



NAIROBI CITY COUNTY ASSEMBLY

SECOND ASSEMBLY – SECOND SESSION

PUBLIC INVESTMENTS COMMITTEE SECOND REPORT ON

REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENT OF NAIROBI CITY WATER AND SEWERAGE COMPANY LIMITED FOR THE YEAR ENDED 30TH JUNE 2017

OCTOBER, 2018

Report laid on 03/10/18
by Hon. Silas Mutara
Mhon.
PCA Chair
03/10/2018

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1.0. PREFACE

Madam Speaker,

On behalf of the Public Investments Committee (PIC) and pursuant to the provision of Standing Order 198(5), it is my pleasant privilege and pleasure to present to this House the report of the Public Investments Committee's findings on the Report of the auditor-general on the Financial Statements of Nairobi City Water and Sewerage Company limited (NCWSC) for the year ended 30th June 2017.

The report of the Auditor General was tabled on the floor of the Assembly on 10th April, 2018 and thereafter committed to the Public Investment Committee pursuant to Article 229(8) of the Constitution of Kenya for scrutiny and reporting to the County Assembly within 90 days.

1.1. Mandate of the Committee

The Committee derives its mandate from Standing Order 198(5) which states that:-

“The County Public Investments Committee shall be responsible for the examination of the working of the County Public Investments”.

The Committee is further mandated by Standing Order 198 (5);

- a) examine the reports and accounts of the County public investments;
- b) examine the reports, if any, of the Auditor General on the County public investments; and
- c) examine, in the context of the autonomy and efficiency of the county public investments, whether the affairs of the county public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices

The main objective of the Committee is to ensure that Nairobi City Water and Sewerage Company Limited (NCWSC) is run in a fiscally sound manner.

1.2. Committee Membership

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. June Juliet Ndegwa, 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. Mbugua Kabiro, MCA
11. Hon. Benson Mwangi, MCA
12. Hon. Mark Ndung'u, MCA
13. Hon. Emapet Kemunto, MCA
14. Hon. Geoffrey Majiwa, MCA
15. Hon. Patrick Logedi, MCA
16. Hon. Millicent Okatch, MCA
17. Hon. Nicholas Okumu, MCA
18. Hon. Kennedy Oyugi, MCA
19. Hon. Jackline Apondi, MCA

Allow me Madam Speaker to thank the entire Membership of this Committee for its hard work and commitment which made the taking of evidence and production of this Report a success.

1.3. Background

The Audit Report of the Auditor General on the financial statements of Nairobi City Water and Sewerage Company limited for the year ended 30th June 2017 was tabled on the floor of the Assembly on Tuesday 10th April, 2018 after which it stood committed to the Public Investment Committee for scrutiny and reporting within 90 days.

NCWSC was incorporated in December 2003 under the Companies Act, CAP 486. It is a wholly owned subsidiary of the Nairobi City County Government- previously owned by the defunct City Council of Nairobi (CCN). It has its headquarters at Kampala Road, Industrial Area with six administrative regional offices. The Company's formation arose from the enactment of the Water Act 2002, which created new institutions to manage water resources and services in Kenya. The Company took over the provision of water and sewerage services within Nairobi and its environs hitherto provided by the Water & Sewerage Department (WSD) of the erstwhile City Council of Nairobi.

It was the mandate of the Auditor –General to examine and audit the financial statements of Nairobi City Water and Sewerage Company limited as provided by Article 229(7) of the Constitution of Kenya and transmit them to the County Assembly for the necessary action as required by Article 229 (8) of the Constitution

This report contains findings and other relevant details on the report of the auditor-general on the financial statements of Nairobi City Water and Sewerage Company limited for the year ended 30th June 2017.

1.4. Evidence taken during the session

The Committee held a number of sittings in which Members interrogated the Acting Managing Director and various departmental heads on audit queries raised by the Auditor General.

The Audit report submitted by the Auditor-General included queries on various aspects of the financial operations of the NCWSC and they included the following:-

- i. Property, Plant and Equipment;
- ii. Encroachment of land;
- iii. Inventories;
- iv. Trade and other receivables;
- v. Cash and Cash Equivalents;
- vi. Amounts Due to Related Parties;
- vii. Revenue Reserves;
- viii. Customers with credit balances;
- ix. Trade and Other Payables;
- x. Leased Assets;
- xi. Board Remuneration;
- xii. Taxation;
- xiii. Non-Revenue Water(NRW);
- xiv. Material Uncertainty Related to Going Concern;
- xv. Nairobi Sanitation Output Based Aid Project Performance;
- xvi. Sasumua Dam Laboratory Project; and
- xvii. Vehicles with Private Number Plates.

While taking evidence, the Committee was guided by the existing procedures and modalities of operations of the Nairobi City County Assembly derived from the Constitution of the Republic of Kenya, Acts of National Parliament, Nairobi City County Assembly Standing Orders, and international standards, conventions, practices and rulings.

Section 226(1) (5) of the new constitution stipulates that:-

“If the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not”.

The Committee now calls on the management of the Company to take notice of the new constitutional dispensation whereby the Nairobi City County Assembly through the Public Investments Committee - is mandated to examine the accounts of every County Investment

entity, and act prudently to safeguard public funds from loss, failure to which they would be personally liable for any financial loss or impropriety.

1.5. Responsibilities of Accounting Officers

Section 149 of the Public Finance Management Act, 2012 outlines the responsibilities of Accounting Officers for the County Government and categorically states that

“An accounting officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is –

- a) Lawful and authorized; and
- b) Effective, efficient, economical and transparent.

In this report, the Committee has applied Sections of the Public Finance Management Act, 2012, the County Government Act, and Article 226 (5) of the Constitution to recommend the investigation and surcharging of various persons that may have been responsible for the loss of public funds.

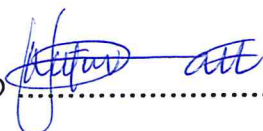
1.6. Appreciation

The Committee would like to thank all the officers from NCW&SC who appeared before it and provided valuable insights into the issues raised by the Auditor General.

Finally Madam Speaker, the Committee wishes to record its appreciation for the exemplary services rendered by officers from the Office of the Auditor General, Office of the Clerk of the County Assembly and indeed Members of the Public Investment Committee. Their commitment and devotion to duty have made the work of the Committee and production of this report successful.

Madam Speaker,

On behalf of the Committee, I now wish to table the report and urge the House to adopt it and the recommendations therein.

SIGNED  DATE 4/9/18-.....

HON. STAZO ELIJAH OMUNG'ALA (CHAIRMAN)

2.0. CONSIDERATION OF THE REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENT OF NAIROBI CITY WATER AND SEWERAGE COMPANY LIMITED FOR THE YEAR ENDED 30TH JUNE 2017.

2.1. Property, Plant & Equipment

2.1.1. Water Infrastructure Assets

The property, plant and equipment balance of Kshs.2,132,063,627 as at 30 June 2017 as disclosed at Note 12 to the financial statements includes buildings, plant and machinery and equipment with net book values of Kshs.39,200,771, Kshs.455,480,886 and Kshs.215,245,054 respectively, all of which comprise improvements to the water supply system and infrastructure belonging to the defunct Nairobi City Council, but otherwise assigned to the Nairobi City Water and Sewerage Company Limited. However, the value and parcels of land on which the expansion and improvements have been carried out are not reflected or disclosed in the financial statements under review. Further, although the improvements to the water supply system and infrastructure have been included as assets in the financial statements, as per vesting agreements, they are owned by Athi Water Services Board which is the presumed water infrastructure assets developer.

The Managing Director admitted to the audit findings and submitted that:-

- i) As reported in 2015-16 and previous audit responses, the company maintains an asset register for assets acquired as per the Tripartite Agreement, Hand over deed, Agency Agreement and Service Provision Agreement. The Service Provision Agreement gives the company right to develop/acquire property, plant and equipment for the purposes of delivery of water and sewerages services within Nairobi.
- ii) The tripartite agreement signed on the 5th April 2004 between City Council of Nairobi and the company Clause 1.2.2 and 1.2.3. Guides on how the capital improvement were to be conducted. The period for the agreement was five years and may be extended by mutual agreement. The tripartite agreement was never reviewed and the company has continued with the same arrangement however with the new dispensation the company will be able to acquire the entire assets leased by Nairobi County which will be recognized in the asset register after the transfer is done by the County government of Nairobi.

Committee observation:-

- i) The Tripartite agreement was never reviewed after the lapse of the five year period; and
- ii) That records show that the mandate of the Company is solely to provide water as Athi Water Services Board is mandated to build and improve the water infrastructure- therefore the claim by the Managing Director that the company was ploughing back profits to improve the water infrastructure was not factual.

The Committee recommends that:-

- i) Review and harmonize the Tripartite agreement amongst other things to take into account of the new dispensation.

2.1.2. Encroachment of Land

As reported in 2015/16, various land parcels belonging to the company meant for the expansion, storage and treatment works have been encroached on by private developers. The affected parcels of land included:-

- (i) Loresho water reservoir (Nairobi Block 90/587) was subdivided into six sub Plots; Block 90/596 and 5 other Blocks (90/591, 90/592, 90/593, 90/594, and 90/595 currently occupied by a reservoir and issued out to new owners respectively. This is irregular as the original block of land was reserved for future water works expansion;
- (ii) Kariobangi North Sewerage treatment works; the land was allocated to several groups; Kariobangi Sewage farmers self-help group, Provincial administration (chief's camp), Our lady of Fatima Secondary School, Alice Nursing Homes, and Kariobangi Catholic Church for Polytechnic construction. Allocation and survey records to subdivide the land were not made available despite having been purported to have been carried out by surveyors in the Nairobi City County Government;
- (iii) Encroachment on LR No. 13119/2-Booster Station II situated off Kabete Road where water from Ruiru dam is pumped into Kabete treatment works for redistribution. Records of the land were not made available for review; however a complaint had been lodged by the Company in June 2007. Consequently the status of resolution on the reported encroachment could not be established;

- (iv) Ruiru Dam – Kabete pipeline transmission has been encroached at Good Shepherd and Kiangima area. The structures under construction have been erected on top of 16" and 24" pipes at Air Valve (AV) number 42 (Good Shepherd area), 9", 12", and 24" pipes between wash out 38 and Air Valve 38 (Kiangima area).

The Managing Director admitted to the audit findings and submitted that:-

- i) The company will keep a vigil eye on all the property which are necessary for water operations and will ensure any encroachment is communicated to the relevant authority and also fence these facilities to keep off land grabbers. The County Government of Nairobi in conjunction with the company has developed a water policy and water bill together with the New Water Act that will ensure the assets are transferred to the company; hence the ownership and possession issue will be under the Company. The matter has also been reported to the relevant authority's i.e National Land commission and Public Investment Committee of the Nairobi City County for action.

Committee observation:-

- i) The Nairobi City Water and Sewerage Company limited does not have ownership documents to its properties; and
- ii) The Company's land has been encroached on posing great risk of the land being grabbed.

The Committee recommends that:-

- i) The County Executive to hasten the process of acquiring ownership documents for each property of the Company;
- ii) The Company should secure all their properties and demolish any illegal structures on their land as they wait for ownership documents; and
- iii) The Company and the County Executive urgently institute measures to recover irregularly allocated plots reserved for expansion, storage and treatment works.

2.2. Inventories

The statement of financial position reflects inventories balance of Kshs. 454,911,099 as at 30 June 2017 (Kshs. 389,341,992 as at 30 June 2016) an increase of Kshs. 65,569,107 from the previous year. Some of the stock has been held for a long period thereby incurring additional storage and maintenance cost and also exposure to the risk of obsolescence. However, no

provision for impairment has been made in these financial statements. Consequently, the value and accuracy of inventories balance of Kshs. 454,911,099 as at 30 June 2017 cannot be confirmed.

The Managing Director admitted to the audit findings and submitted that:-

- i) As reported in the previous year the company has in its inventory material for emergency response in case of a major breakdown. Some materials in this case are not readily available in the market and to get them requires that they be manufactured a fresh or specially fabricated. Examples of these materials are large pipes that draw water from the dams and treatment plants.
- ii) Most materials from City Council era are slow moving and cannot be classified as obsolete stocks as they are still usable when need arises.
- iii) The company specializes in provision of water services; thus it cannot adopt a just in time inventory system due to national security concerns with regards to ensuring constant supply of water. Therefore, the company will always have emergency stocks to avert any disruption of water supply.
- iv) In addition, the Company received stock worth Kshs 65,627,200 as grant from Athi Water Service Board during the Month of June 2017. This largely contributed to the increase in the stock value.
- v) Re-order levels have been established and its basis of purchase.

Committee observation:-

- i) The Company maintains high level of inventories; and
- ii) The increase in stock is as a result of a grant from Athi Water Services Board of Kshs 65,627,200 during the month of June, 2017.

The Committee recommends that:-

- i) The Company should have a Rapid Result Initiative to have the inventories at a minimum level; and
- ii) Need assessment of inventory to be incorporated for efficiency.

2.3. Trade & Other Receivables

The trade and other receivables balance of Kshs. 2,876,606,925 as at 30 June 2017 (2016-Kshs. 2,523,118,332) includes other receivables of Kshs. 1,310,929,463 as at 30 June 2017 (2016- Kshs. 909,274,478) an increase of Kshs. 401,654,985 or 44% from the previous year. As reported in 2015/2016, the balance includes Kshs. 478,001,144 and Kshs. 429,343,644 which relates to claims receivable on unassessed lodgments and unclaimed VAT from Kenya Revenue Authority respectively. However, the opening balance of the claims receivable of Kshs. 278,498,647.60 included a claim of Kshs. 21,366,509 for the period July to September 2009 lodged but remains un-evaluated as at 30 June 2017.

Under the circumstances, the accuracy and full recoverability trade and other receivables balance of Kshs. 2,876,606,925 as at 30 June 2017 cannot be ascertained.

The Managing Director admitted to the audit findings and submitted that:-

- i) The increase in receivables is mainly attributable to Value Added Tax claims from Kenya Revenue Authority which has not been refunded for more than 3 years. The Company has made a provision for liabilities for the claim of Kshs.21, 366,509 as it is past due and impaired, and has also engaged services of a consultant who is pursuing the matter with the Kenya Revenue Authority to resolve this claim.

Committee observations:-

- i) There are very high levels of trade and other receivables;
- ii) The correctness of the debtors and receivables figure cannot be confirmed. Further, full recoverability cannot be ascertained; and
- iii) Although the company maintains that it has a policy on debt provisioning, some of the company's debtors are older than one year and the company does not maintain an aged debtors' analysis.

The Committee recommends that:

- i) The management should come up with a policy to recover all their debts from clients including Kenya Revenue Authority (KRA);
- ii) The management should give a note on the accumulated debts in accordance to accounting procedures; and

- iii) The Company should review the efficiency and cost effectiveness of engaging a consultant to collect its debt from Kenya Revenue Authority noting that Kenya Revenue Authority has a claim for unpaid taxes by the Nairobi City Water and Sewerage Company Limited.
- iv) The Company should provide for taxation since not doing so exposes the company to risk of penalties and this could ground the company. Since the company claims Value Added Tax refunds from Kenya Revenue Authority and the company owes Kenya Revenue Authority insurmountable amount of money in unpaid corporate tax since inception, the company should consider entering into Debt swapping arrangements;

2.4. Cash and Cash Equivalents.

The statement of financial position reflects cash and cash equivalents balance of Kshs. 123,801,631 as at 30 June 2017. The Company operated twenty-two (22) bank accounts and two (2) agent accounts during the period under review. However, out of the 22 bank accounts, 7 were dormant. No explanation has been provided for failure to close the seven dormant accounts to avoid unnecessary bank charges. In addition, bank reconciliation statements in support of the bank balance of Kshs115,270,125 as disclosed in Note 16 to the financial statements have not been provided for audit verification. In the circumstances, the accuracy of cash and cash equivalents balance of Kshs. 123,801,631 as at 30 June 2017 cannot be confirmed

The Managing Director admitted to the audit findings and submitted that:-

The accounts in question are inactive but occasionally transacting due to various reasons.

The Housing Finance account became inactive when the bank migrated to new software and deactivated the account. At the time the collection agreement also needed to be reviewed to allow them to continue performing the agency function. This is currently in progress.

The Kiambiu water extension, Baba Dogo water extension and Mathare sustainability account were opened to finance projects sponsored by the Water Services Trust Fund in the Kiambiu, Baba dogo and Mathare slums. Due to some challenges experienced by the contractor within those slums the funds uptake has been slow hence resulting in the accounts being inactive.

National bank account was opened as an agency but the bank was still piloting internally with its own employees before deploying to the general public.

The Kenya Commercial Bank accounts were opened for the AFWA congress which was held in February 2015. Part of the proceeds was to be paid to the AFWA but AFWA was to meet part of the cost of organizing the Congress. In view of the pending reconciliation the accounts remain inactive.

Lastly, the cash book and bank reconciliation statements to support the bank balance of kshs 115,270,125 were provided to the auditors for verification and the summary is shown below.

Cash at bank 2017	
Name	Balance as at June 2017
Receive Account	11,415,948
Barclays	16,683,652
Business Current	10,661
Call Deposit	4,136,744
Baba Dogo Project A/C	98,403
Savings	166,626
Equity - Current- 076	2,649,691
Equity - Collection -093	392,541
Sidian (Krep) Bank Ltd	1,235,485
Citibank	10,747,593
HF	370,310
M-Pesa	3,749,497
Airtel	1,164,239
Jambo pay	564,546
Kiambiu Extension Project A/C	65,944
Baba Dogo Extension Project A/C	5,444,519
Mathare Sustainability Project A/C	201,239
National Bank Ltd	71,364
Kenya Commercial Bank Ltd (Kes)	2,507,629
Kenya Commercial Bank Ltd (USD)	3,913,027
Oba Project A/C	39,708,782
National Industrial Credit Ltd	56,367
Diamond Trust Bank Ltd	40,231
	105,395,038
Amounts Deposited At Receive Account but not Yet credited	9,738,786
Amounts Deposited At savings Account but not Yet credited	47,500
Uncredited cheques at Barclays	88,801
	115,270,125

This was approved by the Board of Directors on 17th December 2008 under minute number MIN.2/47/08 and in the annual general meeting held on 29th May 2010.

Committee Observations:-

- i) The Company's revenue reserves are very high at Kshs. 3,004,701,028

The Committee recommends that:-

- i) The Company should audit their billing system so that errors in billing should not reoccur.

2.7. Customers with credit balances

The statement of financial position as at 30 June 2017 reflects customers with credit balances of Kshs. 152,679,015 (2016 - Kshs. 88,891,517) and as disclosed at Note 23 to the financial statements. As previously reported, the accounts continue to reflect credit balances despite being active but with no corresponding billings or claims and reconciliation for considerably long period of time. Consequently, the validity of customers with credit balance of Kshs. 152,679,015 as at 30 June 2017 cannot be confirmed.

The Managing Director admitted to the audit findings and submitted that:-

The credit balances arose due to several reason adjustments arising from billing errors, meter tampering by customers, and over payments. The management has set targets for the revenue team to ensure that all unjustified credit are reversed. The intention is to ensure that any incorrect credit is verified and action taken.

Committee Observations:-

- i) The Company's customers with credit balances stands at a tune of Kshs. 152,679,015

The Committee recommends that:-

- i) The management should strive to find the cause of the high levels with customers with credit balances and mitigate the same; and
- ii) The Management should procure software programme which cannot be manipulated and which can help in detecting overpayments and underpayment immediately the readings are posted to the system.

2.8. Trade and Other Payables

Trade and other payables balance of Kshs. 2,686,596,174 as at 30 June 2017 includes outstanding audit fees balance of Kshs. 18,698,009 that has accumulated for five years contrary to the requirement of Section 41 (c) of the Public Audit Act, 2015. The Company is therefore in breach of the law.

The Managing Director admitted to the audit findings and submitted that:-

The company is currently settling the amount and will come up with a plan on how to settle the arrears. The increase in the trade payable was due to decrease in revenue as a result of low rainfall in the catchment area.

Committee observations:-

- i) The Company is not settling their obligations as they fall due to a total of Kshs. 2,686,596,174

Committee recommends that:-

- i) The Company should pay all its Trade and Other Payables as per regulations

2.9. Leased Assets

As reported in the previous years, the Company entered into a tripartite agreement with the defunct City Council of Nairobi and Athi Water Services Board in April 2004, for assignment of all water and sewerage fixed assets and infrastructure to the Company at a consideration of 20% of the total revenue collected during the period 2007 to 2009 out of which the Company paid a total of Kshs. 1,558,808,316 during that period. Further, amounts of Kshs. 709,361,211, Kshs. 753,671,911, Kshs. 792,855,936, Kshs. 996,155,804, Kshs. 920,215,065, Kshs. 665,557,199, Kshs. 799,930,770 and Kshs. 266,916,107 were paid in the financial years ended 30 June 2010, 2011, 2012, 2013, 2014, 2015, 2016 and 2017 respectively in relation to the same assets. However, the assigned assets and infrastructure have never been valued casting doubt on the basis of setting the lease payments.

In the circumstances, the value of any impending liability in respect of the leased assets cannot be ascertained as at 30 June 2017.

Committee observations:-

- i) The Company has several dormant bank accounts which are making the Company incur unnecessary bank maintenance costs; and
- ii) The Company did not provide timely statements for the bank accounts for third party confirmation.

The Committee recommends that:

- i) The management should reconcile and close all the dormant accounts; and
- ii) The Company should provide bank reconciliations at the time of the audit to avoid such queries in the subsequent reports.

2.5. Amounts Due To Related Parties

The statement of financial position reflects amount due to related parties under current and non-current liabilities of Kshs. 1,146,615,016 (2016-Kshs. 1,146,615,016) and Kshs. 2,332,481,979 (2016-Kshs. 1,363,410,975) as at 30 June 2017 respectively. As disclosed in Note 25 to the financial statements, lease fee as at 1 July 2016 was 2,323,072,313 while lease fee for the year under review amounted to Kshs. 1,235,987,113. During the year, the Company settled Kshs.266,916,107, leaving a balance of Kshs.3,292,143,319 as at 30 June 2017 which significantly contributed to the increase in amounts due to related parties.

The Managing Director admitted to the audit findings and submitted that:-

During the financial year the company experienced general increase in operational costs resulting to a significant decrease in lease paid. The company in collaboration with other water companies is lobbying WASREB to change from the current tariff regime to an index based tariff structure. An index based tariff structure will be reviewed annually to reflect the macro-economic environment which is a departure from the current tariff that reviewed after three years. However, the company continues to settle its obligations as they fall due. The debt due to Athi water is being liquidated amicably as agreed between the two parties.

Committee observations:-

- i) The Company's amounts due to related parties are very high standing at Ksh.3,292,143,319.

Committee recommends that:-

- i) The Company should come up with measures to clear and settle debts due to related parties; and
- ii) The Company should stop any further payments to Athi Water Services Board pending review of the tripartite agreement.

2.6. Revenue Reserves

Revenue reserve balance of Kshs. (3,005,132,991) as at 30 June 2017 includes Kshs. 697,223,410 transferred from the capital reserves in 2007/2008. According to records available, the capital reserves had been determined through a logical deduction method, as no statement of affairs had been prepared to assess the value of assets and liabilities taken over from the defunct City Council of Nairobi by the Company. As reported in the previous year, no justification has, however been provided by the Company for the application of this accounting method. In the absence of a statement of affairs, independent valuation, due diligence and the audited financial statements of the defunct City Council of Nairobi for 2004, it has not been possible to confirm the accuracy of the revenue reserve balance of Kshs (3,004,701,028) as at 30 June 2017.

In addition, the Company made prior year adjustments of Kshs. 417,427,001 (2016 Kshs.309,177,993) through the revenue reserves for the revised water bills. Although this is a significant reduction, it is indicative that measures put in place to ensure accurate meter readings for billings are yet to be fully realized.

The Managing Director admitted to the audit findings and submitted that:-

As earlier reported when the company was formed to take over the functions of the water and sewerage department (WSD) of City Council of Nairobi, there was no statement of affairs at change over. The company at inception inherited as its working capital net assets comprising of receivables, payables, and inventories. These are items of revenue nature. In the absence on the statement of affairs, the opening balances were determined through Logic Deduction Method. This confirms with the entity concept as represented by the accounting equation principle. Nothing has come to the attention of directors to indicate that these deducted opening balances were misstated. According to corporate law, such net assets denote revenue reserves as if at the time they were not reflected as paid-up share capital as in this case. Hence the need to restate of reclassify as revenue reserves as previously applied.

The Managing Director admitted to the audit findings and submitted that:-

As earlier explained in previous year, there is no impending liability in respect of the leased asset as the tripartite agreement provided for payment of 10%, 15% and 20% of the collection in the first, second and third year respectively until the assets are valued by the Asset lessor.

As per the tripartite agreement Article 1.2.1 subsection 3 “the Assignee shall pay the lessor such lease fees as are set out in annex 2 to this agreement which lease fees may be varied by mutual agreement following a review at the end of three (3) years and following the independent revaluation which is provided for here in below”

In 2009 the regulator (WASREB) approved a new tariff for the company and also included the new lease /levy which have been reviewed and implemented at the 2015 and the company is supposed to pay Administration Fee and loan repayment to Athi Water Services Board as set in the Tariff conditions.

Committee observations:-

- i) The Management paying the lease fee was unlawful as the agreement had expired and had not been reviewed or renewed;
- ii) The Company has paid out a total of Kshs 7.2 billion to Athi Water Services Board from the year 2007 – 2016; and
- iii) The lease fee is not based on the current market value of the assets and thus creating doubt on the amounts being paid to Athi Water Services Board (AWSB).

Committee recommended that:-

- i) Athi Water Services Board (AWSB) should account for the amounts received for the period 2007 – 2016;
- ii) The Company should stop any further payments to Athi Water Services Board pending review of the Tripartite agreement;
- iii) Valuation be done on the assigned assets to give the current value of the assets and an agreement be put in place to guide on the payments of lease fee taking to account the value of the leased assets; and

- iv) All the assets to revert to the Company since it's a County Government Corporation mandated to provide water and sewerage services to the County residents as per the constitution.

2.10. Board Remuneration

As disclosed in Note 6 to the financial statements, expenditure on board remuneration for the year ended 30 June 2017 amounted to Kshs. 17,740,846. A review of this expenditure indicates that an amount of Kshs. 6,842,794 equivalents to about 39% of the total amount was in respect of allowances paid on foreign trips. Further, some board members travelled in business class on various occasions instead of economy class as provided in the Company's human resource policy thereby occasioning an over expenditure of Kshs. 15,463,511 on the budget item. Some board members also changed flights by either returning back earlier or later than scheduled time, occasioning extra payments totalling Kshs. 468,001. Further, three board members were paid a total of Kshs. 4,789,436 to travel to various destinations on official duties but failed to go or returned earlier than the scheduled dates but did not refund a total of Kshs. 2,899,642 as per returns. In the circumstance, the validity of expenditure incurred on the above specific cases cannot be confirmed.

The Managing Director admitted to the audit findings and submitted that:-

The Board of Directors have to be exposed in certain areas pertaining to their specific areas assigned in board committees. This may involve benchmarking with other foreign countries to understand best practices. The board members who have not filed returns have been informed accordingly to either refund the amounts advanced or submit returns.

The Committee was further informed that the Nairobi City Water and Sewerage Company Board was also suspended by His Excellency the Governor because of some these issues and a determination has not been made.

Committee observations:-

- i) The Committee noted that some Board Members failed to refund or account for their imprest; and
- ii) The Company made an over expenditure of Kshs. 15 Million due to some board members travelling in business class on various occasions instead of economy class as provided in the Company's human resource policy.

- iv. Carrying out census, tagging and Geo-referencing of all meters and metered points to improve on meter reading and billing.
- v. Installation of more accurate flow meters to replace all mechanical meters for high consumers.
- vi. Replacing the current customer management system with a new robust system.

Committee observations:-

- i) There was no clear explanation given by the Managing Director to show why the level of unaccounted for water stood at 15% above the allowable normal loss of 25 % by Water Services Regulatory Board guidelines leading to an apparent loss of sales estimated at Kshs. 3.12 billion.

Committee recommended that:-

- i) The management should ensure that the international standard of 25% Unaccounted for Water (UFW) should be adhered to ;
- ii) The management to expedite the process of installing meters that are easily monitored and tamper-proof which the Company was in the process of procuring as reported to the Committee by the management during the meeting to curb the situation of water loss through unscrupulous people tampering with meters;
- iii) Policies should be formulated that will encourage punitive measures be taken on any person who vandalizes company's property;
- iv) The management should deal with issues of illegal connections conclusively;
- v) In the informal sectors (slums) the company should install bulk meters and look for innovative measures like having private people to man and operate the water supply to the residents; and
- vi) The management to come up with strengthened reinforcement units to help them deal with the cartels operating water supply business illegally.

2.12. Material Uncertainty Related to Going Concern

During the year under review, the company made a loss of Kshs. 295,911,748 which resulted to depletion of the revenue reserves from negative Kshs. 2,291,794,242 as at 1

Committee recommended that:-

- i) The Company to immediately institute measures to recover the un - utilized funds from the previous Board Members in line with the provision of the Public Finance Management regulations; and
- ii) Employees to authorize payments based on financial regulations and Company's human resource policy.

2.11. Non-Revenue Water

During the year under review, the company produced 181,363,932 cubic meters (m3) of water but earned from the water an income of Kshs. 5,103,161,621 only as disclosed at Note 3 to the financial statements. Out of this volume, only 112,787,608 cubic meters (m3) was billed to customers. The balance of 68,560,389 cubic meters or approximately 38% of the total produced represents Non-Revenue Water (NRW) which is over and above the allowable loss of 25% in accordance with the Water Services Regulatory Board guidelines. The excess Non-Revenue Water of 13% may have resulted in loss of revenue estimated at Kshs. 1,044,873,270.

The Managing Director admitted to the audit findings and submitted that:-

The company recognizes that high levels of Non-Revenue Water are detrimental to the financial viability of any water utility. Non-Revenue Water is typically measured as the volume of water not billed as a proportion of water produced.

Non-Revenue Water has two components:

- i. Commercial losses: This is attributed mainly to apparent losses (water theft and metering inaccuracies), and unbilled authorized consumption mainly through mains flushing and sewer flushing,
- ii. Technical or real losses: This arises from transmission mains losses, storage facilities overflow, distribution mains or service connection leaks.

The estimated losses reported due to non-revenue water fluctuated between 38% and 40% in the last two years. In the proposed budget the following activities will be carried out to further reduce the Non-Revenue Water

- i. Continuous identification of illegal connections in the network by either disconnecting or regularizing
- ii. Proactive replacement of faulty meters.
- iii. Ensuring timely repair of leaks and bursts.

July 2016 to negative Kshs. 3,005,132,991 as at 30 June 2017. Further, the current liabilities of Kshs. 4,327,590,052 as at 30 June 2017 exceeded the current assets of Kshs. 3,455,319,655 resulting in a negative working capital of Kshs. 872,270,397. This is an indication that the company may be experiencing financial difficulties in settling maturing obligations as and when they fall due and its long-term sustainability is in jeopardy. This material uncertainty has, however, not been disclosed in the notes to the financial statements.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of Nairobi City Water and Sewerage Company Limited management in accordance with ISSAI 30 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 audit opinion.

The Managing Director admitted to the audit findings and submitted that:-

The tariff under which the company operates is not reflective/ adaptive of the environment and as such when there are long delays to increase the charges this result to increase liabilities while revenue decreases. The company will strive to ensure that the expenses are checked while trying to ensure the billing is improved through enhanced meter reading and automation.

In addition the adverse weather conditions led to reduced billing while the fixed costs remained constant or increased. The company is engaging the Government and County Government of Nairobi to ensure that, the company get development fund mainly on major projects for sewerage and water as the current tariff is not enough to cover its operations. We will also initiate the tariff review to increase/ expand the revenue hence reverse the negative working Capital and improve the company Liquidity position. In addition the company in conjunction with other water companies is in consultation with WAREB to change the current tariff regime to an index based tariff i.e. the tariff will reflect the current macro-economic condition and reviewed yearly unlike the current operating tariff that is reviewed after three years.

Committee observations:-

- i) The material uncertainty related to the going concern was brought about by the negative revenue reserve and a negative working capital of Kshs. 872,270,397 million.

Committee recommended that:-

- i) The management should improve on water collection, treatment and distribution in order to avoid incurring unnecessary costs resulting from water collection, treatment and distribution; and
- ii) The management should liaise with relevant Government agencies to harmonize the water tariffs for the benefit of the Company and Consumers.

2.13. Other Matters

2.13.1. Budget and Budgetary Controls

During the year under review, the company budgeted to spend Kshs. 11,856,837,953. However, actual expenditure for the year was Kshs. 10,934,891,358 resulting to an under expenditure of Kshs. 921,946,595 which is equivalent to about 8% of the total budget. Further analysis of the budget against actual expenditure indicate operating cost for the year amounted to Kshs 9,964,051,281 against a budget of Kshs. 9,369,588,300 resulting to an over expenditure of Kshs. 594,462,981. Further, out of the capital budget of Kshs. 2,487,249,653 only Kshs. 970,840,077 was spent resulting to under expenditure of Kshs. 1,516,409,576, a 61% shortfall. This implies an extremely low investment in capital assets which may impact negatively on service delivery by the Company. The under investment was mainly on land and buildings, plant and machinery, motor vehicles and equipment. In addition, the Company budgeted to collect revenue totalling Kshs. 11,229,000,000 in the year under review. However, actual collection amounted to Kshs. 9,668,139,533 resulting in a budget deficit of Kshs. 1,560,860,467. The under expenditure and under collection is an indication that approved programs were not fully implemented.

The Managing Director admitted to the audit findings and submitted that:-

The preparation of the budget for FY2016-2017 was made taking into consideration various assumptions and challenges that may influence the company performance in meeting its set targets. They are:

- i. There will be no significant un-projected environmental and demographic/social changes.
- ii. The country will continue to enjoy reasonable social-economic and political stability
- iii. The weather conditions will be favourable.

- iv. There will be no interference with the existing water sources.
- v. The customers will pay their bills on time.
- vi. There will be continued support from the Government, development partners and other stakeholders.

The company did not achieve the collection target due to adverse weather conditions experienced during the period. This resulted to reduction of revenue collection by 23%. It was thus not possible to achieve their targets.

Committee observations:-

- i) The management did not achieve its budgetary provisions and as a result there was an overall under expenditure of Kshs. 921,946,595 million;
- ii) Operation costs had an over expenditure of Kshs. 594,462,981 million;
- iii) The management failed to realize investment in capital project by Kshs. 1,516,409,576 billion. The Company only invested to the tune of Kshs. 970,840,077; and
- iv) The Company failed to collect revenue of Kshs. 1,560,860,467 billion during the period under review.

Committee recommended that:-

- i) The management to improve on efficiency on water management collection, treatment and distribution among other services.
- ii) The management to implement its budgetary allocation fully.

2.13.2. Nairobi Sanitation Output Based Aid Project Performance

During the year under review, Nairobi Sanitation Output Based Aid Project budgeted to receive a total of Kshs. 354,086,089 comprising of World Bank grant of Kshs. 121,878,052 and counter-part funding of Kshs. 232,208,037 from the Company. However, actual receipts during the year amounted to Kshs. 85,898,390 from World Bank and Kshs. 232,208,037 from the Company, resulting in a shortfall of Kshs. 35,979,662.

Further, total sewer and water connections as at 30 June 2017 stood at 4,850 units against overall project targeted output of 15,051 units which translate to an average of a 32% completion as at 30 June 2017 as detailed below:

Connection Type	Target Output No.	Unit Cost (Kshs)	Total Target Cost (Kshs)	Attained Output No.	Performance Difference No.	% of Output Attained
Sewer Type A	4,871	54,573	265,825,083	689	4,182	14
Sewer Type B	3,742	164,478	615,476,676	2,261	1,481	60
Water	6,438	23,084	148,614,792	1,900	4,538	30
TOTAL	15,051		1,029,916,551	4,850	10,201	32

Although 67% of the project duration had lapsed as at 30 June 2017, only 32% of the targeted output had been achieved, an indication that the project is clearly behind schedule. It is therefore unlikely that the project's goals of increasing access to sanitation and water services in the target areas will be achieved by the end of the project in February 2018.

The Managing Director admitted to the audit findings and submitted that:-

The under achievement was largely due to government bureaucracy with regards to reporting and slow release of donor fund from Central Bank Kenya, to parent ministry and finally to the company. The World Bank is cognizant of the bureaucracy issues and has held numerous meeting with all concerned stake holders to resolve the issues. Consequently the World Bank has approved the extension of the project time by a further six months to enable the company meet the agreed targets.

Committee observations:-

- i) The project is dragging and has not achieved the targeted output of 15,051 units as they have only realized a connection of 8,850 units; and
- ii) Underfunding of the project totaling to Kshs. 35,979,662 million.

Committee recommended that:-

- i) The Company should prioritize the project since the World Bank gave an extension of the project to connect people in informal settlements in Nairobi County; and

The Managing Director admitted to the audit findings and submitted that:-

The vehicles were secured by Athi Water Services Board through a contract to Kundan Singh Construction (K) Ltd. The handing over process has not been finalized to enable the company to register them with the blue plates.

Committee observations:-

- i) The vehicles have private number plates instead of the blue plates which is against the law.

Committee recommended that:-

- i) The Company to liaise with the relevant Government agencies for the registration of the vehicles to acquire the required blue number plates.

- ii) The management should liaise with the various government agencies to ease bureaucracy issues in realizing funds for the projects.

2.13.3. Sasumua Dam Laboratory Project

A company was contracted to build and equip Sasumua Dam Laboratory. As at the time of the audit, the company had been paid a total of Kshs. 11,367,969.84. However, although the building works had been completed by 30 June 2016, the facility has not been equipped to start operating as some vital installations had not been done by the contractor. Consequently, the Company has not obtained value for the investment totalling Kshs. 11,367,969.84 as at 30 June 2017.

The Managing Director admitted to the audit findings and submitted that:-

The building is indeed substantially complete and the amount paid is only for certified work. During the inspection it was noted the fume hood has not been installed. This being a critical facility in operation of the laboratory it is not recommended to put the laboratory in use. The managing director vide letter dated 9th August 2017 wrote to the contractor to ensure the fume hood is installed. However, since the item is to be imported it may take some time before it is delivered and installed.

Committee observations:-

- i) The project is yet to be put to use after the contractor has been paid a total of Kshs. 11,367,969 million therefore hampering operations of the laboratory at Sasumua dam.

Committee recommended that:-

- i) The management should liaise with the contractor to procure and install the fume hood to enable the facility to be put to use, within a reasonable time frame.

2.13.4. Vehicles with Private Number Plates

Three vehicles registration numbers; KBT 635Q, KBS 149T and KBS 150T were transferred from Athi Water Services Board to the Company in January 2017. However, the number plates have not been changed to blue as required by law.

3.0. RECOMMENDATIONS

Madam. Speaker, following the findings and observations recorded by the Committee in the course of scrutinizing the Auditor General's report on the financial statement of Nairobi Water and Sewerage Company Limited for the year ended 30th June 2017, the committee urges this Assembly to resolve as follows;-

- i) Review and harmonize the tripartite agreement amongst other things to take into account of the new dispensation.
- ii) The Company and the County Executive urgently institute measures to recover irregularly allocated plots reserved for expansion, storage and treatment works.
- iii) Policies to be formulated giving guidelines on the ownership of the property, plant and equipment;
- iv) The Company should review the efficiency and cost effectiveness of engaging a consultant to collect its debt from Kenya Revenue Authority noting that Kenya Revenue Authority has a claim for unpaid taxes by the Nairobi City Water and Sewerage Company Limited.
- v) The Company should provide bank reconciliations at the time of the audit to avoid such queries in the subsequent reports.
- vi) The County Executive to hasten the process of acquiring ownership documents for each property of the Company;
- iii) The management should strive to find the cause of the high levels with customers with credit balances and mitigate the same; and
- iv) The Management should procure software programme which cannot be manipulated and which can help in detecting overpayments and underpayment immediately the readings are posted to the system.
- vii) The management should have policies on inventories in place immediately and it should be documented;
- viii) The management to expedite the process of installing meters that are easily monitored and tamper-proof which the Company was in the process of

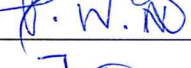
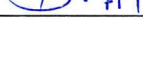
- procuring as reported to the Committee by the management during the meeting to curb the situation of water loss through unscrupulous people tampering with meters;
- ix) Policies should be formulated that will encourage punitive measures be taken on any person who vandalizes company's property;
 - x) The Company review its debt management policy especially the debt writing off criteria as its current debt levels are unrealistic;
 - xi) The Company should provide for taxation since not doing so exposes the company to risk of penalties and this could ground the company. Since the company claims Value Added Tax refunds from Kenya Revenue Authority and the company owes Kenya Revenue Authority insurmountable amount of money in unpaid corporate tax since inception, the company should consider entering into Debt swapping arrangements;
 - xii) The Company to immediately institute measures to recover the un - utilized funds from the previous Board Members in line with the provision of the Public Finance Management regulations;
 - xiii) The Company should be re-incorporated as a public entity through legislation by the County Assembly to avoid tax liabilities;
 - xiv) In the informal sectors (slums) the company should have bulk meters and look for innovative measures like having private people to man and operate the water supply to the residents;
 - xv) Valuation be done on the assigned assets to give the current value of the assets and an agreement be put in place to guide on the payments of lease fee taking to account the value of the leased assets;
 - xvi) Nairobi City Water and Sewerage Company should write to the National Lands Commission seeking repossession of the land that has been grabbed by private developers and demolish any illegal structures on its land;
 - xvii) The Company should strengthen its debt collection mechanisms to maximize its revenue; and
 - xviii) The accounting officer should report back in writing within 60 days on the implementation of the recommendations passed by the County Assembly as per the Public Audit Act 2015.

ANNEXES;

- a) NCWSC financial statement for the year ended 30th June, 2017;
- b) NCWSC Management written responses; and
- c) Minutes of the meetings with NCWSC Management.
- d) List of adoption.

ADOPTION OF THE COMMITTEE REPORT ON THE CONSIDERATION OF THE
REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENT OF NAIROBI
CITY WATER AND SEWERAGE COMPANY LIMITED FOR THE YEAR ENDED 30TH
JUNE, 2017 BY THE SELECT COMMITTEE ON PUBLIC INVESTMENTS

The following members appended their signatures to signify their agreement with the report:-

No.	Name	Signature
1.	Hon. Stazo Elijah Omung'ala - Chairman	
2.	Hon. Silas Ongwae, MCA – Vice Chairman	
3.	Hon. Peter Wahinya Njau, MCA	
4.	Hon. Jacinta Wanjiru, MCA	
5.	Hon. June Juliet Ndegwa, 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. Mbugua Kabiro, MCA	
11.	Hon. Benson Mwangi, MCA	
12.	Hon. Mark Ndung'u, MCA	
13.	Hon. Emapet Kemunto, MCA	
14.	Hon. Geoffrey Majiwa, MCA	
15.	Hon. Patrick Logendi, MCA	
16.	Hon. Millicent Okatch, MCA	
17.	Hon. Nicholas Okumu, MCA	
18.	Hon. Kennedy Oyugi, MCA	
19.	Hon. Jackline Apondi, MCA	

NAIROBI CITY COUNTY ASSEMBLY

COMMITTEE ON PUBLIC INVESTMENTS

DATE: 4th September 2018

TIME: 12.00 Noon

VENUE: Charter Hall

S/NO	NAME	SIGN
1.	Peter W. Ngũgĩ	P.W. chair
2.	Kabiro Mbugwe	K.M.
3.	Daniel Mbugwe	P.W.
4.	June Ndegwa	J.N.
5.	Jacinta Wanjiru	J.W.
6.	Simon M. Ogunwa	S.M.O.
7.	James Muriu Wanjau	J.M.W.
8.	John Ngũgĩ	J.N.
9.	Kanyangi Patricia	Kanyangi
10.	JACKSON MURUGA	J.M.
11.	Michelle A. Okoth	M.A.O.
12.	STAZO Mwangi	STAZO
13.	Benson Mwangi	B.M.
14.	Geoffrey Mwangi	G.M.
15.	Kennedy Oyugi	K.O.
16.		
17.		
18.		
19.		

Prepared by: Titus Muiruri

Sign: 

Date: 4/9/18

