

Papers laid on 19/9/24  
by Hon. George Wainaina

Mhe:  
Per (Chf)

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY  
(THIRD SESSION)

19/09/2024.

NCCA/TJ/PL/2023(51)

19<sup>TH</sup> SEPTEMBER 2024

PAPER LAID

SUBJECT: REPORT OF A COMMITTEE

Pursuant to Article 229 (8) of the Constitution of Kenya, 2010 and Standing Order 196, I beg to lay the following Papers on the Table of this Assembly, today Thursday 19<sup>th</sup> September 2024:

- THE REPORT OF SELECT COMMITTEE ON PUBLIC ACCOUNTS ON CONSIDERATION OF THE REPORT OF AUDITOR GENERAL ON NAIROBI CITY COUNTY ALCOHOLIC DRINKS CONTROL AND LICENSING BOARD FOR THE YEAR ENDED 30<sup>TH</sup> JUNE 2022

*(The Chairperson, Select Committee on Public Accounts)*

- Copies to:
- The Speaker
  - The Clerk
  - Hansard Editor
  - Hansard Reporters
  - The Press





Report laid on 19/09/24  
by Hon. Chege Mutaura MCA

**Nairobi City County Government**



Office  
PCA ChSP  
19/09/24

**Nairobi City County Assembly**

**Third Assembly – Third Session**

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**The Report of the Select Committee on Public Accounts**

**on**

**The Consideration of the Report of the Auditor-General on  
Nairobi City County Alcoholic Drinks Control and Licensing  
Board for the year ended 30<sup>th</sup> June 2022.**

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Clerks Chambers  
Nairobi City County Assembly  
City Hall Buildings  
Nairobi

September, 2024

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## 1.0. PREFACE

Hon. Speaker,

On behalf of the Public Accounts Committee (PAC) and pursuant to the provision of Standing Order 196(6), it is my pleasant privilege and honor to present to this Assembly this report of the Public Accounts Committee on the consideration of the *“Report of the Auditor General on Nairobi City County Alcoholic Drinks Control and Licensing Board for the Year ended 30<sup>th</sup> June 2022”*.

### 1.1. Mandate of the Public Accounts Committee

The Public Accounts Committee derives its mandate from Standing Order 203 (2) of the Nairobi City County Assembly, which provides that: -

*“The Public Accounts Committee shall be responsible for the examination of the accounts showing the appropriations of the sum voted by the County Assembly to meet the public expenditure and of such other accounts laid before the County Assembly as the Committee may think fit”*.

The primary mandate of the Committee is therefore to oversight the expenditure of public funds by Nairobi City County entities, to ensure value for money and adherence to government financial regulations and procedures. The Committee further aims at ensuring that Nairobi City County public funds are prudently and efficiently utilized. The Committee executes its mandate on the basis of annual and audit reports prepared by the Office of the Auditor General (OAG).

Article 229 (8) of the Constitution provides that within three months after receiving the report of the Auditor General, Parliament or the **County Assembly** shall debate and consider the report and take appropriate action. It is on this basis that this report has been produced by the Committee for consideration and adoption by the County Assembly.

### 1.2. Guiding principles

In the execution of its mandate, the Committee is guided by core constitutional and statutory principles on public finance management, as well as established customs, traditions, practices and usages. These principles include the following: -

#### (a) Constitutional Principles on Public Finance

Article 201 enacts fundamental principles aimed at guiding all aspects of public finance in the Republic. It states that the principles are, *inter alia*, *openness and accountability, including public participation in financial matters; public money shall be used in a prudent and responsible way; and financial management shall be responsible, and*

*fiscal reporting shall be clear.* The Committee places high regard on these principles, among others, and has been guided by them in the entire process that has led to this report.

### **(b) Direct Personal Liability**

Article 226(5) of the Constitution is unequivocal 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”*. Consequently, Section 203(1) of the PFM Act, 2012 enacts that: - *“A public Officer is personally liable for any loss sustained by a county government that is attributable to-*

- (a) the fraudulent or corrupt conduct, or negligence, of the officer; or*
- (b) the officer’s having done any act prohibited by sections 196, 197 and 198”*

The Committee considers this Constitutional and legal provisions as the basis for holding Accounting Officers and other Public Officers directly and personally liable for any loss of public funds that may occur under their watch.

### **1.3. Obligations of the Accounting Officer**

Article 226(2) of the Constitution provides, inter alia, that: *“the Accounting Officer of a national public entity is accountable to the National Assembly for its financial management, and the Accounting Officer of a county public entity is accountable to the County Assembly for its financial management”*. Subsequently, Section 149(1) of the Public Finance Management (PFM) Act, 2012 provides 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.”*

These provisions obligate the Clerk of the County Assembly who is the Accounting Officer and the administrator of fund to appear before the Public Accounts Committee to respond to audit queries raised by the Auditor General.



#### 1.4. Committee Membership

The Committee comprises of the following Members: -

1. **Hon. Chege Mwaura, MCA** - Chairperson
2. **Hon. Abel Osumba Atito, MCA** - Vice-Chairperson
3. Hon. Benter Juma Obiero, MCA
4. Hon. Patrick Karani Said, MCA
5. Hon. John Rex Omolleh, MCA
6. Hon. Stazo Omung'ala Ang'ila, MCA
7. Hon. Richardo Nyantika Billy, MCA
8. Hon. John Ndile Musila, MCA
9. Hon. Cyrus Mugo Mubea, MCA
10. Hon. Jane Musangi Muthembwa, MCA
11. Hon. Emmy Khatemeshi Isalambo, MCA
12. Hon. Fuad Hussein Mohamed, MCA
13. Hon. Fatuma Abduwahid Abey, MCA
14. Hon. Eutyclus Mukiri Muriuki, MCA
15. Hon. Fredrick Njoroge Njogu, MCA
16. Hon. Rachel Wanjiru Maina, MCA
17. Hon. Aaron Kangara Wangare, MCA
18. Hon. Carrington Gichunji Heho, MCA
19. Hon. Mark Thiga Ruyi, MCA
20. Hon. Simon Maina Mugo, MCA
21. Hon. Paul Wachira Kariuki, MCA
22. Hon. Martin Mbugua Mwangi, MCA
23. Hon. Mary Wanjiru Kariuki, MCA

The Committee comprises of the following Secretariat;

1. Mr. Kevin Wasike - Senior Clerk Assistant
2. Mr. Benedict Ochieng - Second Clerk Assistant
3. Mr. Klinsman Munase - Legal Counsel
4. Mr. Anthony Nyandiere - Hansard Editor
5. Mr. Melvin Wachira - Research Officer

Allow me **Hon. 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.

## 1.5. Background

The audit involved auditing of the financial statements of Nairobi City County Alcoholic Drinks Control and Licensing Board Fund by the Auditor General which comprise statement of financial position as at 30<sup>th</sup> June, 2022; statement of income and expenditure; statement of changes in equity; statement of cash flows for the year ended; a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015.

## 1.6. Establishment of the Fund

The Nairobi City County Alcoholic Drinks Control and Licensing Act, 2014 was established through Gazette Notice dated 19<sup>th</sup> May, 2014. Establishment of the fund is under part v (Section 43) of the Act;

1. *There is established a fund to be known as the Nairobi City County Alcoholic Drinks Control Fund which shall be managed by the County Executive Committee Member responsible for Trade.*
2. *The Fund shall consist of-*
  - a) *such monies as may be appropriated by the County Assembly and such license and other fees as may be payable under this Act;*
  - b) *sums received, including contributions, gifts or grants from or by way of testamentary bequest by any person;*
  - c) *moneys earned or arising from any investment of the Fund; and*
  - d) *all other sums which may in any manner become payable to, or vested in, the Fund.*
3. *The Fund shall be used for meeting the expenditure relating to-*
  - a) *research, documentation and dissemination of information on alcoholic drinks in the county;*
  - b) *promoting cessation and rehabilitation programs in the county;*
  - c) *financing the operations of the sub-county committees and voluntary programmes in the county in accordance with such guidelines as may be prescribed;*
  - d) *carrying out the functions of the Nairobi County Alcoholic Drinks Control and Licensing Board established under section 4 (I) and the objects of this Act; and*
  - e) *any other matter incidental to the matters set out in paragraphs (a), (b), (c), (d).*

The Chief Officer for Business and Hustler opportunities being the Accounting Officer of the Fund, is the administrator of the fund. Section 167 of the Public Finance Management Act 2012 mandates the administrator of Public Funds with the preparation of Annual Financial Statements.



### 1.7. Auditor-General's Responsibility

The Auditor General's responsibility was to obtain reasonable assurance about whether the financial statements as a whole were free from material misstatement, whether due to fraud or error, and to express an opinion on the financial statements in accordance with Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). Those standards require compliance with ethical requirements and that the audit be planned and performed to obtain reasonable assurance about whether the financial statements are free from material misstatement. The matters mentioned in the audit report were identified through tests considered necessary for the purpose of the audit and it is possible that there might be other matters and/or weaknesses that were not identified.

### 1.8. Evidence taken

The Committee held sittings of which it interrogated the former Chief Officer for Trade, Tourism and Commerce, former Director and the Accountant for the Nairobi City County Alcoholic Drinks Control and Licensing Board on key findings raised by the Auditor General. Similarly, the Committee received written responses to the special audit findings.

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, Acts of Nairobi City County Assembly and Nairobi City County Assembly Standing Orders, conventions, usages, practices and rulings and directives of the Chairperson.

### 1.9. Appreciation

**Hon. Speaker,**

The Committee would like to thank the **Accounting Officer** for appearing before it and subsequently submitting written responses which provided valuable insights into the issues raised by the Auditor General.

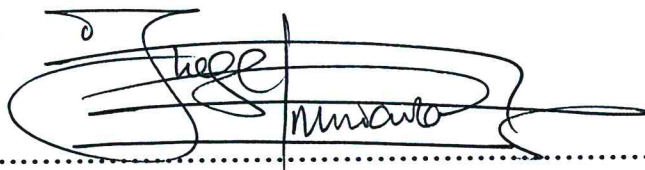
**Hon. Speaker,**

The Committee also wishes to sincerely thank the Offices of the Speaker and the Clerk for the services extended to the Committee while considering this matter. The Committee further wishes to appreciate the Officers from the Office of the Auditor General and the Committee secretariat for their exemplary advisory services that enabled Members effectively execute their mandate.

**Hon. Speaker,**

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

SIGNED .....

A handwritten signature in black ink, appearing to read 'Chege Mwaure', written over a horizontal dotted line.

**HON. CHEGE MWAURA (CHAIRPERSON)**

DATE .....

12/ Sep / 2024



## 2.0. CONSIDERATION OF THE AUDIT REPORT OF THE AUDITOR GENERAL

### 2.1. Inaccuracies in the Financial Statement

The financial statements prepared and submitted for audit had the following anomalies;

- i. The financial statements for the year under review reflect total payments and cash and cash equivalents comparative balances of Kshs.366,209,677 and Kshs.3,219,757 respectively, while the certified financial statements for the year 2020/2021 reflects closing balances of Kshs 294,328,552 and Kshs 75,100,882, resulting to variances of Kshs. 18,118,875 and Kshs. 71,881,125, which were not explained or reconciled.
- ii. The statement of financial position reflects property, plant and equipment balance of Kshs. 15,438,570 as at 30 June, 2022 and which according to the movement schedule as disclosed in Note 15 to the financial statements have been held since 2017/2018 financial year. However, the balance was not disclosed as annexures in the 2020/2021 and the previous financial years, when the Management presented the financial statements under the International Public Sector Accounting Standards cash basis of accounting, instead of the accrual basis. In addition, the amount is not reflected in the trial balance.
- iii. The statement of financial performance reflects use of goods and services expenditure of Kshs. 265,548,231 while the recasted amounts under Note 7 to the financial statements indicates a total amount of Kshs.265,864,886, resulting in an un-explained and unreconciled variance of Kshs.316,655.
- iv. Note 8 to the financial statements reflects depreciation and amortization expense of Kshs.4,473,325 which has been omitted from the statement of financial performance.
- v. The statement of changes in net assets reflects a cumulative total balance of Kshs 316,655 as at 30 June, 2022 which is similar to the surplus for the year under review However, audit review of the Fund's prior years financial statements revealed accumulated surplus totalling to Kshs 573,423,343 (Kshs 99,485,745 for 2015/2016, Kshs 8,761,690 for 2016/2017, Kshs 90,138,850 for 2017/2018 Kshs 149,963,079 for 2018/2019, Kshs. 149,963,097 for 2019/2020 and Kshs 75,100,882 for 2020/2021). No explanation was provided for the omission of the previous financial year's balances.
- vi. The statement of cash flows has omitted cash flow used in investing activities for purchase of property, plant and equipment amounting to Kshs 8,991,780 as disclosed in Note 15 to the financial statements. In addition, the movement of cash and cash equivalents from opening balance of Kshs. 3,219,757 to the closing balance of Kshs 316,665, has not been accounted for. Similarly, the increase in trade and other payables from exchange transactions of Kshs 10,000,000

as reflected in the statement of financial position has also not been accounted for in the statement of cash flows.

- vii. The statement of financial position reflects total assets of Kshs. 15,755,225 which differs with the total net assets of Kshs 5,438,570 leading to unexplained and unreconciled variance of Kshs. 10,316,655. In addition, the composition of the total net asset balance has not been explained and it differs with the statement of changes in net assets balance of Kshs 316,655 resulting to unexplained and unreconciled variance of Kshs 5,121,915.

In the circumstances, the accuracy and completeness of the financial statements for the year ended 30 June, 2022 could not be confirmed.

### **Management Response**

The County Executive Management response to the query of inaccuracies in the financial statements was as follows;

- That the variances on the financial statements had been rectified and submitted to the County Assembly and the office of the Auditor-General;
- That the financial statements were prepared under the International Public Sector Accounting Standards. Statement of changes in Net Assets was adjusted to correct the erroneous balance carried forward in the previous years.
- That the misstatements had corrected. That all omitted balances had been adjusted in the financial statements.
- Financial Statement for the year under review was submitted.

### **Committee Observation(s)**

The Committee while interrogating the management response made the following observations: -

- That the amended financial statements did not address the issues raised in the report of the Auditor-General;
- That the audit query on inaccuracies in the financial statements was not addressed;
- That the Management did not adhere to the provisions of Regulation 101(4) of the Public Finance Management (County Government) Regulations, 2015; and
- That the Management did not submit the documents as requested by the Committee.

### **Committee Recommendation(s)**

- **The Committee recommends that the matter be investigated further by the Ethics and Anti-Corruption Commission and necessary action(s) taken against the following officers**



responsible and a report be submitted to the County Assembly within ninety (90) days after the adoption of this Report: -

1. **Mr. Mohammed Sahal – then Chief Officer for Trade**
2. **Mr. Hesbon Agwena – former Director, Nairobi City County Alcoholic Drinks Control and Licensing Board**

## **2.2. Unsupported Fines, Penalties and other Levies Balance**

The statement of financial performance reflects fines, penalties and other levies revenue of Kshs.265,864,886 as disclosed in Note 3 to the financial statements. However, the balances were not supported by ledgers, listings of all liquor outlets within the County. applications for licensing, liquor board deliberations and minutes of approvals and rejections.

In the circumstances, the accuracy and completeness of the revenue balance of Kshs 265,864,886 for the year ended 30 June, 2022 could not be confirmed.

### **Management Response**

The County Executive Management response to the query of unsupported fines, penalties and other levies balance was as follows;

- That the ledgers of all outlets had been provided for audit review.
- That the Management was in advance stages of amending the Nairobi City County Alcoholic Drinks Control and Licensing Act, 2014 to accommodate the collection and use of the fund at source. Copy of the amendment of Bills and regulations was submitted for audit review.

### **Committee Observation(s)**

The Committee while interrogating the management response made the following observations: -

- That the Management submitted the ledgers and proposed amendment Bill for review;
- That the matter was partial addressed;
- That the Auditors confirmed the submissions of the ledgers and proposed amendments Bill for review; and
- That the Liquor Board did not transfer all collected monies into the County Revenue Fund as provided for Regulation 80 of the Public Finance Management (County Governments) Regulations, 2015.

### **Committee Recommendation(s)**

- **The Committee recommends that in accordance with Standing Order 207 (3), the County Assembly to censure the Nairobi City County Alcoholic Drinks Control and Licensing Board**

Fund Management which consist of the following officers for failure to submit to the County Assembly the Regulations as recommended by the Committee in its report for the FY 2020/2021: -

1. Ms. Maureen Njeri – former County Executive Committee Member for Business and Hustler Opportunities
2. Ms. Zipporah Njeri Mwangi – Chief Officer, Business and Hustler Opportunities
3. Ms. Rhoda Otieno – Ag. Director, Liquor Board

- The Committee further recommend that the County Executive Committee Member for Business and Hustler Opportunities in conjunction with the County Executive Committee Member for Finance and Economic Planning to prepare and submit to the County Assembly the regulations on the Nairobi City County Alcoholic Drinks Control and Licensing within sixty (60) days after the adoption of this report.

### 2.3. Failure to Remit Collected Revenue to the County Revenue Fund (CRF)

The statement of financial performance reflects fines, penalties and other levies revenue of Kshs 265,864,886 as disclosed in Note 3 to the financial statements. However, audit review revealed that all the money received were not paid into the County Revenue Fund as required by Section 109(2) of the Public Finance Management Act, 2012 which requires the County Treasury for each County Government to ensure that all money raised or received by or on behalf of the County Government is paid into the County Revenue Fund.

In the circumstances, Management was in breach of the law

#### Management Response

The Management responded to the query as follows: -

That copies of lease agreement, electricity, water bills, subcommittees minutes and motor vehicle log books were provided submitted for audit review.

#### Committee Observation(s)

While interrogating the management response, the Committee made the following observations: -

- That the management did not provide the relevant documents to office of the Auditor-General in time as required by the Public Audit Act, 2015, and Public Finance Management Act, 2012.

#### Committee Recommendation(s)

- The Committee recommends that in accordance with Standing Order 207 (3), the County Assembly to censure the Nairobi City County Alcoholic Drinks Control and Licensing Board



Fund Management which consist of the following officers for failure to submit to the County Assembly the Regulations as recommended by the Committee in its report for the FY 2020/2021: -

1. Ms. Maureen Njeri – County Executive Committee Member for Business and Hustler Opportunities
  2. Ms. Zipporah Njeri Mwangi – Chief Officer, Business and Hustler Opportunities
  3. Ms. Rhoda Otieno – Ag. Director, Liquor Board
- The Committee further recommends that the Nairobi City County Alcoholic Drinks Control and Licensing Board to adhere to the provisions of the Constitution of Kenya 2010, Section 47 of Public Audit Act, 2015, and Public Finance Management Act, 2012 in submitting the relevant documents for the audit review within three (3) months after the end of the fiscal year to which the accounts relate.
- The Committee further recommend that the County Executive Committee Member for Business and Hustler Opportunities in conjunction with the County Executive Committee Member for Finance and Economic Planning to prepare and submit to the County Assembly the regulations on the Nairobi City County Alcoholic Drinks Control and Licensing within sixty (60) days after the adoption of this report.

#### 2.4. Unsupported and irregular use of goods and services Expenditure

The statement of financial performance reflects use of goods and services expenditure balance of Kshs 265,548,231 as disclosed in Note 7 to the financial statements However, audit review revealed the following instances of unsupported and irregular expenditures: -

- i. Included in the balance is general office expenses of Kshs. 53,453,850. However, audit review of sampled payment vouchers revealed that expenditure totaling Kshs 24,057,210 were not supported with relevant procurement documents including quotations, evaluation reports, inspection and acceptance reports LPO/LSOS, tender invitations, requisitions, appointment letters of ad-hoc committee members and professional opinion. In addition, Management did n provide for audit verification documentary evidence to confirm that the items procured were received and issued to the respective user departments.
- ii. Included in the balance is rental expenses of Kshs 10,000,00 which was not supported by a validly executed lease agreement.

- iii. Included in the balance is cleaning expenses of Kshs. 12,400,000 which was not supported by a service contract. In addition, it was noted that the expenditure exceeded the rental expenses by Kshs.2,400,000 without sufficient Management justification.
- iv. Included in the balance is electricity and water expenses of Kshs. 1,500,00 which were not supported by relevant utility bills.
- v. Included in the balance is committee allowances expenses of Kshs 58,436,271 Audit review revealed that Management paid domestic travel allowances of Kshs. 10,093,880 and allowances to Sub County licensing officers of Kshs.25,115,405. However, the expenditures were not supported with relevant approvals, invitation letters, and evidence of travel, meeting minutes, signed attendance registers and back to office reports. In addition, an amount of Kshs.28,488,541 was incurred as foreign travel without justification as the operations of the Board are purely local.
- vi. Included in the balance is sensitization expenses of Kshs 40,000,000 which was not supported with approved workshop participation program, participants invitation letters, evidence of travel, signed attendance registers and back to office reports.
- vii. Included in the balance is printing and stationery of Kshs 20,000,000, advertising of Kshs.6,000,000 and poster expenses of Kshs. 4,000,000 respectively. However, Management did not provide for audit review local purchase/service orders, delivery notes, invoices goods motived notes, Inspection and acceptance certificates, counter receipt and issue vouchers.
- viii. Included in the balance is repair of motor vehicle of Kshs 10,000,000,000 and insurance costs of Kshs 2,000,000 respectively However, Management did not provide for audit review motor vehicle log books, pre-repair and post-repair inspection reports and invoices, valuation reports and insurance policy documents
- ix. Included in the balance is stipend expenses of Kshs 2,500,000. However, audit review revealed that Management engaged thirteen (13) staff members on internship and paid a stipend of Kshs 25,000 monthly totaling to Kshs 3,900,000 in the year under review. The variance of Kshs 1,400,000 between the two sets of records was not explained or reconciled. In addition, the advertisements for the position of interns, interview results, appointment letters, and their approved rate of remuneration by the County Public Service Board were not provided for audit review in line with Section 74 of the County Governments Act, 2012 which provides that the County Public Service Board shall regulate the engagement of persons on contract, volunteer and casual workers, staff of joint ventures and attachment of interns in its public bodies and offices



Further, Management indicated that five (5) out of the thirteen(13) interns had their duty station at City Hall, yet the Board has its official offices within South C area of the City

In the circumstances, the validity, accuracy and completeness of the use of goods and services expenditure of Kshs. 265,548,231 for the year ended 30 June, 2022 could not be confirmed.

### **Management Response**

In the management response, the Committee was informed as follows: -

- That documents supporting the use of goods and services expenditure were submitted for audit review;
- That documents on allowances had been supported by minutes and approvals;
- That foreign travel had been supported by back to office reports and approvals;
- That sensitization programs had been supported by approvals and back to office reports and submitted to the audit for review;
- That document for lease agreement, utility bills and other relevant documents had been provided to support the expenditure;
- That documents for repair of motor vehicle and insurance had been forwarded to audit for review; and
- That policy on Stipend allowances had been provided for. Stipends were engaged at various intervals and paid different amounts, the schedule for that was provided for audit review.

### **Committee Observation(s)**

The Committee made the following observations: -

- That copies of lease agreement, electricity, water bills, subcommittees minutes and motor vehicle log books were submitted for audit review;
- That the management did not provide the relevant documents to office of the Auditor-General in time as required by the Public Audit Act, 2015, and Public Finance Management Act, 2012.

### **Committee Recommendation(s)**

- **The Committee recommends that the Nairobi City County Alcoholic Drinks Control and Licensing Board to adhere to the provisions of the Constitution of Kenya 2010, Section 47 of Public Audit Act, 2015, and Public Finance Management Act, 2012 in submitting the relevant documents for the audit review within three (3) months after the end of the fiscal year to which the accounts relate.**

## **2.5. Unsupported property, plant and equipment balance**

The statement of financial position reflects property, plant and equipment balance of Kshs. 15,438,570 as disclosed in Note 15 to the financial statements. However, the fixed assets register provided for audit did not indicate details of the assets including date of purchase, description of assets including model and serial number, cost, specific location, asset number, responsible official, class, category of assets and its condition. In addition, the assets were not coded or tagged for ease of identification and tracking. This is contrary to Regulation 132(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which stipulates that the accounting officer shall take full responsibility and ensure proper control systems exist for assets and that movement and conditions of assets can be tracked.

In addition, included in the balance is motor vehicles balance of Kshs 5,692,129. However, audit review of revealed that three (3) motor vehicles acquired at a cost of Kshs. 13,500,000 in the year 2016 were still registered in the name of the defunct Nairobi City Council.

In the circumstances, the accuracy and completeness of property, plant and equipment balance of Kshs. 15,438,570 as at 30 June, 2022 could not be confirmed due to Management breach of the law.

### **Management Response**

The management response to the audit query on unsupported property, plant and equipment balance was as follows: -

- That Asset register was done.
- That the log books were submitted to Asset management at City Hall for all the amendments to be done; and
- That a copy of the memo forwarding the motor vehicles have been provided for audit review.

### **Committee Observation(s)**

From the management response, the Committee observed the following: -

- That a copy of the updated assets registers was not provided;
- That the matter was not addressed conclusively;
- The Issue has not been addressed as provided for in Section 149 of the Public Finance Management Act, 2012;
- That there was no updated register and the logbooks were not provided for as requested.

### **Committee Recommendation(s)**

- **The Committee recommends that the matter be investigated further by the Ethics and Anti-Corruption Commission and necessary action(s) taken against the following officers responsible and a report be submitted to the County Assembly within ninety (90) days after the adoption of this Report: -**



1. **Mr. Mohammed Sahal – then Chief Officer for Trade**
2. **Mr. Hesbon Agwena – former Director, Nairobi City County Alcoholic Drinks Control and Licensing Board**

#### **2.6. Unsupported Trade and other Payables**

The statement of financial position reflects trade and other payables from exchange transactions balance of Kshs 10,000,000 as disclosed in Note 17 to the financial statements. However, Management did not provide the supporting schedules and documentation for audit verification.

In the circumstances, the accuracy and completeness of the trade and other payables from exchange transactions balance of Kshs 10,000,000 as at 30<sup>th</sup> June, 2022 could not be confirmed.

#### **Management Response**

The management response was as follows: -

That a schedule for the pending bills as at the year in review had been submitted and copies of the same attached.

#### **Committee Observation(s)**

The Committee while interrogating the management response, made the following observations: -

- That copies of the schedule were not availed for audit review as requested;
- That the issue was not addressed conclusively.

#### **Committee Recommendation(s)**

- **The Committee recommends that the matter be investigated further by the Ethics and Anti-Corruption Commission and necessary action(s) taken against the following officers responsible and a report be submitted to the County Assembly within ninety (90) days after the adoption of this Report: -**

1. **Mr. Mohammed Sahal – then Chief Officer for Trade**
2. **Mr. Hesbon Agwena – former Director, Nairobi City County Alcoholic Drinks Control and Licensing Board**

#### **2.7. Variance in approved budget figures**

The statement of comparison of budget and actual amounts reflects final total revenue budget of Kshs. 265,864,886. However, the Nairobi City County Executive approved estimates reflects a total approved budget for the Fund of Kshs. 250,000,0000 comprising of Kshs 200,000,000 for recurrent expenditure and Kshs 50,000,000 for development expenditure respectively. Management has not reconciled or explained the variance of Kshs. 15,864,886 between the two sets of records.

In the circumstances, the accuracy of the revenue budget figure of Kshs. 265,864,886 could not be confirmed.

### **Management Response**

The management response to the query was as follows: -

That a memo from the County Executive Committee Member Finance authorizing the expenditure of Kshs 20,000,000 outside the budget had been forwarded to audit for review.

### **Committee Observation(s)**

The Committee while interrogating the management response observed that the issue was not addressed within the legal framework.

### **Committee Recommendation(s)**

- **The Committee recommends that the matter be investigated further by the Ethics and Anti-Corruption Commission and necessary action(s) taken against the following officers responsible and a report be submitted to the County Assembly within ninety (90) days after the adoption of this Report: -**

1. **Mr. Mohammed Sahal – then Chief Officer for Trade**
2. **Mr. Hesbon Agwena – former Director, Nairobi City County Alcoholic Drinks Control and Licensing Board**

### **2.8. Failure to establish treatment and rehabilitation facilities programs**

Audit review revealed that Management did not provide established treatment and rehabilitation facilities and programs to promote cessation and rehabilitation of persons who depend on alcoholic drinks in the County. This is contrary to provisions of Section 5(g) of the Nairobi City County Alcoholic Drinks Control and Licensing Act, 2014 which requires the Board to establish treatment and rehabilitation facilities and programs for persons' dependent on alcoholic drinks.

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

### **Management Response**

The management response was as follows: -

- That a rehabilitation center has been established in Sinai, Madaraka Sub-County. A copy of the memo requesting security for the premises has been forwarded to audit for review.

### **Committee Observation(s)**

While interrogating the management response, the Committee made the following observations: -



- That the status of the Centre could not be ascertained as provided for in Section 5(g) of the Nairobi City County Alcoholic Drinks Control and Licensing Act, 2014.

#### **Committee Recommendation(s)**

- **The Committee recommends that the matter be investigated further by the Ethics and Anti-Corruption Commission and report to the County Assembly within ninety (90) days after the adoption of this report.**

#### **2.9. Failure to provide information on Board Members**

Review of the financial statements on page (vi) indicates that Liquor Licensing Board had seven (7) Board members. However, the appointment letters, minimum qualification gazette notice and personal files were not provided for audit.

In the circumstances, the regularity and validity of the Board members' composition could not be ascertained.

#### **Management Response**

The management response was as follows: -

- That the required documents had been provided, including the gazette notice and copies of the letters of appointments were available to audit for review.

#### **Committee Observation(s)**

While interrogating the management response, the Committee made the following observations: -

- That the Gazette notice for appointment of the Board was submitted for audit review;
- That the issue resolved;
- That the required documents were not submitted to audit review in time as required by the law.

#### **Committee Recommendation(s)**

- **The Committee recommends that the Nairobi City County Alcoholic Drinks Control and Licensing Board to adhere to the provisions of the Constitution of Kenya 2010, Section 47 of Public Audit Act, 2015, and Public Finance Management Act, 2012 in submitting the relevant documents for the audit review within three (3) months after the end of the fiscal year to which the accounts relate.**

#### **2.10. Unresolved prior year audit matters**

In the audit report of the previous year, several issues were raised under the Report on Financial Statements. However, Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting No. AG 4/16/3 Vol.11(06) dated 6<sup>th</sup> July, 2022, which provides for the format and contents of the financial statements.

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**Management Response**

The management response was as follows: -

- That prior issues of financial statements were prepared as per the Public Sector Accounting Standards Board and submitted for audit review.

**Committee Observation(s)**

The Committee noted that there were still audit gaps in the Management responses to audit matters raised and therefore, there was need for the Management to adhere to the guidelines issued by the National Treasury's Circular Ref: No. AG.4/16/3 Vol.1(11).

**Committee Recommendation(s)**

- The Committee recommends the Nairobi City County Alcoholic Drinks Control and Licensing Board to adhere to the guidelines issued by the National Treasury's Circular Ref: No. AG.4/16/3 Vol.1(11).



### **3.0 SUMMARY OF ALL RECOMMENDATIONS**

Following the Committee's consideration of the "Report of the Auditor General on Nairobi City County Alcoholic Drinks Control and Licensing Board for the Year ended 30<sup>th</sup> June 2022" and having considered responses from the Accounting Officers, the Committee urges the County Assembly to resolve as follows: -

#### **3.1. Inaccuracies in the Financial Statement**

- The Committee recommends that the matter be investigated further by the Ethics and Anti-Corruption Commission and necessary action(s) taken against the following officers responsible and a report be submitted to the County Assembly within ninety (90) days after the adoption of this Report: -

1. Mr. Mohammed Sahal – former Chief Officer for Trade
2. Mr. Hesbon Agwena – former Director, Nairobi City County Alcoholic Drinks Control and Licensing Board

#### **3.2. Unsupported Fines, Penalties and other Levies Balance**

- The Committee recommends that in accordance with Standing Order 207 (3), the County Assembly to censure the Nairobi City County Alcoholic Drinks Control and Licensing Board Fund Management which consist of the following officers for failure to submit to the County Assembly the Regulations as recommended by the Committee in its report for the FY 2020/2021: -

1. Ms. Maureen Njeri – former County Executive Committee Member for Business and Hustler Opportunities;
2. Ms. Zipporah Njeri Mwangi – Chief Officer, Business and Hustler Opportunities; and
3. Ms. Rhoda Otieno – Ag. Director, Liquor Board

- The Committee further recommend that the County Executive Committee Member for Business and Hustler Opportunities in conjunction with the County Executive Committee Member for Finance and Economic Planning to prepare and submit to the County Assembly the regulations on the Nairobi City County Alcoholic Drinks Control and Licensing within sixty (60) days after the adoption of this report.

#### **3.3. Failure to Remit Collected Revenue to the County Revenue Fund (CRF)**

- The Committee recommends that in accordance with Standing Order 207 (3), the County Assembly to censure the Nairobi City County Alcoholic Drinks Control and Licensing Board Fund Management which consist of the following officers for failure to submit to the County Assembly the Regulations as recommended by the Committee in its report for the FY 2020/2021: -

1. Ms. Maureen Njeri – County Executive Committee Member for Business and Hustler Opportunities;
  2. Ms. Zipporah Njeri Mwangi – Chief Officer, Business and Hustler Opportunities; and
  3. Ms. Rhoda Otieno – Ag. Director, Liquor Board.
- The Committee further recommends that the Nairobi City County Alcoholic Drinks Control and Licensing Board to adhere to the provisions of the Constitution of Kenya 2010, Section 47 of Public Audit Act, 2015, and Public Finance Management Act, 2012 in submitting the relevant documents for the audit review within three (3) months after the end of the fiscal year to which the accounts relate.
  - The Committee further recommend that the County Executive Committee Member for Business and Hustler Opportunities in conjunction with the County Executive Committee Member for Finance and Economic Planning to prepare and submit to the County Assembly the regulations on the Nairobi City County Alcoholic Drinks Control and Licensing within sixty (60) days after the adoption of this report.

#### **3.4. Unsupported and irregular use of goods and services expenditure**

- The Committee recommends that the Nairobi City County Alcoholic Drinks Control and Licensing Board to adhere to the provisions of the Constitution of Kenya 2010, Section 47 of Public Audit Act, 2015, and Public Finance Management Act, 2012 in submitting the relevant documents for the audit review within three (3) months after the end of the fiscal year to which the accounts relate.

#### **3.5. Unsupported property, plant and equipment balance**

- The Committee recommends that the matter be investigated further by the Ethics and Anti-Corruption Commission and necessary action(s) taken against the following officers responsible and a report be submitted to the County Assembly within ninety (90) days after the adoption of this Report: -
  1. Mr. Mohammed Sahal – then Chief Officer for Trade
  2. Mr. Hesbon Agwena – former Director, Nairobi City County Alcoholic Drinks Control and Licensing Board.

#### **3.6. Unsupported Trade and Other Payables**

- The Committee recommends that the matter be investigated further by the Ethics and Anti-Corruption Commission and necessary action(s) taken against the following officers responsible and



a report be submitted to the County Assembly within ninety (90) days after the adoption of this Report: -

1. Mr. Mohammed Sahal – then Chief Officer for Trade
2. Mr. Hesbon Agwena – former Director, Nairobi City County Alcoholic Drinks Control and Licensing Board.

### **3.7. Variance in Approved Budget Figures**

- The Committee recommends that the matter be investigated further by the Ethics and Anti-Corruption Commission and necessary action(s) taken against the following officers responsible and a report be submitted to the County Assembly within ninety (90) days after the adoption of this report.

1. Mr. Mohammed Sahal – then Chief Officer for Trade
2. Mr. Hesbon Agwena – former Director, Nairobi City County Alcoholic Drinks Control and Licensing Board.

### **3.8. Failures to establish Treatment and Rehabilitation Facilities Programs**

The Committee recommends that the matter be investigated further by the Ethics and Anti-Corruption Commission and report to the County Assembly within ninety (90) days after the adoption of this report.

### **3.9. Failure to provide information on Board Members**

The Committee recommends that the Nairobi City County Alcoholic Drinks Control and Licensing Board to adhere to the provisions of the Constitution of Kenya 2010, Section 47 of Public Audit Act, 2015, and Public Finance Management Act, 2012 in submitting the relevant documents for the audit review within three (3) months after the end of the fiscal year to which the accounts relate.

### **3.10. Unresolved Prior Year Audit Matters**

The Committee noted that there were still audit gaps in the Management responses to audit matters raised and therefore, there was need for the Management to adhere to the guidelines issued by the National Treasury's Circular Ref: No. AG.4/16/3 Vol.1(11).

### **3.11 Corrective Measures**

**The Committee makes the following recommendations as corrective measures: -**

- that the Nairobi City County Alcoholic Drinks Control and Licensing Board to adhere to the provisions of the Constitution of Kenya 2010, Section 47 of Public Audit Act, 2015, and Public Finance Management Act, 2012 in submitting the relevant documents for the audit review within three (3) months after the end of the fiscal year to which the accounts relate;

- that the Nairobi City County Alcoholic Drinks Control and Licensing Board takes action against any current serving officer(s) who failed to adhere to the provisions of Section 47 of the Public Audit Act, 2015;
- that the Nairobi City County Alcoholic Drinks Control and Licensing Board to enhance the capacity of accounting and finance officers to ensure proper adherence to financial regulations and provisions of the PFM and Public Audit Acts;
- that Nairobi City County Alcoholic Drinks Control and Licensing Board to prepare an updated assets register both hardcopy and softcopy to ensure that all property, plant, and equipment are accurately recorded and accounted for and submit a report to the County Assembly within sixty (60) days after the adoption of this report;
- that the Nairobi City County Alcoholic Drinks Control and Licensing Board through the County Executive Committee Member for Finance and Economic Planning to submit to the County Assembly the proposed the Nairobi City County Alcoholic Drinks Control and Licensing (Amendment) Bill and Regulations for consideration within sixty (60) days after the adoption of this report; and
- that the County Public Service Board to recruit a substantive Director for the Nairobi City County Alcoholic Drinks Control and Licensing Board and report to the County Assembly within ninety (90) days after the adoption of this report.



#### 4.0 ANNEXURES

Annex	Title
Annex 1	Minutes of the Sitings
Annex 2	Written Responses to all audit queries by the Accounting Officer





**MINUTES OF THE 20<sup>TH</sup> SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY SELECT COMMITTEE ON COUNTY PUBLIC ACCOUNTS HELD ON TUESDAY, 6<sup>TH</sup> AUGUST, 2024 AT 11:30 A.M. IN COUNTY ASSEMBLY COMMITTEE ROOM 10, CITY HALL BUILDING.**

**MEMBERS PRESENT:**

1. Hon. Chege Mwaura, MCA – Chairman
2. Hon. Abel Osumba Atito, MCA – Vice-Chairman
3. Hon. Benta Juma Obiero, MCA
4. Hon. Mark Thiga Ruyi, MCA
5. Hon. Emmy Khatemeshi Isalambo, MCA
6. Hon. Jane Musangi Muthembwa, MCA
7. Hon. Rachel Wanjiru Maina, MCA
8. Hon. Eutyclus Mukiri Muriuki, MCA
9. Hon. Paul Wachira Kariuki, MCA
10. Hon. John Ndile Musila, MCA
11. Hon. Cyrus Mugo Mubea, MCA
12. Hon. Fredrick Njoroge Njogu, MCA
13. Hon. Fatuma Abduwahid Abey, MCA
14. Hon. Martin Mbugua Mwangi, MCA
15. Hon. Mary Wanjiru Kariuki, MCA
16. Hon. Billy Richardo Nyantika, MCA
17. Hon. Aaron Kangara Wangare, MCA

**MEMBERS ABSENT:**

1. Hon. Simon Maina Mugo, MCA
2. Hon. Fuad Hussein Mohamed, MCA
3. Hon. Patrick Karani Said, MCA
4. Hon. Carrington Gichunji Heho, MCA
5. Hon. Stazo Elijah Omung'ala Ang'ila, MCA
6. Hon. John Rex Omolleh, MCA

**SECRETARIAT**

1. Mr. Kevin Wasike - Senior Clerk Assistant
2. Mr. Klinsman Munase - Legal Counsel
3. Mr. Anthony Nyandiere - Hansard Officer
4. Mr. Melvin Wachira - Research Officer

**MIN.082/NCCA/PAC/JULY/2024 – PRELIMINARIES**

The Chairman called the meeting to order at thirty-five minutes Eleven O'clock and said the opening prayers. He then welcomed Members present to the meeting and took them through the agenda which was adopted for consideration as proposed by Hon. Eutyclus Mukiri, MCA and seconded by Hon. Wanjiru Kariuki, MCA as follows: -

1. Preliminaries (prayers and adoption of the agenda)
2. Adoption of draft report on the consideration of the report of the Auditor general on Nairobi City County Alcoholic Drinks and Licensing Board for the year ended 30<sup>th</sup> June 2022

3. Adoption of the draft report on the consideration of the report of the Auditor general on County Revenue Fund- County Government of Nairobi City for the year ended 30<sup>th</sup> June 2022.
4. Any Other Business
5. Adjournment.

MIN.083/NCCA/PAC/JULY/2024 – ADOPTION OF DRAFT REPORT ON THE CONSIDERATION OF THE REPORT OF THE AUDITOR GENERAL ON NAIROBI CITY COUNTY ALCOHOLIC DRINKS AND LICENSING BOARD FOR THE YEAR ENDED 30<sup>TH</sup> JUNE 2022.

The Secretariat tabled the draft report on the consideration of the report of the Auditor general on Nairobi City County Alcoholic Drinks and Licensing Board for the year ended 30<sup>th</sup> June 2022. The Chair took the Committee through the report which was adopted for tabling as proposed by Hon. Paul Wachira Kariuki, MCA and seconded by Hon. Fredrick Njoroge Njogu, MCA.

MIN.084/NCCA/PAC/JULY/2024 – ADOPTION OF THE DRAFT REPORT ON THE CONSIDERATION OF THE REPORT OF THE AUDITOR GENERAL ON COUNTY REVENUE FUND- COUNTY GOVERNMENT OF NAIROBI CITY FOR THE YEAR ENDED 30<sup>TH</sup> JUNE 2022.

The Secretariat the draft report on the consideration of the report of the Auditor general on County Revenue Fund- County Government of Nairobi City for the year ended 30<sup>th</sup> June 2022. The Chairman took the Committee through the draft recommendations. The report was adopted for tabling in the Assembly as proposed by Hon. Cyrus Mugo, MCA and seconded by Hon. Emmy Isalambo Khatemeshi, MCA.

MIN.085/NCCA/CPAC/JULY/2024 – A.o.B & ADJOURNMENT

The being no other business and the time being Twelve Noon, the Chairman adjourned the meeting. The date and venue of the next sitting was going to be communicated by way of notice.

CONFIRMED AS A TRUE RECORD OF THE PROCEEDINGS

SIGNATURE  
CHAIRPERSON 

DATE  
12 Sep 2024