

NAIROBI CITY COUNTY



NAIROBI CITY COUNTY ASSEMBLY

SECOND ASSEMBLY – SECOND SESSION

REPORT OF THE SELECT COMMITTEE ON PUBLIC INVESTMENTS

ON

COMMITTEE RETREAT

**HELD AS FROM 2ND – 5TH, NOVEMBER, 2018, AT PRIDE INN HOTEL, MOMBASA
COUNTY**

**Clerks Chambers
Nairobi City County Assembly
City Hall Buildings
NAIROBI**

NOVEMBER, 2018

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1.0. PREFACE

1.1. Mandate of the Committee

Hon. Speaker,

The Select Committee on Public Investments is established under the provisions of Standing Order 198 and is mandated amongst others to conduct “*examination of the accounts, reports, and workings of the county public investments and in the context of autonomy and efficiency, examine whether affairs of the county public investments are being managed in accordance with sound financial or business principles and prudent commercial practices.*”

Composition of the Committee

Hon. Speaker,

The Committee comprises of the following Members:-

1. **Hon. Stazo Elijah Omung’ala, MCA - Chairman**
2. **Hon. Silas Ongwae, MCA – Vice Chairman**
3. Hon. Peter Wahinya Njau, MCA
4. Hon. Jacinta Wanjiru, MCA
5. Hon. Ann Catherine Akinyi, MCA
6. Hon. Muchene Kabiru, MCA
7. Hon. Julius Maina Njoka, MCA
8. Hon. John Ng’ang’a, MCA
9. Hon. Paul Ndung’u, MCA
10. Hon. Patrick Musili Mbangula
11. Hon. Benson Mwangi, MCA
12. Hon. Mark Ndung’u, MCA
13. Hon. Laura Mwendu, MCA
14. Hon. Geoffrey Majiwa, MCA
15. Hon. Patrick Logedi, MCA
16. Hon. Mary Njambi, MCA
17. Hon. Jared Ondieki Akama, MCA
18. Hon. Alvin Olando Palapala, MCA
19. Hon. Jackline Apondi, MCA

1.2. Committee Retreat

Hon. Speaker,

The Committee retreat took place from 2nd – 5th **November, 2018**. The retreat was held at Pride Inn Hotel, Mombasa. The objective of the workshop was to enable Members undergo a refresher training on the best-practises of handling the report of the Auditor General and to identify recurrent issues with respect to Nairobi City Water and Sewerage Company.

Hon. Speaker,

Majority of the Members of the Committee attended the workshop and were trained by an experienced officer on parliamentary practice especially the management of the PIC Committee, Mr. Denis Mutua. The workshop proceeded in various sessions with each session tackling a specific thematic issue as follows:-

- i) *Best practices in managing Committee business*
- ii) *The report writing process*
- iii) *Nairobi City Water and Sewerage Company (NCWSC)*. In addition, at the end of each session a plenary was held where Members reacted to the presentations by way of questions and general comments.

Hon. Speaker,

The Committee is grateful to the Ag. Speaker and the Ag. Clerk of the County Assembly for facilitating the retreat. The Committee also extends its appreciations to the consultant, Mr. Denis Mutua for his insightful presentations. It is now my pleasant duty, on behalf of the Committee to present and recommend this report to the County Assembly.

SIGN..........

Hon. Stazo Omung'ala, MCA (Chairperson)

DATE..........

**REPORT OF THE PROCEEDINGS OF THE SELECT COMMITTEE ON PUBLIC ACCOUNTS
RETREAT HELD AS FROM 2ND – 5TH NOVEMBER, 2018, AT PRIDE INN HOTEL, MOMBASA
COUNTY**

2.0. INTRODUCTION

1. The retreat was held in order for Members to undergo a refresher training on the management of the Committee and also to review pending business. This was due to the fact that PIC proceedings are unique in terms of considering the report of the Auditor General and since the Committee had only had an opportunity to consider two reports, Members needed to review their performance and make corrections where they could have errored as they look forward to considering subsequent reports.

3.0. PROCEEDINGS OF THE WORKSHOP

2. During the retreat the consultant, Mr. Denis Mutua, made several presentations. The presentations were based on the subject matter being discussed per session as follows:-

SESSION 1: OFFICIAL OPENING

3. The Chairperson officially opened the workshop by underscoring the importance of the refresher training on Committee mandate and management given the unique nature of PIC. He also stated that the Committee needed to resolve on how to handle pending business.
4. The Chair further informed that the workshop would be covering the following crucial topics:-
 - Managing Committee business
 - The report writing process
 - Issues to look in the Auditor General's report
 - Best practices in Management of the Committee

SESSION 2: ESTABLISHMENT OF PIC

Session Chair: - Silas Ongwae, MCA, Vice Chairperson.

Topic 1: Mandate of the Committee

Presenter: - Mr. Denis Mutua

The facilitator submitted that:-

Legal Underpinnings of PIC

5. PIC draws its mandate from Article 229 of the Constitution which mandates the County Assembly to consider the report of the Auditor General. Once the report is tabled in the Assembly, it's committed to PIC. Specifically, Standing Order 198(5) mandates the Committee with the role of examination of the accounts, reports, and workings of the county public investments and in the context of autonomy and efficiency, examine whether affairs of the county public investments are being managed in accordance with sound financial or business principles and prudent commercial practices.”

Functions of Select Committees

6. The general functions of Assembly Committees include:-
- Finding out the facts of a case.
 - Examining witnesses.
 - Sifting through evidence, and drawing up reasoned conclusions.
 - Gathering of evidence from expert groups or individuals.
 - 'Take Parliament to the people' and allow direct contact between members of the public.
 - Promote public debate on a subject at issue.
 - Enhance the Members knowledge in management of public affairs.
 - Avail an opportunity for members to debate and work for an effective democratic institution.
7. The Committee comprises of the Chairperson plus a maximum of 18 other Members including the Vice Chairperson. The Committee established at the beginning of the Assembly serves for 3 years and the next one for the remainder of the term of the

Assembly. The Chairperson is from minority party or coalition of parties in the Assembly.

PLENARY

8. During plenary, Members sought the following clarifications:-

- If the Committee cannot consider matters that are not part of the Auditor General's report

9. In response, the presenter informed as follows:

- The Committee only considers matters (audit queries) raised by the Auditor General, however, if the Committee suspects any loss of funds it may request the Auditor General to institute a special audit.

SESSION 3: CONDUCT OF COMMITTEE BUSINESS

Session Chair: - Hon. Silas Ongwae.

Topic 2: Managing Committee business

Presenter: - Mr. Denis Mutua

The presenter submitted that:-

Role of the Chairperson

10. The Chairperson's roles include:-

- i) To preside over meetings
 - Moderate(fairly)
 - Guidance(Knowledgeably)
 - Protect Committee agenda
 - Protect witness and evidence
- ii) Act as the official spokesperson of the Committee
- iii) Link between members and secretariat
- iv) Preparation of the Chairman's report(draft Committee report)
- v) Catering of Members' welfare
- vi) Follows up on Committee resources

11. Some of the considerations to be made when electing a PIC Chair include:-

- He/she should be a senior member from the Official Opposition;
- He/she should have strong leadership skills (e.g. competence, firmness, honesty, dependability, objectivity) and be knowledgeable in the matters of PICs;
- He/she should have the ability to articulate the non-partisan objective of the Committee and ensure that members have a shared understanding of this objective;
- He/she should have the ability to manage all the PIC's processes, including meetings and hearings.

Role of Members

12. The roles of the Members include:-

- i) Actively attend Committee sessions
- ii) Investigate the facts and truths of any inquisition
- iii) Ask questions guided by :-
 - Objectivity
 - Reason & law
 - Brevity & precision
- iv) Confidentiality paramount

Role of the Secretariat

13. The roles of the Secretariat include:-

- i) Committee administration
 - Venue preparation
 - Document preparation
 - Management of correspondence
 - Record keeping
 - Minute writing and report drafting
 - Workshop and conference planning
 - Management of the committee budget
- ii) Research & Analysis

- iii) Advisor to the committee: Parliamentary Practice & procedures
- iv) Evidence management
- v) Institutional memory of the committee

Role of Kenya National Audit Office (KENAO)

14. The Office of the Auditor General draws its mandate from the Constitution of Kenya, Article 229 establishes the Office of the Auditor General. Article 248, Section 3 and Article 249, Section 2 (a) and (b) provides for the independence of the Office of the Auditor General.
15. Within six months after the end of each financial year, the Auditor-General shall audit and report, in respect of that financial year, on:-
 - The accounts of the national and county governments;
 - The accounts of all funds and authorities of the national and county governments;
 - The accounts of the National Assembly, the Senate and the county assemblies
16. The role of KENAO entails:-
 - Audit Advisor to the Committee
 - Institutional memory on audit queries and investigations
 - Technical arm of the committee (facts and figures experts)
 - Authority to dispense off audit queries

Procedure of considering Auditor General's Reports.

17. The following are the procedures followed in the consideration of the Audit report Committee:-
 - i) Tabling of audit report
 - ii) 1st opening meeting to design the work plan
 - iii) Correspondences i.e. to witnesses, Accounting Officers and KENAO
 - iv) During meetings:
 - Preparations & timings,
 - Respect the sitting arrangements,
 - Arrange the questioning order & type,

- Ensure that the Hansard recorder is present,
 - May invite the media,
 - Seek for evidence objectively
 - leadership,
- v) After meetings: record keeping, report drafting.

Site Visits

18. The Committee should consider holding site visits to ascertain issues in the report of the Audit Report and responses by witnesses/Accounting Officer. The benefits of Site visits include:-

- Primary collection of data and information
- Getting eye witness account
- Complement oral investigation
- Connection with lower cadre officers & public

19. Procedure for conducting site visits include:-

- Approval from the Speaker
- Site visit logistics: budget and transport
- Officials present: clerks & sergeant-at-arms
- Notification of the ward representative
- Site visit report: Findings and for Accountability

Limitations of PIC

20. The Committee has the following limitations in terms of its mandate:-

- Deliberations and work of the committee are limited to audit and special reports from KENAO
- Post-Analysis i.e. just like a Judge of the high court
- Live financial improprieties are dealt by sectoral committees i.e. statements
- Cannot deliberate without the presence of KENAO
- Three(3) month timeline
- Plenary support has to be garnered

- Law of natural justice i.e. fair hearing
- Limited committee budget and time

Strengths of PIC

21. The following are issues to consider in order to achieve a successful PIC:-

- Unity of purpose
- Strong leader and members
- Competent secretariat
- Technical support from KENAO
- Public support

PLENARY

22. Members made general comments on their experience during the consideration of the first Auditor General's Report. Members agreed to implement the advice of the consultant.

SESSION 4: REPORT WRITING

Session Chair: Hon. Jackline Apondi

Topic 3: Developing Committee Report

Presenter: - Mr. Denis Mutua

The presenter submitted that:-

23. The following should be considered when developing Committee report

- Summary statement of the mandate of the PIC as well as standard procedures and guidelines;
- Description of the work completed in a given period, i.e. issues investigated. Reference should be made to the audit report if issues investigated were raised by the AG;
- Summary of evidence received from witnesses;
- Key findings of the PIC investigations: the key problems identified, the PIC's opinions on the problems and the conclusions reached;

- Summary of the PIC's recommendations on corrective measures to be undertaken by the government in addressing the problems identified;
- An account of follow-up activities on matters dealt with previously, recommendations made by the Committee and action taken by government on these matters.

SESSION 6: PENDING BUSINESS

Session Chair: Hon. Benson Mwangi

Topic 6: Review of pending business

Presenter: - Secretariat

The presenter submitted that:-

24. The Secretariat informed that the following business was pending either before the Committee of with KENAO:-
 - Special Audit request to KENAO on alleged mismanagement of key revenue streams of the Nairobi City County leading to revenue leakages, overall underperformance in collection of revenue by the County Treasury and loss of public funds. The said revenue streams include Loading Zones and Out-door advertisement

SESSION 7: CLOSURE

Session Chair: Hon. Stazo Omung'ala, MCA, Chairperson.

Topic 7: Way forward and Closure: Review of action points

25. The Chairperson thanked Members for attending the retreat and for their full participation. He encouraged them to implement the lessons learned when they resume sitting in Nairobi. The following resolutions/action points were adopted:-
 - 4.0. That the Committee fast-tracks its special audit to be conducted by the Auditor General on the human resource establishment of the Nairobi City Water and Sewerage Company and that a special audit report be submitted to the County Assembly pursuant to Section 49 of the Public Audit Act, 2015.

5.0. CONCLUSION

26. The retreat of the Committee was successful to the extent that Members were able to refresh themselves on their mandate and how best to consider the Auditor General's reports. The Committee was also able to review the pending business and adopt a way forward on how to fast-track dispensation of the same.

End.....

