
- (ii) *Copies of minutes from the full council meeting where the accounts were tabled.*

MIN. NO. 138/2010

ADJOURNMENT

And the time being thirty minutes past eleven o'clock, the meeting was adjourned until 2.30pm this afternoon.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 24/6/2010

MINUTES OF THE THIRTY NINTH SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE HELD ON WEDNESDAY MAY 19TH 2010 IN THE CONFERENCE HALL, 1ST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT 2.30 PM.

PRESENT

Hon. Abdul Bahari, MP (Ag. Chairperson)
Hon. Wilson Litole, MP
Hon. Pollyins O. Anyango, MP
Hon. Musa Sirma, MP

ABSENT WITH APOLOGY

Hon. Thomas Mwadeghu, MP
Hon. Benjamin Langat, MP
Hon. Peter Mwathi, MP
Hon. Nemesys Warugongo, MP
Hon. Charles M. Nyamai, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri

NATIONAL ASSEMBLY

- Clerk Assistant II
- Clerk Assistant III

KENYA NATIONAL AUDIT OFFICE

Mr. Anderson Kariuki
Mrs. Tabitha Waweru
Mr. George Otieno Nashon

- Deputy Director of Audit
- Assistant Director of Audit
- Assistant Director of Audit

MINISTRY OF LOCAL GOVERNMENT

Mrs. Ruth Kiiru

- Director, Local Authorities
Inspectorate

MIN. NO. 139/2010

EVIDENCE : OFFICER ADMINISTERING THE LATF FUND

The following officers appeared before the Committee to discuss LATF fund :

- | | | |
|-------------------------|---|---|
| (i) Ms. Josephine Kanyi | - | Chief Economist, Ministry of Finance |
| (ii) Ms. Angeline Hongo | - | Assistant Director/Programme Coordinator,
Ministry Of Local Government |
| (iii) Mr. Thomas Mariki | - | Programme Officer, Ministry of Local Government |
| (iv) Mr. Martin Anyango | - | Programme Officer, Ministry of Local Government |

The Committee deliberated on the LATF Act and observed as follows :-

- i) The meeting may not achieve the desired results in the absence of the Accounting Officer and in the absence of the Permanent Secretary to the Treasury ;

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- ii) The presence of the Accounting Officer is necessary since he is the Officer Administering the LATF Fund ;
- iii) The presence of the Permanent Secretary to the Treasury is also useful since he participates in making the regulations envisaged in section 10 of the LATF Act and also since the Treasury determines the manner in which payment out of the fund is made;
- iv) The responsibility bestowed upon the Accounting Officer and the Permanent Secretary to the Treasury by the LATF Act could only be delegated in writing ; and no such letter was availed to the Committee from the officers who represented them in the meeting.

The Committee therefore resolved to re-schedule the meeting for Thursday 3rd June 2010 at 10.00am.

MIN. NO. 140/2010

ADJOURNMENT

And the time being ten minutes past three o'clock, the meeting was adjourned until Thursday 20th May 2010 at 10.00am.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 24/6/2010

**MINUTES OF THE FORTIETH SITTING OF THE LOCAL AUTHORITIES AND FUNDS
ACCOUNTS COMMITTEE HELD ON THURSDAY MAY 20TH 2010 IN THE
CONFERENCE HALL, 1ST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT
10.00 AM.**

PRESENT

Hon. Benjamin Langat, MP (Ag. Chairperson)
Hon. Abdul Bahari, MP
Hon. Wilson Litole, MP
Hon. Charles M. Nyamai, MP
Hon. Pollyins O. Anyango, MP
Hon. Musa Sirma, MP

ABSENT WITH APOLOGY

Hon. Thomas Mwadeghu, MP
Hon. Peter Mwathi, MP
Hon. Nemesys Warugongo, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri

NATIONAL ASSEMBLY

- Clerk Assistant II
- Clerk Assistant III

KENYA NATIONAL AUDIT OFFICE

Mr. Anderson Kariuki
Mr. Abednego N. Omwebu
Mr. George Otieno Nashon
Mr. Julius M. Mutinda

- Deputy Director of Audit
- Deputy Director of Audit
- Assistant Director of Audit
- Principal Auditor

MINISTRY OF LOCAL GOVERNMENT

Mrs. Ruth Kiiru

- Director, Local Authorities
Inspectorate

MIN. NO. 140/2010

MEETING WITH THE KISUMU MUNICIPAL COUNCIL

Mr. Daniel S. Nkere, Town Clerk, accompanied by :

(i) Mr. Stephen Osiro - Town Treasurer
(ii) Mr. Reuben Orinda - Accountant

appeared before the Committee to respond to the issues raised by the Committee as follows :

- (i) The lack of serious effort by the Chief Officers of the Local Authorities to submit audited accounts to the Controller and Auditor General, for onward transmission to Parliament;

- (ii) The failure by the Chief Officers to table the audited accounts of their relevant councils before full council meetings in accordance with the Local Government Act, Cap. 265, Laws of Kenya;
- (iii) Possible mismanagement of funds in various councils.

The Town Clerk responded as follows:

- (i) The Council had submitted to the Controller and Auditor General the accounts from the financial year 2000/2001 to 2007/2008, and have since been certified and tabled in the House. The accounts for 2008/2009 financial year were being reviewed by the auditors.
- (ii) The Clerk also discussed challenges encountered at the Council, especially in terms of financial management, which include inadequate staffing, transfers, among others. The issue of multiple outstanding imprests was highlighted, and the Town Clerk undertook to ensure that the outstanding amounts is recovered as soon as possible.

The Committee directed the Director, Local Authorities Inspectorate to instruct all the Councils in order to firmly deal with surrender of imprest. No officers should be allowed to transfer to other councils before clearing outstanding imprests owed by them.

MIN. NO. 141/2010

PENDING ISSUES

The Committee directed the Council officials to avail copy of the assets register within seven days.

The Committee also requested the Director of Local Authorities to provide, in a week's time, the following information :

- (a) Number of staff per local authority.
- (b) List of staff in each council with outstanding imprest, including the duration the imprest has been outstanding.
- (c) To indicate the station where the outstanding imprest was taken, and where the staff is currently serving.
- (d) Details of Kisumu Municipal Council's debt portfolio, outlining the list of debtors and creditors.

MIN. NO. 142/2010

ADJOURNMENT

And the time being fifty minutes past eleven o'clock, the meeting was adjourned until 2.30pm.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 24/6/2010

MINUTES OF THE FORTY SECOND SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE HELD ON WEDNESDAY JUNE 2ND 2010 IN THE CONFERENCE HALL, 1ST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT 11.00 AM.

PRESENT

Hon. Abdul Bahari, MP (Ag. Chairperson)
Hon. Wilson Litole, MP
Hon. Musa Sirma, MP

ABSENT WITH APOLOGY

Hon. Thomas Mwadeghu, MP
Hon. Benjamin Langat, MP
Hon. Peter Mwathi, MP
Hon. Charles M. Nyamai, MP
Hon. Pollyins O. Anyango, MP
Hon. Nemesyus Warugongo, MP

IN ATTENDANCE

Ms. Wanjiru Ndindiri

NATIONAL ASSEMBLY

- Clerk Assistant III

MIN. NO. 142/2010

HOUSEKEEPING ISSUES

The Committee discussed a number of issues and came to the following conclusions :

i) **Foreign Study Tours:**

The Committee was informed that the trip to Turkey & Italy will take place at the end of June or first week of July, upon receipt of confirmed dates from the host countries. Confirmation letters are also being awaited for the trips to Tanzania, now on June 10th – 12th, and Uganda, now on June 13th – 15th 2010. Priority for the latter trips will be for MPs not going to Italy & Turkey.

ii) **Annual Accounts of Councils:**

The Committee was informed that there were a lot of accounts awaiting tabling. Once this is done, evidence-taking will commence in July. The Committee opted to prioritize the big councils, but also slot in the smaller ones to ensure all 175 councils give evidence.

iii) **Committee Reports:**

The Committee was informed that a majority of the Members needed to be present to adopt the annual report in readiness for tabling. There will be another meeting for adoption of the report when all or majority of the Members are present.

The Committee resolved to table the annual report after budget day to ensure the important issues raised within it are sufficiently covered. This report and the one on the special audit of the cemetery purchase are to be tabled separately, preferably one week apart, so as to cover each adequately.

iv) Report –writing Retreat :

The Committee deliberated on the dates for a retreat where it will formulate recommendations and finalize the report on the Special Audit of the Controller and Auditor General into the purchase of cemetery land by the City Council of Nairobi. The dates and venue proposed were Friday 18th. – Sunday 20th June 2010 at the Serena Beach Hotel in Mombasa.

v) Workplan for July 2010 – March 2011:

The Committee resolved to have sittings on Monday afternoons, Tuesday and Thursday mornings, when Parliament is in session; and Tuesday, Wednesday and Thursday mornings and afternoons when Parliament is on recess. The Committee will also conduct inspection tours around the country once a month on Thursdays and Fridays.

MIN. NO. 143/2010

ADJOURNMENT

And the time being twelve noon, the meeting was adjourned until a date to be announced.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 24/6/2010

MINUTES OF THE FORTY THIRD SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE HELD ON TUESDAY JUNE 8TH 2010 IN THE CONFERENCE HALL, 1ST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT 10.00 AM.

PRESENT

Hon. Wilson Litole, MP (Ag. Chairperson)
Hon. Charles M. Nyamai, MP
Hon. Pollyins O. Anyango, MP
Hon. Nemesys Warugongo, MP
Hon. Peter Mwathi, MP

ABSENT WITH APOLOGY

Hon. Thomas Mwadeghu, MP
Hon. Benjamin Langat, MP
Hon. Abdul Bahari, MP
Hon. Musa Sirma, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri

NATIONAL ASSEMBLY

- Clerk Assistant II
- Clerk Assistant III

MIN. NO. 144/2010

CONSIDERATION OF THE DRAFT ANNUAL REPORT

The Committee was informed that the draft report could not be adopted in this meeting due to the absence of a majority of the Members. The Committee went ahead and reviewed any areas left outstanding previously, and made a few amendments.

MIN. NO. 145/2010

ANY OTHER BUSINESS

The Committee was advised that the Italy/Turkey study tour will take place in early July. Dates were still yet to be confirmed by the host countries.

The Committee was also informed of an invitation received from the Ministry of Nairobi Metropolitan Development to a 'World Cities Conference Summit 2010' in Singapore from 25 June to 2 July 2010. The Chairperson is to accompany the Minister, and the following members were nominated to accompany the delegation as well:

- i) Hon. Wilson Litole, MP
- ii) Hon. Pollyins Anyango, MP
- iii) Hon. Nemesys Warugongo, MP

MIN. NO. 146/2010

ADJOURNMENT

And the time being forty minutes past twelve noon, the meeting was adjourned until Thursday 10th June 2010 at 10.00am.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 24/6/2010

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MINUTES OF THE FORTY FOURTH SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE HELD ON THURSDAY JUNE 10TH 2010 IN THE COMMITTEE ROOM, 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 AM.

PRESENT

Hon. Thomas Mwadeghu, MP (Chairperson)
Hon. Wilson Litole, MP
Hon. Pollyins O. Anyango, MP
Hon. Nemesys Warugongo, MP
Hon. Peter Mwathi, MP
Hon. Abdul Bahari, MP

ABSENT WITH APOLOGY

Hon. Benjamin Langat, MP
Hon. Charles M. Nyamai, MP
Hon. Musa Sirma, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri

NATIONAL ASSEMBLY

- Clerk Assistant II
- Clerk Assistant III

MIN. NO. 147/2010

CONSIDERATION OF THE DRAFT ANNUAL REPORT

The Committee reviewed the body of the draft report and made some amendments. The Committee resolved to finalize the CDF section and the Urban Development Department (UDD) project overview at a later date.

MIN. NO. 148/2010

ADJOURNMENT

And the time being thirty five minutes past twelve noon, the meeting was adjourned until Friday 11th June 2010 at 9.30am.

Signed **HON. THOMAS MWADEGHU, MP**
(Chairperson)

Date **24/6/2010**

MINUTES OF THE FORTY FIFTH SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE HELD ON FRIDAY JUNE 11TH 2010 IN THE COMMITTEE ROOM, 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 9.30 AM.

PRESENT

Hon. Thomas Mwadeghu, MP (Chairperson)
Hon. Abdul Bahari, MP
Hon. Pollyins O. Anyango, MP
Hon. Musa Sirma, MP

ABSENT WITH APOLOGY

Hon. Benjamin Langat, MP
Hon. Wilson Litole, MP
Hon. Nemesys Warugongo, MP
Hon. Peter Mwathi, MP
Hon. Charles M. Nyamai, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri

NATIONAL ASSEMBLY

- Clerk Assistant II
- Clerk Assistant III

MIN. NO. 149/2010

CONSIDERATION OF THE DRAFT ANNUAL REPORT

The Committee reviewed the CDF and UDD portions of the report and made a few amendments. The Committee also decided to seek the advice of the Deputy Director of Committees on the procedure for receiving evidence from current and former MPs whose constituencies appeared in the auditor's report.

MIN. NO. 150/2010

ANY OTHER BUSINESS

The Chairperson reported to the Committee that the Hon. Speaker had requested an update from the Committee on the special audit report into the purchase of cemetery land by the City Council of Nairobi. Due to the urgency of the matter, the Committee resolved to hold a report-writing retreat from Thursday 17 June to Sunday 20 June 2010 in Mombasa at the Serena Beach Hotel to conclude its recommendations on the matter.

MIN. NO. 151/2010

ADJOURNMENT

And the time being fifty minutes past eleven o'clock, the meeting was adjourned until Tuesday 15th June 2010 at 9.30am.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 24/6/2010

MINUTES OF THE FORTY SIXTH SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE HELD ON TUESDAY JUNE 15TH 2010 IN THE CONFERENCE HALL, 1ST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT 10.00 AM.

PRESENT

Hon. Thomas Mwadeghu, MP (Chairperson)
Hon. Benjamin Langat, MP
Hon. Abdul Bahari, MP
Hon. Charles M. Nyamai, MP
Hon. Nemesyus Warugongo, MP

ABSENT WITH APOLOGY

Hon. Wilson Litole, MP
Hon. Peter Mwathi, MP
Hon. Pollyins O. Anyango, MP
Hon. Musa Sirma, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri

NATIONAL ASSEMBLY

- Clerk Assistant II
- Clerk Assistant III

KENYA NATIONAL AUDIT OFFICE

Mr. Nashon Otieno - Assistant Director of Audit

MIN. NO. 152/2010

CHAIRPERSON'S REMARKS

The Chairperson briefed the Committee on the reason the Committee would not be meeting with the current or former MPs regarding CDF accounts based on advice received from the Deputy Director of Committees. It was to prevent conflict and negative indictment of MPs, especially if issues discussed touched on a current committee Member, and also because MPs themselves do not sit on Constituency Development Committees.

The Chairperson also informed the Committee of a letter received from the Institute of Certified Public Accountants of Kenya (ICPAK). The organization was requesting a meeting with the Committee to introduce themselves, and seek to establish a partnership in ensuring public accountability and good governance in local authorities. The Committee resolved to meet with ICPAK after tabling its annual report.

MIN. NO. 153/2010

OUTSTANDING INFORMATION

The Committee resolved to invite the Minister and Permanent Secretary for Local Government so as to discuss its recommendations touching on LATF and Urban Development Department (UDD) which may have far-reaching implications.

The Committee will also advise the CDF Chief Executive Officer to inform the area MP of issues in his/her constituency appearing in the Controller and Auditor General's report.

MIN. NO. 154/2010

ANY OTHER BUSINESS

The Committee was reminded of the report-writing taking place later in the week, from Thursday 17 June – Sunday 20 June 2010.

The Committee Members expressed their displeasure over the lack of foreign trips by the Committee in the financial year ending 30 June 2010, and especially that no trips materialized when official channels were used.

The Members directed the secretariat to plan in advance to ensure early securing of appointments. The countries suggested for future visits were: Mauritius, Uganda, Tanzania, Nigeria and Spain. The secretariat is to plan and confirm the dates early enough for the Brazil trip.

MIN. NO. 155/2010

ADJOURNMENT

And the time being fifty five minutes past ten o'clock, the meeting was adjourned until Thursday 17th June 2010 at 9.30am.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 24/6/2010

MINUTES OF THE FORTY SEVENTH SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE HELD ON THURSDAY JUNE 17TH 2010 IN THE CONFERENCE HALL, 1ST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT 9.30 AM.

PRESENT

Hon. Thomas Mwadeghu, MP (Chairperson)
Hon. Abdul Bahari, MP
Hon. Wilson Litole, MP
Hon. Peter Mwathi, MP
Hon. Pollyins O. Anyango, MP
Hon. Nemesyus Warugongo, MP

ABSENT WITH APOLOGY

Hon. Benjamin Langat, MP
Hon. Charles M. Nyamai, MP
Hon. Musa Sirma, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri

NATIONAL ASSEMBLY

- Clerk Assistant II
- Clerk Assistant III

MIN. NO. 156/2010

HOUSEKEEPING ISSUES

Hon. Mwathi took exception to the fact that Members did not appreciate his assistance, offered in good faith, to ensure success of Committee trips.

The Committee resolved to meet with the Clerk of the National Assembly on a few housekeeping issues on Tuesday next week after the committee meeting.

MIN. NO. 157/2010

ANY OTHER BUSINESS

The Committee was informed that the trip to Italy had been confirmed for 15 – 17 July 2010. Confirmation was still being awaited for exact dates from Turkey. It was resolved that the following Members would travel to Italy:

- i) Hon. Benjamin Lang'at, MP
- ii) Hon. Nemesyus Warugongo, MP
- iii) Hon. Peter Mwathi, MP

If the trip to Turkey was scheduled for a separate date, the following Members would attend :

- i) Hon. Wilson Litole, MP
- ii) Hon. Abdul Bahari, MP
- iii) Hon. Pollyins Anyango, MP

Hon. Charles Nyamai would also be travelling to Gambia on a separate trip. Information will be communicated to him early enough to plan ahead.

MIN. NO. 158/2010

ADJOURNMENT

And the time being twenty minutes past eleven o'clock, the meeting was adjourned until Friday 18th June 2010 at 9.30am at Serena Beach Hotel.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 24/6/2010

MINUTES OF THE FORTY EIGHTH SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE ON THE SPECIAL AUDIT REPORT FOR THE PURCHASE OF LAND FOR CEMETERY BY THE CITY COUNCIL OF NAIROBI, HELD ON FRIDAY 18TH JUNE 2010 IN THE BAOBAB ROOM, SERENA BEACH HOTEL, MOMBASA AT 9.00 AM.

PRESENT

Hon. Thomas Mwadeghu, MP (Chairperson)
Hon. Benjamin Langat, MP (Vice-Chairperson)
Hon. Wilson Litole, MP
Hon. Pollyins O. Anyango, MP
Hon. Abdul Bahari, MP

ABSENT WITH APOLOGY

Hon. Peter Mwathi, MP
Hon. Nemesyus Warugongo, MP
Hon. Charles M. Nyamai, MP
Hon. Musa Sirma, MP
Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri

NATIONAL ASSEMBLY

- Clerk Assistant II
- Clerk Assistant III

KENYA NATIONAL AUDIT OFFICE

Mr. Anderson Kariuki - Deputy Director of Audit

MIN. NO. 162/2010

CONSIDERATION OF THE DRAFT ANNUAL REPORT

The Committee finalized its recommendations on the sections dealing with the CDF accounts and UDD projects.

MIN. NO. 163/2010

ADJOURNMENT

And the time being one o'clock, the meeting was adjourned until 2.30pm.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 17/8/2010

MINUTES OF THE FORTY NINTH SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE HELD ON THURSDAY 24TH JUNE 2010 IN THE CONFERENCE HALL, 1ST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT 9.30 AM.

PRESENT

Hon. Thomas Mwadeghu, MP (Chairperson)
Hon. Abdul Bahari, MP
Hon. Wilson Litole, MP
Hon. Musa Sirma, MP

ABSENT WITH APOLOGY

Hon. Benjamin Langat, MP
Hon. Peter Mwathi, MP
Hon. Pollyins O. Anyango, MP
Hon. Nemesyus Warugongo, MP
Hon. Charles M. Nyamai, MP
Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri

NATIONAL ASSEMBLY

- Clerk Assistant II
- Clerk Assistant III

MIN. NO. 164/2010

CONFIRMATION OF MINUTES

The following minutes were confirmed by Members present and signed by the Chairperson :

- i) Minutes of the 36th sitting held on 11th May 2010 at 10.00am
- ii) Minutes of the 37th sitting held on 18th May 2010 at 10.00am
- iii) Minutes of the 38th sitting held on 19th May 2010 at 10.00am
- iv) Minutes of the 39th sitting held on 19th May 2010 at 2.30pm
- v) Minutes of the 40th sitting held on 20th May 2010 at 10.00am
- vi) Minutes of the 41st sitting held on 20th May 2010 at 2.30pm
- vii) Minutes of the 42nd sitting held on 2nd June 2010 at 11.00am
- viii) Minutes of the 43rd sitting held on 8th June 2010 at 10.00am
- ix) Minutes of the 44th sitting held on 10th June 2010 at 10.00am
- x) Minutes of the 45th sitting held on 11th June 2010 at 9.30am
- xi) Minutes of the 46th sitting held on 15th June 2010 at 10.00am
- xii) Minutes of the 47th sitting held on 17th June 2010 at 9.30am

MIN. NO. 165/2010

MATTERS ARISING

- (i) Under Min. No. 130(i)(c)/2010, regarding the dates of travel to Italy, the Committee wished to travel earlier than the initially proposed date of 15th July 2010, preferably any time from 10th July.

- (ii) Under Min. No. 131/2010, the Chairperson briefed the Committee on the ALGAK meeting held in Mombasa attended by himself and Hon. Pollyins O. Anyango, MP.
- (iii) Under Min. No.136/2010, the Committee was informed that the Mombasa Town Clerk had already submitted his written response as promised during the previous meeting with the Committee.
- (iv) Under Min. No.138/2010, regarding the discussion on the LATF Act, the Committee resolved to invite the Permanent Secretaries for the Ministries of Finance and Local Government, along with the officers handling the Fund directly, to deliberate more comprehensively on the issue.
- (v) Under Min.No.141/2010, the Committee was informed that the documents requested had not been received. The Committee directed that a reminder letter be written to the Council, and the Director of Local Authorities to follow-up on the matter.
- (vi) Under Min.No.144/2010, the Committee directed that a copy of the letter from the Nairobi City Council to the council lawyer regarding interest incurred in the cemetery purchase be obtained as soon as possible.
- (vii) Under Min. No.146(v)/2010, the Committee resolved to review its annual work plan and programme of business for the upcoming year after the referendum.
- (viii) Under Min. No.155/2010, the Committee resolved to schedule the meeting with ICPAK once the annual report is tabled.
- (ix) Under Min. No.157/2010, the Committee resolved to visit New Zealand (instead of Nigeria). It was also resolved that focus for foreign study tours will also include visiting countries with CDF projects.
- (x) Under Min. No.160/2010, the Committee resolved to consider Hon. Musa Sirma, MP to be included in the study visits to either Italy or Turkey in case authority is granted for more than three Members. The Chairperson was also requested to consult the Vice-Chairperson in order for the Vice-Chairperson to represent the Committee on the WorldBank sponsored conference in Gambia in place of Hon. Charles M. Nyamai, MP who had declined to travel.

MIN. NO. 166/2010

ANY OTHER BUSINESS

The Committee decided to seek legal advice from the Parliamentary Legal Counsel on the issues covered in the Committee's report on the Special Audit Report of the Controller & Auditor General into the purchase of the cemetery land by Nairobi City Council are watertight, and all relevant acts to support the issues raised are quoted.

The Committee also directed that the minutes should be more detailed on the issues discussed in meetings.

The secretariat was requested to ensure that any document submitted by a witness should be tabled in the subsequent Committee meeting.

MIN. NO. 167/2010

ADJOURNMENT

And the time being thirty minutes past eleven o'clock, the meeting was adjourned until Friday 25th June 2010 at 9.30am.

Signed **HON. THOMAS MWADEGHU, MP**
(Chairperson)

Date **17/8/2010**

MINUTES OF THE FIFTIETH SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE HELD ON TUESDAY 29TH JUNE 2010 IN THE CONFERENCE HALL, 1ST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT 9.30 AM.

PRESENT

Hon. Benjamin Langat, MP (Ag. Chairperson)
Hon. Wilson Litole, MP
Hon. Musa Sirma, MP
Hon. Pollyins O. Anyango, MP
Hon. Nemesyus Warugongo, MP

ABSENT WITH APOLOGY

Hon. Thomas Mwadeghu, MP
Hon. Peter Mwathi, MP
Hon. Abdul Bahari, MP
Hon. Charles M. Nyamai, MP
Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

IN ATTENDANCE

Mr. Julius Ariwomoi -
Ms. Wanjiru Ndindiri -

NATIONAL ASSEMBLY

Clerk Assistant II
Clerk Assistant III

KENYA NATIONAL AUDIT OFFICE

Mr. Anderson Kariuki - Deputy Director of Audit
Mr. George O. Nashon - Assistant Director of Audit
Mr. Meshack S. Mashedi - Senior Auditor

MIN. NO. 168/2010

MEETING WITH THE ADMINISTRATOR OF LATF

Prof. Karega Mutahi, CBS, Accounting Officer, Office of the Deputy Prime Minister and Ministry of Local Government, accompanied by:

- | | | |
|----------------------------|---|--|
| (i) Mrs. Ruth N. Kiiru | - | Director, Local Authorities Inspection |
| (ii) Mr. Ezekiel O. Ohando | - | Chief Finance Officer |
| (iii) Mrs. Josephine Kanyi | - | Chief Economist (Ministry of Finance) |
| (iv) Mrs. Angeline Hongo | - | Program Coordinator |
| (v) Joseph O. Warega | - | Principal Accountant |

appeared before the Committee to deliberate on the issue of Local Authorities Transfer Fund (LATF) disbursement. The discussion touched on :

- (i) The supervision of the fund;
- (ii) Submission and quality of books of accounts by the councils;
- (iii) Capacity building and tenure of council staff ;
- (iv) Structures in place for administration of the fund; and

- (v) Possible amendments to the LAFF Act to enhance propriety of the fund.

The administrator of the fund explained the introduction of the Local Authorities Integrated Financial Operations Management System (LAIFOMS), and Local Authorities Service Delivery Action Plan (LASDAP) as tools to assist in improving the financial management and general operations of the councils.

MIN. NO. 169/2010

PENDING ISSUES

- i) The Committee directed the Accounting Officer to provide a timeline, within a month, on when the issue of incorrect opening balances affecting councils' accounts will be resolved by the Ministry.
- ii) The Committee also directed the Accounting Officer to appear with the Deputy Prime Minister and Minister for Local Government within three weeks so as to discuss the way forward of dealing with UDD, and also deliberate on ways of improving operations in councils.
- iii) The Committee resolved that a follow-up be done with Nairobi City Council, within fourteen days, to establish whether the letter they sent to Omotii & Advocates regarding the refund of interest has received any response.

MIN. NO. 170/2010

ADJOURNMENT

And the time being one o'clock, the meeting was adjourned until Wednesday 30th June 2010 at 11.30am.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 17/8/2010

MINUTES OF THE FIFTY FIRST SITTING OF THE LOCAL AUTHORITIES AND FUNDS
ACCOUNTS COMMITTEE HELD ON WEDNESDAY 30TH JUNE 2010 IN THE
CONFERENCE HALL, 1ST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT 11.30
AM.

PRESENT

Hon. Benjamin Langat, MP (Ag. Chairperson)
Hon. Wilson Litole, MP
Hon. Peter Mwathi, MP
Hon. Pollyins O. Anyango, MP

ABSENT WITH APOLOGY

Hon. Thomas Mwaideghu, MP
Hon. Musa Sirma, MP
Hon. Nemesys Warugongo, MP
Hon. Abdul Bahari, MP
Hon. Charles M. Nyamai, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri

-
-

NATIONAL ASSEMBLY

Clerk Assistant II
Clerk Assistant III

MIN. NO. 171/2010

REVIEW OF ANNUAL REPORT

The Committee scrutinized the annual report a final time, and made a few amendments to the preface. It was resolved that the report could be tabled once the House reopens after the referendum.

MIN. NO. 172/2010

ADJOURNMENT

And the time being forty minutes past one o'clock, the meeting was adjourned until a date to be announced later.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 17/8/2010

MINUTES OF THE FIFTY SECOND SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE HELD ON TUESDAY 17TH AUGUST 2010 IN THE CONFERENCE HALL, 1ST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT 10.00 AM.

PRESENT

Hon. Thomas Mwadeghu, MP (Chairperson)
Hon. Benjamin Langat, MP
Hon. Wilson Litole, MP
Hon. Peter Mwathi, MP
Hon. Pollyins O. Anyango, MP
Hon. Musa Sirma, MP

ABSENT WITH APOLOGY

Hon. Nemesys Warugongo, MP
Hon. Abdul Bahari, MP
Hon. Charles M. Nyamai, MP
Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

IN ATTENDANCE

Ms. Wanjiru Ndindiri

NATIONAL ASSEMBLY

Clerk Assistant III

MIN. NO. 173/2010

CONFIRMATION OF MINUTES

The following minutes were confirmed by Members present and signed by the Chairperson :

- (i) Minutes of the 48th sitting held on Friday 17th June 2010 at 9.00am.
- (ii) Minutes of the 49th sitting held on Thursday 24th June 2010 at 9.30am.
- (iii) Minutes of the 50th sitting held on Tuesday 29th June 2010 at 9.30am.
- (iv) Minutes of the 51st sitting held on Tuesday 30th June 2010 at 11.30am.

MIN.NO. 174/2010

MATTERS ARISING

- (i) Under Min. No.165/2010 (iv), the Committee was informed that an invitation had already been sent to the Permanent Secretaries and officers handling LATF for a comprehensive discussion of the fund.
- (ii) Under Min. No. 165/2010 (vi), the Committee was shown the letter sent from the City Council of Nairobi to the Council lawyer.
- (iii) Under Min. No. 165/2010 (ix), the Committee resolved to plan for foreign study tours to New Zealand and other countries with CDF projects once the trip scheduled for October 2010 to Turkey is undertaken.
- (iv) Under Min. No. 169/2010 (i), follow-up would be done with the Ministry on the queries pertaining to opening balances indicated in the Councils' accounts.

- (v) Under Min. No. 169/2010 (ii), the Committee was informed that the meeting with the Deputy Prime Minister and Minister for Local Government was re-scheduled for August 24th 2010.
- (vi) Under Min. No. 169/2010 (iii), a copy of the letter sent to Omotii & Co. Advocates, as well as Mr. Omotii's response regarding the refund was received.

MIN.NO. 175/2010

REVIEW OF ANNUAL WORKPLAN

The Committee reviewed the workplan and resolved to have meetings on Mondays (afternoon), Tuesdays and Thursdays (morning), when the House is in session, while when the House is on recess, meetings would be held on Tuesdays, Wednesdays and Thursdays (morning and afternoon).

MIN. NO. 176/2010

ANY OTHER BUSINESS

The Committee resolved that Hon. Pollyins Anyango, MP would attend the APNAC workshop scheduled for Mombasa in place of Hon. Wilson Litole, MP.

MIN. NO. 177/2010

ADJOURNMENT

And the time being fifty five minutes past eleven o'clock, the meeting was adjourned until Tuesday 24th August 2010 at 10.00am.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 12/10/2010

MINUTES OF THE FIFTY THIRD SITTING OF THE LOCAL AUTHORITIES AND FUNDS
ACCOUNTS COMMITTEE HELD ON 31ST AUGUST 2010 IN THE OLD CHAMBERS,
PARLIAMENT BUILDINGS AT 10.00 AM.

PRESENT

Hon. Thomas Mwadeghu, MP (Chairperson)
Hon. Abdul Bahari, MP
Hon. Pollyins O. Anyango, MP
Hon. Musa Sirma, MP

ABSENT WITH APOLOGY

Hon. Benjamin Langat, MP
Hon. Wilson Litole, MP
Hon. Peter Mwathi, MP
Hon. Nemesys Warugongo, MP
Hon. Charles M. Nyamai, MP
Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

IN ATTENDANCE

Mr. Julius Ariwomoi
Ms. Wanjiru Ndindiri

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NATIONAL ASSEMBLY

Clerk Assistant II
Clerk Assistant III

KENYA NATIONAL AUDIT OFFICE

Mr. Anderson Kariuki
Mr. Benjamin Mayenga
Mr. Nashon Otieno

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Deputy Director of Audit
Assistant Director of Audit
Assistant Director of Audit

MIN.NO. 178/2010

EVIDENCE : MINISTRY OF LOCAL GOVERNMENT

Hon. Musalia Mudavadi, EGH, MP, Deputy Prime Minister and Minister for Local Government, accompanied by :

- | | | | |
|--------|--------------------------|---|---|
| (i) | Hon. Lewis Nguyai, MP | - | Assistant Minister |
| (ii) | Prof. Karega Mutahi, CBS | - | Permanent Secretary |
| (iii) | Mrs. Ruth Kiiru | - | Director, Local Authorities
Inspectorate |
| (iv) | Mr. Mutua P. Nzoka, OGW | - | Director, Market Development |
| (v) | Mr. Victor Ogutu | - | Assistant Director, UDD |
| (vi) | Mr. Ezekiel O. Ohando | - | Chief Finance Officer |
| (vii) | Mr. Joseph O. Warega | - | Principal Accountant |
| (viii) | Mr. Silas O. Nyambok | - | Engineer, UDD |

appeared before the Committee to discuss the status (and the way forward) of the countrywide projects undertaken by the Urban Development Department (UDD). The following issues were noted with concern:

- (i) Many contractors had been paid over 50% of the contract sum yet little/no work had been done ; many of those contracts had to be re-tendered at higher costs.
- (ii) Many projects had stalled and problems were discovered on the sites or with the sites when works were already in progress.
- (iii) A number of projects had design problems and poor supervision.

The Minister outlined proposals to the existing challenges in UDD and the way forward in handling the stalled projects undertaken by UDD. He proposed the following :

- (i) Completion of all stalled projects to be done before embarking on new projects.
- (ii) An interdisciplinary team from the Ministry to be formed to verify actual work done on projects before payments are made to contractors.
- (iii) UDD is to be restructured with clearly spelt out separation of roles.

The Minister further informed the Committee that a team from the Ministry of State for Public Service was evaluating UDD so as to advise on how the proposed restructuring will take place.

The Committee while commending the Minister's proposals, resolved to reschedule for another meeting with the Minister (in a week's time) in order for the Minister to come up with a brief on clear restructuring proposals on UDD.

MIN. NO. 179/2010

ADJOURNMENT

And the time being fifty five minutes past eleven o'clock, the meeting was adjourned until Thursday 2nd September 2010 at 10.00am.

Signed HON. THOMAS MWADEGHU, MP
(Chairperson)

Date 12/10/2010

MINUTES OF THE FIFTY FOURTH SITTING OF THE LOCAL AUTHORITIES AND FUNDS ACCOUNTS COMMITTEE HELD ON THURSDAY 2ND SEPTEMBER 2010 IN COMMITTEE RM. NO. 9, PARLIAMENT BUILDINGS AT 10.00 AM

PRESENT

Hon. Thomas Mwadeghu, MP (Chairperson)
Hon. Benjamin Langat, MP
Hon. Peter Mwathi, MP
Hon. Abdul Bahari, MP
Hon. Pollyins O. Anyango, MP
Hon. Wilson Litole, MP
Hon. Nemesys Warugongo, MP
Hon. Musa Sirma, MP

ABSENT WITH APOLOGY

Hon. Charles M. Nyamai, MP
Hon. Ferdinand Waititu, MP
Hon. Simon Mbugua, MP

IN ATTENDANCE

Ms. Wanjiru Ndindiri

NATIONAL ASSEMBLY

Clerk Assistant III

MIN.NO. 180/2010

REVIEW OF UDD RECOMMENDATIONS

The Committee decided to finalize its recommendations on UDD after meeting the Minister the following Tuesday. The Committee expects the Ministry's response on the exact nature of the restructuring of UDD and how the issue of staff would be addressed.

The Committee resolved that action should be taken against the officers involved in the questionable UDD projects, including those who were transferred to other Ministries.

MIN. NO. 181/2010

ANY OTHER BUSINESS

The Committee resolved that in order to avoid cancellation of scheduled meetings and to allow Members to also visit their constituencies, some Members would alternately be present when others were not available.

Hon. Pollyins Anyango, MP and Hon. Nemesys Warugongo, MP briefed the Committee on their visit to Ghana where they represented the Committee in a training programme on budgetary oversight.

The Chairperson also informed the Committee that there would be a joint meeting with the Departmental Committee on Local Authorities on the afternoon of 7th September 2010. Both Committees would review and adopt the harmonized report on the Purchase of Land for Cemetery by the City Council of Nairobi in preparation for tabling.

And the time being fifty minutes past eleven o'clock, the meeting was adjourned until Tuesday 7th September 2010 at 10.00am.

Signed HON. THOMAS MWADEGHU. MP
(Chairperson)

Date 12/10/2010