

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY
(THIRD SESSION)

Report
Papers laid by Hon
Chege Mwangi on
19/09/2024
Mhe:
PCA Clerk

[Signature]
19/09/2024

NCCA/TJ/PL/2023(46)

19TH 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 19th September 2024:

- THE REPORT OF SELECT COMMITTEE ON PUBLIC ACCOUNTS ON FINANCIAL STATEMENTS OF NAIROBI CITY COUNTY ASSEMBLY SERVICE BOARD MORTGAGE SCHEME FUND FOR THE YEAR ENDED 30TH JUNE 2019.

(The Chairperson, Select Committee on Public Accounts)

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

NAIROBI CITY COUNTY GOVERNMENT



NAIROBI CITY COUNTY ASSEMBLY

THIRD ASSEMBLY – THIRD SESSION

THE REPORT OF THE SELECT COMMITTEE ON PUBLIC ACCOUNTS

ON

THE CONSIDERATION OF THE REPORT OF THE AUDITOR-GENERAL ON THE
FINANCIAL STATEMENTS OF NAIROBI CITY COUNTY ASSEMBLY SERVICE
BOARD MORTGAGE SCHEME FUND FOR THE YEAR ENDED 30TH JUNE 2019

Clerks Chambers

Nairobi City County Assembly

City Hall Buildings

NAIROBI

SEPTEMBER, 2024

Report laid by
Hon. Chege Mwaera
on 19/09/24
Mwa:
PCA (19/9)

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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 honour to present to this Assembly this report of the Public Accounts Committee on the consideration of the *“Report of the Auditor General on the Financial Statements of Nairobi City County Assembly Service Board Mortgage Scheme Fund for the year ended 30th June, 2019”*.

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 special 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 Assembly Service Board Mortgage Scheme Fund by the Auditor General which comprise Statement of financial position as at 30th June, 2019, and Statement of income and expenditure, Statement of changes in equity and Statement of cash flows for the year then ended and 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 Mortgage Scheme Fund was established pursuant to the Salaries and Remuneration Circular (SRC) No. SRC/TS/WB/3/14 of 14th February 2014. The SRC has since then provided further guidelines on the scheme through Gazette Notice No. 6518 of 7th July, 2017. For proper management of the Fund and as advised by the Salaries and Remuneration Commission in the Circular under reference, the Nairobi City County Assembly adopted *Public Finance Management (Nairobi City County Mortgage Scheme Fund) Regulations 2014*, to guide in operationalization of the Fund. In 2017, the County Assembly enacted Regulations merging the Car Loan and the Mortgage Scheme Funds. The Clerk of the County Assembly being the Accounting Officer of the Assembly, 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. Highlights from the Report of the Auditor General

The Auditor General opined that Regulation 101(4) of (County Governments) Regulations, 2015, states that the accounting officer shall prepare the Financial Statements in a form that complies with the relevant Accounting Standards prescribed by the Public Sector Accounting Standards Board not later than three months after the end of the financial year and submit them to the Auditor-General.

A review of the Financial Statements submitted for audit reveals that they do not comply with the prescribed format issued by Public Sector Accounting Standards Board in 30th June, 2019 as they omitted reports and information on the Board of Trustees, the Management team, the Board/Fund Chairperson's report, Corporate Governance Statement, the Management discussion and analysis, the Corporate Social Responsibility Statement/Sustainability report and report of the Trustees. Further the Statement of comparison of budget and actual amounts was omitted from the Financial Statements.

In addition, the Financial Statements have indicated that they have been prepared on the accrual basis in line with International Public Sector Accounting Standards (IPSAS) and the Public Sector Accounting Standards Board. The Financial Statements included the statement of income and expenditure, statement of financial position, cash flow statement and statements of changes in equity. However, Financial Statements prepared under accrual basis should have included the statement of financial performance, statement of financial position, statement of changes in net assets, statement of cash flows and statement of comparison of budget and actual amounts.

In the circumstances, the Financial Statements were not presented in accordance with International Public Sector Accounting Standards and the reporting template recommended by the Public Sector Accounting Standards Board.

Consequently, the Auditor General did not find any key audit matters to communicate in his report. Key audit matters are those matters that in the professional judgment of the Auditor General are of the most significance in the audit of the Financial Statements.

1.9. Appreciation

Hon. Speaker,

The Committee would like to thank the **Fund Administrator** for appearing before it and affirming the opinion of the Auditor General.

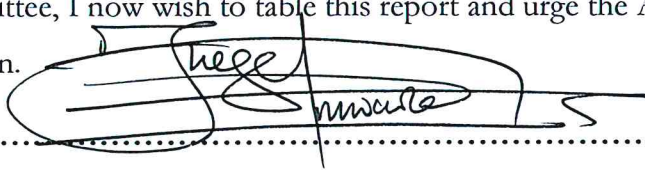
Hon. Speaker,

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



HON. CHEGE MWAURA (CHAIRPERSON)

DATE

18/Sep/2024

2.0. CONSIDERATION OF THE REPORT OF THE AUDITOR GENERAL

2.0.1 Presentation of the Financial Statements

Regulation 101(4) of the Public Finance Management (County Governments) Regulations, 2015, states that the accounting officer shall prepare the Financial Statements in a form that complies with the relevant Accounting Standards prescribed by the Public Sector Accounting Standards Board not later than three months after the end of the financial year and submit them to the Auditor-General.

A review of the Financial Statements submitted for audit reveals that they do not comply with the prescribed format issued by Public Sector Accounting Standards Board in June, 2019 as they omitted reports and information on the Board of Trustees, the Management team, the Board/Fund Chairperson's report, Corporate Governance Statement, the Management discussion and analysis, the Corporate Social Responsibility Statement/Sustainability report and report of the Trustees. Further the Statement of comparison of budget and actual amounts was omitted from the Financial Statements.

In addition, the Financial Statements have indicated that they have been prepared on the accrual basis in line with International Public Sector Accounting Standards (IPSAS) and the Public Sector Accounting Standards Board. The Financial Statements included the statement of income and expenditure, statement of financial position, cash flow statement and statements of changes in equity. However, Financial Statements prepared under accrual basis should have included the statement of financial performance, statement of financial position, statement of changes in net assets, statement of cash flows and statement of comparison of budget and actual amounts.

In the circumstances, the Financial Statements were not presented in accordance with International Public Sector Accounting Standards and the reporting template recommended by the Public Sector Accounting Standards Board.

2.0.2 Management Response

The Fund Administrator informed the Committee that the Management was agreeable with the Auditor's observation. However, in the subsequent Financial Statements presentations of the Nairobi City County Assembly Mortgage Scheme Fund, the Management adopted the prescribed format by the Public Sector Accounting Standards Board. This was emulated in the Financial Statements presentations for the financial years 2019/2020, 2020/2021 and 2021/22.

In the said reports, the Management adopted and presented information pertaining reports and information on the Board of Trustees, the Management team, the Board/Fund Chairperson's report, Corporate Governance statement, the Management discussion and analysis, the Corporate Social Responsibility Statement/Sustainability report and report of the Trustees. Also included is Statement of comparison of budget and actual amounts. This has since been resolved.

3.0. COMMITTEE OBSERVATIONS

- i. The Accounting Officer confirmed that the Financial Statements did not comply with the prescribed format issued by the Public Sector Accounting Standards Board in June, 2019 as they omitted reports and information on the Board of Trustees, the Management team, the Board/Fund Chairperson's report, Corporate Governance Statement, the Management discussion and analysis, the Corporate Social Responsibility Statement/Sustainability report and report of the Trustees. Further the Statement of comparison of budget and actual amounts was omitted from the Financial Statements;
- ii. The Financial Statements were not presented in accordance with International Public Sector Accounting Standards and the reporting template recommended by the Public Sector Accounting Standards Board. The Financial statements prepared under accrual basis ought to have included the statement of financial performance, statement of financial position, statement of changes in net assets, statement of cash flows and statement of comparison of budget and actual amounts; and
- iii. The subsequent Financial Statements were submitted for audit review and the auditor confirmed that the Loans Management Committee adhered with the International Public Sector Accounting Standards (ISPAS) and the reporting template recommended by the Public Sector Accounting Standards Board (PASB).

4.0. COMMITTEE RECOMMENDATIONS

The Committee therefore recommends that:-

- 1) The Management must adhere with the prescribed format issued by the Public Sector Accounting Standards Board and the reporting template recommended by the Public Sector Accounting Standards Board;
- 2) The Accounting Officer must ensure that the Financial Statements comply with the prescribed format issued by the Public Sector Accounting Standards Board and include reports and information on the Board of Trustees, the Management team, the Board/Fund Chairperson's report, Corporate Governance Statement, the Management discussion and analysis, the Corporate Social Responsibility Statement/Sustainability report, report of the Trustees and the Statement of comparison of budget and actual amounts;
- 3) The Accounting Officer must ensure that Financial Statements prepared on Accrual basis include the statement of financial performance, statement of financial position, statement of changes in net assets, statement of cash flows and statement of comparison of budget and actual amounts;
- 4) The Accounting Officer must ensure that information provided in the Financial Statement is prescribed in a friendly format;
- 5) The Fund Administrator to fast track the process of ensuring that the Fund is fully automated within three (3) months after the adoption of this report;
- 6) The County Assembly Select Committee on Car Loan and Mortgage Management to review the Public Finance Management (Nairobi City County Mortgage Scheme Fund) Regulations 2014 to include a monitoring and evaluation system of the Fund and table a report in the Assembly within three (3) months after the adoption of this report;
- 7) A special audit to be conducted on the Nairobi City County Assembly Mortgage and Car Loan Scheme Fund especially on loans disbursement and repayment, adequacy of controls on the process of loans issuance and the current status of the Fund; and
- 8) Separate the Mortgage fund for Members from staff and a report to be tabled in the Assembly for consideration within three (3) Months after the adoption of this report.

5.0. CONCLUSION

The Committee having considered both the “**Report of the Auditor-General on the Financial Statements of Nairobi City County Assembly Service Board Mortgage Scheme Fund For the year ended 30th June 2019**” and written/oral responses to the audit query raised therein, urges that the issues raised by the Auditor General be addressed to avoid recurrence of the same.

ANNEXURES

Annex	Title
Annex 1	Minutes of the Sittings
Annex 2	Written Responses to all audit queries by the Clerk, Nairobi City County Assembly

MINUTES OF THE 21ST SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY SELECT COMMITTEE ON COUNTY PUBLIC ACCOUNTS HELD ON MONDAY, 12TH AUGUST, 2024 AT 9:30 A.M. AT LAKE NAIVASHA RESORT, NAKURU COUNTY.

MEMBERS PRESENT:

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

MEMBERS ABSENT:

1. Hon. Fuad Hussein Mohamed, MCA
2. Hon. Patrick Karani Said, MCA
3. Hon. Fatuma Abduwahid Abey, MCA

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 Officer |
| 5. Mr. Melvin Wachira | - Research Officer |

IN-ATTENDANCE – OFFICE OF THE AUDITOR-GENERAL

1. Mr. Morphat Gori
2. Mr. Jeff Otieno

MIN.086/NCCA/PAC/AUG/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, officers from the office of Auditor-General and the Secretariat to the workshop and took them through the agenda which was

adopted for consideration as proposed by Hon. Fredrick Njogu, MCA and seconded by Hon. Benter Juma, MCA as follows: -

1. Preliminaries (prayers and adoption of the agenda)
2. Consideration and adoption of draft report on the consideration of the report of the Auditor general on Nairobi City County Car Loan Scheme Fund for the year ended 30th June, 2019
3. Consideration and adoption of draft report on the consideration of the report of the Auditor general on Nairobi City County Mortgage Scheme Fund for the year ended 30th June, 2019
4. Any Other Business
5. Adjournment.

MIN.087/NCCA/PAC/AUG/2024 – CONSIDERATION AND ADOPTION OF DRAFT REPORT ON THE CONSIDERATION OF THE REPORT OF THE AUDITOR GENERAL ON NAIROBI CITY COUNTY CAR LOAN SCHEME FUND FOR THE YEAR ENDED 30TH JUNE, 2019

The Secretariat tabled the draft report on the consideration of the report of the Auditor general on the Nairobi City County Car Loan Scheme Fund for the year ended 30th June, 2019. The Chair took the Committee through the report which was adopted for tabling as proposed by Hon. Wanjiru Kariuki, MCA and seconded by Hon. Emmy Isalambo, MCA.

MIN.088/NCCA/PAC/AUG/2024 – CONSIDERATION AND ADOPTION OF DRAFT REPORT ON THE CONSIDERATION OF THE REPORT OF THE AUDITOR GENERAL ON NAIROBI CITY COUNTY MORTGAGE SCHEME FUND FOR THE YEAR ENDED 30TH JUNE, 2019

The Secretariat tabled the draft report on the consideration of the report of the Auditor general on Nairobi City County Mortgage Scheme Fund for the year ended 30th June, 2019. The Chairman took the Committee through the draft recommendations. The report was adopted for tabling in the Assembly as proposed by Hon. Martin Mbugua, MCA and seconded by Hon. Benter Obiero, MCA.

MIN.089/NCCA/PAC/AUG/2024 – A.o.B & ADJOURNMENT

The being no other business and the time being ten minutes past One O'clock, the Chairman adjourned the meeting. The next meeting was scheduled to be held on Monday, 12th August, 2024 at 2.30 p.m. at the same venue.

CONFIRMED AS A TRUE RECORD OF THE PROCEEDINGS

SIGNATURE

CHAIRPERSON

DATE
12/sep/2024