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THIRTEENTH PARLIAMENT - SECOND SESSION

THE SELECT COMMITTEE ON COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS

REPORT ON THE CONSIDERATION OF THE AUDIT REPORTS OF THE FOLLOWING COUNTY WATER SERVICE PROVIDERS FOR THE YEAR ENDED 30TH JUNE, 2021:

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

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

July, 2023

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ACRONYMS/ABBREVIATIONS

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

DEFINITION OF TERMS

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

PREFACE

Hon. Speaker,

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

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

COMMITTEE MEMBERSHIP

Hon. Speaker,

The membership of the Committee comprises of the following Senators-

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

COMMITTEE SECRETARIAT

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

ESTABLISHMENT OF THE COMMITTEE

Hon. Speaker,

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

Hon. Speaker,

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

EXECUTIVE SUMMARY

In the execution of its mandate, the Committee relied on the reports of the Auditor-General on audited Accounts of the water companies for the Financial year 2020/2021 (1st July, 2020 to 30th June, 2021) as the primary documents for the investigations. The Committee invited the Governors as the Chief Executive Officers of their respective County Governments pursuant to Article 179(4) as witnesses to respond to the audit queries raised in the reports under consideration.

The Committee received both written and oral evidences from the Governors in response to the various audit queries raised by the Auditor-General in the reports under consideration on various dates. The Committee considered and concluded its inquiry onto the reports of the Auditor-General on the Financial Operations of the water companies for the Financial Year 2020/2021.

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

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

CHAPTER ONE highlights the audit queries raised in the report of the Auditor-General for Amatsi Water Services Company Limited for the Financial Year 2020/21 and observations and recommendations of the Committee on each audit query.

CHAPTER TWO highlights the audit queries raised in the report of the Auditor-General for Bomet Water Company Limited for the Financial Year 2020/21 and observations and recommendations of the Committee on each audit query.

CHAPTER THREE highlights the audit queries raised in the report of the Auditor-General for Gusii Water and Sanitation Company Limited for the Financial Year 2020/21 and observations and recommendations of the Committee on each audit query.

CHAPTER FOUR highlights the audit queries raised in the report of the Auditor-General for Kisumu Water and Sanitation Company Limited for the Financial Year 2020/21 and observations and recommendations of the Committee on each audit query.

CHAPTER FIVE highlights the audit queries raised in the report of the Auditor-General for Kwale Water and Sewerage Company Limited for the Financial Year 2020/21 and observations and recommendations of the Committee on each audit query.

CHAPTER SIX highlights the audit queries raised in the report of the Auditor-General for Nyeri Water and Sanitation Company Limited for the Financial Year 2020/21 and observations and recommendations of the Committee on each audit query.

GENERAL OBSERVATIONS

1. **Non-Revenue Water (NRW)** – the Committee observed that majority of Water Companies had very high levels of Non-Revenue Water, way above the recommended sector benchmark of 25% as prescribed by the Water Services Regulatory Board (WASREB). This was mostly attributed to dilapidated infrastructure (physical losses) and inaccurate meter reading and billing, and illegal connections (commercial losses). Some companies such Kwale Water and Sanitation Company Limited and Bomet Water Company Limited had levels of Non-Revenue Water as high as 62% and 69.7% respectively in the Financial Year 2020/21.
2. **Bookkeeping, Preparation & Accuracy of the Financial Statements** - the Committee observed that there were inaccuracies and errors in regards to the preparation and presentation of financial statements in almost all Water Companies. Further, the Accountants, and the Managing Directors faced challenges in submitting supporting documents to the auditors on time contrary to Section 62 of the Public Audit Act, 2015 making the accountability and audit process difficult. The delays in preparation of complete financial statements indicating lack of requisite competencies and experiences in the water companies.
3. **Compliance to Reporting Standards and Accuracy of the Financial Statements** - the Committee observed that Accountants experienced challenges in adapting to the International Public Sector Accounting Standards (IPSAS) reporting framework in preparation of financial statements. The Committee also observed that the Public Sector Accounting Standards Board (PSASB) reviews the IPSAS Standards periodically to take into account emerging issues and conform to best accounting practices. The Committee found that some Water companies experienced challenges in the application of these standards while preparing financial statements as evidenced by the audit queries.
4. **Ethnic Inclusivity** – The Committee observed that many water companies were non-compliant with section 7 (1) and (2) of National Cohesion and Integration Act, 2008 which provides that, “all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its establishment from the same ethnic community” and Section 65(1) (e) of

County Government Act, 2012 which provides, “The need to ensure that at least 30% of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the County”. Some companies such as Amatsi Water Services Company Limited had up to 96% of their staff originating from the same ethnic community.

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

2015, the Water Act, 2016, the Companies Act, 2015, the Income Tax Act (Cap. 470), 1974, the Retirement Benefits Act, 1997, the Pensions Act, 1942, the County Government Act, 2012, the Accountants Act, 2008 and Water Service Regulatory Board (WASREB) guidelines.

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

GENERAL RECOMMENDATIONS

The Committee recommends that-

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

the Board and the County Governments to establish a diversity policy with the aim of complying with the law. This will be reviewed in the subsequent audit.

5. The Board, Accounting Officers and the County Governments to put in place strategic and innovative measures for recovery and to boost the financial health of the water companies for self-sustainability. Additionally, they should review and regularize their existing assets indicating the service provider agreements before transition from the defunct councils and have updated assets registers that reflect the current financial position, determine and ascertain their commercial viability as required by the Public Sector Accounting Standards Board (PSASB). The Board should indicate if the financial support is a conditional grant or donation in their books of account and it should not be a direct transfer from the County Executive. Further, the County Governors through the County Executive Committee member for water should monitor the financial operations of the water companies pursuant to section 184 of the Public Finance Management Act, 2012.
6. The County Governments, the Board and the accounting officers shall ensure timely remittance of statutory deductions to the relevant institutions to avoid the accrual of interest and penalties that will further increase the companies' liabilities. The accounting officer should comply with the provisions of the Income Tax Act (Cap. 470), 1974, the Retirement Benefits Act, 1997, the Pensions Act, 1942. The Board should provide a plan and commitment for the repayment of the outstanding statutory deductions, failure to which the committee will recommend appropriate enforcement measures to be taken.
7. The Board and accounting officers should prepare realistic budgets and revenue projections to prevent issues of revenue shortfalls which have negative implications on the companies' service delivery. In the process of preparing the budget, the board should consider the previous budgetary allocation and if the current budget is to increase, it should be reasonable. In addition, the board should seek the necessary approval by forwarding the budget estimates to the County Executive Committee member for water, who shall then forward it to the County Treasury as required by the law. Further, the water companies should automate their billing systems.

8. The Council of Governors should engage the Ministry of Water, Sanitation and Irrigation, the Water Services Regulatory Board (WASREB), the Regional Water Works Development Agencies and the Inter-Governmental Relations Technical Committee to settle the matter on the transfer of the assets and liabilities as required by the Water Act, 2016.
9. The Board and accounting officers of the water companies to comply with the relevant laws such as the Public Finance Management Act, 2012, the Public Audit Act, 2015, the Public Finance Management (County Government) Regulations, 2015, the Water Act, 2016, the Accountants Act, 2008, the Companies Act, 2015, the Income Tax Act, 1974, the Employment Act, 2007, the Pension Act, 1942, the Retirement Benefits Act, 1997 and the Water Services Regulatory Board (WASREB) guidelines, failure to which penalties for non-compliance will be sanctioned.
10. The Governors should engage the Inter-Governmental Relations Technical Committee (IGRTC) and the relevant Regional Water Works Development Agencies to fast-track on the transfer of the assets and liabilities so that they reflect a true position of the companies in their books of account.
11. The County Governors of the Counties with cross-cutting water companies to initiate an amicable process of dealing with the matter of ownership of the water companies. As a long-term goal, the Governors should formulate a strategy for the establishment of independent water companies for the respective Counties.
12. The Boards of Directors and the accounting officers should ensure the water companies have updated fixed asset registers pursuant to section 136 (1) of the Public Finance Management (County Government) Regulations, 2015 and in the format prescribed by the National Treasury and submit the same to the Office of the Auditor-General within 60 days from the adoption of this report.
13. The Boards of Directors and the accounting officers should ensure the water companies put in place all internal control systems such as the Internal Audit Committees as provided under section 155 (5) of the Public Finance Management Act, 2012, and Risk Management Policies as provided under section 158 (1) of Public Finance Management (County Governments) Regulations, 2015 among others to guide the internal operations of the water companies.

ACKNOWLEDGEMENTS

Hon. Speaker,

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

Hon. Speaker,

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

SIGNED: 

DATE: 16/11/2023


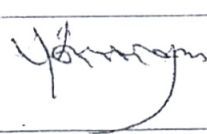
HON. SEN. GODFREY ATIENO OSOTSI, MP
CHAIRPERSON



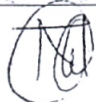
ADOPTION OF THE REPORT
 PUBLIC INVESTMENTS AND
 THE AUDIT REPORTS OF
 FOR THE YEAR ENDED 30^T

COUNTY
 OF
 PROVIDERS

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

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

No.	Name	Signature
1.	Sen. Godfrey Atieno Osotsi, MP (Chairperson)	
2.	Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP (Vice-Chairperson)	
3.	Sen. William Kipkemoi Kisang, MP	
4.	Sen. Paul Karungo Thangwa, MP	

5.	Sen. Miraj Abdillahi Abdulrahman, MP	MIRAJ ABDILLAH
6.	Sen. Eddy Gicheru Oketch, MP	
7.	Sen. Hamida Kibwana Ali, MP	
8.	Sen. Maureen Tabitha Mutinda, MP	

CHAPTER ONE

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR AMATSI WATER SERVICES COMPANY LIMITED FOR THE FINANCIAL YEAR 2020/2021

The Governor of Vihiga County Executive, Hon. Wilber K. Ottichilo, appeared before the Committee on Tuesday, 1st March, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor-General on Financial Statements for Amatsi Water Services Company Limited for the Financial Year 2020/2021. He was accompanied by:

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

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

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

1. Inaccuracies in Cost of sales

The statement of profit or loss and other comprehensive income and as disclosed in Note 6(b) to the financial statements reflects cost of sales amounting to Kshs 17,651,131. However, analysis of this amount revealed electricity expenditure amounting to Kshs. 29,542,898 was not apportioned to separate the actual cost of power used in production and power used for administration purposes. Further, the electricity schedule provided for audit reflected an amount of Kshs 28,514,752 resulting to an unexplained variance of 1,028,146.

In addition, expenditure on compensation of staff who were directly involved in production was not included in the computation of cost of sales. Further, the staff cost disclosed amounted

to Kshs 23,541,494 while the analysis of the actual payroll reflects an amount of Kshs 25,563,208 resulting to an explained variance of Kshs 2,021,714.

Further, other costs relate to production such as water quality costs of Kshs 33,855 was omitted in computation of cost of sales. In addition, the closing stocks of Kshs 22,656 439 were not supported by stock sheets completed as at 30th June 2021.

In the circumstances, the accuracy and completeness of the cost of sales amount of Kshs. 17,651,131 could not be confirmed.

Management Response:

On variance of Ksh.1, 028,146

The schedule provided to the auditor at the time of audit reflected Kshs 29,586,280 and not Kshs 28,514,898 as indicated by the auditor hence the variance not accurate.

On omission of staff directly involved in production:

The omission was resolved by apportioning the cost to production and the right figure is Kshs 15,934,090.

On variance of Kshs 2,021,714

The of variance of **Ksh. 2,021,714** relating to staff cost was as a result of omission of temporary staff cost to the financial statements.

On the omission of water quality of Kshs. 33,855 on computation of cost of sales:

Management observed that there was an omission of Ksh.33, 855 and this was corrected by passing a journal entry.

Committee Observation:

The committee observed that:

- i. The management provided all supporting documents relating to the query, except Kshs 1,028,146 in regard to electricity expenditure.
- ii. Staff costs were understated by Kshs 2,021,714

Committee Recommendation:

The committee recommends that:

- i. The Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) Public Audit Act, 2015.
- ii. The accounting officer to avail the relevant documents, explaining the variance, to the Office of the Auditor-General for verification within 60 days from the adoption of this report.
- iii. The accounting officer to make a prior year adjustment in the financial statement to rectify the understated staff costs. Further, the Office of the Auditor-General to review the implementation of this recommendation and provide a report on this matter in the subsequent audit cycle.
- iv. The query be marked as unresolved.

2. Unsupported Other Income

The statement of profit or loss and other comprehensive income and as disclosed in Note 8 to the financial statements reflects other income amount of Kshs 36,421,291. However, the supporting ledgers reflects an amount of Kshs 32,323,176 resulting to an unexplained variance of Kshs 4,098,115. Further, the company received income from Water Service Trust Fund (CLSG) who are its financiers. However, the signed Financing Agreement or contract in support of this funding was not provided for audit.

In the circumstances, the accuracy, validity and completeness of other income amounting to Kshs. 36,421,291 could not be confirmed.

Management Response:

The management received Kshs 4,694,788. from wstf (dtf) in the year under review and not 11,001,089 as earlier reported in the financial statements. the correct income for the year was kshs30,114,990 as tabulated below and not Kshs 36,421,291. journal entry.

The table below shows the amount received as other income.

Source of income	Kshs

Source of income	2020-2021
WSTF (DTF PROJECT)	4,694,788
Wstf (clsg)	24,451,052
Inkind contribution WSTF CHEMICALS	969,150
Total	30,114,900

On non-provision of the financing agreement:

During the audit the financing agreement was not provided, however the document is available for further review.

Committee Observation:

The Committee observed that:

- i. The management failed to undertake a prior year adjustment to correct the misstatement of other income of Kshs 4,098,115.
- ii. The management failed to provide the Financing Agreement between the company and Water Service Trust Fund (CLSG) during the audit period. However, the document has since been provided.

Committee Recommendations:

The committee recommends that:

- i. ~~The Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) Public Audit Act, 2015.~~
- ii. The accounting to undertake the prior year adjustment to correct the misstatement of other income of Kshs 4,098,115.
- iii. The Office of the Auditor-General should review the implementation of this recommendation and provide a report on this matter in the subsequent audit cycle.

iv. **The query be marked as unresolved.**

3. Inaccuracies in Property, plant and equipment

The statement of financial position reflects property, plant and Equipment balance of Kshs. 363,209. The balance excludes value for decentralized waste water treatment facilities in Mbale and Kaimosi amounting to Kshs 9,624,973, unknown value of land where the waste water treatment facilities and office occupy and value attached to water pipeline system. In addition, ownership documents in respect waste water treatment facilities land and other assets transferred to the water provider were not provide for audit.

Further, the fixed asset register was not updated as it reflects assets balance of Kshs. 369,209 while the supporting schedule showed a balance of Kshs. 494,911 resulting to unexplained variance of Kshs 130,902.

In the circumstances, the accuracy and completeness of property, Plant and Equipment balance of Kshs. 369,209 could not be ascertained.

Management Response:

That figure of Ksh.9,624,972 relates to works in progress on decentralized treatment facility not recognized under plant property and equipment because this is works in progress and this will be reported in the financial statements after a final inspection report and certificate of works completion issued.

On ownership of land:

The company was allocated project land through a letter from the department of Water and Department of land as attached.

On Unexplained variance of Kshs 130,902:

The variance of Kshs 130,902 relates to depreciation charge to plant property and equipment. See the table below for further analysis.

Fixed asset	2020/2021
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	Kshs
Balance as at 1 st July 2020	494,111
Less depreciation Charge	(130,209)
Balance as at 30th June 2021	369,209

Committee Observations:

The committee observed that:

- i. The water company did not have an updated fixed asset register.
- ii. The company did not have the values of all the assets and liabilities inherited from the defunct local authorities.
- iii. The management failed to provide ownership documents for the assets donated to the company.
- iv. There was great incompetency within the company in regards to financial reporting.

Committee Recommendations:

The Committee recommends that:

- i. **The Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) Public Audit Act, 2015.**
- ii. **The accounting officer of the water company should update the fixed asset register under the format prescribed by the Public Sector Accounting Standards Board (PSASB) and in accordance with section 136 (1) of the Public Finance Management (County Government) Regulations, 2015.**
- iii. **The Governor should engage The Intergovernmental Relations Technical Committee (IGRTC) to ensure that the process of transfer of all assets and liabilities is completed in a timely manner.**
- iv. **The Office of the Auditor-General to undertake physical verification of all assets of the water company within 60 days from the adoption of this report.**
- v. **The query be marked as unresolved.**

4. Inaccuracies in Trade and Other Receivables

The statement of financial position and as disclosed in Note12 to the financial statements reflects trade and other receivables balance of Kshs. 77,959,654. However, Management did not provide policy on provision for bad and doubtful debt and an analysis of long outstanding receivables for audit. In addition, note 12 to the financial statements reflects water bills collection amounting to Kshs.31, 933, 153 while the bank statements showed an amount of Kshs 33,645,852 resulting to an unexplained difference of Kshs. 1,712,699.

Further, the receivable balance of Kshs.77, 959,654 differs with the customer listing schedule amount of Kshs 87,688,170 resulting to an unexplained difference of Kshs. 9,728,516.

In the circumstance, the accuracy and completeness of trade other receivables balance of Kshs. 77,959,654, could not be confirmed.

Management Response:

The management did not provide a policy on provision for bad and doubtful debts during the audit however, a debt management policy was developed and it is now available for further review.

The company also acquired billing software (**Majisoft**) with the capability of generating the analysis of debtors.

On unexplained differences Kshs 1,712,699:

This was under cast in the financial statement and was corrected by passing a journal entry. The correct figure was Kshs 33,645,852. (See annex 4 B 2021).

On variance of kshs9,728,516 under trade and other receivables:

The variance of Kshs 9,728,516 was brought by inefficiencies with the billing software.

The difference was corrected through a reconciliation as shown in the table below: the correct figure for the closing balance is Kshs **87,688,170**

TRADE AND OTHER RECEIVABLES

	2020/2021
--	------------------

	KSHS
Balance brought forward	67,378,065
Credit sales	42,514,742
Less	
Bank collection	(31,933,153)
Gross debtors as at 30 th June 2021	77,959,654
Reconciling figure	9,728,516
Balance as per the water flex	87,688,170

Committee Observations:

- i. The committee observed that the management did not provide a policy on provision for bad and doubtful debt and an analysis of long outstanding receivables during the audit process.
- ii. The reported Trade and other Receivables balance as at 30th June 2021 of Kshs 77,959,654 was understated by Kshs 9,728,516.

Committee Recommendations:

The committee recommends that:

- i. The Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) Public Audit Act, 2015.
- ii. The accounting officer to submit the policy on provision for bad and doubtful debt and an analysis of long outstanding trade receivables to the Office of the Auditor-General within 60 days from the adoption of this report.
- iii. The management to make the adjustment to rectify the variance of Kshs 9,728,516 within the Trade and other receivables balance stated in the financial statement of 2020/2021.

- iv. **The Office of the Auditor-General to review the implementation of the above recommendation and provide a report on this matter in the subsequent audit cycle.**
- v. **The query be marked as unresolved.**

5. Inaccuracies in Bank and cash balances

The statement of financial position reflects cash and bank balance of Kshs 5,029,251.

However, the Cooperative Bank account balance of Kshs. 2,208,186 differed with the reconciled cashbook balance of Kshs. 2,921,776 resulting to unexplained variance of Kshs 713,590.

In the circumstances, the accuracy and completeness of the bank balances of Kshs 5,029,251 could not be confirmed.

Management Response:

Reconciliation was done to correct anomaly. An extract of the cashbook and the reconciliation statement has been provided for further review.

Committee Observation:

The committee observed that the cashbook has been updated to reflect the reported balance of Kshs. 2,208,186 to capture for payments that had not been posted to the cashbook at the time of audit.

Committee Recommendations:

The committee recommends that:

- i. **The accounting ensures strict compliance with the provisions of Regulation 90 (1) of the PFM (County Governments) Regulations, 2015 with respect to monthly reconciliation of bank statements.**
- ii. **The matter be marked as resolved.**

Unsupported Trade and Other Payables

The statement of financial position and as disclosed in Note 18 to the financial statements reflects trade and other payables balance of Kshs. 55,165,285. Included in this amount is Kshs

2,219,878 in respect of unsupported legal case. Further, an amount of Kshs. 3,000,000 in respect of loan from LVNWSB was not supported by signed loan agreement, invoice or demand notes.

In the circumstances, the accuracy and completeness of trade and other payables from legal case and loan LVNWSB amounting to 2,219,878 and Kshs. 3,000,000 respectively could not be confirmed.

Management Response:

The management has circularized to the Lake Victoria North water works development agency to ascertain the existing of the loan facility from there records.

Committee Observation:

The committee observed that the management did not provided the loan agreement supporting the Kshs 3,000,000 reported to be owed to the Lake Victoria North Water Works Development Agency to the committee for verification.

Committee Recommendation:

The committee recommends that:

- i. **The Accounting Officer ensures that supporting documents are availed to the Auditor during the period of audit as required under section 9(1)(e) Public Audit Act, 2015.**
- ii. **The accounting officer to submit the loan agreement supporting the Kshs 3,000,000 reported to be owed to the Lake Victoria North Water Works Development Agency to the Office of the Auditor-General.**
- iii. **The Auditor-General to confirm receipt of the loan agreement and submit the same to committee in the subsequent audit cycle.**
- iv. **The query be marked as unresolved.**

6. Inaccuracies in Customer Deposits

The statement of financial position and as disclosed in Note 18 reflects a balance of Kshs 12,585,500 in respect of customer deposits. However, no analysis indicating the identities of

the customers who made the deposits was provided for audit. Further, the deposits' bank account as disclosed in Note 13 to the financial statements reflects a balance of Kshs. 1,612,253 resulting to an unreconciled variance of Kshs. 10,973,247.

In the circumstances, the accuracy and completeness of the customer deposits balance of Kshs 12,585,500 could not be confirmed.

Management Response:

The variance of Ksh 10,973,247 are the liabilities that were taken over from the defunct Local Authorities and the ministry of water and Irrigation, without full details of customers who made the deposits.

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

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

Committee Observations:

- i. The committee observed that an analysis of customer deposits had not been provided to support the reported balance of Kshs 12,585,500.
- ii. The difference of Kshs 10,973,247 between the reported balance and the funds held at the bank had not been supported.

Committee Recommendation:

The committee recommends that:

- i. **The Accounting Officer ensures that supporting documents are availed to the Auditor during the period of audit as required under section 9(1)(e) Public Audit Act, 2015.**
- ii. **The management undertakes the necessary reconciliations of the customer deposit records and submits evidence of the same to the Office of the Auditor-General for verification within 60 days from the adoption of this report. The Office of the**

Auditor-General should report on this matter to the Committee within the subsequent audit cycle.

- iii. **The query be marked as unresolved.**

7. Unsupported Inventory

The statement of financial position and as disclosed in Note 11 to the financial statements reflects inventories amounting Kshs 22,656,439. Included in this amounts Kshs. 20,523,586 in respect of water meters that was not supported with procurement documents.

In the circumstances, the accuracy and validity of the inventories balance of Kshs 20,523,586 could not be confirmed.

Management Response:

All items received from the project were captured in the books adhering to the right procedures. In regards to Kshs20,523,586, the procurement documents are available for audit verification.

Committee Observation:

The committee observed that:

- i. The management failed to provide the supporting procurement documents to the Office of the Auditor-General during the audit period as is stipulated under section 31 (4) of the Public Audit Act.
- ii. The documents have since been provided to the satisfaction of the committee and the Office of the Auditor-General.

Committee Recommendation:

The committee recommends that:

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

8. Unsupported Transfer from the County Government

The statement of profit or loss and other comprehensive income and as disclosed in Note 7 to the financial statements reflects Kshs 21,011,350 in respect of transfers from the County Government. Included in this amount is Kshs 16,459,725 being amount received by the Company as recurrent grants in form of payment of Kenya Power Bills for the month of July, 2020 to December, 2020. However, audit of Kenya power bills for the month of July, 2020 reflects an amount of Kshs. 3,291,920 whereas the supporting schedules showed an amount of Kshs 3,248,548 resulting to unexplained variance of Kshs 43,372. In addition, payment of Kenya Power bills was not supported with copies of payment vouchers and cheques or bank statements.

Further, the transfers from the County Government of Vihiga includes Kshs 4,551,625 in respect of grants received inform of chemicals that was not supported with copies of delivery notes.

In the circumstances, the accuracy and validity of transfers from the County Government of Kshs.21, 011,350 could not be confirmed.

Management Response:

The Kshs 43,372 was an underpayment of the electricity bill in the month of July 2021.

The invoiced bill was Kshs. 3,291,920 Amount paid was Kshs 3,248,548.

Committee Observation:

The committee observed that:

- i. The management failed to provide the copies of payment vouchers and cheques or bank statements to the Office of the Auditor-General during the audit period as is stipulated under section 31 (4) of the Public Audit Act.
- ii. The Company received Kshs 16,459,725 as recurrent grants in form of payment of Kenya Power Bills for the month of July, 2020 to December, 2020.
- iii. The documents have since been provided to the satisfaction of the committee.

Committee Recommendation:

The committee recommends that

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

Key Audit Matters

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

Other Matter

1. Budget Performance and controls

The statement of comparison of budget and actual amounts reflects final receipts budget and actual amount on comparable basis of Ksh.117,213,305 and Ksh.97, 827,772 respectively resulting to a budget shortfall of Ksh.19,385,533 or 17% of the budget.

Similarly, the Company expended Ksh.88,379,244 against an approved budget of Ksh.104,086,154 resulting to under expenditure of Ksh.15,706, 810 or 15% of the budget.

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

Management Response:

On underfunding of Kshs 19,385,533 was because of low water sales that was because of an outdated water billing system in the year under review, Covid 19 effects and Non-Revenue Water (NRW) that was at 30% which was above the recommended threshold of 25%.

On under- expenditure of Kshs. 15,706, 810 was because of underfunding of the budget during the year under review.

The following are strategies put in place by management to improve revenue collection:

Development and implementation of debt recovery policy

Procurement of a new billing system (Majisoft) that has improved efficiency

Formation of debt recovery teams to implement Rapid Results Initiative (RRI)

Renewal of water tariff to address the effects of high costs of production.

Committee Observation:

The Committee observed that the company failed to absorb 15% of its budget at the end of the financial year which may have negatively impacted service delivery to the public.

Committee Recommendation:

The committee recommends that:

- i. The accounting officer submits the budget of the Company to the County Executive Committee Member responsible for water for approval and submission to the County Treasury for subsequent approval of the budget estimates including the compensation of employees in line with Section 149 (2) (j) of the Public Finance Management Act, 2012 and Regulation 205 of the Public Finance Management (County Governments) Regulations, 2015.
- ii. The accounting officer to adhere to Section 42(1) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures.
- iii. The Company institute proper and realistic budget planning and the Office of the Auditor-General to confirm the effectiveness of the mitigating measures put in place by the Company and report in the subsequent audit cycle.

Basis for conclusion

1. Non –Revenue Water Management

Audit of Revenue during the year under review revealed that Amatsi Water Service Co. Ltd produced 1,573,007 Cubic Meters of water out of which only 1,101,104.90 m³ was billed to customers. The balance of 471,902 m³ or 30% of the total volume of water produced represents unaccounted for water or non- revenue water. This therefore means that in accordance with the Water Services Regulatory Board guidelines, Amatsi Water Service Company Limited has gone over and above the maximum allowable limit by 5% leading to a loss of 78,650.33 m³.

Management Response:

On Non-disclosure of measures to reduce the volume NRW

During the year FY2019/2020, the Non-Revenue Water (NRW) was 33.4% and the company put intervention measures that reduced NRW to 30% in the FY2020/2021.

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

During the year under review the company had metering ratio being 69% but currently the metering ratio stand at 71% and therefore the company seeks to realize 100% metering by the end of the year 2023.

The billing system was not accurate and efficient to process/produce real time NRW reports.

Measures undertaken to reduce NRW

Due to challenges in water production and distribution, the Company through the County Government of Vihiga and Lake Victoria North Water Works Development Agency (LVNWWDA) benefited from Vihiga Cluster Water Project whereby there is improvement on the water infrastructure and through this project, Non-Revenue Water (NRW) equipment was handed over to the company to enhance the capacity of the NRW team in strategic reduction of non-revenue water below the acceptable level of Water Services Regulatory Board (WASREB) benchmark of below 25%.

The company has acquired a new billing system (MajiSoft) which is more efficient and able to generate real time data.

Formation of active Non-revenue water management team and appointment of a substantive Non-Revenue Water Officer whose main function is to lower and sustain the Non-revenue water at low levels as recommended by Water Services Regulatory Board (WASREB) benchmark of below 25%.

The Company developed a Non-Revenue Water Reduction Strategy to guide the company on strategic reduction of Non-Revenue Water.

The table below shows an analysis of non-revenue water for the last three years as per the completed audits

YEAR	PERCENTAGE	SOURCE OF INFORMATION	
------	------------	-----------------------	--

2019	33.7%	OAG report 2019	
2020	33.4%	OAG report 2020	
2021	30%	WASREB Impact report 2021	

Measures undertaken to reduce NRW

Due to the challenges in production and distribution, The Company through the County Government of Vihiga and LVNWWDA benefited from the Vihiga cluster project whereby they improved the infrastructure and provided leakage detective control devices which were handed over to the company to enhance leakage control and mitigation.

The company has acquired an improved billing System which gives more reliable and real time data.

Formation of active Non-revenue water management Team whose Main purpose is to lower and sustain the Non-revenue water at low levels as recommended by WASREB.

Company developed A Non-Revenue Water reduction strategy to guide the company on Reduction of Non-Revenue Water.

Committee Observations:

- i. The committee observed that the Non-Revenue Water of Amatsi Water Services Company Limited during the financial year 2020/2021 stood at 30% against the allowable loss of 25% as prescribed by Water Services Regulatory Board (WASREB) Guidelines. This has been attributed to by physical losses such as leakages, bursts, and overflows through the existing old and dilapidated water supply network, and commercial losses due to metering anomalies and illegal connections.
- ii. The management of the water company listed measures to address the Non-Revenue Water losses. These measures include the establishment of a Non-Revenue Water management team whose main purpose is to lower and sustain the Non-revenue water at low levels as recommended by WASREB.
- iii. This high level of Non-Revenue Water has largely contributed to the Company's revenue shortfall as well as the material uncertainty relating to a going concern.

Committee Recommendations:

The committee recommends that:

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

2. Non – compliance with Law on Ethnic composition

Scrutiny of the Company staff compliment for the year under review revealed that one ethnic group was at 96% of the staff population which is contrary to the provisions of 33% stipulated in the National Cohesion and integration Act.

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

Management Response:

The company inherited Personnel from the defunct local Authorities as they were, and recruited locally before the promulgation of the constitution 2010.

Currently the Company is ensuring inclusivity through placing adverts in local dailies and the Company Website.

Committee Observations:

The Committee observed that 96% of the staff population comprised of one ethnic group thus there was no ethnic diversity among the company employees.

Committee Recommendations:

The committee recommends that the County Executive should work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity.

3. Non – Compliance with the Law on Fiscal Responsibility - Wage Bill

The Statement of Profit or Loss and Other Comprehensive Income and as disclosed in Note 7 to the financial statements reflects an expenditure of Kshs.23,541,494 on salary cost representing 55% of generated revenue of Kshs.42,514,742. This is contrary to the provisions of Regulation 25(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015.

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

Management Response:

The company inherited personnel from the defunct local Authorities with the wage bill as it was.

Currently recruitment is on need basis and on contract basis.

Committee Observation:

The committee observed that the company has not complied with the law on fiscal responsibility as set out in regulation 25 (1) of the Public Finance Management, County Government Regulations 2015.

Committee Recommendations:

The Committee recommends that:

- i. The Company to adhere with the provisions of regulation 25(1) of the Public Finance management (County Government) Regulations, 2015, establish a lean staff; and the Auditor-General to review, and report during the next audit cycle.
- ii. The matter be marked as unresolved.

4. Non – Compliance with the Public Sector Accounting Standards Board Requirements

The financial statements submitted for audit did not comply to the guidelines on preparation of the financial statements as per the reporting format prescribed by the Public Sector Accounting Standards Board (PSASB) revised on 30th June 2021. Review of the annual report revealed that in that the statement of financial position was not signed by Managing Director, Notes to the financial statements were not aligned to the financial statements, the statement of Comparison of Budget and actual amounts did not reflect original budget, adjustments and final budget and the variance percentages in this statement were variance percentages in this statement were erroneously calculated using actual amount as the base year instead of final budget amounts . In the circumstance the presentation and disclosure of financial statements did not comply with the prescribed format.

Management Response:

The signed copies of financial statements are available for further Audit verification. The presentation was done using the previous year template but the current year financial statements have been presented in the correct format.

Committee Observation:

The committee observed that:

- i. The financial statements submitted for audit did not comply to the guidelines on preparation of the financial statements as per the reporting format prescribed by the Public Sector Accounting Standards Board (PSASB) revised on 30th June 2021.
- ii. The management failed to provide copies of financial statements that were signed by the Managing Director to the Office of the Auditor-General during the period of audit. However, the signed copies have since been availed.
- iii. The management has since mitigated and complied with the applicable financial reporting framework in the preparation of the financial statements for the year ended June 30th 2022.

Committee Recommendation:

The committee recommends that:

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

ii. **The matter be marked as resolved.**

CHAPTER TWO

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR BOMET WATER COMPANY LIMITED REPORT FOR THE FINANCIAL YEAR 2020/2021

The Governor of Bomet County Executive Hon. (Prof.) Hillary Barchok appeared before the Committee on Tuesday 21st March, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor-General on Financial Statement for Bomet Water Company Limited for the Financial Year 2020/2021. The Governor was accompanied by-

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

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

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

1. Customer Deposits Account

The statement of financial position reflects trade and other payables totalling Kshs. 125,244,572 which, as disclosed in Note 17 to the financial statements, include customer deposits totalling Kshs. 2,692,989. However, the customer deposits bank account as at 30 June, 2021 reflected a balance of Kshs. 67,272, resulting in an unexplained variance of Kshs. 2,625,717. Management explained that Kshs. 2,560,000 was borrowed from the deposits account to finance salaries after approval by the Board of Directors. Thus, out of the variance totalling Kshs. 2,692,989, Kshs. 65,717 was not accounted for.

In the circumstances, the accuracy and completeness of the customer deposit balance totalling Kshs. 2,692,989 could not be confirmed.

Management Response:

- i. The customer deposits were Kshs. 2,692,989 during the financial year under review.

- ii. The variance noted of Kshs.2, 625,717 constitutes Kshs.2, 560,000 which was borrowed through approvals of the Board of Directors in meetings held on 21 May, 2020 and 17 December, 2020 to finance payment of staff salaries.
- iii. The variance of Kshs 65,717 relates to accumulations of bank charges and the same was expensed in the financial statement during the periods when such charges arose.

Committee Observation:

The Committee observed that the management did not provide supporting document for the balance at the time of the audit. However, the documents were later provided to the auditors for verification.

Committee Recommendation:

The Committee recommends that-

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

2. Trade and Other Receivables

The statement of financial position reflects trade and other receivables totalling Kshs. 203,592,386 which include Kshs. 175,778,880 that had remained uncollected for more than 120 days as at 30 June, 2021.

In the circumstance, the extent of recoverability of the debt balance totalling Kshs. 203, 592, 386 could not be confirmed.

Management Response:

- i. The outstanding amount in regard to delayed payment by Kericho County for Bulk water sales as at the close of the year was **Kshs 30,600,201**.
- ii. The company has also procured 1000 smart water meters. This measure will ensure that customers consume water that they have paid for and collection made in real time.
- iii. The Company has further entered into an MOU between Kericho County giving clear guidelines in terms of water supply and payments. The MOU with Kericho has been availed for audit verification and a copy submitted to the Committee.

Committee Observations:

The Committee observed that management has not put in any measures to ensure that all the debts it is owed are collected, recovered or accounted for implying inefficient debt collection system.

Committee Recommendations:

The Committee recommends that:

- i) **The Accounting Officers must at all times ensure that they provide accurate records and other supporting documents pursuant to Section 9 (1) (e) of the Public Audit Act, 2015.**
- ii) **The Auditor-General should review the implementation of the measures put in place by the management to mitigate the matter and provide a report on this query in the subsequent audit cycle.**

KEY AUDIT MATTERS

1. Unresolved Prior Year Audit Matters

The audit report for year ended 30 June, 2020 highlighted several issues in relation to the financial statements, lawfulness and effectiveness in use of resources and effectiveness of internal control, risk management and governance. Management has indicated in the report on progress on following up on Auditors' recommendations appended to the financial statements for the year under review that a few of the issues had been resolved as at June, 2021. However, no explanation has been provided for the delay in resolving most of audit issues and no timeframe has set for their resolution.

The Directors are responsible for the other information. The other information comprises the report of directors as required by the Companies Act, 2015, and the statement of directors' responsibilities which are obtained prior to the date of this report, and the annual report which is expected to be made available after that date.

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

Management Response:

The management noted that some of the recommendation raised during the audit has been implemented and some are in progress of implementation and was reflected in the Company's strategic plan 2021-2026.

Committee Observation:

The Committee observed that management did not provide satisfactory reasons for the delay in resolving the issues.

Committee Recommendations:

The committee recommends that-

The Committee recommends that:

- i) **Accounting officers designated for County government entities to try to resolve any issues resulting from an audit that remain outstanding as required by Section 149(2)(l) of the Public Finance Management Act, 2012**
- ii) **The Auditor-General should review the implementation of the measures put in place by the management to mitigate the matter and provide a report on this query in the subsequent audit cycle.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1. Failed Project

Note 12 (a) to the financial statements on assets movement schedule reflects capital work in progress balance totalling Kshs. 22, 582,197 which include Kshs. 18,724,875 incurred on extension of water pipeline for Siongiroi-Chebuntyo Water Project co-funded with Water Service Trust Fund (WSTF). The contract was to be executed in nine (9) months, to 22 July, 2016 from the date the contract was signed on 23 October, 2015. However, review of records revealed the following anomalies.

- a. The project was completed in June, 2017, one year behind schedule and a completion certificate was issued. However, as of January, 2022, the project had not been commissioned five years after completion due to insufficient water from the source. The anomaly suggested that no proper feasibility study was done before the project was initiated.
- b. An audit inspection carried out on 6 January, 2022 revealed that the master meter chamber and washout chamber steel covers at Siongiroi had been vandalized and turned into garbage disposal points. The master meter at Siongiroi had been removed and one of the water kiosks at Chebuntyo had been taken over by a betting company under unclear circumstances. The Company's (BOMWASCO) and WSTF brand colors had been replaced with those of the betting company.

In the circumstances, no value for money was realized from the expenditure totalling Kshs. 18, 724,875 incurred on the project.

Management Response:

- i. The hydrological report for the proposed water source shows that there would be sufficient water to supply the project area. However, after the completion of the project the implementation of the project was hampered by low water volumes from the source.
- ii. Initiative have been made to rehabilitate Sigor Water treatment plant to supply water to Siongiroi- Chebuntyo with the structures funded by Water Sector Trust Fund. This project is currently at 95% complete. In addition, we have developed a direct line from the existing old Sigor Water which will actualize the provision of Water to Chebuntyo as planned.
- iii. The hydrogeological report have been availed for audit verification as.

- iv. The issue of Water Kiosk, The Company has reposed and rebranded, properly labelled with the required workings to its original state.

Committee Observation:

The Committee observed that no value for money realized from the expenditure totaling Kshs. 18,724,875 incurred on the project.

Committee Recommendation:

The committee recommends that-

- i) **Within 60 days from the date the Governor appeared before the Committee, the Governor to provide a detailed list of all stalled water projects within the county, indicated measures to be taken to complete them as well as their operationalization.**
- ii) **The Auditor-General should review the implementation of the measures put in place by the management to mitigate the matter and provide a report on this query in the subsequent audit cycle.**

2. Trade and Other Payables

The statement of financial position and as disclosed in Note 17 to the financial statements reflects trade and other payables balance of Kshs. 125,244,572. However, the following unsatisfactory matters were noted.

2.1 Delay in settlement of trade and other payables

Examination of records on trade and other payables indicated the following anomalies.

2.1.1 Long Outstanding Payables

Trade and other payables records reflected records a sum of Kshs. 5,660,197 which had been outstanding for more than 90 days as at 30 June, 2021, contrary to Clause 5 of the Company's Revised Financial and Procedure Manual, 2016, which requires suppliers of goods or services to be paid promptly for certified supplies. The delay in payment of the debt was not explained.

Management Response:

- i. The long outstanding trade and other payables of Kshs 5,660,197 was caused by cash flow challenges occasioned by Government directive on non-water disconnection due to outbreak of Covid-19. The Company has instituted robust strategies on revenue collections which includes.
- ii. Rehabilitation of Itare Treatment works which will ensure reduction in cost of electricity and chemicals hence saving substantial amount which will be used to offset outstanding payables. In addition to this, the ongoing Bomet-Mulot gravity water line will reduce on production costs as well as increasing revenue.
- iii. The management has so far reduced on this payable and is committed to settle the outstanding debts once the company is back to its stable financial position. Annex 2 (Bulk water sale agreement, Bomet –Mulot progress reports and payment vouchers)

2.2 High Unpaid Electricity Bills

Payables totalling Kshs. 43,444,904 were owed to Kenya Power and Lighting Company as at 30 June, 2021. The balance denoted an increase of Kshs. 14,223,292 or 94% from the sum of Kshs. 29,221,612 reported at the end of the previous financial year. The steep rise and delayed payment of the electricity bills was not explained.

The failure to pay to amounts owed to creditors in due time went against the provisions of the Company's Revised Financial and Procedure Manual, 2016 which requires suppliers of goods or services to be paid promptly for authentic supplies.

Management Response:

- i. The Company took over community water projects of which some had outstanding electricity bills and hence increased the electricity costs. This is in additions to inflation which affected the cost of operation.
- ii. This has however been sorted out by the intervention from the County and enhanced revenue collection. This has been done through successive payments for the month of August, October and December 2021 through payment of Kshs 10M, 37M and 15M respectively. Currently our outstanding electricity bills is **Kshs 6,538,903. Annex 5.**

Committee Observations:

The Committee observed that:

- i. Trade and other payables records reflected a sum of Kshs. 5,660,197 which had been outstanding for more than 90 days as at 30 June, 2021, contrary to Clause 5 of the Company's Revised Financial and Procedural Manual, 2016, which requires suppliers of goods or services to be paid promptly for certified supplies.
- ii. Management did not provide supporting document for the balance; and the query remains unresolved.

Committee Recommendation:

The committee recommends that-

- i. **The Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) Public Audit Act, 2015, the provisions of Section 149 and 184 of the Public Finance Act to be adhered to.**
- ii. **The Auditor-General should review the implementation of the measures put in place by the management to mitigate the matter and provide a report on this query in the subsequent audit cycle.**

3. Unremitted Payroll Deductions

Examination of records on statutory deductions indicated that salaries deductions totalling Kshs. 38,459,515. Out of this balance Kshs. 30,820,439 related to deductions owed to LAPTRUST for more than three years. This is contrary to Section 19 (4) of Employment Act, 2007, which requires an employer to pay the amount deducted in accordance with the time period and other requirements specified in the law.

In the circumstances, Management breached the law and interests and penalties may be charged for failure to remit statutory deductions on due dates.

Management Response:

- i. During the year under review the company had unremitted payroll deduction of Kshs 38,459,515 as at 30th June 2021. This was occasioned by the cash flow challenges faced by the Company which was caused by default payment by our major customers that include Kericho county which owed the company Kshs 30,600,201 as reflected in note 15 page 23 of the financial statement.
- ii. The company has put in place robust measures to enhance revenue collections that includes; Entering into an MOU with Kericho County to streamline water supply and payments for bulk water sales.
- iii. Further, the County Government of Bomet on behalf of Water Company has entered an MOU with State Ministry of Water to address issue of Non-Revenue Water as part of revenue enhancement measures. This will boost revenue collections to service the outstanding payables.
- iv. The management has further embarked on implementation of gravity fed water systems (e.g., Bomet-Mulot water line) which will cut down the cost of productions and the savings will be used to service outstanding payables.
- v. MOU with water stakeholders have been availed for audit verification and copies submitted to the Committee.

Committee Observation:

The Committee observed that the management breached the law and interests and penalties may be charged for failure to remit statutory deductions on due dates.

Committee Recommendation:

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

4. High Volume of Non-Revenue Water

The statement of profit or loss and other comprehensive income reflects sales totalling Kshs. 104,725,728 which include receipts totalling Kshs. 88,299,174 relating to water sales. The Company produced 4,424,004 cubic meters of water out of which 1,338,543 cubic meters billed to customers, resulting to an unaccounted-for water volume of 3,085,461 cubic meters or 69.7% of the total production against the threshold of twenty-five (25%) set in guidelines issued by the Water Services Regulatory Board. The NRW resulted to a loss of Kshs. 89,648,069 at the estimated sales rate of Kshs. 65 per cubic meter applied by the Company in the year under review.

Management Response:

- i. This is occasioned by the Low metering ratio and aging water infrastructures. The company took over Six (6) community water projects with unmetered connections. The company endeavored to complete treatment works for these projects.
- ii. To address the above challenges, the Company initiated replacement of old and dilapidated PVC pipelines with HDPE network in Bomet town Silent line-3km, Sergutiet Line-5km and Boito raising main-4km in the FY 2020. These are capital intensive measures and the County Government through the Ministry of Water is in the process of replacing other network taken over by the company by procuring more water meters which has been factored in the current financial year budget 2022-2023 and we have procured 1000 smart water meters at a total cost of Kshs 19,934,650. **Annex 6**

Committee Observation:

The committee observed that the Non-Revenue Water of the company during the financial year 2020/2021 stood at 69.7% against the allowable loss of 25% as prescribed by Water Services Regulatory Board (WASREB) Guidelines.

Committee Recommendation:

The committee recommends that-

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

5. Over Staffing

The Company approved staff establishment provided for one hundred and ninety-five (195) employees. However, the Company had 214 employees during the year under review and was therefore overstaffed by nineteen (19) employees. No explanation was provided for the excess staff.

In the circumstances, the Management was in breach of the provisions of the approved staff established and may have caused the Company to use its limited resources in an effective way.

Management Response:

Bomwasco being a medium level Company as per the WASREB Impact Report number 13 of 2021 page 39, it is required that a medium company shall have 7-11 staff for every 1000 connections. This therefore implies the company is within the guidelines since the Company has 21,000 Connections.

Committee Observation:

The Committee observed that the Company's number of employees is within the WASREB guidelines.

Committee Recommendation:

The committee recommends that the Query be marked as resolved as verified by the auditor.

6. Lack of Ethnic Diversity in Staffing

As mentioned, the Company had 214 staff members in the year under review out of whom two hundred and twelve (212) or 99% were from the dominant community in the Country and only two (2) or 1% were from other communities.

Management Response:

Most of the staff were inherited from Tililbei water company and also Community projects. It is for this fact that the number of genders remained the same. The Company is however aware of the requirement and any position that arises will be handed over to the opposite gender and other communities.

Committee Observation:

The Committee observed that the employee's composition contravenes Section 7 (1) and Section 7 (2) of the National Cohesion and Integration Act which stipulates that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and no public establishment shall have more than one third of its staff from one community.

Committee Recommendation:

The committee recommends that-

- i) **The Board and the Accounting Officer to make deliberate efforts to progressively comply with Section 65(1) (e) of the County Government Act, 2012 on diversity of staff composition.**

- ii) **The Auditor-General should review the implementation of the measures put in place by the management to mitigate the matter and provide a report on this query in the subsequent audit cycle.**

CHAPTER THREE

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR GUSII WATER AND SANITATION COMPANY LTD FOR THE FINANCIAL YEAR ENDED 2020/2021.

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

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

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

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

1. Inaccuracies in the Statement of Cash flows

The statement of cash flows for the year ended 30th June, 2021 reflects cash generated from operations comparative amount of Kshs. 6,408,700 for 2019/2020 financial year which differs with corresponding figure of Kshs. 5,340,500 indicated in Note 26 to the financial statements. The resulting difference of Kshs. 1,068,200 was not explained. In the circumstances the accuracy of cash generated from/ (used in) operations comparative amount of Kshs. 6,408,700 could not be confirmed.

Management Response

The Accounting Officer submitted that management concurred with the auditor's observation that cash generated from (used in) operations figure of Kshs. 5,340,500 differed with Kshs. 6,408,700 by Kshs. (1,068,200). This figure of Kshs 6,408,700 was erroneously transferred to the statement of cash flows. A compensating error of Kshs 1,068,000 was committed in cash flows from

investing activities where expenditure for the purchase of Property Plant and Equipment of Kshs 534,000 was treated a cash inflow.

Further, he stated that the management concurred with the auditor's observation that provision for doubtful debts of Kshs 2,266,000 was also omitted both in the computation of operating profit/(loss) before working capital changes and also in adjustment for working capital changes to arrive at Net cash from/ (used in) operating activities. Despite all these errors, the Net cash from/ (used in) operating activities of Kshs (5,340,600) and cash and cash equivalent at the end of the year of Kshs 2,147,300 remained the same.

Committee observations

The Committee observed that:

- i. Cash generated from operations comparative amount of Kshs. 6,408,700 for 2019/2020 financial year which differs with corresponding figure of Kshs. 5,340,500.
- ii. The documents were later submitted to the Auditors.

Committee recommendation

The Committee recommends that:

- i. **The Accounting Officer should always ensure that the necessary supporting documents and submitted to the Auditor-General pursuant to the provisions of Section 9 (e) (1) of the Public Audit Act, 2015 and financial statements are reconciled in compliance with provisions of Section 68(2) of the PFM Act 2012.**
- ii. **The Office of the Auditor-General to review the errors in the financial statements during the next audit cycle and report to the Committee.**

2. Inaccuracies in the Statement of Comparison of Budget and Actual Amount

The statement of comparison of budget and actual amounts reflects personnel emoluments, administrative expenses and production costs actual amounts on comparable basis of Kshs 92,939,100, Kshs 31,212,900 and Kshs 64,347,700 respectively. However, schedules in support of these amounts were not provided. Further, the statements reflect total actual revenue of Kshs 215,573,200, while the statement of profit or loss and other comprehensive income

indicate a corresponding amount of Kshs 106,819,600, resulting in unexplained variance of Kshs 108,753,600.

In addition, the statement reflects total actual expenditure of Kshs 206,760,500 which differs with total Expenses of Kshs 98,006,900 reported in the statement of profit or loss and other comprehensive income. The resultant variance of Kshs 108,753,600 was unexplained. In the circumstances, the accuracy and completeness of the statement of comparison of budget and actual amounts for the year under review could not be confirmed.

Management Response

The Accounting Officer submitted that management concurred with the auditor's observation that schedules in support of personnel emoluments; administrative expenses and production costs actual of Kshs 92,939,100, Kshs 31,212,900 and Kshs 64,347,700 respectively were not provided. However, these have since been provided.

Further he stated that the difference in total revenues of Kshs 108,753,600 between Kshs 215,573,200 in statement of Budget and actual amount and Kshs 106,819,600 in income statement as observed by the auditor relates to the cost of sales as a result of presentation according to template used which are revised annually. The variance of Kshs 108,753,600 between total actual expenditure of Kshs 206,760,500 in Statement of Comparison of Budget and Actual Amount and total Expenses of Kshs 98,006,900 reported in the statement of profit or loss and other comprehensive income is the cost of sales.

Committee observation

The Committee observed that supporting schedules for personnel emoluments, administrative expenses and production costs actual amounts were not provided to the Office of the Auditor-General; and the matter remains unresolved.

Committee recommendation

The Committee recommends that-

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

- ii. The accounting officer adheres to Section 68 (2) of the Public Finance Management Act, 2012 with regard to preparation and management of financial and accounting records, Section 2B of the Accountants Act, 2008 with regard to the registration of accountants and Section 42(1) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures.

3. Share Capital

The statement of financial position reflects ordinary share capital of Kshs. 100,000 divided into 20,000 ordinary shares of Kshs.5 each as disclosed in Note 19 to the financial statements. As reported in the previous year, the shares as per the Business Registration Service, the Office of the Attorney General and the Department of justice are still owned by the defunct Local Authorities. Further, the shares had not been transferred to and paid for by the two County Governments of Nyamira and Kisii as of 30 June, 2021. In the circumstances, the ownership, accuracy and completeness of the issued capital of Kshs. 100,000 as at 30 June, 2021 could not be confirmed.

Management Response

Whereas the management concurs with the auditor's observation that the company's shares are erroneously captured. The correct breakdown of the shares of the company is as analyzed below.

Defunct Local Authorities	Share
Municipal Council of Kisii	1411
Gusii County Council	509
Gucha County Council	267
Suneka Town Council	285
Nyamira County Council	249

Nyamira Town Council	633
Keroka Town Council	423
Tabaka Town Council	299
Ogembo Town Council	305
Masimba Town Council	305
Nyansiongo Town Council	314
Total	5,000

The above analysis indicates that the Company has 5,000 shares of Kshs 20 each which gives the total share value of Kshs.100, 000. Even with the typo in the number of shares and their par values, the total share capital remained unchanged. The management also concurred that shares have not been transferred and paid for by the two County Governments of Nyamira and Kisii as expected.

Committee observation

The Committee observed that the shares are still owned by the defunct Local Authorities and had not been transferred to and paid for by the two County Governments of Nyamira and Kisii as of 30 June, 2021. The query remains unresolved.

Committee recommendations

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

4. Irregular Payments of Directors' Emoluments

Included is amount of Kshs.6, 039,100 relating to directors' emoluments. The amount includes payments in respects of travelling and accommodation, transport and lunch allowances of Kshs.

1,879,905, Kshs. 1,334,250 and Kshs.318, 010, respectively. However, examination of the payment vouchers relating to these payments revealed that they were not passed for payment by accountant, verified by Internal Audit, approved by Finance Manager and authorized by Managing Director as required.

In the circumstances, the regularity of the expenditure of Kshs, 3,352,165 on Directors' emoluments could not be confirmed.

Management Response

The Accounting Officer submitted that the management regrets that there was an oversight on payment in respect to travelling and accommodation, transport and lunch allowances. This anomaly has been corrected.

Committee observation

The Committee observed that:

- i. Payment vouchers relating to these payments revealed that they were not passed for payment by accountant, verified by Internal Audit, approved by Finance Manager and authorized by Managing Director as required.
- ii. The audit query remains unresolved.

Committee recommendation

The Committee recommends that:

- i. **Ethics and Anti-Corruption Commission (EACC) expedites investigations, concludes the matter, and provide a status report to the Senate within three months after adoption of this report.**
- ii. **Within three months of the adoption of this Report, the Governor takes administrative action against the management and any other officers involved in the irregular payment of Director's emoluments.**

Other Matters

1. Budgetary Control and Performance

The statement of comparative budget and actual amount reflects final receipts budget and actual on comparative basis of Kshs, 327,935,500 and Kshs.215,573,200 respectively resulting to an under-funding of Kshs.112,362,300 or 34% of the budget. Further, the Company spent Kshs.206,760,500 against an approved budget of Kshs.327,935,500, resulting in an under-expenditure of Kshs. 121,175,000 or 31% of the budget. Based on the approved estimates, under funding and expenditure affected the planned activities and may have impacted negatively on service delivery on the public.

Management Response

Gusii Water and Sanitation Company Ltd anticipated to generate revenues from its sources and receive grants from the county governments amounting to Kshs. 257,935,500 and Kshs. 70,000,000 respectively in the financial year 2020-2021. However, the company billed Kshs 153,408,600 and received a subsidy of Kshs 36,001,200 meant for electricity bills giving us a total revenue of Kshs. 215,573,200. The underfunding was occasioned by challenges in the billing system and Non- Revenue Water due to dilapidated pipe network.

Committee observation

The Committee observed that the Company registered an under-funding of Kshs. 112,362,300 or 34% of the budget and this is attributed to lack of proper planning.

Committee recommendation

The Committee recommends that-

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

2. Unresolved Prior Year matters

In the audit report of the year, several issues were raised under the Report on Financial Statements and the Report on Lawfulness and Effectiveness in use of Public Resources. However, the management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards and Board templates.

Management Response

The Accounting officer submitted that the management has made strides to ensure compliance on the unresolved prior year matters.

Committee observation

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

Committee recommendation

The Committee recommends that Accounting officers designated for County government entities to try to resolve any issues resulting from an audit that remain outstanding as required by Section 149(2)(l) of the Public Finance Management Act, 2012

Basis of conclusion

1. Irregular Procurement of Computer Software and Repairs Works

Note 10 to the financial statements reflects administration expenses amounting to Kshs.85,785,200. However, the following matters were noted:

- i. The procurement process of the billing system was not initiated by the user department as required under Section 151(1) of the Public Procurement and Asset Disposal Act, 2015. While the software specifications/parameters needed at the time of advertisement were not indicated.
- ii. Included is an amount of Kshs. 778,300 spent on computer software. Examination of the documents relating to procurement and subsequent payments for the computer software revealed that payment of Kshs. 190,900 was made to an individual while upgrading the billing system on diverse date. However, payment for upgrade was not provided for in the service contract.

- iii. In addition, also included is amount of Kshs.411,700 spent on repair of computers. However, there were no communication from ICT Department requisitioning for the repairs.

In the circumstances, management was in breach of law and the regularity of the expenditure of Kshs.778,300 spent on the software and of Kshs. 411,700 incurred on the computer repair could not be confirmed.

Management Response

The Accounting Officer submitted that this was occasioned by system failure during the billing process in the month of June 2020. The crash was an exigency to the company and hence the system administrator was requested to address the issue urgently to avoid the company losing on resources and revenues and for efficient operation. This resulted to an upgrade of the software initially hosted on a local network server.

Committee observation

The Committee observed that:

- i. The procurement process of the billing system was not initiated by the user department as required under Section 151(1) of the Public Procurement and Asset Disposal Act, 2015.
- ii. An amount of Kshs. 778,300 spent on computer software;and the matter remains unresolved.

Committee recommendation

- i. **The accounting officer to adhere to procurement regulations in accordance with the Public Procurement Act, 2015.**
- ii. **The Committee recommends that within three months upon adoption of this report EACC to commence investigations on the matter with a view to recover any money that might have been misappropriated and holding accountable persons culpable; and a report on the same be submitted to Senate.**

2. Non- remittance of Statutory Deductions

Note 23 to the financial statements reflects employee payables of Kshs.52,763,100 which includes an amount of Kshs.15,012,325 relating to outstanding pension and provident funds deducted and remittances. However, the amount had not been remitted to the relevant pension and provident bodies. This was contrary to Section 53a (1) of the Retirement Benefits Authority Act, 2012 which requires the employer to remit the deductions within fifteen days of the deduction. In the circumstances, Management was in breach of the Law.

Management Response

The management is committed to meeting its obligations on a timely basis. During the period of audit Kshs. 15,012,325 had not been remitted as required. However, the management has made efforts to ensure compliance in remittance in statutory deductions. Further, the Accounting Officer stated that payment vouchers for above analysis have been provided.

Committee observation

The committee observed that an amount of Kshs.15,012,325 relating to outstanding pension and provident funds deducted and remittances remained unremitted.;and the query remains unresolved.

Committee recommendation

The Committee recommends that the Accounting Officer complies with statutory deduction requirements, withhold or deduct; and remit all the statutory deductions on time to avoid possible fines and penalties accruing due to non-compliance in accordance with Section 22 (2) (a) of the Public Finance Management (County Government) Regulations, 2015 which provides that the accounting officer should comply with any tax-levy, duty, pension, commitments and audit commitments as may be provided for by legislation.

3. Long Outstanding Agency Accounts

The statement of financial position reflects agency account balance of Kshs. 44,913,400 which, as disclosed in Note 24 to the financial statements comprises Service Provision Agreement

(ASPA) fee –Kshs.21,121,800, regulatory fee-Kshs. 20,559,000 and Water Abstraction fee – Kshs. 3,232,600. However, review of the aging analysis in support of the agency account balance revealed that creditors with a total amount of Kshs. 36,222,699 or 81% of the total balance had been outstanding for the period between two(2) years and twelve(12) years as at 30 June,2021.In the circumstances, the company may be sued for non payment by the service providers and attract nugatory costs in form of legal expenses and interest on outstanding amounts.

Mangement Response

The management is committed to meeting its obligations on a timely basis. During the period of audit Kshs. 44,913,400 had not been remitted as required. However, the management has made efforts to ensure compliance in remittance of its creditors.

Committee observation

The Committee observed that:

- (i) Agency account had a balance of Kshs. 44,913,400
- (ii) Creditors with a total amount of Kshs. 36,222,699 or 81% of the total balance had been outstanding for the period between two(2) years and twelve(12); and the query remains unresolved.

Committee recommendation

The Committee recommends that the Accounting Officer to strictly adhere to the binding/procurement agreements with third parties to avoid additional costs in the form of fines and penalties, and the Auditor-General to review the progress on the outstanding remittances and report in the next audit cycle.

4. Non-Revenue Water (NRW)

The Company produces 3,899,123 cubic meters (M3) of water out of which 1,618,289 M3 were billed to customers. The balance of 2,280,834 M3 or approximately 58% of the volume produced represents the Non- Revenue Water (NRW), which is 1,303,053M3 or 33% above

the allowable loss of 25% prescribed by Water Service Regulatory Board Guidelines, 2010. This resulted in loss of sales estimated at Kshs.74,179,750 at an average rate of Kshs.56.79 per cubic meter. This is an indication of lack of efficient and effectiveness in the use of public resources. In the circumstances, loss of Kshs.74,179,750 in form of NRW negatively impacted on the Company's profitability and its long term sustainability.

Management Response

The Non- Revenue Water loss estimated at Kshs. 74,179,750 was occasioned by Non-Revenue Water (NRW) arising from physical losses due to dilapidated existing water infrastructure and commercial losses from our billing system. However, the management as part of the strategies to mitigate on high water losses has signed a memorandum of understanding with Lake Victoria South Water Works Development Agency and Gusii Water and Sanitation Company Ltd for Last Mile Connectivity aimed at; expansion of distribution line, rehabilitation of dilapidated distribution lines and installation of billing software to monitor water production and sales and established a dedicated Non-Revenue Water Unit.

Committee observation

The Committee observes that:

- (i) The Non- Revenue Water loss estimated at Kshs. 74,179,750
- (ii) 58% of the volume produced represents the Non- Revenue Water (NRW); and the query remains unresolved.

Committee recommendation

The Committee recommends that the Accounting Officer institutes corrective and mitigating measures to ensure that Non-Revenue Water is reduced to allowable loss of 25% as prescribed by Water Service Regulatory Board Guidelines such as the replacement of old age dilapidated pipes, installation of smart meters and software for accurate billing and the application of Geographical Information System (GIS) to receive real-time information on bursts and leakages for immediate repairs.

Basis of Conclusion

1. Lack of Human Resource Plans

The Company Limited operated without human resources plans in place. This was contrary to Section B2 of the Kisii County Public Service Human Resource Policies and Procedure Manual.

In the circumstances, Management was in breach of the requirements of the procedure manual.

Management Response

The Accounting Officer submitted that management concurred with the auditors observation on human resource plans. However, the company is committed in ensuring that the human resource plans are in place.

Committee observation

The Committee observed that;

- (i) The Company has a retirement and succession planning guidelines
- (ii) GWASCO has Organization Structure

Committee recommendations

The Committee recommends that the Company should put in place all the required procedure manuals, and the auditor –General to report on the same during the subsequent audit cycle.

2. Lack of Approved Risk Management Policy

The Company Management had not put in place risk management policy, strategies, and risk register to mitigate against risk. It was, therefore, not clear how the management manages risk exposures,. Further, the Company operated without an information System Disaster Recovery Plan and a Business Continuity Plan. Information Communication Technology (ICT) Function had two officers but without defined roles. This is in contravention of Regulation 158(1)(a) and (b) of the Public Finance Management (County Governments) Regulations,2015 which requires the the Accounting Officer to ensure that the county government entity develops risk

management strategies, which include fraud prevention mechanism; and the county government entity develops a system of risk management and internal control that robust business operations. In the circumstances, Management was in breach of law and the operations may be affected by disruptions.

Mangement Response

The Accounting Officer submitted that management understands the necessity of assessing the company's risk exposure and mitigation measures. During the time of audit, the management was at the initial stages of risk management register development. However, the management has since developed the risk management policy framework (RMP) that is operational.

Committee observation

The Committee observed that the Company did not a risk management policy.

Committee recommendations

The Committee recommends that-

- i. The Accounting officer to adhere to Section 158 (1) (a) and (b) of the Public Finance Management (County Government) Regulations, 2015 which provides that the accounting officer should ensure that the County Government Entity develops risk management strategies which include fraud, prevention mechanism, and the County Government Entity develops a system of risk management and internal control that builds robust business operations.**
- ii. The query be marked as resolved.**

3. Irregular Access to Company's Data by Software Provider.

The Company Limited entered into an agreement with the Service Provider in respect of the billing services through Majisoft systems. The agreement allowed the service provider access to the raw data and information belonging to the Company and its customers. Further, the data capture by the billing system was hosted by the Service Provider as the custodian of such information. The agreement allowed the Service Provider to utilize the same data to enhance their business.

In addition, some computers were using Windows 7 which was outdated and had been discontinued by the service provider. The Company was using a pirated software called ArcGis for geographical mapping of their customers and the computers operated without an-antivirus software. In the circumstances, the confidentiality, integrity and availability of the system and information processed and stored service provider could not be guaranteed.

Management Response

It is a requirement for the software providers to ensure data security and information systems for the organization. The service provider is only able to access the system on need basis and when requested. They have no direct contact or control to the system. They are only on-boarded to assist in case there are emergencies.

To note, the management has acquired a new system for billing from African Development Bank last mile connectivity support. Further, the management has acquired computers which are up to date and replaced computers using windows 7. The computers have been installed with antivirus software. Hence the confidentiality, integrity and availability of the system and information processed and stored is guaranteed going forward.

Committee Observation

The Committee observed that;

- i. Service provider access the system on need basis without authority.
- ii. There is weak internal control system in the Company; and the query is unresolved.

Committee Recommendation

~~The Committee recommends that the Accounting Officer ensures that the company strengthens its internal control and adhere to the Data Protection Act, 2018.~~

CHAPTER FOUR

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR KISUMU WATER AND SANITATION COMPANY FOR THE FINANCIAL YEAR 2020/2021

The Governor for Kisumu County, H.E Prof. Peter Anyang Nyong'o, appeared before the Committee on Tuesday, 28th February, 2023 to respond (under oath) to audit queries raised in the report of the Auditor General on financial statements for the Kisumu Water and Sanitation Company for the financial year 2020/2021.

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

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

Basis for Qualified Opinion

1. Property, Plant and Equipment

The statement of financial position reflects property, plant and equipment balance of Kshs.266,509,028 and which includes additions during the year of Kshs.26,849,851 as disclosed in note 10 to the financial statements. However, the asset register maintained by the company was not up to date. It did not include identification number of the asset, location of the asset, cost of each asset, depreciation rate, accumulated depreciation, depreciation charge for the year and book value of the asset among others. In the circumstance, the accuracy and completeness of property, plant and equipment balance of Kshs.266,509,028 could not be confirmed.

Management Response:

An updated detailed asset register was provided as requested by the auditors, a copy is hereby attached for your review and confirmation.

Committee Observations

The Committee observed that the management had not provided an updated register on the company's fixed assets at the time of audit.

Committee Recommendations

The Committee recommends that:

- i. **The accounting officer should ensure that it has an updated the fixed asset register under the format prescribed by the Public Sector Accounting Standards Board (PSASB) and in accordance with Section 149 of the Public Finance management Act, 2012 and section 136 (1) of the Public Finance Management (County Government) Regulations, 2015.**
- ii. **The matter be marked as resolved.**

2. Provision for Bad Debts

Included in the figure of administrative expenses of Kshs.158,955, 106 under note 26 to the financial statements is bad debts provision of Kshs.48,986,667 owed by seven hundred and forty- seven (747) customers. The decision to provide for bad debts was recommended by the finance committee vide Min 2/22/09/2021 dated 22 September2021. However, the management has not disclosed the basis for the provision given that the majority are schools. It has also not been indicated for how long the debts have been outstanding and the measures taken to have the debts collected. In addition, according to debtors' age analysis report, the provision included **Kshs.573,823.47** owed by customers whose accounts were less than 180 days old and management did not provide customer statements and demand notices to confirm that reasonable steps had been taken to recover each of the debts.

Management Response:

Most of the accounts provisioned were public schools that were under the defunct Municipal Council of Kisumu. The debts have remained uncollected since the inauguration of the new constitution and the current budgetary allocation to these schools for bills (water) is not even sufficient to cover recurring bills. Despite several reminders, meetings, disconnections and outsource to external debt collectors, the

schools are still not able to pay. The disconnections posed a health challenge during COVID-19 Pandemic and it was passed that debts be written-off including and as at the date of the W/O to enable schools get water and also avoid further loss of revenue. This was the basis of the write-off and the Board of directors agreed with this basis hence approval vide Min.2/22/09/2021 dated 22 September 2021. The minutes were presented and confirmed by the Audit team and copy can be availed.

The **Kshs.573,823.47** with debts of less than 180 days provided for write-off were as a result of standing charges and estimated bills on the disconnected accounts. These were due to challenges in the billing system and the only remedy was to write them off irrespective of the duration.

Committee Observations

The Committee observed that:

- i. The company did not have a policy for bad debts and a clear framework for aging analysis. It was noted that Ksh. 48,986,667 was owed by seven hundred and forty-seven (747) customers and **Kshs.573,823.47** was owed by customers whose accounts were less than 180 days old and management did not provide customer statements and demand notices to confirm that reasonable steps had been taken to recover each of the debts.
- ii. Customer statements, demand notices and minutes for write-off for bad debts were later provided.

Committee Recommendations

The Committee recommends that:

- i. **The Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) Public Audit Act, 2015.**
- ii. **The company develops a clear and standard policy on bad debts going forward.**
- iii. **The matter be marked as resolved.**

Key Audit Matters

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

Other Matter

REPORT ON LAWFULNESS AND EFFECTIVENESS OF USE OF PUBLIC RESOURCES

Conclusion.

Basis of Conclusion

1. Non-compliance with Public Sector Accounting Standards Board Requirements

In the audit report of the previous year, several issues were raised. However, management has not disclosed and resolved the issues or given satisfactory explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board (PSASB) template.

In the circumstances, the annual reports and financial statements are not PSASB compliant.

Management response:

Management responded to all issues that were raised in the previous year as required during the opening meeting with the auditors and the explanations were captured in their own minutes. Also, KIWASCO has continually relied on the PSASB templates in the preparation and presentation of the financial statements and report. The new and reviewed templates had not been shared with the Management hence it was only sensible to use the previous template.

Committee Observations

The Committee observed that this query is recurrent and the management has not put in place any measures to resolve it.

Committee Recommendations

The Committee recommends that:

- i. Administrative action is taken against the Management Director, Mr. Thomas Odongo.**
- ii. The accounting officer ensures that it adheres to the provisions of the Public Sector Accounting Standards Board (PSASB) template in preparation of annual reports and financial statements.**
- iii. The matter be marked as unresolved and will be checked in the subsequent audits to confirm compliance.**

2. Register of Bank Accounts

It was noted during the audit that the company did not maintain a register of bank accounts. This is contrary to section 87(3) of the Public Finance Management (county government) Regulations 2015 which requires each public entity to maintain a register of bank accounts. Although eight (8) accounts were disclosed in the financial statements, it has not been possible to confirm that those were the only accounts operated by the company. The company was therefore in breach of the law.

Management Response:

The bank register is contained in Note 31 on page 25 of the financial statements and we confirm that those are the only bank accounts maintained by the company. Bank confirmation letters were provided by the different banks for audit confirmation. Your office can write to the same banks for confirmation. Copies of the bank confirmation letters and a detailed register is hereby attached in soft copy due to its size for your review.

Committee Observations

The Committee observed that the management had not provided confirmation letters on the bank accounts during the time of audit but were later provided and verified by the Audit General.

Committee Recommendations

The Committee recommends that:

- i. **The Committee recommends that the company must adhere to Section 9 (1) (e) of the Public Audit Act, 2015 of the submission of requisite documents to the auditor during the time of audit.**
- ii. **The Committee recommends that the accounting officer adheres to the provisions of the Public Finance Management Act, 2012 on financial management and reporting.**
- iii. **The matter be marked as resolved.**

3. Non-compliance with the Law on Staff Ethnic Composition

Review of the company payroll revealed that out of the three hundred and twenty-seven (327) permanent employees, two hundred and seventy-six (276) or approximately 84% were from the dominant ethnic community. This is in contravention of section 7(1) & (2) of the National Cohesion and Integration Act 2008, which stipulates that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public establishment shall have more than one third of its staff from the same ethnic community.

In the circumstances, the management was therefore in contravention of the Law.

Management Response:

The company is making progress in managing the ethnicity aspects of staff which stood at 92 in 2019, 87% in 2020 for the dominant ethnic community respectively to the current 84% in 2021. When recruitments are being conducted and over 90% of interviewees are from the local dominant community then it goes without saying that there is a higher probability that the person recruited will be from majority ethnic group. In addition, recruitments are done based on competence and skills and not ethnicity. However, the company is progressively working on the above issues for future compliance.

Committee Observations

The Committee observed that the company had three hundred and twenty-seven (327) permanent employees out of which two hundred and seventy-six (276) or approximately 84%

were from the dominant ethnic community contrary to section 7(1) & (2) of the National Cohesion and Integration Act 2008.

Committee Recommendations

The Committee recommends that:.

- i. **The board and the accounting officer makes deliberate efforts to progressively comply with section 7(1) & (2) of the National Cohesion and Integration Act 2008, which provides that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public establishment shall have more than one third of its staff from the same ethnic community.**
- ii. **The query be marked as unresolved.**

4. Noncompliance with the Law on Non-Revenue Water

During the year under review, the Company produced 9,915,691m³. However, a total of 6,842,992m³ was billed to customers resulting to Non-revenue water (NRW) of 3,072,699m³ or 31%. The allowable NRW rate according to the Water Services Regulatory Board (WASREB) guideline is 25% resulting to 6% over and above the allowable rate. Therefore, the unallowable rate of 6% representing 594,942m³ of water may have resulted to NRW loss estimates at Kshs. 17,848,244 at the rate of Kshs 30 M³. In the circumstances, management was in breach of law.

Management Response:

NRW is a global water sector concern and challenge with Kenya currently averaging 45%. The performance on the same for the year under review of 31% is above the industry target of 25% which is the ideal target that companies are required to strive to achieve. It is not a Law but an ideal standard as set by the regulator. KIWASCO has an old dilapidated water networks laid during the colonial times which continues to contribute to the high NRW. The company is continuously rehabilitating its water networks but limited by financial muscle, due to heavy investment needed to overhaul old networks. KIWASCO is currently working with various partners to help in containing NRW.

The NRW action plan below presents all activities and tasks to be conducted to manage and reduce NRW in line with the strategy:

- a) Sensitize customers on their roles in leak detection and reporting
- b) Conduct network pressure surveys to inform leak detection
- c) Frequent meter servicing, testing and calibration.
- d) Establishment of a reliable water balance at sub levels (DMAs) and re-prioritizing NRW actions based on results.
- e) Design and establishment of DMAs for sustainable NRW reduction and management.
- f) Establishment and implementing metering management.
- g) Pressure management.
- h) Leak Management.
- i) Strengthening the institutional capacity on NRW Reduction and Management.

Committee Observations

The Committee observed that:

- i. The Non-Revenue Water was at 31% which is above the allowable 25% prescribed by the Water Resource Regulatory Board (WASREB) guidelines. The Non-Revenue Water is attributed to old dilapidated infrastructure which was laid in the colonial era.
- ii. The company had demonstrated efforts by developing a strategy for mitigating Non-Revenue Water. Some of the mitigating measures are customer sensitization on leak detection and reporting, conducting network pressure surveys, meter servicing, leak management and institutional capacity building.

Committee Recommendations

The Committee recommends that:

- i. **The accounting officer puts in place a comprehensive water infrastructure including the replacement of old age dilapidate infrastructure, installation of**

smart meters for accurate billing and the application of Geographical Information System (GIS) for the detection of bursts and leakages.

- ii. The Office of the Auditor-General to verify the efficacy of the new infrastructure and report in the subsequent audit.
- iii. The Company to report on the causes of both physical and commercial losses and also provide the figure for Non-Revenue Water in the subsequent audits.
- iv. The matter be marked as unresolved.

CHAPTER FIVE

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR KWALE WATER AND SEWERAGE COMPANY LIMITED FOR THE FINANCIAL YEAR 2020/2021

The Governor for Kwale County, H.E Fatuma Mohamed Achani, appeared before the Committee on Tuesday, 28th March, 2023 to respond (under oath) to audit queries raised in the report of the Auditor General on financial statements for the Kwale Water and Sanitation Company Limited for the financial year 2020/2021. The Governor was accompanied by:

- | | |
|--------------------------|-----------------------|
| 1. Ms. Sylvia Chidodo | - County Secretary |
| 2. Mr. Hemed R. Mwabuuzo | - CECM Water Services |
| 3. Mr. Bakari H. Sebe | - CECM Finance |
| 4. Mr. William Jefu | - Finance Manager |
| 5. Mr. Erick Parmet | - Managing Director |
| 6. Mr. Alex Onduko | - CO Finance |

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

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

1. Un-reconciled Variance in Cost of Bulk Water

The statement of profit or loss and other comprehensive income reflects sales amount of Kshs.86, 902,063 which includes the cost of bulk water of Kshs.37, 276,860 as disclosed in Note 7 to the financial statements. However, invoices from Coast Water Works Development Agency indicated an amount of Kshs.83, 061,540 in respect of the cost of bulk water, resulting in a variance of Kshs.45, 784,680 which was not explained or reconciled.

In the circumstances, the accuracy and completeness of bulk water costing Kshs. 37,276,860 could not be confirmed.

Management Response:

KWAWASCO has raised the matter with CWSB in writing concerning the un-reconciled figures resulting from erroneous billing of 13 boreholes operated by KWAWASCO; ideally these boreholes were to be operated by Coast Water Service Board as part of the Bulk Water Supply as per the Service Provision Agreement (SPA).

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

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

Invoices from Coast Water Works Development Agency indicate an amount of ksh.83,061,540 (this includes cost of bulk water and cost of electricity for Kwawasco operated sources/boreholes). See attached CWDDA letters and SPA agreement.

Under the direct cost (note 7) of the financial statement, management reported cost of bulk Electricity bills for the financial year as ksh.43,354,650 (for Kwawasco operated sources/boreholes) and cost of bulk water as ksh.37,276,860 (as charged by CWWDA for Mzima pipeline/ off takes), making a total of ksh. 83,061,510.

Committee Observations

The Committee observed that the financial statements of comprehensive income reflected sales amount of Kshs.86,902,063 which included the cost of bulk water of Kshs.37,276. However, invoices from Coast Water Works Development Agency indicated an amount of Kshs.83,061,540 in respect of the cost of bulk water, resulting in a variance of Kshs.45,784,680 which was not explained or reconciled.

Committee Recommendations

The Committee recommends that:

- i. The accounting officer makes the necessary reconciliations on the financial statements pursuant to the provisions of Section 68(2) of the PFM Act 2012.**

- ii. **The Governor to engage the Coast Water Services Board to settle the issue of the payment of the bulk water services.**
- iii. **The matter be marked as unresolved.**

2.0 Lack of Receivables Ageing Analysis

The statement of financial position reflects trade and other receivables net balance of Kshs.230, 942,074 and as disclosed in Note 17 to the financial statements. However, ageing analysis of the debts was not provided for audit verification.

In the circumstances, the accuracy and completeness of the trade and other receivables balance of Kshs.230, 942,074 could not be confirmed.

Management Response:

Currently the company can produce ageing analysis for trade receivables up to 7 years. During the Financial Year under audit, Kwawasco billing system could not produce ageing analysis for trade receivable. Following correspondence with the vendor on 13th July 2022; the billing system was upgraded and can now produce Ageing analysis.

Committee Observations

The Committee observed that:

- i. The company had not submitted the requisite documents on aging analysis policy to the Auditor-General during the time of audit.
- ii. The matter remained unresolved as the requisite documents have not yet been provided.
- iii. The company is taking steps to resolve the matter

Committee Recommendations

The Committee recommends that:

- i. **The accounting officer provides all the requisite supporting document during the time of audit pursuant to the provisions of section 9 (e) (1) of the Public Audit Act,**

2015 and develops an approved aging analysis policy which should be verified by the Auditor-General.

ii. The matter be marked as unresolved.

3.0 Unsupported Trade Payables

The statement of financial position reflects trade and other payables balance of Kshs.313, 391,695 which as disclosed in Note 27 to the financial statements includes trade payables balance of Kshs.287, 078,991. The trade payables, further, includes a balance of Kshs.5, 982,991 owed to Water Services Regulatory Board (WASREB). However, this amount was not supported by bills or a statement from the creditor. Further, included in the trade payables balance is a balance of Kshs.37, 276,860 owed to Coast Water Works Development Agency. However, records maintained by the Agency indicated the balance owed by the Company as Kshs.695, 725,546, resulting in un-reconciled and unexplained variance of Kshs.658, 448,686.

In the circumstances, the accuracy and completeness of the trade and other payables balance of Kshs.313, 391,695 could not be confirmed.

Management Response:

a) WASREB amount ksh.5, 982,991;

WASREB as the regulator in water and sanitation sector is entitled to 4% of the declared company revenue from water sale every month. Kwawasco does not receive invoices/bills from WASREB but the WSP computes the 4% levy of the sales as per the law gazette notice No: 12188.

b) Coast Water Works Development Agencies amount ksh.37, 276,860.

The accumulated amount included in the trade payables in favor of Coast Water Works development Agency is not ksh.37, 276,860 as stated in the audit findings but rather it is ksh.217, 801,444. The ksh.37, 276,860 is a charge for the year under audit for Mzima bulk water as reported in the financial statement under note no.27.

Hence the accuracy, completeness and validity of the trade payables balance of Ksh.287, 078,991 as at 30th June 2021 can be confirmed.

Committee Observations

The Committee observed that the variance of Ksh. 287, 078,991 and trade and other payables balance of Kshs.313, 391,695 which were unsupported.

Committee Recommendations

The Committee recommends that:

- i. The Accounting Officer should comply with the provisions of Section 9 (1) (e) of the Public Audit Act, 2015 on availing of documents to the Auditor-General during the time of audit and Section 68 (20 Public Finance Management Act, 2012 on reconciliation of financial statements.**
- ii. The matter be marked as resolved.**

4.0 Unsupported Capital Reserve

The statement of financial position reflects capital reserve balance of Kshs.36, 719,864 and as disclosed under Note 20 to the financial statements. However, the Management did not provide evidence in support of the balance.

In the circumstances, the completeness and accuracy of the capital reserve balance of Kshs.36, 719,864 could not be confirmed.

Management Response:

These were figures inherited from National Water Corporation without details for individual customers thus making it difficult for Kwawasco to follow up/ collect this debt. The amount of Ksh.36, 719,864 reported in the financial statement was first introduced in the financial year 2007/2008.It represented customer third party balances at takeover.

Committee Observations

The Committee observed that:

- i. There was a debt of Ksh. 36, 719,864 inherited from the National Water Corporation without details for the individual customers, making it difficult to follow up on the debt.**
- ii. The listing for the individual customers was not provided.**

Committee Recommendations

The Committee recommends that:

- i. The Accounting Officer to undertake a detailed analysis of its long outstanding trade receivables and with the Board's approval, write off the irrecoverable debts in line with the Section 130 (2) (d) of the Public Finance Management (County Governments) Regulations, 2015.**
- ii. The matter be marked as unresolved.**

5.0 Failure to Disclose Material Uncertainty Relating to Going Concern

The statement of profit or loss and other comprehensive income reflects an operating loss after tax of Kshs.15, 088,834 (2020: a loss of Kshs.27, 397,471), resulting in accumulated deficit of Kshs.129, 296,522 (2020: Kshs.135, 300,717). Further, the total current liabilities balance was Kshs.346, 338,546 while total current assets balance was Kshs.271, 180,273, resulting in negative working capital of Kshs.75, 158,273. This is an indication that the Company may not be able to settle its obligation as and when they fall due.

These conditions indicate the existence of a material uncertainty. Which may cast doubt on the Company's ability to continue as a going concern, and further implies that the Company's existence is dependent on continued support from the County Government of Kwale, shareholders and creditors. Management did not disclose the material uncertainty related to going concern or measures taken to mitigate this.

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

Management Response:

Under going concern Kwawasco did not report on Going Concern in that year as this was not provided in the reporting template. However this was noted and in the subsequent year's i.e. Financial Year 2021/22 this was disclosed.

Committee Observations

The Committee observed that:

- i. The statement of profit or loss and other comprehensive income reflected an operating loss after tax of Kshs.15, 088,834 (2020: a loss of Kshs.27, 397,471), resulting in accumulated deficit of Kshs.129, 296,522 (2020: Kshs.135, 300,717). Further, the total current liabilities balance was Kshs.346, 338,546 while total current assets balance was Kshs.271, 180,273, resulting in negative working capital of Kshs.75, 158,273. This was an indication that the Company may not be able to settle its obligation as and when they fall due.
- ii. The query was recurrent.

Committee Recommendations

The Committee recommends that:.

- i. **The Governor through the County Executive Committee member for water ensure the monitoring financial performance of the company in line with Section 184 of the Public Finance Management Act, 2012.**
- ii. **The Board and the accounting Officer to put in place comprehensive and strategic measures for investment to boost the financial health of the Company, and the Auditor-General to review the efficacy of the strategy and report on such measures to the Committee in the next audit cycle.**
- iii. **Company to review and regularize its existing assets, to determine and ascertain their value and commercial viability.**

Key Audit Matters

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

Other Matter

1. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final revenue budget and actual on comparable basis of Kshs.220,096,878 and Kshs.214,229,959 respectively, resulting in a revenue shortfall of Kshs.5,866,919 or 2% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.212, 152,440 and Kshs.229, 318,793 respectively, resulting in an over expenditure absorption of Kshs.17, 166,353 or 8% of the budgeted amount.

Management Response:

The reason as to why the Company did not achieve its targeted revenue was attributed to frequent bursts and damages to main service lines leading to loss of water. There was also frequent electricity /power outages that affected the supply hours to the prime customers like beach hotels and institutions.

Committee Observations

The Committee observed that:

- i. The company had a revenue shortfall of Ksh. 5,866,919 due to unrealistic budgeting and planning.
- ii. The company had an over-expenditure absorption of Ksh.17,166,353 of the budgeted amount.

Committee Recommendations

The Committee recommends that:

- i. **The accounting officer should set realistic budgets and plans for revenue collection to avoid revenue shortfalls.**
- ii. **The accounting officer to adhere to section 43 (2) of the Public Finance Management (County Government) Regulations, 2015, which provides for the execution of approved budgets based on the annual appropriation legislation and the approved annual cash flow plan with the exception of unforeseen and unavoidable spending dealt with through contingencies fund of supplementary estimates, Section 31 (c) of the Public Finance Management (County Government) Regulations, 2015, which provides that the budget revenue and expenditure appropriations shall be balanced and Section 42(1) of the Public Finance**

Management (County Government) Regulations, 2015 on exerting budgetary control measures.

2.0 Unresolved Prior Year Matters

Prior year audit issues remained unresolved as at 30 June, 2021. Management has not provided reasons for the delay in resolving the prior year audit issues. Further, the unresolved prior year issues are not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

Management Response:

Certificate on the audited accounts had not been issued to Kwawasco by the office of Auditor-General for two years as the office had a change of guard from Dr. Edward Ouko to the current Auditor-General.

Committee Observations

The Committee observed that:

- i. The company had outstanding unresolved matters for the financial years 2018/2019 and 2019/2020.
- ii. The prior matters were adequately responded to and the issue was resolved in 2020/2021 as noted by the Auditor-General.

Committee Recommendations

The Committee recommends that-

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1. Non-Revenue Water

The statement of profit or loss and other comprehensive income reflects an amount of Kshs.141, 692,825 in respect of revenue from water sales as disclosed in Note 6 to the financial statements. Documents provided for audit review indicated that the Company's total volume of bulk water was 4,521,589 cubic meters (m³), out of which only 1,682,401 (38%) cubic meters were billed to customers for Kshs.141,692,825. The balance of 2,839,188 (62%) cubic meters represents Non-Revenue Water (NRW). This is higher than 25% loss allowable by the Water Service Regulatory Board (WASREB) guidelines. The Non-Revenue Water may have resulted in total loss of 1,708,798 cubic meters valued at approximately Kshs.143, 880,792 based on an estimated distribution rate of Kshs.84.2 per cubic meter after allowing for the allowable loss of 25% of the distributed water.

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

Management Response:

Kwawasco was able to reduce the NRW level from 62% at end of financial year 2021 to 57% by July 2022, a reduction of 5%. Kwawasco has managed to secure support from the World Bank (Water and Sanitation Development Project) who by extension contracted a consultant with the aim to build the institutional capacity of the company and specifically address the prevailing NRW.

The Company through WSDP is investing in customer identification survey and introduction of a GIS(Geographical Information System) to address illegal connections and unmetered connections.

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

The Company operates an aged infrastructure mostly inherited from Coast Water Works Development agency and National Water Corporation which over the years have worn out thus leading to frequent burst and damage resulting to high water loss (physical loss).

Committee Observations

The Committee observed that:

- i. The Non-revenue Water stood at 57%, which is very high against the 25% allowable by the Water Services Regulatory Board (WASREB).
- ii. The company had initiated some mitigation measures for Non-Revenue Water including institutional capacity building, customer identification, introduction of Geographical Information System (GIS) and procurement of new pipes and fittings to repair pipes that burst.
- iii. The matter was still unresolved as the Non-Revenue Water remained above the allowable 25% by the Water Services Regulatory Board (WASREB).

Committee Recommendations

The Committee recommends that:

- i. **The accounting officer to put in place comprehensive mitigation measures to reduce the Non-Revenue Water such as the replacement of old dilapidated infrastructure to reduce physical losses, installation of smart meters for accurate billing, development of appropriate strategy to prevent illegal connections and application of Geographical Information system for the detection of bursts and leakages and have measures verified by the Auditor-General on their efficacy in the subsequent audit.**
- ii. **The Governor should collaborate with EACC for the development of institutional ant-corruption policy and to ensure that pre-emptive measures are put into place to reduce the cases of theft and illegal connections.**
- iii. **The matter be marked as unresolved.**

2.0 Non-remittance of Statutory Deductions

The statement of financial position reflects tax payable of Kshs.15, 789,234 which as disclosed in Note 28 to the financial statements relates to payroll liabilities and withholding taxes. These include unremitted statutory deductions from Board Members' allowances, PAYE and withholding tax.

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

Management Response:

The issue of non –remittance of statutory deduction amounting to Kshs. 15,789,234 has been resolved as per the payment agreement entered with KRA where the company paid the principle amount in a period of 12 months. The management paid the principle amount in full, lodged a request on interest and penalties to be waived which is in the process after which the company will be in a position to get a tax compliance certificate.

Previous the company was struggling financially and could not pay staff salaries and the statutory obligations.

Committee Observations

The Committee observed that:

- i. The management had entered in to an agreement with KRA which resolved the matter of remittance of statutory deductions as confirmed by the Auditor-General, but bank statements and receipts had not been provided for verification.
- ii. The matter was resolved as the payments were later made and supporting documents were later provided for verification to the Auditor-General.

Committee Recommendations

The Committee recommends that:

- i. **The Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1) (e) Public Audit Act, 2015.**
- ii. **The accounting officer adheres to Section 22(2)(a) of the Public Finance Management (County Government) Regulations, 2015, which provide that the accounting officer to comply with any tax, levy, duty, pension, commitments and audit commitments as may be provided by legislation.**

3.0 Unauthorized Expenditure

The statement of comparison of budget and actual amounts reflects final expenditure budget and actual on comparable basis of Kshs.212,152,440 and Kshs.229,318,793 respectively, resulting in an over-expenditure of Kshs.17,166,353 or 8% of the budgeted amount. Management did not provide evidence of the Board’s approval for the excess expenditure.

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

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

Management Response:

The management has provided evidence of Board approval for the excess expenditure.

Committee Observations

The Committee observed that:

- i. The company had failed to provide evidence of Board approval for over-expenditure of Kshs.17,166,353.
- ii. The evidence of Board approval for the excess expenditure was later provided.
- iii. The matter was resolved as the minutes were provided satisfactorily for verification by the Auditor-General.

Committee Recommendations

The Committee recommends that:

- i. The accounting officer to adhere to section 43 (2) of the Public Finance Management (County Government) Regulations, 2015, which provides for the execution of approved budgets based on the annual appropriation legislation and the approved annual cash flow plan with the exception of unforeseen and unavoidable spending dealt with through contingencies fund of supplementary estimates.
- ii. The matter be marked as resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

Lack of ICT Controls and Policy Documents

Review of the ICT internal controls and general IT environment revealed lack of IT Strategic Committee, IT strategic plan, data back-up, tested emergency procedure and data recovery plan. Further, the ICT Section appears to be understaffed as it has only one staff member.

In the circumstances, the effectiveness of the ICT internal controls could not be confirmed.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether processes and systems of internal control, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Management Response:

The management has instituted the ICT department to be in line with the company's strategic and business plan. The ICT department currently is constituted by two staff. The ICT officer drafted ICT manual which was approved by the board and currently the ICT department has implemented all the ICT controls to safe guard the Company.

Committee Observations

The Committee observed that the Internal ICT infrastructure lacked a IT strategic committee, IT strategic plan, data back-up, tested emergency procedure, data recovery plan and understaffing with only one staff..

Committee Recommendations

The Committee recommends that:

- i. **The management and the Accounting officer to ensure strict compliance to the provisions of section 110 of the Public Financial Management (County Governments) Regulations, 2015 in regards to instituting of appropriate access controls to minimize breaches of information confidentiality and ensure data integrity.**
- ii. **The matter be marked as resolved.**

CHAPTER SIX

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR NYERI WATER AND SANITATION COMPANY LIMITED FOR THE FINANCIAL YEAR 2020/2021

1. The Governor of Nyeri County Executive Hon. Mutahi Kahiga Mwalimu Edward appeared before the Committee on Wednesday 22nd November, 2022 to respond (under oath) to audit queries raised in the Report of the Auditor-General on Financial Statements for Nyeri Water and Sanitation Company Limited_for the Financial Year 2020/2021. He was accompanied by:
 - i. Mr. Patrick M. Karinga - Chairman, NYEWASCO
 - ii. Ms. Keziah Nyambura - Manager, Legal NYEWASCO
 - iii. Mr. Robert Thuo - CECM Finance
 - iv. Ms. Mercy Gathogo - Snr. Officer Finance
 - v. Mr. Kimani Rucuiya - County Attorney
2. The Nyeri Water and Sanitation Company Limited_is wholly owned by the Nyeri County Government.
3. The Auditor-General rendered a Qualified opinion on the financial statements of Nyeri Water and Sanitation Company Limited_for the period under review.

1. Lack of ownership documents and updated asset register

The statement of financial position reflects a balance of Kshs. 1,236,805,843 in respect of property, plant and equipment balance as at 30 June, 2021. However, the asset register was not fully updated since some assets did not have asset numbers. Registration numbers of five (5) motorcycles were missing, making it difficult to confirm their ownership status. Further, motorcycle registration number KMEK 399N appeared three times in the asset register.

In the circumstances, the accuracy and completeness of the property, plant and equipment balance of Kshs. 1,236,805,843 could not be confirmed.

Management response

The Management acknowledged the errors on the asset register and the errors have since been corrected. Attached here is the corrected version of the asset register and logbooks for the five (5) motorcycles that could not be traced during the audit. See table below,

No.	Registration Number	Logbook Number
1.	KMDU591A	K3932879 T
2.	KMDV083Y	L 380530 G
3.	KMEC726D	K 1800415 G
4.	KMEC175U	K 1800414 H
5.	KMEC686D	K 1800418 D

The company is in the process of carrying out an asset tagging and asset valuation exercise to ensure enhanced fixed asset management.

Committee Observation:

The committee observed that:

- i. The management failed to provide an updated asset register as well as ownership documents to the Office of the Auditor-General during the audit period.
- ii. The Asset register provided contained errors such as duplication of motorcycle registration numbers.
- iii. The management acknowledged the errors has since submitted an updated asset register and the ownership documents to the Office of the Auditor-General.

Committee recommendation:

The Committee recommends that:

- i. **The Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) Public Audit Act, 2015 and ensures strict compliance with the provisions of Regulation 136 of the PFM (County Governments) Regulations, 2015 with respect to the register of assets.**
- ii. **The Office of the Auditor-General to undertake physical verification of all assets of the Water Company and report back to the Committee in the subsequent audit cycle.**
- iii. **The matter be marked as resolved.**

2. Unconfirmed provision for doubtful debts and aging analysis

The statement of financial position reflects net trade receivables balance of Kshs. 239,047,174. This was net of provision for doubtful debts of Kshs. 41,940,699 for the financial year under review. However, the basis of provision for doubtful debts of Kshs. 41,940,699 was not disclosed in the financial statements or explained. Further, the aging analysis for the trade receivables was not provided for audit verification.

In the circumstances, the accuracy of the trade receivables of Kshs. 239,047,174 could not be confirmed.

Management response

The company has acknowledged the omission of not stating the provisioning methodology. All debts older than 3 years are fully provided for.

The Company did not have a system that could provide a debtors aging analysis. This has since been corrected through the implementation of an Enterprise Resource Planning (ERP) system during the year 2021/22. Hence the Company is now able to generate a debtors aging report as evidenced in 2021/22 financial statements as shown below: -

As of June 30,2022, the aging analysis of the gross trade receivables was as follows:	
Less than 30 days	39,265,563
Between 30 and 60 days	20,643,399
Between 61 and 90 days	18,530,811
Between 91 and 120 days	14,931,442
Over 120 days	215,479,765

Committee Observation:

The Committee observed that:

- i. The management failed to provide the basis of provision for doubtful debts of Kshs. 41,940,699 and the aging analysis for the trade receivables for verification during the audit period.
- ii. The management acknowledged that the company did not have a system that could provide a debtors aging analysis during the audit period, however, the company has since installed a new Enterprise Resource Planning (ERP) system which is capable of performing a debtors aging analysis.
- iii. The management attached the aging analysis of the company's trade receivables for the financial year 2019/2020 within their submissions to the committee.

Committee recommendation:

The Committee recommends that:

- i. **The Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) Public Audit Act, 2015.**
- ii. **The accounting officer to perform an aging analysis on the long outstanding receivables and with the Board's approval, write off the irrecoverable debts in line with section 130 (2) of the PFM (County Government) Regulation, 2015.**
- iii. **The accounting officer ensures implementation of the Enterprise Resource Planning (ERP) system and its use in performing periodic debtors aging analysis.**
- iv. **The accounting officer of the water company revises the company's provision for bad debts to ensure that it is adequate.**
- v. **The query be marked as unresolved.**

3. Unresolved prior-year matters

Various prior year audit issues remained unresolved as at 30 June, 2021. Management has not provided reasons for the delay in resolving the prior year audit issues. Further, some of the unresolved prior year issues are not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

Management response

The Management is committed to resolving/addressing all matters raised in the OAG certificates. At the close of each audit exercise, the Management has addressed all the issues raised by the auditors through management letters as required. However, by the time of preparation and submission of the financial reports for 2020/2021 on 30th September 2021, the company had not received OAG Certificates for the previous two financial periods. This is because there was a delay of certificates for 2019/20 and 2020/21 which were received on various dates as indicated below; -

- The Financial year 2018/19 was received on 6th January 2022
- The Financial year 2019/20 was received on 13th April 2022
- The Financial year 2020/21 was received on 18th August 2022

Committee Observation:

The Committee observed that the management has not put in place any measures to mitigate prior year issues and failed to capture the same on their financial statements as is required by the Public Sector Accounting Standards Board.

Committee recommendation:

The Committee recommends that:

- i. **The Managing Director should ensure strict compliance to the format of financial reporting as prescribed by the Public Sector Accounting Standards Board (PSASB).**
- ii. **The Managing Director of Nyeri Water and Sanitation Company Limited, designated for County government entities, shall resolve any issues resulting from an audit that remain outstanding as required by Section 149(2)(l) of the Public Finance Management Act, 2012.**

4. Staff Ethnicity Diversity

Review of the staff records revealed that the Nyeri Water and Sanitation Company Limited had a total of two hundred and twenty-eight (228) employees as at 30 June, 2021. However, two hundred and twenty-one (221) or 96.9% of the total employees comprised of staff from one dominant ethnic community. This was contrary to section 7 (1) and (2) of the National

Cohesion and Integration Act, 2008 which provides that: (1) All public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff; (2) No public establishment shall have more than one third of its staff from the same ethnic community. In the circumstances, the Management was in breach of the law.

Management response

The Management has offered equal opportunity to all Kenyans through competitive process of advertising for vacancies nationally as evidenced in the job vacancies adverts. However, the Company has noted very minimal participation by candidates from other regions.

Committee Observation:

The Committee observed that 221 (96.9%) of the total employees comprised of staff from one dominant ethnic community thus there was no ethnic diversity among the company employees.

Committee recommendation:

The committee recommends that:

- i. **The board and the managing director to work progressively towards attaining the requirement of the provisions of Section 65(1)(e) of County Government Act on ethnic inclusivity.**
- ii. **The Auditor-General should review the implementation of the measures put in place by the management to mitigate the matter and provide a report on this query in the subsequent audit cycle.**
- iii. **The query be marked as unresolved.**

5. Non-compliance with One Third Basic Salary Rule

Review of the Company's payroll revealed that thirty-one (31) employees earned net salaries which were below one third of their basic salary. This was contrary to Section 19 (3) of the Employment Act, 2007 which provides that the total amount of all deductions made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages. In the circumstances, Management was in breach of the law.

Management response

The Company has remained committed to compliance with the requirements of the 1/3 basic pay rule. A review of the staff payroll indicated that the root cause of the issue was the

downward revision (as indicated in the table below) of the tax rates in the year 2020 through the government directive to cushion employed Kenyans against the adverse effects of the Covid-19 pandemic effects and the latter reinstatement of the tax rates in January 2021 after the Covid-19 reliefs. This affected some staff as they had committed their salaries and were compliant up until the said regulatory revisions were effected. The subsequent reinstatement of the tax rates resulted to an increase in reductions beyond the provision of the rule.

For example, for an employee earning a gross of Kshs.100,000, the tax was as follows:

Employee earning Kshs 100,000 Gross	
During Government Covid-19 directive 2020	After the reinstatement of tax rates in 2021
1 st 24000*10% = 2,400	1 st 24000*10% = 2,400
1,6667*15% = 2,500	8,333*25% = 2,083
1,6667*20% = 3,333	67,667*30% = 20,300
42,666*25% = 10,666	Total = 24,783
Total = 18,899	Less Relief = 2,400
Less Relief = 2,400	PAYE = 22,383
PAYE = 16,499	
A difference of Kshs. 5,884 which most employees committed	

Committee Observation:

The committee observed that 31 of the staffers within the company were earning less than a third of their basic pay contrary to section 19 (3) of the Employment Act 2007 exposing them to pecuniary embarrassment.

Committee recommendation:

The committee recommends that:

- i. **The accounting officer should provide to the committee, within 60 days from the adoption of this report, a plan of the measures put in place to mitigate on the issue as well as comply with the requirements of the law.**

- ii. **The accounting officer should configure its payroll system such that it is able to lock out commitments beyond the acceptable threshold.**
- iii. **The Auditor-General should review the implementation of this recommendation and provide a report on this matter in the subsequent audit cycle.**

6. Non-compliance with Water Services Regulatory Board Regulations on Personnel Costs

The statement of profit or loss and other comprehensive income reflects a balance of Kshs. 185,834,700 in respect of staff costs for the year ended 20 June, 2021. However, the expenditure represents 37% of the total operating expenditure of Kshs. 499,831,379. This is higher than the recommended threshold of 30% required by the Water Services Regulatory Board (WASREB) guidelines. In the circumstances, the Company was in breach of the law.

Management response

The Company operated on a non-cost recovery tariff from 2014 to 2021 following a tariff expiry in the year 2013. In 2017 a tariff was successfully developed and gazetted on 17th Feb 2017 to be implemented in March 2017 but was not implemented due to the prevailing political environment being an electioneering year. A Collective Bargaining Agreement (CBA) covering the period 2017-2020 was negotiated during the same period as from January 2017 and registered on 25th Sept 2017. This CBA relied heavily on the tariff.

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

The Management continued putting efforts in addressing the situation and managed to implement a new and approved tariff in April 2021. The registered CBA was implemented as expected up to the year 2020. The Management suspended CBA negotiations for the year 2020 awaiting the actual implementation of a tariff. This was actualized in the year 2021. The new 2021/22 – 2023/24 CBA was negotiated, approved and implemented in the year 2021. The new

2021-2024 CBA was negotiated in 2021. This was in order to avoid a recurrence of the situation which occurred in 2017.

The Management efforts in managing personnel costs in line with WASREB's provisions yielded some progress towards meeting the statutory ratios. This resulted in a ratio of 37% in the financial year 2020/21 as compared to 38.6% in the Financial Year 2019/20. This was a notable improvement considering this was the same period the country was ravaged by the Covid-19 pandemics. This situation led to a reduction in revenues, reduction in operations, and O&M expenses as well. The company continues enhancing staff welfare through the years despite the challenges highlighted above. Towards this end, the company converted 99 casuals to 6 months contracts in January 2020 and later in July 2021 to two-year contracts. The company also converted 23 staff members who were on a to-year contract to regular staff status in January 2021. The company has also consistently observed the 5% annual adjustment on staff salaries. The management's efforts are also seen in the growth on Personnel expenditure from year to year while maintaining the ratio. These have grown from Kshs. 150m in 2019 to Kshs. 168m in 2020.

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

Committee Observation:

The Committee observed that:

- i. The company's personnel cost totaled to Kshs. 185,834,700, which represented 37% of their total expenditure which is 7% higher than the recommended ratio of 30% in accordance with the WASREB guidelines.
- ii. This query is recurrent.

Committee recommendation:

The Committee recommends that:

- i. **The management of Nyeri Water and Sanitation Company Limited ensures compliance with Regulation 11 of the Water Services Regulations, 2021 that requires recruited staff are employed on terms and conditions of employment approved by its board of directors, which terms and conditions shall comply with**

the water sector benchmark on personnel remuneration as set by the Regulatory Board, in line with the guidelines issued by the Salaries and Remuneration Commission.

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

CHAPTER SEVEN

REPORT ON THE AUDITED FINANCIAL STATEMENTS FOR WAJIR WATER & SEWERAGE COMPANY LIMITED FOR THE FINANCIAL YEARS 2018/19, 2019/20 AND 2020/21

The Governor of Wajir County Executive Hon. FCPA Ahmed Abdullahi appeared before the Committee on Tuesday 6th June, 2023 to respond (under oath) to audit queries raised in the Report of the Auditor-General on Financial Statements for **Wajir Water & Sewerage Company (hereinafter referred as “the Company”)** for the Financial Years 2018/19, 2019/20 and 2020/21.

The Wajir Water & Sewerage Company is wholly owned by the Wajir County Government.

The Auditor-General rendered a disclaimer opinion on the financial statements of Wajir Water & Sewerage Company for the period under review.

1. Non-submission of Prior Years Financial Statements and audit of comparative balances

Review of records revealed that the Company was incorporated in 2013. However, Management did not submit, for audit, financial statements for the Financial Years ended 30 June, 2016, 30 June 2017, 30 June 2018, 30 June 2019 and 30 June 2020.

Further, the financial statement for the year ended 30th June 2021 contain comparative balances for the year ended 30th June 2020. It was however not possible to confirm the opening balances given that the comparative figures brought forward from the financial year 2019/2020 and earlier years have not been audited.

Management Response:

WAJWASCO is a county entity established by the County Government in December 2013. In the initial years, the company could not generate its own revenue and fully relied on county funds for its operation. It took the County Government time to put in place infrastructure to support its operations. As result, all income and expenditure of the Company was reported as part of the county’s consolidated financial statement.

In the Financial Year 2019-2020, the auditor advised the Management to prepare a separate Financial Statement for the company as an independent entity, thus for Financial Year 2020-2021, Management prepared a separate Financial Statement which was audited. In future the Company will comply with all the laws and guidelines to improve service delivery in a professional way.

Committee Observations:

- i. The committee observed that the management failed to provide financial statements for the financial years ended 30 June, 2016, 30 June 2017, 30 June 2018, 30 June 2019 and 30 June 2020. This is contrary to Article 201(a), (d) and (e) of the Constitution and sections 166, 184 and 185 of the Public Finance Management Act 2012.
- ii. The committee further observed that it was not possible to confirm the opening balances for the year ended 30th June 2021 given that the comparative figures brought forward from the financial year 2019/2020 and earlier years have not been audited.
- iii. The Committee further observed that the management and the county government was in breach of section 62(1)(b) and (c) of the Public Audit Act in failing to submit, without justifiable cause and within reasonable time information required by the Auditor-General.

Committee Recommendation:

The Committee recommends that:

- i. **The accounting officer of the water company prepares all financial statements, from Financial Year 2020/21 onwards of Wajir Water and Sewerage Company Limited and submit the statements for audit in line with Article 229(4) of the Constitution, Section 164 of the Public Finance Management Act, 2015, Regulation 208 of the Public Finance Management (County Governments) Regulations, 2015 and any other relevant laws.**
- ii. **The Office of the Auditor-General undertakes a special audit on the operations of the water company and files a report with the Committee pursuant to section 37 of the Public Audit Act, 2015 for the years in which the financial statements were not prepared.**

2. Presentation of the Financial Statements

Review of the Financial Statements for the year ended 30 June, 2021 submitted for audit revealed the following anomalies:

- i. Information about management team did not contain details on key professional and academic qualifications and passport size photographs as required by the financial reporting template;
 - ii. Passport size photographs for board of directors were not attached to the Financial Statements as required;
 - iii. The statement of changes in equity for the year ended 30 June 2021 was not included in the financial statements;
 - iv. The statement of cash flows was not prepared in the correct format;
 - v. The statement of comparison of budget and actual amounts was not prepared and incorporated in the Financial Statements as required by the reporting template;
 - vi. The ICPAK membership number for the head of Finance was not indicated as required;
 - vii. The statement of profit or loss and other comprehensive details was not prepared in the format approved by the Public Sector Accounting Standards Board;
 - viii. The statement of profit or loss and other comprehensive and the statement of cash flows was not presented as per the format prescribed in the financial reporting template. (Revised June 2021); and
-
- ix. the full amounts of the development grants received from Wajir county government and other development agencies were recognised as income. Further, expenditure on development projects was also incorrectly classified under operating expense.

In view of the above anomalies, the Financial Statements were not compliant with the format prescribed by the public Sector Accounting Standards Board and Paragraph 27 of the international public sector accounting standards no.1 IPSAS 1 (par. 27)

Management Response:

- i. The information about management team was captured on pages 7 of the audited Financial Statement. Details of the academic and professional qualifications of the management are included and submitted to the auditors for review.
- ii. The passport size photos of the previous board of directors were not in the record. In future, the management will ensure full compliance of the requirement.
- iii. It is true that the statement of change in equity was not prepared during the year under review since there were no prior year balances for comparison. However, the management will ensure full compliance of the requirement.
- iv. The statement of cash flow for the year ended 30th June 2021 was prepared in the correct format and submitted to the auditor for review and verification.
- v. The statement of comparison of budget and actual was not prepared. During the year under review, Wajwasco was budgeted along with the county entities and budget approved by the county assembly.
- vi. There was no head of finance during the year under review.
- vii. The statement of profit & loss for the year ended 30th June 2021 was prepared in the correct format and submitted to the auditor for review and verification.
- viii. The statement of profit & loss, other comprehensive and cash flow statement were prepared as per the prescribed reporting format and submitted to the auditor for review and verification.

Committee Observation:

The Committee observed that:

- i. The Company failed to provide sufficient information required for the annual and auditing of its financial statements contrary to section 62 of the Public Audit Act.
- ii. The company did not prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards

Board contrary to Article 201(e) of the Constitution and Public Finance Management Act, 2012.

Committee Recommendation:

The Committee recommends that:

- i. **The accounting officer to prepare and submit to the Auditor-General, within sixty days of the adoption of this report, financial statements for audit and verification.**
- ii. **The accounting officer of the water company should in its annual reporting ensure compliance with Section 164 of the Public Finance Management Act, 2015.**
- iii. **The accounting officer of the water company should prepare and submit annual financial statements in the form prescribed and published by the Accounting Standards Board within three months after the end of the financial year to the Auditor-General in line with Regulation 208 of the Public Finance Management (County Governments) Regulations, 2015.**

3. Inaccuracies of the Financial Statements

The statement of profit and loss and other comprehensive income reflects county development expenditure of Kshs 60,000,000 as disclosed in note 9 of the Financial Statements. However, a re-computation of the expenditure indicated an amount of kshs 34,500,000. Thereby giving rise to an unexplained variance of kshs 25,500,000. Further, the statement of the financial position reflects a trade and other payables balances of kshs 596,039,088, as disclosed in note 18 to the Financial Statements. However, a re-computation of the balance indicated a total of kshs 555,911,059 as trade and other payables, thereby resulting in an unexplained variance of kshs 40,128,029.

In addition, the statement of cash flow reflects a cash balance as at 30th June 2021 of kshs 110,516. However, a re-computation of the balance indicated an amount of kshs. (2,572,484) thereby resulting in an unexplained variance of kshs 2,683,000.

In the circumstances, the accuracy of the Financial Statements could not be confirmed.

Management Response:

It is true that the amount of Kshs. 60,000,000 disclosed in note 9 of the Financial Statements relates to county development expenditure for the year end 30th June 2021. However, four-development related components worth 25,500,000 were omitted from note 9 due to clerical error but the same figure, (Kshs. 25,500,000) was captured in the statement of financial performance.

Note 18 of the Financial Statement reflects trade and other payables balances of Kshs. 596,039,088 related to sixteen (16) vendors. However, disclosed in note 18 of the Financial Statements relates to fourteen (14) vendors instead sixteen (16) vendors of Kshs. 596,039,088. The variance of Kshs 40,128,029 relates to two vendors omitted from note 18 of the Financial Statement. The corrected note 18 was shared with auditors on 19th May 2022 for review and verification.

Committee Observation:

The Committee observed that:

- i. There were inaccuracies in the financial statements prepared by the company leading to the variances identified in the audit report. These inaccuracies and variances should have been corrected before the signing of the final report once the matter was brought to the attention of the company by the auditors noting the certification audit process under section 31 of the Public Audit Act and the opportunity accorded to the entity to correct any errors in its financial statements. As the management company was in breach of section 62(1)(d) of the Public Audit Act which prohibits the submitting of false or misleading information to the Auditor-General.
- ii. The management company and in particular the officers' in-charge of preparation of the financial statements were in breach of the Accountants Act as the information presented to the Auditor-General was inaccurate.

Committee Recommendation:

The Committee recommends that-

- i. The accounting officer adheres to Section 68 (2) of the Public Finance Management Act, 2012 with regard to preparation and management of financial and accounting records and Section 2B of the Accountants Act, 2008 with regard to the registration of accountants.
- ii. The accounting officer of the water company should enhance the capacity of officers preparing financial statements to adhere to accounting standards and further to invest in technology and processes that reduce inaccuracies in the preparation of financial statements.

4. Unsupported Revenue Collection from Boreholes

The statement of profit or loss and other comprehensive income for the year ended 30 June, 2021 reflects Kshs. 5,570,733 in respect of revenue collection from boreholes. However, the supporting schedules and the corresponding ledgers were not provided for audit.

Further, review of records revealed that the company produced a total of 1,157,670 cubic meters (M3) of water, under this category of revenue, out of which 207,738 cubic meters (M3) were billed to customers at a rate of kshs 125 per cubic meters (M3) which would have translated to revenue amounting to Kshs. 25,967,250. However, the company reported revenue collection from boreholes as Kshs. 5,570,733 thus giving rise to an unexplained difference of kshs. 20,396,517. In addition, this situation is an indication that revenue amounting to Kshs. 20,396, 517 may not have been accounted for during the year under review.

In circumstances, the accuracy and completeness of the revenue amount from boreholes and other income of kshs. 5,570,733 could not be confirmed.

Management Response:

It is true the company recorded a total of 1,157,670 cubic meters (m3) of water during the financial year under review. However, Due to severe drought and covid 19 impact, the consumers could not pay revenue due to the state of their livestock and poor purchasing power. The water schemes were largely depending on fuel subsidies from county government, national

government through NDMA for the daily production. the companies largely depend on revenue earned from livestock which was not realized.

Committee Observation:

The Committee observed that:

- i. The Company failed to provide supporting documents including schedules and the corresponding ledgers with respect to revenue collection from boreholes in its annual reporting contrary to section 9 (e) (1) of the Public Audit Act, 2015.
- ii. Some of the boreholes are community owned and therefore it is difficult to ascertain the exact amount of revenue generated from these boreholes. The Governor however indicated that the county government is in negotiations with the community to take over operations of these boreholes.

Committee Recommendation:

The Committee recommends that:

- i. **The accounting officer to submit to the Auditor-General all the supporting documents including schedules and the corresponding ledgers with respect to revenue collection from boreholes within sixty days of the tabling of this report.**
- ii. **A status report on the negotiations for the county government and Management Company to take over the community boreholes to be submitted to the Senate within sixty days of the adoption of this report and the same shall be submitted to the Auditor-General for verification.**
- iii. **The management and operation of all boreholes should be vested in the water company in order to accurately account for revenue generated and due to the water company.**
- iv. **The accounting officer of the water company should in the undertaking of audits of financial statements provide to the Auditor-General unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents in line with section 9 of the Public Audit Act, 2015.**

5. Unsupported Expenditure

The statement of profit or loss and other comprehensive income for the year ended 30 June, 2021 reflects a balance of Kshs.948,202,296 being total operating expense. However, schedules and ledgers supporting the figure were not provided for audit.

Further, note 12 to the Financial Statements reflects a depreciation charge for the year of kshs 57,041,149 which was not included in the total operating expenses in the statement of profit and loss and other comprehensive income. This implies that the loss before taxation was understated by the same amount of kshs 57,041,149.

Management Response:

Schedules and ledgers supporting the figure of kshs 948,202,296 were submitted to the auditor for review and verification.

Depreciation charge during the year of Kshs. 57,041,149 was erroneously classified as part of note 7 under WSDP Goods which was totaling to kshs 113,350,449 in the Financial Statements. However, Through the advice of the auditor the depreciation charge is now distinctively disclosed on statement of financial performance.

Committee Observation:

The Committee observed that the Company failed to provide supporting documents including schedules and the corresponding ledgers with respect to total operating expense in its annual reporting and therefore was in breach of section 62 of the Public Audit Act.

Committee Recommendation:

The Committee recommends that-

- i. The accounting officer of the water company should in the undertaking of audits of financial statements provide to the Auditor-General unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents in line with Section 9 of the Public Audit Act, 2015.**

- ii. **The accounting officer to submit to the Auditor-General, within sixty days of the tabling of this report, all supporting documents including schedules and the corresponding ledgers with respect to total operating expenses of the company.**
- iii. **The accounting officer to adhere to section 43 (2) of the Public Finance Management (County Government) Regulations, 2015, which provides for the execution of approved budgets based on the annual appropriation legislation and the approved annual cash flow plan with the exception of unforeseen and unavoidable spending dealt with through contingencies fund of supplementary estimates.**

Unsupported Cash and Cheque Withdrawals

The statement of profit or loss and other comprehensive income for the year ended 30 June, 2021 reflects cost of sales balance of Kshs.5,500.155. Included payments amounting to Kshs.3,842,820 made through cash and cheque withdrawals from the Company account number 1030278626125 held at local bank. However, payment documents supporting these payments were not provided for audit.

In the circumstances, the propriety, accuracy and completeness of the payments of Kshs.3,842,820 for the year ended 30 June, 2021 could not be confirmed.

Management Response:

It is true that the amount of Kshs. 5,500.155 was disclosed in the Financial Statements as a cost of sales. The supporting documents relating to Kshs.3,842,820 as cheque and cash withdrawals from bank account for boreholes maintenance is provided for review and verification.

Committee Observation:

The Committee observed that the statement of profit or loss and other comprehensive income for the year ended 30 June, 2021 reflected cost of sales balance of Kshs.5,500.155. Included payments amounting to Kshs.3,842,820 made through cash and cheque withdrawals from the Company account number 1030278626125 held at local bank. However, payment documents supporting these payments were not provided for audit.

Committee recommendations

The Committee recommends that-

- i. **The Accounting Officer to ensure that supporting documents are provided to the Auditor during the audit period as required under section 9(1)(e) Public Audit Act, 2015.**
- ii. **The issue be marked as resolved as the Auditor-General confirmed that the management of company later submitted copies of revenue and payment vouchers, bank statements and other supporting documents.**

Cash and Cash Equivalent

The statement of financial position reflects bank and cash balance of Kshs.110,516 as at 30th June 2021. Further, as disclosed in note 14 to the Financial Statements the company operated seven (7) bank accounts during the year under review. However, bank reconciliation statements for five (5) accounts were not provided for audit. Further, the bank account names and numbers for the accounts were not indicated in the schedule at note 14 to the Financial Statements.

Consequently, the accuracy and completeness of bank and cash balance of Kshs.110,516 could not be confirmed.

Management Response:

Mr. Chairman, it is true that the amount of Kshs. 110,516 disclosed in note 14 of the Financial Statements as a bank and cash balance as at 30th June 2021. However, a detailed summary of the bank account names, numbers and Bank Reconciliation statements were also provided in note 15 of the Financial Statement.

Committee Observation:

The Committee observed that-

- i. The statement of financial position reflected bank and cash balance of Kshs.110,516 as at 30th June 2021 and the company operated seven (7) bank accounts during the year under review.

- ii. Bank reconciliation statements for five (5) accounts were not provided for audit and the bank account names and numbers for the accounts were not indicated in the schedule at note 14 to the Financial Statements.

Committee recommendations

The Committee recommends that-

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

6. Material Uncertainty Relating to Going Concern

The statement of profit or loss and other comprehensive income for the year ended 30 June, 2021 reflects a deficit of Kshs.413,268,608 thereby decreasing the revenue reserves balance by Kshs.413,268,608. Further, the current liabilities of Kshs.596,039,088 exceed the current assets of Kshs.2,793,516 resulting to a negative working capital of Kshs.410,475,092. The Company is therefore unable to meet its financial obligations as and when they fall due.

In the circumstances, the Company is technically insolvent and its continued operations as a going concern can only depend on the support from the County Government of Wajir and grants from development partners. The material uncertainty relating to going concern and the measures put in place to improve the Company's financial performance have not been disclosed in the Financial Statements.

Management Response:

Mr. Chairman, it is true that the company was not performing well, the County has noted and has then started the process of restructuring the company. Specific measures include:

- i. Disbanded the previous board and position of new members advertised,
- ii. The company engaged consultant to turn around the operation of the company. ToR of firm includes
 - Reduced non-revenue water

- Develop HR manual & staff establishment
 - Credit policy
 - Staff trainings
- iii. Reduced the Human Resource expenditure to sustainable level,
- iv. The company has acquired new plants and equipment to enhance revenue,

Committee Observations:

The Committee observed that:

- i. The statement of profit or loss and other comprehensive income for the year ended 30 June, 2021 reflected a deficit of Kshs.413,268,608 thereby decreasing the revenue reserves balance by Kshs.413,268,608. Further, the current liabilities of Kshs.596,039,088 exceed the current assets of Kshs.2,793,516 resulting to a negative working capital of Kshs.410,475,092. This was an indication of the company being unable to meet its financial obligation as its current liabilities exceed its current assets.
- ii. The Company could only depend on the support from the County Government of Wajir and grants from development partners.

Committee Recommendation:

The Committee recommends that:

- i. ~~The Governor, through the County Executive Committee member for water, takes keen interest in the management of the Company and take responsibility for monitoring the financial performance of the county corporation in line with Section 184 of the Public Finance Management Act, 2012.~~
- ii. The County Executive Committee member for water to formulate a county water and Sewerage Services Strategy in line with regulation 5 of the Water Services Regulations, 2021 which shall include enhancing the profitability of the company.
- iii. The County Treasury undertakes annual reporting on County Corporation including an assessment of the commercial viability of the company in line with

the standards set by the Water Services Regulatory Board under section 77(2) of the Water Act, 2016.

- iv. The Governor finalizes the re-constitution of the Board of Directors within thirty days of the adoption of this report.
- v. The Governor submit to the Committee, within sixty days of the adoption of this report, the human resource audit report and indicate measures taken to ensure that the water company has a lean and efficient staff.
- vi. The management of the water company undertakes asset mapping of all assets and liabilities of the water company and submits an updated asset register for verification to the Auditor-General within sixty days of the adoption of this report in line with Section 164(2)(d) of the Public Finance Management Act, 2015 and Regulation 136 of the Public Finance Management (County Governments) Regulations, 2015.
- vii. The Wajir County Executive County Government submits within sixty days of the tabling of this report to the Auditor-General for verification information on-
 - (a) Grants, including the amounts, received by the county in the water sector;
 - (b) the donor partners involved; and
 - (c) the projects undertaken using the said grants and the amounts involved in each.
- viii. The Wajir County Executive in collaboration with the Wajir County Assembly to finalize the enactment of county legislation to support the operations of Wajir Water and Sewerage Company Limited.
- ix. The Office of the Auditor-General to undertake a special audit on the operations of the water company and submit a report to the Committee within ninety days of the tabling of this report.
- x. The Office of the Auditor-General and the Parliamentary Budget Office prepares a fiduciary risk analysis report, detailing areas of financial loss and possible recommendations for consideration by the Senate for further action.

7. Late Submissions of Financial Statements

The Financial Statements for the year ended 30 June, 2021 were submitted to the Auditor-General on 16 December, 2021 two and half months after the deadline of 30 June, 2021. This was in contravention of Section 116 (7) of the Public Finance Management Act, 2012 which requires Financial Statements to be submitted to the Auditor-General within three months after the end of each Financial Year. Consequently, the Company was in breach of law.

Management Response:

The late submission of the Financial Statement was due to prolonged litigation between the company and the managing director that paralyzed the operations of the company.

Committee Observation:

The Committee observed that the Company failed to submit its financial statements to the Auditor-General within three months after the end of each Financial Year in contravention of the provisions of section 116(7) of the Public Finance Management Act and therefore the provisions of section 62 of the Public Audit Act and section 196 of the Public Finance Management Act would apply.

Committee Recommendation:

The Committee recommends that:

- i. The management company submit all its financial statements for the financial years ending 30th June, 2016, 2017, 2018 and 2019, to the Auditor-General within sixty days of the tabling of this report.
- ii. The management of the water company ensures strict adherence to the provisions of Section 164 of the Public Finance Management Act, 2015 with respect to timely submission of financial statements to the Auditor-General.
- iii. The management of the water company should note the penalty provisions arising from section 196 of the Public Finance Management Act, 2015 and section 62(1) of the Public Audit Act, 2015 with respect to failure to submit financial statements to the Auditor-General.

8. Operation without an Approved Budget

The Management did not prepare estimates of income and expenditure and submit the same to the respective County Executive Committee Members as required. Further the Financial Statements did not include a statement of comparison of budget and actual amounts as required in the financial reporting Template (Revised June 2021). As prescribed by the public sector accounting board. The Firm is therefore in breach of Section 149(2)(j) of the Public Finance Management Act, 2012 by operating without an approved budget.

Management Response:

Due to the infancy of the company it could not generate its own revenue and was fully relying on the county funds for its operation. As result, all income and expenditure of the Company was reported as part of the County's consolidated Financial Statement. The budgeting process of the company was done like any other department in the county through County Integrated Development Plan which was approved by the County Assembly of Wajir.

Committee Observation:

The Committee observed that:

- i. The Company failed to prepare estimates of income and expenditure and submit the same to the respective County Executive Committee Members contrary to the provisions of the Public Finance Management Act, 2012 and the Public Audit Act, 2015.
- ii. The Company further failed to include a statement of comparison of budget and actual amounts as required in the financial reporting Template (Revised June 2021).

Committee Recommendation:

The Committee recommends that the management of the water company prepare and submit to the Board of the company for approval the budget of the water company in any given financial year.

9. Non-Revenue Water

During the year under review, the company produced a total of 1,157,670 cubic meters (m³) of water. However, 207,738 (m³) were billed to customers, resulting to Non-Revenue Water (NRW) of 949,932 cubic meters or 82%. Which deferred with allowable NRW rate as prescribed by the Water Service Regulatory Board (WASREB) guidelines is 25% thereby resulting to 57% NRW over and above the allowable rate. Therefore, the unallowable 57% or 659,872 cubic meters of water may have resulted to the Non-Revenue Water (NRW) loss of water sales estimated at Kshs.82,483,988 at a rate of Kshs.125 per cubic meter.

This significant level of NRW may negatively impact on the Company's profitability and is a risk to sustainability of its operations.

Management Response:

It is true the company recorded a total of 1,157,670 cubic meters (m³) of water during the financial year under review. However, Due to severe drought and covid 19 impact, the consumers could not pay revenue due to the state of their livestock and poor purchasing power. The water schemes were largely depending on fuel subsidies from county government, national government through NDMA for the daily production. the companies largely depend on revenue earned from livestock which was not realized.

Committee Observation:

The Committee observed that:

- i. The Company has a Non-Revenue Water (NRW) of 82% which is 57% over and above the NRW rate as prescribed by the Water Service Regulatory Board (WASREB) guidelines of 25%.
- ii. The Company's significant level of NRW may negatively impact on the Company's profitability and is a risk to sustainability of its operations.

Committee Recommendation:

The Committee recommends that:

- i. **The water company puts in place comprehensive measures to mitigate the Non-Revenue Water. These measures include the installation of smart meters to ensure accurate billing, the replacement of the old water supply network as well as the**

introduction of a Geographic Information System (GIS) which will help the company receive real-time data on leaks in pipes and monitor maintenance.

- ii. The Governor collaborates with EACC to ensure that pre-emptive measures are put into place to reduce the cases of theft and illegal connections and to prevent the diversion of monies collected and not remitted to the water company.
- iii. The Auditor-General reviews the implementation of the measures put in place by the management to mitigate the matter and provide a report on this matter in the subsequent audit cycle.
- iv. The management of the water to ensure that the NRW rate should be brought down to about 50% within one year of the tabling of this report and for the Auditor-General to report on compliance with this recommendation in the next budget cycle.

10. Administration Costs

10.1 Staff Recruitment and Management of Human Resources

The Review of the human resource records of the Company revealed that the management has engaged five hundred and twenty-one (521) employees in various positions over the years. However, review of the recruitment process of the company revealed the following anomalies:

- i. There was no approved staff establishment, hence It was therefore not possible to confirm the optimal staff level for the various position to which staff were recruited;
- ii. Appointments were done without following the due recruitment process in public service. There was no evidence to confirm that all the positions were competitively filled. Key recruitment documents such as vacancy advertisements, application letters, department requisitions, shortlisting minutes and interview score sheets were not provided for audit verification; and
- iii. The Company did not have a scheme of service and salaries paid to officers appointed were not based on any approved salary structure. This was contrary to article 232 (1) (i) of the constitution of Kenya which state that the value and principal of public services include – affording adequate and equal opportunity for appointment training and advancement, at all

level of public services and section 76 of the Employment Act 2007 which provides the process of notification of vacancies of any organisation.

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

Management Response:

- i. There was no approved staff establishment during the year under review. However, the county has engaged a consultancy firm to turn around the company in order to realized its objective.
- ii. It is true that some staff were added in to the payroll without following due recruitment process. However, the county has engaged HR consultant to correct the mess.
- iii. It is true the company had no approved scheme of service. However, the county has engaged a consultant to develop a Human Resource manual including scheme of services which is at draft stage. The late submission of the financial statement was due to prolonged litigation between the company and the managing director that paralyzed the operations of the company.

Committee observation

The Committee observes that the water company does not have an approved scheme of service or staff establishment.

Committee recommendation

The Committee recommends that-

- i. **The Governor submit to the Committee, within sixty days of the adoption of this report, the human resource audit report and indicate measures taken to ensure that the water company has a lean and efficient staff.**
- ii. **The management company develop and submit to the Board for approval a staff establishment and scheme of service within sixty days of the adoption of this report.**

10.2 Engagement of Employees on Interim Basis

Review of the June 2021 payroll, revealed that Company had 94 employees serving on interim positions which do not exist in public service. Further review of their appointments revealed the following anomalies:

- i. There was no evidence to confirm that the positions were competitively filled by the Board as required.
- ii. Salaries paid to officers appointed on interim positions were not based on any approved salary structure.
- iii. The interim officers were to serve for a period of six months and thereafter be confirmed on permanent and pensionable terms based on their performance. However, there was no evidence that the Company conducted staff performance appraisal after expiry of six months and the 94 staff were still serving on interim basis.

In view of the above findings, the engagement of officers on interim positions was irregular.

Management Response:

- i. It is true that some staff were engaged on interim and not competitively recruited. However, the county has engaged HR consultancy firm to correct the mess.
- ii. It is true that some staff were added in to the payroll without following due recruitment process. In future, all position will be completely filled.
- iii. It is true the company had never conducted staff performance appraisal. In future annual staff performance appraisal will be conducted.

Committee Observation:

The Committee observed that-

- i. The Company has no approved staff establishment and therefore is unable to confirm the optimal staff level for the various position to which staff were recruited.
- ii. The Company issued appointments without following the prescribed public service recruitment processes i.e. key recruitment documents such as vacancy advertisements, application letters, department requisitions, shortlisting minutes and interview score sheets were not provided.

- iii. The Company did not have a scheme of service and salaries paid to officers appointed were not based on any approved salary structure.
- iv. The Company was in contravention of Article 232(1)(i) of the Constitution of Kenya which states the values and principles of public services including affording adequate and equal opportunity for appointment training and advancement, at all level of public services.

Committee Recommendation:

The Committee recommends that:

- i. **The Governor submits to the Committee, within sixty days, the human resource audit report and indicate measures taken to ensure that the water company has a lean and efficient staff.**
- ii. **The management of the water company to ensure that its staffing and recruitment is in line with the provisions of Article 232(1) of the Constitution of Kenya which states the values and principles of public service.**
- iii. **The management of the water company demonstrates and ensures compliance with respect to fair competition and merit as the basis of appointments and promotions in line with Section 10 of the Public Service (Values and Principles) Act, 2015.**
- iv. **The management of the water company implements the provisions of Section 10 (2) of the Public Service (Values and Principles) Act, 2015 with respect to exemptions applicable in appointments or promotions for; communities not adequately represented, balance of gender, ethnic group disproportionately represented as well as persons with disabilities not adequately represented.**
- v. **The management of the water company ensures compliance with regulation 11 of the Water Services Regulations, 2021 that requires recruited staff are employed on terms and conditions of employment approved by its board of directors, which terms and conditions shall comply with the water sector benchmark on personnel remuneration as set by the Regulatory Board, in line with the guidelines issued by the Salaries and Remuneration Commission.**

11. Non-Compliance with law on Ethnic Composition

The Review of the list of the list of employees revealed that the company had a total number of five hundred and twenty-one (521) employees as at 30 June, 2021. Analysis of the employee's data revealed that 518 employees or 99% were from the same or dominant ethnic community while the remaining 3 or 1% were from other ethnic communities. This is contrary to section 7(1) and (2) of National Cohesion and Integration Act, 2008 which state that all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one-third of its establishment from the same ethnic community.

In the circumstance the company was in breach of law.

Management Response:

The management of the company has engaged a human resource consultant to address recruitment gaps to identify and recommend possible solutions for all the anomalies.

Committee Observation:

The Committee observed that the Company employee's data revealed that 99% its employees were from the same or dominant ethnic community while the remaining 1% were from other ethnic communities, contrary to Section 7(1) and (2) of National Cohesion and Integration Act, 2008.

Committee Recommendation:

The Committee recommends that:

- i. ~~The Governor submit to the Committee the findings of the Human Resources~~ consultant contracted to address recruitment challenges and the recommendations proposed.
- ii. The management ensures that its staffing and recruitment is in line with the provisions of Article 232 (1) of the Constitution of Kenya which states the values and principles of public service.

- iii. The management demonstrates and ensures compliance with respect to fair competition and merit as the basis of appointments and promotions in line with Section 10 of the Public Service (Values and Principles) Act, 2015.
- iv. The management implements the provisions of section 10 (2) of the Public Service (Values and Principles) Act, 2015 with respect to exemptions applicable in appointments or promotions for; communities not adequately represented, balance of gender, ethnic group disproportionately represented as well as persons with disabilities not adequately represented.
- v. The management demonstrates and ensures progressive compliance with section 7(1) and (2) of National Cohesion and Integration Act, 2008.

12. Non-Compliance with Service Level Agreement on Personnel Cost

Review of the Company payroll revealed that the total personnel cost for the year under review was Kshs.234,061,976 against total water revenue of Kshs.5,570,733 for the same period. This implies that personnel cost as a percentage of water revenue was 4202%.

Consequently, the company exceeded the limit of 40% set by Water Services Regulatory Board which may compromise the sustainability of the Company.

Management Response:

Mr. Chairman, its true the company was over staffed during the year under review with a total annual wage bill of kshs 234,061,976 which was unsustainable. However, as a result, the management had engaged a consultant to analysis the recruitment process and advice on the optimal number required.

Committee Observation:

The Committee observed that the Company's total personnel cost against total water revenue exceeded the limit of 40% ceiling set by Water Services Regulatory Board.

Committee Recommendation:

The Committee recommends that:

- i. **The Governor submits to the Committee within sixty days from the adoption of the report the human resource audit report and indicate measures taken to ensure that the water company has a lean and efficient staff.**
- ii. **The management reviews the Service Level Agreement to ensure that there is adherence to the fiscal responsibility principles as stipulated under Article 201 of the Constitution of Kenya.**
- iii. **The management submit to the Senate, within sixty days, the report and recommendations issued by the consultant with respect to the analysis of the recruitment process.**

13. Irregular Payment of Salaries to Doubtful Employees

The statement of profit and loss and other comprehensive income for the year ended 30 June, 2021 reflects payroll expenditure of Kshs.234,061,976. Analysis of the company monthly payrolls revealed that the staff payroll compliment had five hundred and twenty-one (521) employees as 30 June, 2021. However, noted that the net salaries for the employees and salary deductions were paid by the Wajir County Executive. Details of the Company employees, their designations, stations of deployment and their roles and responsibilities requested during the audit were not provided for audit verification. Except for a few employees stationed at the company headquarters, it was not possible to establish the existence of the large workforce of employees and the nature of duties they were employed to perform.

In the circumstance the existence of the company employees, to whom personnel emolument of Kenya shillings 234, 061,976 were paid during the year could not be confirmed.

Management Response:

Mr. Chairman, it is true that the company had five hundred and twenty-one (521) employees as 30 June, 2021 against a total wage bill Kenya shilling 234, 061,976. Details of the Company employees, their designations, stations of deployment and their roles and responsibilities were provided for audit verification.

Committee Observation:

The Committee observed that:

- i. The Company's staff payroll compliment had five hundred and twenty-one (521) employees as 30 June, 2021.
- ii. The Company's net salaries for its employees and salary deductions were paid by the Wajir County Executive.

Committee Recommendation:

The Committee recommends that:

- i. The Governor submits to the Committee within sixty days the human resource audit report and indicate measures taken to ensure that the water company has a lean and efficient staff.
- ii. The Governor ensures strict compliance with the restrictions on the county government investing in county government-linked corporations as provided in Section 183 of the Public Finance Management Act, 2012.

14. Lack of Appointment Letters for Board of Directors

Review of the personal files for the nine (9) Board members of the company revealed that their files did not contain their appointment letters. Therefore, it was not possible to confirm the appointment of the company board members and their terms of services to the company. In the circumstance it was not possible to confirm the regularities of the board committees, conference, seminar expenses amounting to 8,000,000 for the year ended 30th June 2021.

Management Response:

Based on the audit report and non-compliances, the board of directors has been disbanded. The vacant positions have been advertised and applicants shortlisted for interview.

Committee observations

The Committee observed that the files of the nine Board members did not contain their appointment letter and therefor it was not possible to ascertain their terms of service. In the circumstances it was not possible to ascertain or verify compliance with the law of any expenses related to the functions of the Board.

Committee recommendations

The Committee recommends that-

- i. The Governor reconstitutes the Board within thirty days of the adoption of the report; and**
- ii. The management of the company and the county government submit to the Auditor-General, within sixty days of the adoption of this report, documentation relating to the appointment, terms of service, benefits and allowances associated with the functions of the Board in place from financial year 2016 to financial year ending 30th June, 2021.**

15. Irregularities in Appointment of Board of Directors

Review of the personal files of the nine (9) Board Members revealed that none of them had any qualification in the field of finance or accounting contrary to requirements under the Mwongozo code of governance for state corporations. Further, only one board member met the minimum requirement for appointment as a board member as required by corporate governance guideline for the water services sector, 2018.

The board of directors was not properly constituted in accordance with the guideline. In the circumstances, management of the board was in breach of law.

Management Response:

Going forward proper recruitment process will be done.

Committee Observation:

The Committee observed that the company failed to comply with the Water Services Regulations, 2021 on the composition of board members.

Committee Recommendations

The Committee recommends that:

- i. The Governor reconstitutes the Board within thirty days of the adoption of the report; and**
- ii. The management of the company and the county government submit to the Auditor-General, within sixty days of the adoption of this report, documentation**

relating to the appointment, terms of service, benefits and allowances associated with the functions of the Board in place from financial year 2016 to financial year ending 30th June, 2021.

16. Anomalies in procurement of Water Related Contracts.

The statement of profit and loss and other comprehensive income and other comprehensive income reflects expenditure on water projects on Ksh. 163,742,529/= relating to project funded by the World Bank. However, review of the project files and other tender documents revealed that projects worth Ksh. 162,214,524 has the following anomalies:

- a) An amount of Ks. 35,375,000 was paid to supplier for delivery and installation of twenty generators (15 No 30KV and 5No. 21KV). However, review of tendering process revealed that the bid documents were opened on 4th March 2019 and evaluated on 6th August 2020 (seventeen months after opening). Consequently, the documents were evaluated after expiry of tender validity period of one hundred and twenty days as specified in the tender documents and contrary to the provision of sections 87(1) and 135(3) of the Public Procurement and Asset Disposal Act.
- b) Notification letters of regret for contracts worth ksh. 160,938,922 were not sent to unsuccessful bidder's contrary to section 87(3) and 126(4) of Public Procurement and Asset Disposal Act ,2015.
- c) Supplies with a total cost of ksh. 52,662,136 were neither received in the stores vide counter receipt voucher (S13) nor were they issued out vide counter issue vouchers (S11).
- d) Fuel worth ksh. 2,509,200 was not recorded in the fuel registers. Further, work tickets and detailed orders supporting utilization of the fuel were not provided for audit.
- e) Consultancy services worth ksh. 96,258,653 were awarded to three (3) consultancy firms to perform three (3) different consultancy services which included fecal slug management, hygiene framework and community led total solution. However, the payment vouchers project files and other accompanying tender document for the consultancy, in respect of hygiene frame work worth

kshs 19,267,600 were not provided for audit in addition although some reports were submitted, there were no minutes approving the reports for adaption, further the progress report on implementation for recommendations from the consultancy report was not provided for audit,

- f) Management did not maintain a list of prequalified suppliers and contractors. It was not clear how suppliers who were awarded the tenders through quotations, were identified.
- g) Physical inspection carried out on 7th March, 2022 revealed that the trailer, consumer meters and two exhauster vehicles and multipurpose trucks all worth Ksh. 56,620,000 delivered one and half year prior had not been put into use. It was therefore not clear whether there was need for the acquisition of the equipment without proper planning and assessment. In addition, ownership documents for the trailer, exhausters vehicles, trucks and pick-ups procured during the year under review were not provided for the audit review.

In the circumstances it was not possible to confirm whether the company obtained value for money spent on the World Bank funded projects.

Management Response:

- i. The initial bid validity period was for 120 days up to 1st June, 2019 and the expiry of the bid security was twenty-eight (28) days thereafter. WAJWASCO has requested the bidders to extend the bid validity and security up to 30th June 2020. Further, extension request has been sent after expiry of the bid validity on 30th June, 2020 to the bidders. The bidders have extended the validity period to 29th August, 2020.
- ii. At the time of the evaluation, award and signing of the contract for the supply and delivery of Gensets the bid validity was valid. This has been done through request for extension to the World Bank and the bidders. The request for extensions and responses from the bidders are attached below. The extensions were done twice.

- iii. The unsuccessful bidders were contacted as stipulated in line with section 87(3) and 126 (4) of Public Procurement and Asset Disposal Act, 2015. Regret letters were issued accordingly and submitted for audit review and verifications.
- iv. The expenditure amounting Ksh. 52,662,136 was used to purchase 20 No. Gen-sets (15no. 30 Kva and 5no 21 Kva), Master meters, prepaid meters, Lubricate accessories, ICT equipment, stationeries and radio communication equipment. The goods were received and taken on charge in the store ledger and issued to various recipients.
- v. Fuel registers, work tickets and detailed orders supporting utilization of the fuel were provided for audit review and verification.
- vi. The project file for the hygiene frame work consultancy has been submitted for audit review. The project's inception report for the development of sanitation and hygiene framework was approved by the project coordination unit.
- vii. The Company uses a list of prequalified suppliers and contractors provided by the County Executive and the same was submitted to the auditors for review.
- viii. The vehicles were to improve sanitation in Wajir Town by transporting fecal sludge from households to county solid waste disposal site (dump site). In the initial financing agreement, the dump site was to be developed to a modern waste treatment plant. This was not possible due to an on-going court case. As a result of the current condition of the site, the Bank issued an advisory restricting disposing waste until the site is developed. The log books confirming the ownership of the motor vehicles are hereby submitted to the auditor for review and verification.

Committee Observation:

The Committee observed that-

- i. The company used the county executive pre-qualified list of suppliers;
- ii. Payment vouchers project files and other accompanying tender document for the consultancy in respect of hygiene frame work availed to the auditor. The issue is therefore satisfactorily addressed.

- iii. The Company however failed to comply with the provisions of the Public Procurement and Asset Disposal Act, 2015 relating to the timelines for the opening and evaluation of tender documents.

Committee Recommendation:

The Committee recommends that the management of the water company ensures strict compliance with the provisions of the Public Procurement and Asset Disposal Act, 2015.

17. Anomalies in Procurement of Construction of Water Projects

The statement of profit or loss and other comprehensive income reflects expenditure on water projects of Ksh. 40, 278,911 relating to construction of water works and sewerage funded by the Water Services Trust Fund. However, review of project files and other tender documents revealed the following anomalies: -

- (i) contract agreements for contracts worth Ksh. 32,051,598 were signed between the accounting officer and contractor before lapse of the mandatory fourteen (14) days from the date of tender award notifications. This was contrary to section 135(3) of the Public Procurement and Asset Disposal Act, 2015.
- (ii) notification letters of regret for contractors worth 38,749, 128 were not sent to unsuccessful bidders' contrary to section 87(3) and 126(4) of the Public Procurement and Asset Disposal Act, 2015.
- (iii) payment worth Ksh. 38,749, 128 were not supported by certificate of practical completion.
- (iv) prior to award of the tender, there was no evidence to show that the company conducted due diligence and presented the report in writing to confirm and verify the qualifications of the tenders who submitted the lowest evaluated responsive tender to be awarded the contract, contrary section 83(1) of the Public Procurement and Asset Disposal Act, 2015.
- (v) Minutes and recommendations from the public participation that identified key priorities areas for construction for water works were not provided for audit.

In the circumstances, it was not possible to confirm whether the projects funded by the Water Services and Trust Fund were procured in compliance with Public Procurement and Asset Disposal Act, 2015.

Management Response:

- (i) The signed contract agreement by accounting officer within the mandatory period and notification of award as required by section 35(3) of the public procurement and assets disposal act, 2015 were availed for audit review and verification
- (ii) The notification of regret to unsuccessful bidders are availed for audit review and verification.
- (iii) The certificates for practical completion are filled separate from payment files. The certificates for practical completion for the four Projects have been submitted for audit review and verification.
- (iv) The evidence of proposal for funding was submitted to the auditor for audit.

Committee Observation:

The Committee observed that-

- i. the letters of notification of regret had been availed to the auditor for review and this matter had been resolved. The Committee however notes that the documents were not submitted within the time lines contemplated under the Public Finance Management Act and the Public Audit Act. As such the provisions of section 62 of the Public Audit Act should apply; and
- ii. the company had not availed documents relating to public participation in identifying key projects and conduct of due diligence.

Committee Recommendation:

The Committee recommends that-

- i. **The management company submit to the Auditor-General, within sixty days of the adoption of this report, documents related to public participation in identifying the development projects; and**

- ii. **the management of the water company ensures strict compliance with the provisions of the Public Procurement and Asset Disposal Act, 2015.**

18. Service Provision Agreement, Outdated Memorandum and Articles of Association

Review of the Company statutory compliance and registration documents revealed that the Company and Northern Water Service Board signed a five-year service provision agreement on 30 September, 2014 which expired on 29 September, 2019. However, review of the documents and discussion with the Company Secretary revealed that renewal was not done after expiry of service provision agreement thus the company has been providing water services without authorization.

Further, the company had not revised its memorandum and Articles of Association in line with the revised Water Act, 2016 and Water Regulations, 2016.

Under circumstances, the Company's governance process, accountability process, internal control system and legality of its operations could not be confirmed.

Management Response:

The company's articles and memorandum of association has been revised in accordance with the Water Act, 2016. Service provision agreement provided for audit review.

Committee Observation:

The Committee observed that the Water Service Agreement had been reviewed by the management company and submitted to WASREB for approval. Further, the company had amended its Articles and Memorandum of Association.

Committee Recommendation:

The Committee recommends that WASREB approve within thirty days of the tabling of this report the water service agreement within the provisions of the Water Act and the relevant regulations.

16. Weaknesses in Information Technology Internal Controls

During the year under review, the water company management did not have in place the following controls in regard to Information Technology (IT):

- i). The Company did not have an IT strategy committee and IT steering committee. This may result to inadequacy in IT governance, which forms a critical part of the Company's governance structure.
- ii). Lack of policies in place which cover physical access to IT environments. This could result in loss of information assets due to damages or theft.
- iii). The Company did not have disaster management and recovery policies in place including fire suppression systems.
- iv). The Company did not have business continuity plan and the IT continuity plan including an off-site back-up plan.

Consequently, it was not possible to confirm existence of adequate and effective Information Technology internal controls.

Management response

- i). Mr. Chairman, to comply with ICT Policy requirements, the management has constituted IT strategy committee.
- ii). Mr. Chairman, the management engaged consultant and draft ICT policy is in place.
- iii). Mr. Chairman, the ICT Policy contains a section on business continuity plan (section 12.0) that contains disaster management and recovery policies that will guide on how to respond to unplanned incidents and disruptions.
- iv). Mr. Chairman, it is true the did not have disaster recovery plan.

Committee Observation:

The Committee observed that:

- i. The Company has not implemented an ICT Policy.
- ii. The Company has not established an IT Strategy committee and an IT Steering committee

Committee Recommendation:

The Committee recommends that:

- i. **The management of the water company implements an ICT Policy within sixty days of the adoption of this report; and**
- ii. **The management of the water company appoints both an IT Strategy committee and an IT Steering committee within sixty days of the adoption of this report.**

17. Lack of Staff Establishment and Scheme of Service

Audit review of personnel records indicated that the Company had five hundred and twenty-one (521) employees. However, Management did not provide an approved establishment and scheme of service for audit review. In the absence of the two documents, it was not possible to confirm the existence of internal controls on staff recruitment and promotions in the Company.

Management response:

There was no approved staff establishment during the year under review. However, the county has engaged a consultancy firm to develop Human resource manual. The manual is at draft stage.

Committee Observation:

The Committee observed that the company does not have an approved establishment and scheme of service.

Committee Recommendation:

The Committee recommends that the management of the water company to approve, adopt and implement a Human Resources Management Manual providing for establishment as well as scheme of service within sixty days of the adoption of the report.

18. Maintenance of Payroll in Excel Worksheets

According to payroll data provided for audit verification, it was noted that the Company had a total workforce of five hundred and twenty-one (521) employees as at 30 June, 2021. It was however noted that staff payrolls were prepared and maintained in Ms Excel Worksheets. It was further noted that back-up measures were not put in place to mitigate against possible risks.

Consequently, the security and integrity of payroll data was not guaranteed in case of damage or loss of computers where the data is stored.

Management response

The company has started the process of acquiring a payroll system.

Committee Observation:

The Committee observed that the company does not have a payroll system.

Committee Recommendation:

The Committee recommends that the management of the water company procures a payroll system with offsite back up to prevent loss of payroll data within sixty days of the adoption of this report.

19. Weaknesses in Payroll Management

Review of the Company payroll processes revealed that there was no evidence that the payroll data was verified on a monthly basis and authorized by senior official. It was further noted that although the payrolls were prepared by the Company payment of net salaries and statutory deductions was made by County Executive of Wajir. In view of the above findings, it is not possible to rule out fraudulent transactions in the Company payroll.

Management Response:

The company has started the process of acquiring a payroll system.

Committee Observation:

The Committee observed that:

- i. The Company provided no evidence that the payroll data was verified on a monthly basis and authorized by a senior official.
- ii. The Company's payment of net salaries and statutory deductions was made by County Executive of Wajir.

Committee Recommendation:

The Committee recommends that:

- i. The management of the water company procures a payroll system with offsite back up to prevent loss of payroll data within sixty days of the tabling of this report.
- ii. The Governor collaborates with EACC to investigate possible fraudulent transactions in the Company's payroll.
- iii. Remuneration of employees to be charged as an expense of the company.
- iv. The Auditor-General carry out an audit of all employees paid compared to previous data and to report on any duplicate payments within the next audit cycle.

20. Lack of Debt Management and Bad Debt Policies

The statement of financial position as at 30 June 2021 reflects trade and other receivables balance of Kshs.2,683,000. It was however noted that Company did not have a debt management policy and policy on provision for bad and doubtful. Further, aging analysis was not prepared to facilitate effective monitoring and collection of debts. As a result, the recoverability of the full amount of receivables balance of Kshs.2,683,000 could not be confirmed.

Management responses

The Company engaged consultant for the development of policy manuals. The draft policy includes Commercial policies and procedures.

Committee Observation:

The Committee observed that:

- i. The Company did not have a debt management policy and policy on provision for bad and doubtful debts
- ii. The Company did not perform an aging analysis to facilitate effective monitoring and collection of debts.

Committee Recommendation:

The Committee recommends that:

- i. The management should perform an aging analysis on the long outstanding receivables.
- ii. The management of the water company should revise the company's provision for bad debts to ensure that it is adequate.
- iii. The management of the water company should engage a debt collection agency to accelerate the recovery of the long outstanding trade receivables.
- iv. Adherence to the best accounting standards and best practice on debt management and the provisions of the Accountants Act.

21. Internal Control Weaknesses in Management of Property, Plant and Equipment

The Statement of financial position as at 30 June, 2021 reflects property plant and equipment balance of Kshs.230,366,064 as at 30 June 2021. The following observations were however made in regard to management of non-current assets:

- (i) The Company did not maintain a fixed asset register to record among other details the nature, dates of acquisition, cost, unique identification number, current value, current location/user, accumulated depreciation and net book value of the assets owned by the Company.
- (ii) The Company has not carried out revaluation of its assets since inception.
- (iii) The Company does not have an approved assets depreciation policy hence the basis of the method of depreciation and rates used could not be confirmed.

In the circumstances, it was not possible to confirm how the balances for property plant and equipment reflected in the Financial Statements were arrived at.

Management Responses:

The Company maintains nominal list of fixed assets which was submitted to the auditor for review. The Company engaged a consultant and has since developed a draft fixed assets management manual and fixed assets register template.

The management intends to carry out revaluation of the Company assets after compiling the fixed assets in the developed template.

The proposed fixed assets management manual is in draft form and provides for the depreciation rates.

Committee Observation:

The Committee observed that:

- i. The Company did not maintain a fixed asset register to record certain details including the nature, dates of acquisition, cost, unique identification number, current value, current location/user, accumulated depreciation and net book value of the assets owned by the Company.
- ii. The Company has not carried out revaluation of its assets since inception.
- iii. The Company lacks an approved assets depreciation policy

Committee Recommendation:

The Committee recommends that:

- i. The management of the water company should provide an updated fixed asset register under the format prescribed by the Public Sector Accounting Standards Board (PSASB) to the Auditor-General within ninety days of the adoption of this report for verification and review in the next audit cycle.
- ii. The company should ensure that all assets are tagged.
- iii. The Office of the Auditor-General to undertake physical verification of all assets of the water company and report back to the Committee within 60 days from the adoption of this report.
- iv. The Governor should engage The Intergovernmental Relations Technical Committee (IGRTC) to ensure that the process of transfer of all assets, inclusive of the supporting documents from Tana Water Works Development Agency, is completed in a timely manner.

22. Weaknesses in the Revenue Collection System

The statement of profit or loss and other comprehensive income for the year ended 30 June, 2021 reflects revenue collection from boreholes of Kshs. 5,570,733. Review of the revenue

collection system in place revealed that revenue officers do the revenue collection manually. The revenue collectors then deposit the collection from customers to the revenue bank account using M-Pesa Pay-bill platform. However, revenue deposited to the bank account was net of operational costs for fuel and transportation incurred by the revenue collectors.

The operational costs for fuel and transportation were however not subjected to verification, approvals and authorization by senior officials and were not supported by any documentary evidence.

In the circumstance, it is evident that there are no internal controls in the revenue collection system and the Company funds is prone to misappropriation.

Management Responses:

Mr. Chairman, it is true that the company recorded a total of 1,157,670 cubic meters (m3) of water. However, the amount collected was not net of operational costs for fuel and transportation. The water supply systems used solar energy and diesel for production. The company get support for fuel subsidy during the dry spell. No revenue spent at source that was unsupported.

Committee Observation:

The Committee observed that:

- i. The Company's revenue officers conduct revenue collection manually.
- ii. The Company's operational costs for fuel and transportation incurred by the revenue collectors were not subjected to verification, approvals and authorization by senior officials and not supported by any documentary evidence.

Committee Recommendation:

The committee recommends that:

- i. **The Governor ensures that the designation of receivers of revenue in the Company are in line with Section 157 & 158 of the Public Finance Management Act, 2012 as**

well as the Regulation 62 of the Public Finance Management (County Governments) Regulations, 2015.

- ii. The management ensures strict compliance with Regulation 62 of the Public Finance Management (County Governments) Regulations, 2015 concerning responsibility for revenue management.
- iii. The management reviews its revenue collection system to prevent misappropriation.

23. Lack of Risk Management System

An interview with the key staff revealed that the Company does not have a risk management policy. It was further noted that management did not carry out risk assessment during the year under review. As such the entity could not be able to identify, assess and control threats that may affect achievement of its objectives.

Management Response:

Mr. Chairman, the Company engaged a consultant to develop a risk management policy, which was submitted to the Board of Directors for review and approval. Currently the management conducted risk assessment to identify, assess and control threats that may affect achievement of the company.

Committee Observation:

The Committee observed that:

- i. The Company's lacks a risk management policy.
- ii. The Company's failed to carry out risk assessment for the period under review.

Committee Recommendation:

The committee recommends that:

- i. The management of the water company approves and implements a risk management policy.

- ii. **The management of the water company carries out periodic risk assessments for the Company.**

24. Failure to Establish Audit Committee

The Company did not establish an Audit Committee as required by Section 155(5) of the Public Finance Management Act, 2012 to support the accounting officers with regard to their responsibilities for issues of risk control, governance and associated assurance.

In the circumstances, the audit team was unable to confirm existence of effective overall governance measures at the Company.

Management Response:

Mr. Chairman, the County Executive has established a County Audit Committee that serves the Executive and its entities.

Committee Observation:

The Company did not establish an Audit Committee as required by Section 155(5) of the Public Finance Management Act, 2012.

Committee recommendations

The Committee recommends that the query be marked as resolved as the Auditor-General confirmed there was an Audit Committee in place.

- ii. **The management of the water company carries out periodic risk assessments for the Company.**

24. Failure to Establish Audit Committee

The Company did not establish an Audit Committee as required by Section 155(5) of the Public Finance Management Act, 2012 to support the accounting officers with regard to their responsibilities for issues of risk control, governance and associated assurance.

In the circumstances, the audit team was unable to confirm existence of effective overall governance measures at the Company.

Management Response:

Mr. Chairman, the County Executive has established a County Audit Committee that serves the Executive and its entities.

Committee Observation:

The Company did not establish an Audit Committee as required by Section 155(5) of the Public Finance Management Act, 2012.

Committee recommendations

The Committee recommends that the query be marked as resolved as the Auditor-General confirmed there was an Audit Committee in place.

APPENDICES

ANNEX I: MINUTES OF THE COMMITTEE



13TH PARLIAMENT 2ND SESSION

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

PRESENT

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

ABSENT WITH APOLOGY

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

SECRETARIAT

- | | |
|------------------------|----------------------------|
| 1. Mr. Yussuf Shimoy | - Clerk Assistant II |
| 2. Mr. Erick Njogu | - Clerk Assistant III |
| 3. Mr. Kennedy Owuoth | - Fiscal Analyst |
| 4. Mr. Josphat Ng'eno | - Media Relations officer. |
| 5. Ms. Winfred Ocholla | - Audio officer |
| 6. Mr. Patrick Ngenoh | - Procurement officer |

- | | |
|-----------------------|----------------------------|
| 7. Mr. Andrew Nyairo | - Legal counsel |
| 8. Mr. Josphat Ng'enh | - Media Relations Officer. |
| 9. Mr. John Pere | - Serjent-at-arms |

IN ATTENDANCE

A. COUNTY GOVERNMENT OF VIHIGA

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

B. OFFICE OF THE AUDITOR GENERAL

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

MIN NO. SEN/CPICSF/135/2023 PRAYER

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

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

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

1. Prayer
2. Adoption of the Agenda
3. Administration of oath of witness

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

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

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

MIN NO. SEN/CPICSF/138/2023 MEETING WITH VIHIGA COUNTY EXECUTIVE TO CONSIDER THE AUDITOR GENERAL'S REPORT ON THE FINANCIAL STATEMENTS OF AMATSI SERVICES COMPANY LIMITED FOR THE FINANCIAL YEARS 2018/19, 2019/20 AND 2020/21

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

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

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

		the delivery notes have now been provided to support the transfer, hence the query was resolved.
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After deliberation the Committee resolved as follows -

- a) The Committee to retreat and write its report on Auditor General’s Report on the Financial Statement of **Amatsi Water Services Company Limited for the Financial years for 2018/19, 2019/20 and 2020/21;**
- b) The County Executive directed to put in place a legal framework for water services in the County within 60 days;
- c) The Governor directed to establish a taskforce to facilitate restructuring of Amatsi Water Services Company Limited to make itself sustaining;
- d) The Governor to reconstitute the Amatsi Water Services Board of Directors to improve service delivery within 60 days; and
- e) Office of the Auditor General directed to confirm and verify number of employees of the Amatsi Water Services Company Limited (permanent and temporary staff), the status of staff establishment and verify the authenticity of the schedule of payment of the contract staff paid during the Financial Year 2020/21.

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

There was no other business.

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

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



13/04/2023

SIGNED: DATE:

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



13TH PARLIAMENT 2ND SESSION

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

PRESENT

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

ABSENT WITH APOLOGY

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

SECRETARIAT

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

- | | |
|------------------------|----------------------------|
| 10. Ms. Raisa Mwithi | - Research Officer |
| 11. Mr. Matano Kataa | - Research Officer |
| 12. Mr. Josphat Ng'enh | - Media Relations Officer. |
| 13. Mr. John Pere | - Serjeant-at-arms |

IN ATTENDANCE

A. COUNTY GOVERNMENT OF BOMET

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

B. OFFICE OF THE AUDITOR GENERAL

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

C. ETHICS AND ANTI-CORRUPTION COMMISSION

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

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

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

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

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

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

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

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

REPORT ON THE FINANCIAL STATEMENTS		
Audit Query	Concern	Observation and Recommendations
1. Customer Deposits	The accuracy and completeness of the customer's deposit balance Kshs. 2,292,989 could not be confirmed.	<p>The Committee observed that the issue of the bank charges was adequately addressed.</p> <p>The Committee noted the customers deposits were borrowed to pay salaries but the same could not be confirmed by the Office of the Auditor General (OAG). The OAG directed to do a verification and give a status report the subsequent audit cycle.</p> <p>The Committee directed the management to open a fixed deposit account bank account for the customer deposits so that it accrues interests to cater for ledger fees and with limited access to the management.</p> <p>Further the Committee directed management to provide a certified copy of CR 12 to ascertain the</p>

		<p>ownership of the Company within seven (7) days.</p> <p>The Committee directed management from both Kericho and Bomet Water Companies to engage and come up with modalities of settling the matter of pending bills and share the same to the Committee within fourteen (14) days.</p> <p>The query remained unresolved.</p>
2. Trade and Other Receivables	The company is owed Kshs. 203,592,386 and the amounts continued to grow over time thereby raising doubts on their collectability.	<p>The Committee noted that the Company had not established debt recovery strategies and measures and directed the Governor to write to the Committee on plans to recover the same within 14 days. Further, OAG directed to verify the efficacy of the measures and report in the subsequent audit cycle.</p> <p>The Committee further directed EACC to commence investigations and take a close look into the matter.</p> <p>The query remained unresolved.</p>
3. Unresolved Prior Year Audit Matters	As disclosed in the financial statements, some of the prior year audit issues remained unresolved as at 30 June, 2020.	<p>The Committee observed that management did not provide satisfactory reasons for the delay in resolving the issues.</p> <p>The query remained unresolved.</p>

Interventions and Resolutions

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

- i. The Governor to take keen interest in the company to ensure efficiency in its operations and directed him to execute the following recommendations within 60 days;
 - a. Restructure its Human Resources to tackle the issue of overstaffing and maintain a lean and efficient staff establishment;
 - b. Restructure its management; and
 - c. Measures taken to address the high Non-Revenue Water.
- ii. Within 60 days, the Governor to provide a detailed list of all stalled water projects within the county, indicated measures to be taken to complete them as well as their operationalization;
- iii. Within 60 days, OAG and the Parliamentary Budget Office to prepare a fiduciary risk analysis report, detailing areas of financial loss and possible recommendations, for considerations by the Senate and for further action;
- iv. Ethics and Anticorruption Commission (EACC) to investigate the Company's operations and file a report before the Committee;
- v. The County Government in collaboration with the County Assembly to enact a water legislation to support the operations of the water company; and
- vi. The Governor directed to engage his counterpart Governor of Kericho County in order to amicably resolve the contested pending payables between the two counties and submit a status report to the Committee within 14 days.

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

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

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

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

26/09/2023

SIGNED: DATE:

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



13TH PARLIAMENT 2ND SESSION

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

PRESENT

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

ABSENT WITH APOLOGY

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

IN ATTENDANCE

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

SECRETARIAT

- | | |
|-----------------------|-----------------------|
| 1. Mr. Yussuf Shimoy | - Clerk Assistant II |
| 2. Mr. David Angwenyi | - Clerk Assistant II |
| 3. Mr. Erick Njogu | - Clerk Assistant III |

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|------------------------|----------------------------|
| 4. Mr. Godfrey Nyaga | - Clerk Assistant III |
| 5. Mr. Kennedy Owuoth | - Fiscal Analyst |
| 6. Ms. Raisa Mwithi | - Researcher officer |
| 7. Mr. Matano Kataa | - Researcher officer |
| 8. Ms. Lucy Radoli | - Legal counsel |
| 9. Ms. Winfred Ocholla | - Audio officer |
| 10. Mr. Josphat Ng'enh | - Media Relations Officer. |
| 11. Mr. John Pere | - Serjeant-At-arms |

IN ATTENDANCE

A. COUNTY GOVERNMENT OF KISII

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

B. OFFICE OF THE AUDITOR GENERAL

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

C. ETHICS AND ANTI-CORRUPTION COMMISSION

- | | |
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| Mr. Patrick Kinoti | - Liaison Officer, EACC |
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MIN. NO. SEN/CPICSF/197/2023 PRAYER

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

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

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

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

5. Any Other Business
6. Date of the Next Meeting and Adjournment

**MIN. NO. SEN/CPICSF/198/2023 ADMINISTRATION OF OATH AND
TABLIG OF DOCUEMNTS**

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

**MIN. NO. SEN/CPICSF/199/2023 MEETING WITH KISII COUNTY
EXECUTIVE TO CONSIDER THE
AUDITOR GENERAL'S REPORTS ON
THE FINANCIAL STATEMENTS OF
THE GUSII WATER AND SANITATION
COMPANY LIMITED FOR FINANCIAL
YEARS 2018/19, 2019/20 AND 2020/21**

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

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

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

		<p>However, the committee noted that some remedial measures were being taken to mitigate the matter and directed the Office of the Auditor General (OAG) to verify and report on their efficacy in the subsequent audit cycle.</p> <p>The query remained unresolved.</p>
<p>2. Inaccuracies in the Statement of Comparison of Budget and Actual Amount</p>	<p>The accuracy and completeness of the statement of comparison of budget and actual amounts for the year under review could not be confirmed.</p>	<p>The OAG informed the Committee that the schedules were provided but the explanatory notes were not provided.</p> <p>The Committee directed the management to provide all the necessary explanation to the OAG, who will thereafter do a verification and provide a status update in the subsequent audit cycle.</p> <p>The query remained unresolved.</p>
<p>3. Share Capital</p>	<p>The shares of the Company are still owned by the defunct Local Authorities and had not been transferred to and paid for by the two County Government of Nyamira and Kisii.</p>	<p>The OAG informed the Committee that the shares had not been transferred and that shareholding still in the Local defunct Authorities.</p>
		<p>The Committee directed the Governor to have an engagement with his counterpart in Nyamira County and ensure that the transfer from the defunct authorities to the County Governments was done.</p>

<p>4. Irregular Payments of Director's Emoluments</p>	<p>The regularity of the expenditure of Kshs, 3,352,165 on Directors' emoluments could not be confirmed.</p>	<p>The Governor admitted that this was a fraud by the staff of the water company and the Committee directed EACC to commence investigations into the matter and report back to the Committee within 60 days.</p> <p>The query remained unresolved.</p>
<p>5. Budgetary Control and Performance</p>	<p>an under-funding of Kshs.112,362,300 or 34% of the budget and under-expenditure of Kshs. 121,175,000 or 31% of the budget affected the planned activities and may have impacted negatively on service delivery on the public.</p>	<p>The OAG informed the committee that the County had put in place some mitigating measures. The Committee directed OAG to verify the measures and report on their efficacy in the subsequent audit cycle.</p> <p>The query remained unresolved.</p>
<p>6. Unresolved Prior Year Matters</p>	<p>The management had not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards and Board templates.</p>	<p>The Committee observed that management has made progresses to ensure compliance on the unresolved prior year matters.</p> <p>The query to be reviewed in the subsequent audit cycles</p>
<p>7. Irregular Procurement of Computer Software and Repairs Works</p>	<p>The management was in breach of law and the regularity of the expenditure of Kshs. 778,300 spent on the software and Kshs. 411,700 incurred on the computer repair could not be confirmed.</p>	<p>The Committee directed EACC to commence investigations on the matter with a view to recover any money that might have misappropriated.</p> <p>The query remained unresolved`</p>
<p>8. Non-remittance of statutory deductions</p>	<p>The management was in breach of the Law for not remitting Kshs.15,012,325 relating to outstanding pension and</p>	<p>The OAG confirmed to the Committee that they verified</p>

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

Other interventions and resolutions

The Committee resolved to -

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

MIN. NO. SEN/CPICSF/200/2023 ANY OTHER BUSINESS

There was no other business.

MIN. NO. SEN/CPICSF/201/2023 DATE OF NEXT MEETING & ADJOURNMENT

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



19/04/2023

SIGNED: DATE:

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



13TH PARLIAMENT 2ND SESSION

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

PRESENT

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

ABSENT WITH APOLOGY

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

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|-------------------------|-----------------------|
| 1. Mr. Yussuf Shimoy | - Clerk Assistant II |
| 2. Mr. David Angwenyi | - Clerk Assistant II |
| 3. Mr. Erick Njogu | - Clerk Assistant III |
| 4. Mr. Kennedy Owuoth | - Fiscal Analyst |
| 5. Ms. Raisa Mwithi | - Researcher officer |
| 6. Mr. Matano Kataa | - Researcher officer |
| 7. Mr. Hillary Kipkorir | - Legal counsel |
| 8. Ms. Winfred Ocholla | - Audio officer |

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| 9. Mr. Patrick Ngenoh | - Procurement officer |
| 10. Mr. Josphat Ng'eno | - Media Relations Officer. |
| 11. Ms. Winfred Ocholla | - Audio officer |
| 12. Mr. Benard Marwara | - Serjeant-at-arms |

IN ATTENDANCE

A. COUNTY GOVERNMENT OF KISUMU

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

B. OFFICE OF THE AUDITOR GENERAL

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| Mr. Mark Gachanja | - Liaison Officer, OAG |
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MIN. NO. SEN/CPICSF/129/2023 PRAYER

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

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

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

1. Prayer
2. Adoption of the Agenda
3. Meeting with the County Executive of Kisumu to consider the following matters:
 - i. Kisumu Water and Sanitation Company Limited for Financial Years 2018/19, 2019/20 and 2020/21;

- ii. Auditor General's Report on the Financial Statements of the Kisumu County Car and Mortgage Scheme Fund for Financial Years 2018/19, 2019/20 and 2020/2;
 - iii. Response on the Auditor General's Report on the Financial Statement of the Kisumu County Education Fund for the Year ended 30th June, 2021;
 - iv. Response on the Auditor General's Report on the Financial Statement of the Kisumu County Covid-19 Emergency Response Fund for the Year ended 30th June, 2021;
 - v. Response on the Auditor General's Report on the Financial Statement of the Kisumu Urban Project (Project Advanced Account) – CKE 1035.01.G for the Year ended 30th June, 2020;
 - vi. The list of projects funded by World Bank and Kenya Urban Support project in Kisumu County and the amount of funds involved;
 - vii. Detailed Information on Kisumu 42 ventures Limited;
 - viii. Information on the amount of money the County used in Afri-Cities Convention Centre and the Afri-Cities Conference that was held in Kisumu County;
 - ix. Information on the Kano Rice Project;
 - x. Any grants received by the County for the development of Kibuye market and the Kenyatta Sports Ground and the Funds received by the Lake Region Bloc; and
 - xi. Contract between the County Government of Kisumu and Oasis Doctors Plaza on the leasing of Victoria Annex Hospital.
4. Any Other Business
 5. Date of the Next Meeting and Adjournment

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

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

- i. Reports of the Auditor-General on the Financial Statements of the Kisumu Water and Sanitation Company Limited for Financial Years 2018/19, 2019/20 and 2020/21;
- ii. Reports of the Auditor-General Report on the Financial Statements of the Kisumu County Car and Mortgage Scheme Fund for Financial Years 2018/19, 2019/20 and 2020/21;
- iii. Report of the Auditor-General on the Financial Statement of the Kisumu County Education Fund for the Year ended 30th June, 2021;
- iv. Report of the Auditor-General on the Financial Statements of the Kisumu County Covid-19 Emergency Response Fund for the Year ended 30th June, 2021;

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

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

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

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

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

REPORT ON THE FINANCIAL STATEMENTS		
Audit Query	Concern	Observation and Recommendations
1. Unsupported Property, Plant and Equipment	The asset register maintained by the Management was not updated with asset identification number, location, cost, depreciation rate, accumulated depreciation, and depreciation charge for the year and book value of the asset among others.	The Committee noted that the County Government had submitted an updated asset register. However, the Committee found the information submitted to be inadequate and directed that within seven (7) days from the date of the meeting, the County Government provides adequate information to the Office of the Auditor-General for verification.

		Upon verification, OAG to provide a status update on the matter to the Committee within seven (7) days. Query remained unresolved
2. Unsupported Provision for bad debts	The basis for provision for bad debts was worth Kshs. 48,986,667 not supported given that most of the customers are schools. The duration the debts had outstanding was not disclosed as well the measures taken to collect them.	The Committee noted that the management had made efforts to recover some debts. However, the recovered and outstanding amounts remained unclear. The committee, within seven (7) days from the date of the meeting, directed the management submit to the Committee a report with a clear breakdown of the recovered and outstanding debts. Query remained unresolved
REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES		
3. Non-Compliance with the Public Sector Accounting Standards Board Requirements	The water company failed to adhere to the provisions of the Public Sector Accounting Standards Board (PSASB) templates.	The committee noted that the Management had not received new templates at the time of audit but has since acquired them. The committee directed the management to use the new templates going forward. Query was considered resolved
4. Lack of Bank Accounts Register	The Company did not maintain a register of bank accounts, contrary to Section 87 (3) of the Public Finance Management (County Governments) Regulations, 2015 which requires each public entity to maintain a register on bank accounts. Although eight (8) accounts were disclosed in the financial statements, it was not possible to confirm that these were the only accounts operated by the Company.	The OAG confirmed that the Management had provided an accounts register with bank confirmation letters and verified. The Committee considered the query resolved.
5. Non-compliance with the Law on Non-revenue Water	The water Company had Non- Revenue Water of 3,072,699 cubic meters, that is 31% of the total water produced	The committee observed that the Non- Revenue Water exceeded the sector benchmark of 25% as per the Water

	<p>resulting in an estimated loss of Kshs. 17, 848, 244 at a rate of Kshs. 30 per cubic meter.</p>	<p>Services Regulatory Board (WASREB) Guidelines.</p> <p>The committee directed the management to put in place measures to tackle the Non-Revenue Water, that is both the physical and commercial losses. OAG to verify the measures and report on their effectiveness in the subsequent audit cycle.</p>
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The Following queries were interrogated for the Financial Year 2019/20

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

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

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

There was no other business.

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

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



26/09/2023

SIGNED: **DATE:**

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



13TH PARLIAMENT 2ND SESSION

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

PRESENT

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

ABSENT WITH APOLOGY

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

IN ATTENDANCE

Sen. Raphael Chimera, MP - Friend of the Committee

SECRETARIAT

- | | |
|-----------------------|-----------------------|
| 1. Mr. Yussuf Shimoy | - Clerk Assistant II |
| 2. Mr. David Angwenyi | - Clerk Assistant II |
| 3. Mr. Erick Njogu | - Clerk Assistant III |

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|------------------------|----------------------------|
| 4. Mr. Godfrey Nyaga | - Clerk Assistant III |
| 5. Mr. Kennedy Owuoth | - Fiscal Analyst |
| 6. Ms. Raisa Mwithi | - Researcher officer |
| 7. Mr. Matano Kataa | - Researcher officer |
| 8. Ms. Lucy Radoli | - Legal counsel |
| 9. Ms. Winfred Ocholla | - Audio officer |
| 10. Mr. Josphat Ng'eno | - Media Relations Officer. |
| 11. Mr. John Pere | - Serjeant-at-arms |

IN ATTENDANCE

A. COUNTY GOVERNMENT OF KWALE

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

B. TURKANA COUNTY ASSEMBLY

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

C. OFFICE OF THE AUDITOR GENERAL

- | | |
|-------------------|------------------------|
| Mr. Mark Gachanja | - Liaison Officer, OAG |
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D. ETHICS AND ANTI-CORRUPTION COMMISSION

- | | |
|--------------------|-------------------------|
| Mr. Patrick Kinoti | - Liaison Officer, EACC |
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MIN. NO. SEN/CPICSF/191/2023 PRAYER

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

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

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

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

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

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

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

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

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

Audit Query	Concern	Observation and Recommendations
<p>1. Unreconciled Variance in Cost of Bulk Water</p>	<p>The variance of Kshs.45784,680 in respect of cost of bulk water was not explained or reconciled.</p>	<p>The Office of the Auditor General (OAG) informed the Committee that the management did not address the query since the financial statement was not reflecting the correct position. The management was directed to make the necessary adjustments to the financial statements.</p> <p>The query remained unresolved.</p>
<p>2. Lack of Receivables Ageing Analysis</p>	<p>The ageing analysis of the trade and other receivables balance of Kshs. 230,942,074 was not provided for audit verification.</p>	<p>The OAG informed the Committee that the water Company has submitted documents to the satisfaction of the auditor in addressing the query.</p> <p>The Committee marked the query as resolved.</p>
<p>3. Unsupported Trade Payables</p>	<p>Kshs.5, 982,991 owed to Water Services Regulatory Board (WASREB) not supported by bills or a statement from the creditor.</p> <p>Kshs.37, 276,860 owed to Coast Water Works Development Agency. However, records maintained by the Agency indicated the balance owed by the Company as Kshs.695, 725,546, resulting in un-reconciled and unexplained variance of Kshs.658, 448,686</p>	<p>The OAG informed the Committee that that the query remained outstanding as the variances could not be ascertained.</p> <p>The Committee directed the management to engage the OAG to reconcile the figures in the query and report to the Committee within 14 days. The query remained unresolved.</p>
<p>4. Unsupported Capital Reserve</p>	<p>The Management did not provide evidence in support of the capital reserve balances Kshs. 36,719,864.</p>	<p>The Committee directed the Company to write off the debt subject to the Board's decision and the matter to be reported to the Committee within 14 days.</p>
		<p>The query was considered resolved.</p>
<p>5. Failure to Disclose Material Uncertainty Relating to Going Concern</p>	<p>The Company had an operating loss of Kshs.15,088,834 and a negative working capital of Kshs.75,158,273 an indication that the Company may not be able to settle its obligation as and when they fall due. Management did not disclose the</p>	<p>The Committee noted that 40% of the bulk water produced by Coast Water Agency was consumed by Kwale County whereas 60% was consumed by Mombasa County. However, Coast Water bill 100% to Kwale Water Company. The Committee directed the</p>

	material uncertainty related to going concern or measures taken to mitigate this.	County Government together with the OAG to engage Coast Water Agency to resolve the matter of Coast Water charging 100% to Kwale water Company for the water that is consumed by Kwale and Mombasa Counties and report back to the Committee within 14 days.
6. Unresolved Prior Year Matters	Prior year audit issues remained unresolved as at 30 June, 2021 and the management did not provided reasons for the delay in resolving the prior year audit issues.	The OAG confirmed that at the time of audit the Certificate on the audited accounts had not been issued to Kwawasco by the office for two years as the office due to transition issues. The Committee recommended to the management that going forward considers and addresses issues raised in the draft management letter, as well as those raised by internal auditors and resolve the audit issues there in.
7. Non-Revenue Water	Non-revenue water at 62% which is higher than the 25% loss allowable by the Water Service Regulatory Board (WASREB) guidelines.	The Management was directed to put in place a comprehensive mitigation plan to reduce the Non-revenue water to within the acceptable threshold. The OAG directed to review the efficacy of the measures and report in the subsequent audit cycle. The query remained unresolved
8. Non-remittance of statutory deductions	Management was in breach of the law following unremitted statutory deductions from Board Members' allowances, PAYE and withholding tax.	The OAG confirmed that remittance of statutory deduction has been resolved as per the payment agreement entered with KRA. However, the auditor is yet to receive bank statements and receipts for verification. The Committee considered the matter resolved subject to submission of supportive evidence of payment of the principle amount of Kshs.15,789,234 and correspondence with KRA seeking waiver of penalties to the OAG for verification.
9. Unauthorized Expenditure	Management was in breach of the law for the over-expenditure of Kshs.17,166,353 or 8% of the budgeted amount without Board's approval.	The Committee directed the management to observe strict adherence to the laid down procedures as per the Law in the utilization of funds for

	material uncertainty related to going concern or measures taken to mitigate this.	County Government together with the OAG to engage Coast Water Agency to resolve the matter of Coast Water charging 100% to Kwale water Company for the water that is consumed by Kwale and Mombasa Counties and report back to the Committee within 14 days.
6. Unresolved Prior Year Matters	Prior year audit issues remained unresolved as at 30 June, 2021 and the management did not provided reasons for the delay in resolving the prior year audit issues.	The OAG confirmed that at the time of audit the Certificate on the audited accounts had not been issued to Kwawasco by the office for two years as the office due to transition issues. The Committee recommended to the management that going forward considers and addresses issues raised in the draft management letter, as well as those raised by internal auditors and resolve the audit issues there in.
7. Non-Revenue Water	Non-revenue water at 62% which is higher than the 25% loss allowable by the Water Service Regulatory Board (WASREB) guidelines.	The Management was directed to put in place a comprehensive mitigation plan to reduce the Non-revenue water to within the acceptable threshold. The OAG directed to review the efficacy of the measures and report in the subsequent audit cycle. The query remained unresolved
8. Non-remittance of statutory deductions	Management was in breach of the law following unremitted statutory deductions from Board Members' allowances, PAYE and withholding tax.	The OAG confirmed that remittance of statutory deduction has been resolved as per the payment agreement entered with KRA. However, the auditor is yet to receive bank statements and receipts for verification. The Committee considered the matter resolved subject to submission of supportive evidence of payment of the principle amount of Kshs.15,789,234 and correspondence with KRA seeking waiver of penalties to the OAG for verification.
9. Unauthorized Expenditure	Management was in breach of the law for the over-expenditure of Kshs.17,166,353 or 8% of the budgeted amount without Board's approval.	The Committee directed the management to observe strict adherence to the laid down procedures as per the Law in the utilization of funds for

		activities not factored in the original budget. The query was considered resolved.
10. Lack of ICT controls and Policy Documents	The ICT internal controls and general IT environment lacked an IT Strategic Committee, IT strategic plan, data back-up, tested emergency procedure and data recovery plan. Further, the ICT Section appeared to be understaffed as it had only one staff member.	The OAG confirmed that the management had instituted the ICT department to be in line with the company's strategic and business plan. The Committee considered the matter resolved subject to submission of evidence of Board approval to the Committee within 14 days.

Other Interventions and Resolutions

The Committee resolved to -

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

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

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

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

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

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

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



14/07/2023

SIGNED: **DATE:**

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



13TH PARLIAMENT 2ND SESSION

MINUTES OF THE FIFTY EIGHTH SITTING OF THE COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS COMMITTEE WITH THE COUNTY EXECUTIVE OF WAJIR TO CONSIDER REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF WAJIR WATER AND SEWERAGE COMPANY LIMITED FOR FINANCIAL YEARS 2018/19, 2019/20 AND 2020/21, HELD ON TUESDAY, 6TH JUNE, 2023 AT THE VIP LOUNGE, FIRST FLOOR, KICC AT 10.00 A.M.

PRESENT

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

ABSENT WITH APOLOGY

- | | |
|---------------------------------|----------|
| 1. Sen. Ledama Olekina, MP | - Member |
| 2. Sen. Eddy Gicheru Oketch, MP | - Member |

IN ATTENDANCE

- | | |
|------------------------|------------------------|
| Sen. Mohamed Abass, MP | - Senator Wajir County |
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SECRETARIAT

- | | |
|-----------------------|-----------------------|
| 1. Mr. Yussuf Shimoy | - Clerk Assistant I |
| 2. Mr. David Angwenyi | - Clerk Assistant I |
| 3. Mr. Erick Njogu | - Clerk Assistant III |

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|------------------------|----------------------------|
| 4. Mr. Godfrey Nyaga | - Clerk Assistant III |
| 5. CPA. Kennedy Owuoth | - Fiscal Analyst |
| 6. Mr. Josphat Ng'eno | - Media Relations officer. |
| 7. Ms. Winfred Ocholla | - Audio officer |
| 8. Mr. Patrick Ngenoh | - Procurement officer |
| 9. Mr. Andrew Nyairo | - Legal counsel |
| 10. Ms. Raisa Mwithi | - Research Officer |
| 11. Mr. Matano Kataa | - Research Officer |
| 12. Mr. Josphat Ng'eno | - Media Relations Officer. |
| 13. Mr. John Pere | - Serjeant-at-arms |
| 14. Mr. Njirui Murimi | - Attachee |

IN ATTENDANCE

A. COUNTY GOVERNMENT OF WAJIR

- | | |
|-------------------------|------------------------|
| 1. FCPA Ahmed Abdullahi | - Governor |
| 2. Mr. Mohamud Abdi | - CECM Water Services |
| 3. Mr. Roble Ahmed | - Asst. MD. WASWOSCO |
| 4. Mr. Naoma Ibrahim | - County Attorney |
| 5. Mr. Siyad Samson | - WASWASCO |
| 6. Mr. Habon Gure | - WASWASCO |
| 7. Mr. Khalif Hussein | - Ass. DSCM |
| 8. Mr. Ilhan Abass | - CGW WASWASCO |
| 9. Mr. Abdullahi Abdi | - Supply Chain Officer |

B. OFFICE OF THE AUDITOR GENERAL

- | | |
|-----------------------|-----------------------|
| 1. Mr. Mark Gachanja | - Liaison Officer |
| 2. Dr. Jackson Ndungo | - Asst. Acct. General |
| 3. Mr. Harrie Njoroge | - Director OAG |

C. ETHICS AND ANTI-CORRUPTION COMMISSION

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

MIN. NO. SEN/CPICSF/352/2023 PRAYER

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

MIN. NO. SEN/CPICSF/353/2023 ADOPTION OF THE AGENDA

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

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

MIN. NO. SEN/CPICSF/354/2023 ADMINISTRATION OF OATH

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

MIN. NO. SEN/CPICSF/355/2023 MEETING WITH THE COUNTY EXECUTIVE OF WAJIR TO CONSIDER THE AUDITOR GENERAL'S REPORT ON THE FINANCIAL STATEMENTS OF WAJIR WATER AND SEWERAGE COMPANY LIMITED FOR THE FINANCIAL YEARS FOR 2018/19, 2019/20 AND 2020/21.

The Auditor-General rendered a Disclaimer of opinion on the financial statements of Wajir Water and Sewerage Company Limited. **The auditor was unable to obtain sufficient information to warrant an opinion – This is the worst form of opinion.**

The key audit matters include:

- a) **Non-Submission of Prior Years Financial Statements and the Audit of the Comparative Balances** – Review of records revealed that the Company was incorporated in 2013 however, management had not submitted for audit the financial statements for the financial years ended 30 June 2016, 2017, 2018, 2019 and 2020.
- b) **Presentation of the Financial Statements** – The financial statements, had a number of anomalies.

- c) **Inaccuracies of the Financial Statements** – The statement of profit or loss and other comprehensive income reflects county development expenditure of Kshs. 60 million, as disclosed in Note 9 to the financial statements.

The Following queries were interrogated for the Financial Year 2018/2019

The Wajir Water and Sewerage Company Limited

REPORT ON THE FINANCIAL STATEMENTS		
Audit Query	Concern	Observation and Recommendations
1. Material Uncertainty Relating to Going Concern	<p>The statement of profit or loss and other comprehensive income reflects a deficit of Kshs. 413,268,608 thereby decreasing the revenue reserves balance by Kshs. 413, 268, 608.</p> <p>Further the current liabilities of Kshs. 596, 039, 088 exceeded the current assets of Kshs. 2, 793, 516 resulting to a negative working capital of Kshs. 593, 245, 572.</p>	<p>The Committee noted that no measures had been put in place by the management to improve the financial health of the water company.</p> <p>The Committee further noted that the company's existence depended upon support from the County Government, creditors and development partners.</p> <p>The query remained unresolved.</p>

Upon consideration, the Committee gave the following recommendations;

- iii. The Governor to take keen interest in the management of Wajir Water and Sewerage Company Limited and take charge over its operations;
- iv. The Governor to submit the human resource audit report and the measures taken to ensure the water company has lean and efficient staff;
- v. Within 14 days from the date of the meeting, the Governor undertakes asset mapping of all assets and liabilities of the water company and submit an update asset register;
- vi. Within 60 days from the date of the meeting, the Office of the Auditor-General and the Parliamentary Budget Office to prepare a fiduciary risk analysis report, detailing areas of financial loss and possible recommendations for consideration by the Senate and for further action;
- vii. Within 30 days from the date of the meeting, the County Government in collaboration with the County Assembly to finalize the enactment of the County Water Legislation to support the operations of Wajir Water and Sewerage Company Limited;

- viii. Within 60 days from the date of the meeting, the Governor to submit to the Committee comprehensive measures taken to tackle the issue of the high Non-Revenue Water that stands at 82%. Further, the Governor in collaboration with the Ethic and Anticorruption Commission (EACC) to investigate the issue of Non-Revenue Water to assess the possibility of illegal connections and corrupt practices;
- ix. The Governor to finalize the reconstitution of the Board of Directors within 30 days from the date of the meeting;
- x. The management of the water company to prepare all financial statements, from Financial Year 2020/21 onwards, of Wajir Water and Sewerage Company Limited and submit for audit in line with the law;
- xi. EACC to commence investigations into the past operations of the water company and file a preliminary report with the Committee;
- xii. The County Government to submit information on grants received by the county in the water sector and the donor partners involved, indicating the infrastructure developed carried using the grants; and
- xiii. Within 14 days from the date of the meeting, the Governor to submit evidence of closure of the bank accounts formally used to receive conditional grants.

MIN. NO. SEN/CPICSF/356/2023 ANY OTHER BUSINESS

There was no other business.

MIN. NO. SEN/CPICSF/357/2023 DATE OF NEXT MEETING & ADJOURNMENT

The Chairperson adjourned the meeting at ten minutes to one o'clock. The next meeting would be on Thursday, 8th June, 2023.



6/11/2023

SIGNED: DATE:

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



13TH PARLIAMENT 1ST SESSION

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

PRESENT

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

ABSENT WITH APOLOGY

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

SECRETARIAT

- | | |
|-------------------------|----------------------------|
| 1. Mr. Yussuf Shimoy | - Clerk Assistant II |
| 2. Mr. David Angwenyi | - Clerk Assistant II |
| 3. Mr. Erick Njogu | - Clerk Assistant III |
| 4. Ms. Raisa Mwithi | - Research Officer |
| 5. Mr. Matano Kataa | - Research Officer |
| 6. Mr. Kennedy Owuoth | - Fiscal Analyst |
| 7. Mr. Hillary Kipkorir | - Legal counsel |
| 8. Mr. Josphat Ng'eno | - Media Relations officer. |

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|------------------------|-----------------------|
| 9. Ms. Winfred Ocholla | - Audio officer |
| 10. Mr. Patrick Ngenoh | - Procurement officer |
| 11. Mr. John Pere | - Serjeant-At-Arms |

IN ATTENDANCE

A. COUNTY GOVERNMENT OF NYERI

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

B. OFFICE OF THE AUDITOR GENERAL

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

MIN/SEN/CPICSF/53/2022 PRAYER

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

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

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

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

MIN/SEN/CPICSF/55/2022

ADMINISTRATION OF OATH

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

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

MIN/SEN/CPICSF/56/2022

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

1. Nyeri Water and Sanitation Company Limited

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

Audit Query	Concern	Observation and Recommendations
1. Lack of ownership documents and updated Asset Register.	Asset Register was not fully updated since some Assets did not have Asset Numbers, Registration of five (5) motor vehicles missing while the Motorcycle registration	The Office of the auditor General (OAG) had not physically verified the Asset Register.

	number KMEK 399N appeared three times in the asset register.	The Committee directed the OAG to verify the Asset register within 14 days from the date of the meeting and provide a status update on the same.
2. Unconfirmed provision for doubtful Debts and ageing analysis	Basis for doubtful debts of Kshs. 41,940,699 was not disclosed in the Financial Statement or explained.	The OAG, within 14 days from the date of the meeting was directed to verify the ageing analysis for the trade receivables and advise the Committee.
3. Unresolved matters prior	Various audit issues remained unresolved as at 30 th June, 2021	The Committee noted that Company had not received OAG Certificates for the previous two Financial periods due to transition issues at the OAG. The Committee directed the County Government of Nyeri and the OAG to engage and resolve the matter within 14 days from the date of the meeting. OAG to provide a status update on the matter in the subsequent audit cycle.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE PUBLIC RESOURCES

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

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

Audit Query	Concern	Observation and Recommendations
<p>2. Long Outstanding Trade and other Receivables and amounts due from Directors</p>	<p>The water company had high trade and other receivables balance of Kshs. 237,947,398 as at 30 June, 2020. Included in this balance is an amount of Kshs. 88,234,691.12 in respect of debts which has remained outstanding over a long period of time. Management has not demonstrated efforts made to recover the amount.</p> <p>An amount of Kshs. 420,000 to the Board of Directors to attend a Board of Audit Committee workshop which did not take place due to Covid-19 restrictions remained unspent and was not surrendered at the time of the audit.</p>	<p>The Committee noted that due to late submission of documents by the management, the OAG had not concluded the verification process.</p> <p>The Committee noted that the amount of Kshs. 420,000 was paid to Institute of Internal Auditors (Kenya) – IIA and thus the matter was resolved.</p> <p>The Committee directed that-</p> <ul style="list-style-type: none"> i. OAG to conclude verification of documents and report to the Committee within fourteen (14) days; ii. The Company to properly profile their customers and strengthen their contracts; and iii. Management to provide the Committee with the HR report on the staffing of the Company.
<p>3. Non-compliance with the Water Services Regulatory Board (WASREB) Regulations on Personnel Costs</p>	<p>The Company's personnel expenditure stood at 38.6% of the total expenditure, exceeding the recommended ratio of 30% in accordance with the WASREB guidelines.</p>	<p>The Committee noted that the matter remained outstanding since the management had not demonstrated any intervening measures and that the company's CBA was negotiated before the tariffs were set. The Committee directed the Governor to ensure that the management institutes remedial measure and the OAG to provide a status update in the subsequent audit cycled.</p> <p>Matter remained unresolved</p>

2. Othaya-Mukurwe-ini Water Services Company

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

Audit Query	Concern	Observation and Recommendations
<p>1. Trade and other Receivables</p>	<p>The had high trade receivables of Kshs. 194,184,277 which was net of provision totaling Kshs. 47,570,540 As similarly reported in the previous year, debts totaling Kshs, 214,182,042 inherited from the National Water and Pipeline Corporation were outstanding for over 8 years as at 30 June. 2021. Further, the gross trade and other receivables balance was not supported with the list of the debtors. Although recoverability of the debts is uncertain, Management's provision for bad and doubtful debts totalling Kshs 47,570,540 appeared inadequate given the large debts balance and the long period of time the debts were outstanding.</p>	<p>The Committee noted GIS was one of the measures the management intended to use to recover the debts but failed to demonstrate how it would assist in the recovery.</p> <p>The Committee directed that Governor to ensure that the management puts in place measures to recover the debts. Further, the Governor to ensure that the water company has a debt management policy to guide how the water company manages its debts.</p> <p>Matter remained unresolved</p>
<p>2. Property, Plant and Equipment</p>	<p>The following anomalies were noted in the Plant, Property and Equipment totalling Kshs 22,921, 161</p> <ul style="list-style-type: none"> i. The fixed asset register did not indicate the estimated useful life and the residual values of the respective assets. ii. The assets were not tagged for identification and verification of their respective locations. iii. The summary of the significant accounting policies at notes 4(d) to the financial statements does not disclose the depreciation rate for water meters and distribution pipelines. iv. The balance includes buildings and water tanks with a book value of Kshs 4,163,211. However, the company did not own the land on which the assets were located and the 	<p>The Committee noted that ownership of some the company's assets remained unclear as ownership documents were not provided for audit.</p> <p>The Committee directed the Governor to ensure that the water company took full ownership of all its assets in line with the law. The Governor to further ensure that all assets are tagged accordingly and the water company to maintain updated accurate assets register. OAG to provide a status update on the matter in the subsequent audit cycle.</p> <p>Matter remained unresolved</p>

	<p>respective lease agreements or ownership documents for the buildings and the water supply infrastructure were not provided.</p> <p>v. The total asset balance amounting to Kshs. 22,921,160 does not include the value of other water infrastructure owned by the company.</p>	
3. Unremitted Lease Fees	The company deposited the unpaid lease fees in a special account under the County Government of Nyeri though the action was not supported by any legislation.	<p>The Committee directed the management of the water company to submit the bank statements of the special account within seven (7) days and give a copy of the same to OAG for verification.</p> <p>Matter remained unresolved</p>
4. Undisclosed Outstanding Loan	The water company was a beneficiary of the African Development Bank loan, through Tana Water Works Development Agency, under Small Towns, Rural Water Supply and Sanitation Project. However, the loan remained outstanding, and the water company had failed to disclose it in its financial statements.	<p>The Committee observed that the information submitted by the management was inadequate and that the matter required more detailed information on the loan and that the same would be reviewed in the subsequent audit cycle.</p> <p>Matter remained unresolved</p>
5. Excessive Non-Revenue Water	The Water company had non-revenue water 41.19% which is 16.19 percentage points over sector benchmark of 25% in accordance with water Services Regulation Board (WASREB) guidelines.	The Committee noted that the non-revenue water remained high in the period under review. The Committee directed the Governor to ensure that the management of the water company puts in place measure to tackle the non-revenue water. OAG to review the measures and report on their efficacy in the subsequent audit cycle.
6. Lack of Ethnic Diversity	The Company had ninety-six (96) staff members out of whom, ninety-two (92) or 96% were drawn from the dominant ethnic group in Nyeri County. This was contrary to section 7(2) of the National Cohesion and Integration Act, 2008 which states that no public establishment shall have more than one third of its staff from the same ethnic	The management to progressively work towards inclusivity in line with section 7(2) of the National Cohesion and Integration Act, 2008.

	community. In the circumstances, the management was in breach of the law.	
7. Irregular Expenditure on Kenya Forest Wayleave	Way-leave fees totalling Kshs 414.000 paid to the Kenya forest services (KFS) contrary to section 131(2) of water act 2016. The law provides that a licensed water service provider shall not be required to pay any fees for the of public assets for the provision of water services other than the repayment of loans acquired for the development of those assets. In the circumstances, the management was in breach of Law.	The Committee to review the matter in the matter in the subsequent audit cycle.

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

MIN/SEN/CPICSF/57/2022 ANY OTHER BUSINESS

There was no other business.

MIN/SEN/CPICSF/58/2022 DATE OF NEXT MEETING & ADJOURNMENT

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



22/03/2023

SIGNED: DATE:

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



13TH PARLIAMENT 2ND SESSION

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

PRESENT

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

ABSENT WITH APOLOGY

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

SECRETARIAT

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

MIN NO. /SEN/CPICSF/721/2023 PRAYER

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

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

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

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

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

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

The Committee adopted the said reports as follow-

- A. The reports on the Audit Reports of the following County Water Providers for the Financial Year ended 30th June, 2021 -
 1. Amatsi Water Service Company Limited for the year ended 30th June, 2021, Vihiga County having been proposed by Sen. Miraj Abdillahi Abdulrahman, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.
 2. Bomet Water Company Limited for the year ended 30th June, 2021, Bomet County having been proposed by Sen. Miraj Abdillahi Abdulrahman, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.
 3. Gusii Water and Sanitation Company Limited for the year ended 30th June, 2021, Kisii and Nyamira Counties having been proposed by Sen. Miraj Abdillahi Abdulrahman, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.
 4. Kisumu Water and Sanitation Company Limited for the year ended 30th June, 2021, Kisumu County having been proposed by Sen. Miraj

Abdillahi Abdulrahman, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.

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

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

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

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

1. Amatsi Water Service Company Limited for the year ended 30th June, 2019, Vihiga County having been Proposed by Sen. William Kipkemoi Kisang, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.
2. Bomet Water Company Limited for the year ended 30th June, 2019, Bomet County having been Proposed by Sen. William Kipkemoi Kisang, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.
3. Gusii Water and Sanitation Company Limited for the year ended 30th June, 2019, Kisii and Nyamira Counties having been Proposed by Sen. William Kipkemoi Kisang, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.
4. Kisumu Water and Sanitation Company Limited for the year ended 30th June, 2019, Kisumu County having been Proposed by Sen. William Kipkemoi Kisang, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.
5. Kwale County and Sewerage Company Limited for the year ended 30th June, 2019, Kwale County having been Proposed by Sen. William Kipkemoi Kisang, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.
6. Nyeri Water and Sewerage Company Limited for the year ended 30th June, 2019, Nyeri County having been Proposed by Sen. William Kipkemoi Kisang, MP and Seconded by Sen. Eddy Gicheru Oketch, MP respectively.

MIN. NO. SEN/CPICSF/724/2023

ANY OTHER BUSINESS

There was no other business.

MIN. NO. SEN/CPICSF/725/2023

DATE OF NEXT MEETING & ADJOURNMENT

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



6/11/2023

SIGNED: DATE:

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