

COUNTY GOVERNMENT OF KISUMU



COUNTY ASSEMBLY OF KISUMU

THE HANSARD

SECOND ASSEMBLY – FOURTH SESSION

Wednesday, 03rd June, 2020

House met in the Main Chamber at 02:30 p.m.

(The Temporary Speaker (Hon. Seth Okumu) in the Chair)

PRAYERS

The Temporary Speaker (Hon. Okumu): Mr. Clerk, can you please take us through the Order Paper of the day?

The Temporary Speaker (Hon. Okumu): Next order!

COMMUNICATION FROM THE CHAIR

The Temporary Speaker (Hon. Okumu): Thank you Hon. Members and welcome to today's session on the 3rd day of June, 2020. I have the following communication to make from the Chairperson, Standing Committee of Agriculture, Livestock and Fisheries. He is requesting all Hon. Members that if there is any Ward-based Projects in the FY 2019/2020 Budget Estimates that has not been committed, then forward such projects to the Clerk of the Committee of Agriculture, Livestock and Fisheries not later than 04th June, 2020 for further action by the Committee.

The Temporary Speaker (Hon. Okumu): Next order!

PAPERS LAID

The Temporary Speaker (Hon. Okumu): Yes, Hon. Leader of Majority.

Leader of Majority (Hon. Onyango): Thank you Mr. Speaker. Pursuant to the provisions of the County Assembly Standing Orders No. 122 read together with Standing Orders No. 182 (6), I wish to table before this House today Wednesday, 03rd June, 2020 the Budget and Appropriations Committee Report on the Memorandum by H.E. the Governor, Kisumu County for Additional Funding of Kshs 159,820,000.00 for COVID-19 Response to the County COVID-19 Emergency Funds. Thank you.

(Leader of Majority tables the Committee Report before the House)

The Temporary Speaker (Hon. Okumu): Hon. Miruka.

Hon. Miruka: Thank you Mr. Speaker. Please allow me to table this report on behalf of the Chair, Health and Sanitation Committee?

The Temporary Speaker (Hon. Okumu): Please proceed.

Hon. Miruka: Thank you Mr. Speaker. Pursuant to the provisions of the County Assembly Standing Orders No. 182 (6), I wish to table before this House today Wednesday, 03rd June, 2020 the Health and Sanitation Committee Report on the Benchmarking on the COVID-19 Pandemic Preparedness with the Kenyatta National Hospital, Pumwani Maternity Care and Mbagathi County Hospital facilities, Nairobi County. Thank you.

(Hon. Miruka tables the Committee Report before the House)

The Temporary Speaker (Hon. Okumu): Thank you Hon. Members. I wish to acknowledge receipt of the Committee of Budget and Appropriations on the Memorandum by H.E. the Governor, Kisumu County for Additional Funding of Kshs 159,820,000.00 for COVID-19 Response to the County COVID-19 Emergency Funds. This is a report presented to this House on by the Leader of Majority on behalf of the Chairperson, Budget and Appropriations.

Secondly, I wish to acknowledge receipt of the Committee of Health Services and Sanitation Report on the Benchmarking on the COVID-19 Pandemic Preparedness with the Kenyatta National Hospital, Pumwani Maternity Care and Mbagathi County Hospital facilities, Nairobi County. This is a report presented before this House by Hon. Miruka on behalf of the Chairperson, Health and Sanitation. Thank you.

The Temporary Speaker (Hon. Okumu): Next order!

NOTICES OF MOTION

The Temporary Speaker (Hon. Okumu): Yes, Hon. Miruka.

Hon. Miruka: Thank you Mr. Speaker. Please allow me to give a Notice of Motion on behalf of the Chairperson, Health and Sanitation Services Committee.

The Temporary Speaker (Hon. Okumu): Please proceed Hon. Miruka.

Hon. Miruka: Thank you Mr. Speaker. Pursuant to the provisions of the County Assembly Standing Orders No. 45, I wish to give a Notice of Motion on a Report from the Committee of Health and Sanitation Services on Benchmarking on the COVID-19 Pandemic Preparedness with the Kenyatta National Hospital, Pumwani Maternity Care and Mbagathi County Hospital facilities, Nairobi County. Thank you.

The Temporary Speaker (Hon. Okumu): Yes, Hon. Leader of Majority.

Leader of Majority (Hon. Onyango): Thank you Mr. Speaker. Pursuant to the provisions of the County Assembly Standing Orders No. 45, I wish to give a Notice of Motion on a Committee Report from the Budget and Appropriation on the Memorandum by H.E. the Governor, Kisumu County for Additional Funding of Kshs 159,820,000.00 for COVID-19 Response to the County COVID-19 Emergency Funds. Thank you.

The Temporary Speaker (Hon. Okumu): Next order!

MOTION

REPORT FROM THE BUDGET AND APPROPRIATIONS COMMITTEE ON THE
MEMORANDUM BY H.E. THE GOVERNOR, KISUMU COUNTY FOR ADDITIONAL
FUNDING OF KSHS 159,820,000.00 FOR COVID-19 RESPONSE TO THE COUNTY
COVID-19 EMERGENCY FUNDS.

BY

(HON. STEVE OWITI, CHAIRPERSON)

The Temporary Speaker (Hon. Okumu): Leader of Majority, what is it?

Leader of Majority (Hon. Onyango): Thank you Mr. Speaker. We did receive a Memorandum from the Office of the Governor, Kisumu County referenced CGK/GVN/ADM/01/VOL. I/557 dated 29th May, 2020.

The Temporary Speaker (Hon. Okumu): Order Leader of Majority!!

The Temporary Speaker (Hon. Okumu): Leader of Majority, are you moving the motion on behalf of Hon. Steve Owiti? That has to come out clear.

Leader of Majority (Hon. Onyango): Thank you Mr. Speaker. Absolutely because that is correct.

The Temporary Speaker (Hon. Okumu): Please proceed.

Leader of Majority (Hon. Onyango): Thank you Mr. Speaker. I was saying that, the County Assembly of Kisumu did receive a Memorandum from H.E. the Governor, Kisumu County on 29th May, 2020 and the objective and import of this Memorandum is that the County Government did receive additional funding of Kshs. 159,820,000 from the National Government. We do remember that about a week ago, we did pass the Second Supplementary Budget for FY 2019/2020 and in this Second Supplementary Budget, some moneys were appropriated for the purposes of cushioning the County against the COVID 19 Pandemic.

Mr. Speaker, on the same note, an Emergency Fund was also created, which is going to oversee how this money is going to be expended. This Bill had not been signed by the Governor as at the time this Memorandum was being done. It was therefore prudent that other than having a Third Supplementary Budget Estimates while bearing in mind that the budget cycle for the Financial Year 2020/2021 is already underway, it became prudent that a Memorandum is brought to the Assembly which is going to amend the Second Supplementary Budget for FY 2019/2020 so that further funds are appropriated for purposes of cushioning us against COVID 19. It is on that basis that His Excellency the Governor has prepared this Memorandum.

Mr. Speaker, if you look at the Memorandum, it is in compliance with the provisions of the Constitution and the Standing Orders. I therefore want to urge Members that we do amend the Appropriations Bill that was passed in this and the effect of that amendment would be the following;

- i. In the Appropriations Bill there is going to be an increase in the recurrent expenditure in Finance and Economic Planning to Kshs. 1,643,512,109. It is going to increase the total Budget Appropriations to Kshs. 12,215,958,368.
- ii. On resource envelope, it is going to reduce a line under grants name COVID 19 Response Grant. This is where Kshs. 159,820,000 that has been disbursed by the National Government is going to be domiciled.
- iii. There is an adjustment of total share of National Revenue is going to increase to Kshs. 10,777,479,764 for the FY 2019/2020.
- iv. There is also go to be an adjustment of total resource envelope under 2019/2020 budget to Kshs. 12,215,958,368 and that will ultimately balance off the Supplementary Budget.

Thank you, Mr. Speaker, and allow me to call upon the Hon. Whip to second the proposed amendments to the Second Supplementary Budget. Thank you.

Temporary Speaker (Hon. Okumu): Thank you. Proceed Hon. Chief Whip.

Chief Whip (Hon. Misachi): Thank you Mr. Speaker. The Memorandum from the Governor is very clear. What we can do as Members is to support this motion because the document that was sent to the Governor has not been assented to. I support the motion.

Temporary Speaker (Hon. Okumu): Honourable Members, a motion on the Governor's Memorandum on the Budget and Appropriations Report for additional funding of Kshs. 159,820,000 for COVID-19 Response to the County COVID-19 Emergency Fund has been moved by Hon. Leader of Majority on behalf of Hon. Steve Owiti and seconded by Hon. Chief Whip. I now want to propose that we open the report for debate.

Temporary Speaker (Hon. Okumu): Yes Hon. Roy Samo.

Hon. Samo: Thank you Mr. Speaker for giving me an opportunity to contribute to this motion. I agree that we do an amendment to the Second Supplementary that was done. However, I find it a bit challenging for interrogation. May be the Leader of Majority could open up and at least say something if there is any illegality on the way this is being done.

Mr. Speaker, we did pass the Second Supplementary Budget Estimates for FY 2019/2020 and has been said by the Leader of Majority. I find it difficult because we did pass an Appropriation Bill. If we are going to do an amendment on the Second Supplementary which has been passed even though the Chief Whip has said that it has not been assented by the Governor then what are we going to do with the Appropriations Bill which we had passed or is it going to remain the way it is? Otherwise, I support that we adjust the figures but let an explanation on the same be given on the amendment of Appropriations Bill. Thank you.

Temporary Speaker (Hon. Okumu): Yes Hon. Ogutu George.

Hon. Ogutu: Thank you Mr. Speaker for according me this opportunity to add my voice on this motion. I stand to support this motion but we need more explanation as Hon. Roy Samo has requested. We can do another Supplementary Budget but we must adhere to the procedures. I don't understand why the Second Supplementary was passed and kept in the shelf? We need this money because we understand the situation we are in now as a County and as a Country. Thank you. I support.

Temporary Speaker (Hon. Okumu): Yes Hon. Ameso Samson.

Hon. Ameso: Thank you Mr. Speaker. I want to applaud the Governor for the efforts he has made for us to get these funds. The COVID-19 has brought a lot of negative impact to our people and when we receive these funds, we shall be able to put in measures that has been proposed by the Government to fight the pandemic. I don't want to dwell so much on this but I want to register my support on the motion. I urge the Members to do so that we can add more funds to help our people during this bad time. Thank you.

Temporary Speaker (Hon. Okumu): Before I give a chance to another Member, I want to give guidance to Hon. Roy Samo and Hon. Ogutu with regards to Memorandum. I do remember that we passed the Appropriations Bill for the Second Supplementary as you have said. That Bill to has not been assented and then again, we received the additional funds before that was done.

That is why the Governor wrote to this Assembly with regards to additional funds. We work on them separately then it will automatically alter the Appropriations Bill to a tune of Kshs. 159,820,000 and that is meant for the Emergency Funds which I had explained before. Please stand guided.

Temporary Speaker (Hon. Okumu): Please proceed Hon. Samo.

Hon. Samo: Thank you Mr. Speaker. I want make it very clear that I support the memorandum but if you look at our Standing Orders, the period of 14 days had elapsed. If we had passed the Appropriations Bill, it means that we had given the Governor authority to spend. We are now receiving additional funds to the tune of Kshs. 159,820,000. Mr. Speaker, then we also need to give him power to spend. Those are the concerns Hon. Ogotu is raising and I expect the Leader of Majority to say something. We can do another appropriation on the same. Thank you.

Temporary Speaker (Hon. Okumu): The day the Memorandum by the Governor was forwarded to the Assembly, was before the lapse of 14 days. You need to get a copy from the Leader of Majority. I will allow the Honourable Members to continue discussing the motion.

Temporary Speaker (Hon. Okumu): Yes Hon. Maureen Otiang’.

Hon. Otiang’: Thank you Mr. Speaker. I rise to support the motion and I think it is high time we get things running because COVID-19 is with us and getting funds to achieve what we want is more important.

Temporary Speaker (Hon. Okumu): Order Hon. Member. We are adhering to the guidelines of the COVID-19 preventions. I want to request you to wear your mask for the safety of other Honourable Members.

Hon. Otiang’: Thank you. My mask is very tight but I request the House orderlies to sanitize the microphone once am through.

Temporary Speaker (Hon. Okumu): Proceed Hon. Member.

Hon. Otiang’: Mr. Speaker, the mask issue was really derailing. Nevertheless, I wanted to say that I support the motion and I am of the opinion that we move with speed to help our County in ensuring that our Members are safe. For instance, people like me who have a challenge speaking with a mask on, can sanitize the microphone immediately after use. Consequently, I want to extend my congratulations to the Government for ensuring the safety of our citizens by providing us with funds to help curb the pandemic. It is my belief that we are going to win this war against Corona Virus. Thank you.

The Temporary Speaker (Hon. Okumu): Thank you Hon. Member. Yes Hon. Florence Olang’o.

Hon. Olang'o: Thank you Mr. Speaker. Following the mood of the House, I want to call upon the mover of this motion to reply.

The Temporary Speaker (Hon. Okumu): Yes Hon. Leader of Majority on behalf of the Chairperson Budget and appropriation. Order Hon. Ogutu.

The Leader of Majority (Hon. Onyango): Thank you Mr. Speaker. I want to thank the Hon. Members for supporting the Memorandum that was given out by the Governor Prof. Anyang' Nyong'o. Due to the concerns that Hon. Roy Samo raised earlier about this debate only talking about the Governor's Memorandum and that it is not going to give effect to the Kisumu County Appropriations Bill, I want to specifically refer him to our Standing Order No. 137(1),(2),(3) to help guide him on the same. If you read part 3 of the Standing Order No. 137;

“If the Governor refers a Bill back to the County Assembly, the County Assembly may, following the appropriate procedures, under paragraph 5 i) Amend the bill taking into account the issues raised by the Governor or pass the bill without amendment.

Part 4 of the Standing Order 137; “If the County Assembly amends the Bill taking into consideration the issues raised by the Governor, then the Speaker shall within 14 days submit the Bill to the Governor for assent.”

Therefore, what the Governor has brought here is to amend the Kisumu County Appropriations Bill 2020 for the Second Supplementary Budget Estimates for FY 2019/2020. I believe that is now clarified. Approval of the Memorandum by this House will amend the Kisumu County Appropriations Bill making it in consonance to the adjustments of funds that have been received.

Mr. Speaker and I believe that these funds are going to be used prudently for purposes of cushioning our Members as well as our citizens from this ravaging pandemic. In addition, the pandemic has reduced many to live below abject poverty. Thank you so much.

The Temporary Speaker (Hon. Seth Okumu): Thank you Hon. Leader of Majority. Memorandum of the Governor for additional funding of Ksh.159, 820,000 for COVID-19 Response to the County Emergency Fund was brought and tabled in this House. A motion on the same Memorandum has been moved by the Hon. Leader of Majority, seconded by the Chief Whip, Hon. Misachi, discussed by Hon. Members. I want to put a question for the adoption of the same?

(Question put and agreed to)

The Temporary Speaker (Hon. Seth Okumu): Next Order!

MOTION

FINDINGS/RECOMMENDATIONS OF SUBMISSIONS AND RESPONSES ON THE
AUDITOR GENERAL'S REPORT ON KISUMU WATER AND SANITATION COMPANY
LIMITED FOR THE YEAR ENDED 30TH JUNE 2016.

BY

HON. MAUREEN OTIANG'
CHAIRPERSON, PUBLIC INVESTMENTS AND ACCOUNTS COMMITTEE

The Temporary Speaker (Hon. Seth Okumu): Yes Hon. Maureen Otiang'

Hon. Otiang': Thank you Hon. Speaker, I will request to speak without the mask on and ensure to sanitize the microphone once I am done presenting the Report on behalf of the PIC&PAC Committee to ensure safety of the next speaker.

Honourable Speaker,

On behalf of the Public Investments and Accounts Committee (PIC/PAC) and pursuant to the provisions of Standing Order No. 188, it is my pleasant privilege and pleasure to present to this House the report on the Public Investments and Accounts Committee findings and recommendations of submissions and responses on the Auditor General's Report on Kisumu Water and Sanitation Company Limited for the Year Ended 30th June, 2016.

The report of the Auditor General on Kisumu Water and Sanitation Company for the FY Ended 30th, June 2016 was tabled on the floor of the Assembly on Wednesday, 30th, October, 2019 at 2:30 p.m. and thereafter committed to the Public Investments and Accounts Committee pursuant to Article 229 (8) of the Constitution of Kenya 2010.

Overview

The Committee is pleased to present the finding and recommendation of Report on the Audit of Kisumu Water and Sanitation Company Limited carried out by the Auditor-General's Office for the FY ended 30th June, 2016.

The Public Accounts Committee is committed to ensuring that government agencies both from the County Executive and County Assembly respond appropriately to recommendations made by the Auditor General in his performance audit reports. The Committee has dedicated a substantial part of its work to this task and intends to report periodically to the Legislative Assembly on the level of agency compliance.

Committee Mandate

The Committee of PIC/PAC was mandated to interrogate the Report of the Auditor General on issues raised on the report after it was tabled in the Assembly on Wednesday, 30th, October, 2019

at 2:30 p.m. and consequently, committed to the Committee of PIC/PAC. The Committee invoked the following Legal Instruments while undertaking its mandate

1. The Constitution of Kenya, 2010
2. The Public Finance Management Act, 2012
3. The Public Procurement and Disposal Act, 2005
4. County Governments Act, 2012
5. The Standing Orders as below

Standing Order No. 188 - County Public Investment and Accounts Committee

(1) There shall be a select committee to be designated the County Public Investment and Accounts Committee.

(2) The County Public Investments and Accounts Committee shall be responsible for-

- (a) 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.
- (b) The examination of the reports, accounts and workings of the county public investments;
- (c) The examination, 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 Committee undertook its mandate while invoking Standing Order 188 in the examination and interrogation of issues raised in the Report of the Auditor General on Kisumu Water and Sanitation Company FY ended 30th June, 2016.

Committee Terms of Reference

1. Report, on the activity of the PIC/PAC Committee, including a summary of recent audit reports and recommendations on the issues highlighted by the Report from the Auditor General.
2. Ensure the Committee achieves established objectives and fulfills its mandate in alignment with the Constitution, 2010, the County Government Act, 2012, the PFM Act, the Public Procurement Regulations as set forth in the Public Procurement and Disposal Act and Standing Order and other legal instruments
3. Ensure that advisory activities are carried out in an efficient, economical and effective manner in order and recommend appropriate implementation is adhered to.

4. Adhere to the International Standards for the Professional Practice of Internal Auditing (the Standards) and the Code of Ethics as promulgated by the Institute of Internal Auditors.

Methodology

These interrogations were conducted in conformance with the Constitution of Kenya, 2010, the Public Finance Management Act, Public Procurement and Disposal Act, the County Assembly Standing Order 188, and is aligned with other legal instruments and traditions and practices of the Quality Assurance and Improvement Program.

The methodology standards in audit plied are as tabulated below.

Methodology	Summary
Interviews	Conducted by Members of the Committee of Public Investments and Accounts.
Direct Observations	Observations by members of the committee to adjudicate and deliberate on decisions to be made and recommendations to be made as regard the oral submissions by interrogation team.
Documentation Review	Reviewed relevant departmental documents while making reference to supportive documents where applicable along with policies, regulations and other legal requirements that guide the operations of government agencies.
Literature Review	Reviewed literature pertaining to relevant submissions and whether they are in-line with decisions arrived at by the respondent.
Statistical Analysis	Collection and analysis of submissions in comparison with the evidences adduced by the respondents and crosschecking if they are backed by law.
Documentary/Submission Review	Assessed compliance with applicable legislations, policies and procedures. Files were reviewed to assess if decisions so made were accurate and made in direct compliance with legislations, policies and procedures
Site Visit	To ascertain the operations and status of the companies as per the issues raised by the Auditor General.

Membership of the Committee

- | | | |
|-------------------------|---|------------------|
| 1. Hon. Maureen Otiang' | - | Chairperson |
| 2. Hon. Julius Genga | - | Vice Chairperson |
| 3. Hon. Seth Okumu | - | Member |
| 4. Hon. Nancy Owiti | - | Member |
| 5. Hon. Roy Samo | - | Member |
| 6. Hon. Benny Oiko | - | Member |
| 7. Hon. Paul Okiri | - | Member |
| 8. Hon. Beatrice Pamela | - | Member |
| 9. Hon. John Atieno | - | Member |
| 10. Hon. Johnson Guya | - | Member |

Secretariat

- | | | |
|--------------------|---|-----------------|
| 1. Edward Odanga | - | Committee Clerk |
| 2. Francis Ombewa | - | Audit |
| 3. Zablone Otiende | - | Hansard |
| 4. Grace Kunga | - | Secretariat |
| 5. Abraham Odegi | - | Serjeant-at-Arm |

PIC/PAC COMMITTEE FINDING AND RECOMMENDATION VIS-A-VIS INQUIRIES
UNDERTAKEN ON THE AUDITOR GENERAL'S REPORT ON KISUMU WATER AND
SANITATION COMPANY FY ENDED 30TH JUNE, 2016.

Honourable Speaker,

May I take this opportunity to table the Report from the Committee of PIC/PAC on the Auditor General's on Kisumu Water and Sanitation Company FY ended 30th June, 2016.

The Committee was mandated to hold sessions to interrogate queries raised in the Auditor General's report on Kisumu Water and Sanitation Company FY ended 30th June, 2016 in line with its mandate under the Standing Orders 188 and to present a report of its finding as well as to make appropriate recommendation to be tabled before the House in May 2020.

Honourable Speaker,

The Committee sat on diverse sessions beginning Monday 6th January, 2020 to 10th February, 2020 to conduct these hearing. The CEC Water, Environment and Natural Resources, the Chief Officer Water, Environment and Natural Resources, The Managing Director, Kisumu Water and Sanitation Company, The Finance Officer Kisumu Water and Sanitation Company, the Director Human Resource Manager Kisumu Water and Sanitation Company, the Head of Procurement Kisumu Water and Sanitation Company and the Head of Water Supply were summoned to give their submissions regarding the audit queries in the Financial Year under review before tabling of the report in the House. The Committee also conducted site visit on Monday 10th February, 2020 to Nyanas and Gulf Water Companies to ascertain their operations. The committee met the team leaders Mrs. Maureen Ondeng and Mr. Bernard Ondego of Gulf and Nyanas Water Companies respectively to interrogate their relationship with Kisumu Water and Sanitation Companies.

RESPONDENTS FROM THE WATER DEPARTMENT AND KISUMU WATER AND SANITATION COMPANY

1.	Mr. Salmon Orimba	CEC Water, Environment and Natural Resources
2.	Mr. Zacchaeus Okoth	Chief Officer Water, Environment and Natural Resources.
3.	Mr. Thomas Odongo	Managing Director, Kisumu Water and Sanitation Company.
4.	Mr. Nicholas Moseti	Head of Finance, KIWASCO
5.	Mr. Simon Ondigo	Head of Audit, KIWASCO
6.	Mr. Antony Ogwang'	Head of Procurement, KIWASCO
7.	Mrs. Everlyne Opiyo	Head of Human Resource, KIWASCO
8.	Mr. Maurice Owino	Director Water Supply, KIWASCO
9.	Mrs. Maureen Ondeng	Team Leader, Gulf Water Company
10.	Mr. Benard Ondigo	Team Leader Nyanas Water Company

DETAIL FINDINGS AND COMMITTEE RECOMMENDATIONS

The Committee administered oath and affirmation to respondents before they were given chance to respond to issues raised in the Auditor General's Report

Auditor's Findings**Basis for Qualified Opinion****1. Delayed Remittances of Statutory Deductions**

As previously reported, the company owes the National Social Security Fund (NSSF) and the Employee's Pension Fund Kshs. 2,954,985.00 and Kshs. 7,664,375.00 respectively. The payables have been outstanding for a considerably long period of time and therefore their recoverability is in doubt. As a result, the Company has not complied with various aspects of the Retirement Benefits Act and consequently it is exposed to penalties and interest on the long outstanding balances.

Auditor's Recommendation

Consequently, the company breached the law.

Management Response

In their oral and written submission to the committee, the company continues to comply with all aspects of Retirement Benefits act and pays all their pension liabilities as they fall due. The outstanding amounts relate to inherited liabilities from the defunct Municipal Council of Kisumu and does not relate to KIWASCO's debts. However, the Company has been paying the liabilities especially for staff who are leaving the company so that they are not disadvantaged as shown in the reduction of the balances from Kshs. 8,912,220.00 to Kshs. 7,664,375.00 for pension funds. KIWASCO has so far paid the outstanding liabilities for staff who will be retiring up to the year 2019.

The Company is committed to settling all outstanding liabilities as illustrated by balances of Kshs. 2,159,765.00 and Kshs. 4,849,564.91 for NSSF and Pensions respectively as at 28th June 2017, the 30th June, 2017 postings in the ledger are current pensions for the month of June which were payable and paid in July 2017.

The Company's tariff does not have a provision for these payments as they relate to debts inherited from the defunct Municipal Council of Kisumu hence the slow pace of harmonization.

The Company held reconciliations with County Government of Kisumu to determine the actual staff liabilities since the pension liabilities were subjected to debt swap of the pension liabilities with Council Estates. The City Manager undertook to follow-up this matter with the pensioners with a view of finding a lasting solution and subsequent settlement.

Committee Observations and Recommendations

It was noted that the Company failed to give details to the committee the debt swap plan and value that commensurate with the amount indicated in their submissions. The committee also could not ascertain the value of assets inherited from the Local Authority.

On the above, the committee recommends that the company should make efforts to comprehensively address the challenges mentioned through coming up with a solid payment plan.

2. Cash and Cash Equivalents

The statement of Financial position reflects cash and cash equivalents balance of Kshs. 5,872,769.00. However, as disclosed at Note 14, the Company held both current and non-current water deposits totaling to Kshs. 73,301,939.00. However, this amount could not be traced to any bank account and in addition, the Company does not maintain separate customer deposit bank account as required by the Public Financial Management Act, 2012.

Auditor's Recommendation

Consequently, the Company is in breach of the law and customer deposits may have been diverted for unidentified and unauthorized use during the year under review.

Management response

While appearing before the committee the Managing Director stated that Cash and Cash equivalent reflected in the amended financial statements is Kshs. 5,872,769.00. All cash received by the company including deposits are banked in the Company's collection accounts at Co-operative Bank, Kisumu Branch. The bank statements and bank reconciliation report for the account were provided for audit and the cash and cash equivalents also supported by the cash flow statements.

Kshs. 73, 301,939.00 is the liability balance in the account that include additions in the year and refunds made. This amount has been spent on the regulators approved operational items as indicated in the Cash flow statements which does not constitute diversion of funds to unidentified utilization.

Further, the company is "Going concern" due to the nature of services it is offering to the public. Deposits therefore are meant to cover the company in case of losses caused by non-payment of bills by customers. The amount is meant to be used to improve service delivery. However, refunds to customers relocating from their premises are available on demand which the company estimates to be Kshs. 1,200,000.00 annually as indicated in the financial statements.

Reading the Public Financial Management Act No. 18 on the County Government and County Government entities does not refer to “customer deposits” but rather collections accounts of the entities being sub accounts of the County Treasury Single Accounts of the County Government.

Committee Recommendations

To adequately address the subject matter, the committee recommends that the entity should open a separate account for customer deposits. This will ensure that the public resources and properly managed as required by the law.

3. Impairment Loss on Meters

Included in establishment expenses balance of Kshs. 131,445,584.00 is an impairment loss of Kshs. 20,653,697.00 charged in respect of water meters. However, no board approval was availed for the write-off of meters valued at Kshs. 20, 653,697.00.

Auditor’s Recommendation

Consequently, the accuracy and validity of impairment balance of Kshs. 20,653,697.00 as reflected in the establishment expenses cannot be confirmed.

Management response

In their submissions to the Committee, the KIWASCO team, the company did not dispose any meters during the year under review. Disposal requires the approval of the procurement plan but meters identified above were replaced due to loss caused by theft or damage. Recognition of impairment loss does not require board approval since this is guided by relevant accounting standards.

The International Accounting Standards No. 36 and 39 prescribed the identification and disclosure requirements for asset impairment. This is described below;

A financial asset or group of assets is impaired and impairment losses are recognized only if there is objective evidence as a result of one or more events that the initial recognition of the asset. An entity is required to assess at each balance sheet date whether there is any objective evidence of impairment. If any such evidence exists, the entity is required to do a detailed impairment calculation to determine whether an impairment loss should be recognized. The amount of the loss is measured as the difference between the assets original effective interest rate.

If there is an indication that an asset may be impaired, then the assets recoverable amount must be calculated. Therefore, just like asset depreciation, the company has complied with regulation in terms of determination and recognition of impairment. Meters that have been stolen from the customers premises have no value and cannot be disposed but impaired. Static or damage meters are also replaced and the loss disclosed are impaired since they are still in the books of accounts.

However, the replaced meters are part of scrap items which then have to be approved by the board in the procurement plan as items to be disposed.

Committee Recommendations

The Committee recommends that the entity should prepare a list of impaired and loss of meters and for accountability and present the same for audit at the end every Financial Year.

4. Related Party Transaction

According to a letter Ref. KWSCO/MDO/ADM/3/1 dated 30 September 2014 addressed to the County Government of Kisumu from the Board of Directors, the Company was mandated to manage Gulf Water Company Limited and Nyanas Water Company Limited with the Company and County Government of Kisumu each having one signatory to help operate the two companies' bank accounts.

However, for the last five (5) years the financial statements of the two water companies have not been submitted to the Office of the Auditor-General for audit contrary to Article 229 of the Constitution of Kenya and the Public Audit Act, 2015.

Management Response

In their submissions before the committee, the team presented a letter KWSCO/MDO/ADM/3/1 dated 30th September, 2014 to the County Government of Kisumu was in response to letter from the County Government requesting KIWASCO to take over the operations and management of the two companies. However, the feeling of KIWASCO's board was that the two companies had been run down and were making losses and such could not be merged with KIWASCO since such an action would provide management support on behalf of the County Government of Kisumu to the two utilities until a time when they will be able to breakeven and are financially stable enough before the decision to merge is made.

Gulf and Nyanas Water Companies are independent legal entities and have not been wound up by the registrar of the companies hence need to be treated independently of KIWASCO. Treating the three as one is not in the spirit the board resolution to support the management of Gulf and Nyanas Water Companies are separate legal entities and have not been integrated with KIWASCO as expressed in the above observation.

Revenue collections for the two companies are not domiciled at KIWASCO as purported. The two companies have their own separate billing systems and bank accounts where all their collections and payments are made from. The bank accounts are managed in conjunction with the County Government of Kisumu who are owners of the two entities. KIWASCO only facilitates the smooth running and operations of the bank accounts as mandated by the Board of Directors. It is worth noting that key costs like electricity bills, water chemicals and other

maintenance costs are being paid by the County Government of Kisumu directly and not through KIWASCO or the two entities.

The status of the two companies is unclear due to incomplete records. No records of assets or liabilities were handed over to KIWASCO. Previously audited books of accounts are not available to help track the performance and status over time or for updating the current status. Records of revenue and bank statements were shared with the auditors by the County Chief Officer, Water.

Committee Observations

During the Committee visit to Nyanas and Gulf Water Companies, the following critical issues were observed;

- ✓ Despite several requests to KIWASCO by the Office of the Auditor General to present the books of accounts of the two water entities, there were no such commitment to avail those reports for verification last five financial years.
- ✓ It was also noted by the committee that all the financial operations of the two water companies are under the monitor of KIWASCO. The two staffs of KIWASCO, The Managing Director, The Finance Officer KIWASCO and the Chief Officer Water are the signatories of the bank accounts of the two water companies.
- ✓ In their response to the Committee, KIWASCO distanced themselves with any other association with the two water companies apart from the provision of Water Chemicals and seconding staff to assist in running the two entities.
- ✓ Through the meeting held between the Committee and two water company staffs, it was clear that the payrolls of the two companies are done by the KIWASCO contrary to their submissions before the committee on 22nd January, 2020.
- ✓ As per the oral submissions before the committee, the two Team Leaders for Nyanas and Gulf Water Companies informed the committee the staffs files of the companies are under the custody of KIWASCO and the recruitment of new staffs is under the jurisdiction of the KIWASCO.
- ✓ Despite being registered companies, the committee learnt that Nyanas and Gulf are operating with no Physical Address or Plot Numbers.

Committee Recommendations

1. The failure of the company to adhere to the requirements of the Public Finance Management Act to submit the books of accounts for auditing for five consecutive financial years, the company breached the law and this might have resulted to misappropriations of public funds.
2. The denial of the KIWASCO in their submissions to the committee that they only provide chemicals and technical support to the two water companies was misleading and the investigating authorities (The office of the Director of Criminal Investigation and the

Ethics and Anti-Corruption Commission) should take up the matter and dig deep on the misappropriations of the public resources that is being propagated at the Company.

3. The Committee wishes to recommend that Nyanas and Gulf Water Companies be amalgamated with the KIWASCO to form one company and such move should be legally undertaken. This will not only ensure that the residents of Kisumu County has an access to clean and sufficient water but also promote prudence in use of public resources.

5. Non-Revenue Water

Examination of water production records revealed that the Company produced 10,565,060m³ of water during the year ended 30 June 2016. The billing records however, indicated that 5,651,410m³ of water was sold during the same period. This resulted into Unaccounted for Water (UFW) of 4,913,650m³ representing 47% of total volume of water produced. The UFW was 22% percentage points above the allowable loss of 25% prescribed in Water Service Regulatory Board guidelines. The UFW may have resulted in a loss of sales estimated Kshs.152,323,150.00 at Kshs.31 per cubic meter price charged to customers by the company.

Management Response

The fight to reduce Non-Revenue Water (NRW) in KIWASCO started in earnest in July 2008. Deliberate efforts have been instituted to address the problem among them the Operation Tsunami, creation of dedicated section and staffing it with qualified personnel besides benchmarking with the peers and worlds. KIWASCO has continued to implement Operation TSUNAMI launch in July 2008 to reduce NRW. The current NRW average is 3.3% while last year averaged 31%.

Committee Observations and Recommendations

The committee noted that the company has endeavored to address the Non-Revenue Water by putting in place several measures including;

- ✓ Repair of the leakages within 6 hours to 12 hours upon such report.
- ✓ Sensitization of the public to report on the leaks/busts.
- ✓ Heavy penalties on illegal connections among many others.

The Company should come up with strict measures to address the Non-Revenue Water to enable it accrue more collections hence better service delivery to the people.

Conclusion

The recommendations contained in this report should be implemented to ensure public resources are used in an efficient manner. This will lead to improved service delivery to the people of Kisumu County. On behalf of the Committee, I would like to thank all the entities referred to in this report for their cooperation during the follow-up process.

I call upon Hon. Roy Samo to second the motion.

Temporary Speaker (Hon. Okumu): Yes, Hon. Roy Samo.

Hon. Samo: Mr. Speaker, I want to say in my submission as I second the report that the Chair really worked hard to come up with the report. I remember being in several sittings where some of the people who had been invited to give their submissions were very unruly. But the Chair was patient in order to come up with the report. As I second this motion, I am privy to what is happening in NYANAS since I have a friend who is working there. I know that they are going through hard times. The same is with the other company.

Mr. Speaker, I wish to urge the House that we pass or add to this recommendation that in as much as we are asking the legal bodies to institute necessary measures, the County Government of Kisumu should merge these two companies so that they form one body. I say so because my uncle, Josiah Ochieng is working in one of the companies. He has not been paid for the last six months. As has been stated by the Hon. Chairperson, these are legal entities and we need to intervene to help them. I second this as I ask the House to put its feet down so that we can have these two companies managed with KIWASCO for workers to get their salaries in time. I second. Thank you, Mr. Speaker.

Temporary Speaker (Hon. Okumu): Thank you Hon. Members. A report by the Committee of Public Accounts and Investment on the Kisumu Water and Sanitation Company Limited for the year ended 30th June, 2016 has been presented as a motion in this Assembly by Hon. Maureen Otiang', seconded by Hon. Roy Samo and I want to propose that we open the report for debate?

Temporary Speaker (Hon. Okumu): Yes, Hon. George Ogutu.

Hon. Ogutu: Thank you Mr. Speaker for giving me this opportunity to add my voice to this elaborate report. I support the report. I feel the Chair has done a good job. I was going through the report with her and I noted some areas. There is one part which KIWASCO is claiming to have inherited some debts from the Defunct Municipal Councils. We know that if there a change in a company or a County Government then the succeeding entity takes responsibility.

Mr. Speaker, I also wish to talk about a sister company called NYANAS. As the people of Nyakach we are not happy with the way NYANAS is being run. This company has a history. It was brought by Mr. Ojwang' Kombudo when he was the MP for Nyakach. The water company has been there for a long time. I have personally visited the company. Since Ojwang' Kombudo left politics, the company has never been expanded. Mr. Speaker, you and the Hon. Members are aware of the water scarcity in West Nyakach. Even those who work in NYANAS have not been paid for quite some time. I believe these are county government's entities. The County Government of Kisumu which includes the County Assembly should up its game so that we can help our people. In Nyakach we have a lot of water problems yet we have a very good project

which was brought by the National Government and inherited by the Defunct Municipal Councils and now taken over by the County Government of Kisumu.

Mr. Speaker, the only thing we can do as an Assembly is to recommend that the two water companies to be fully taken over by KIWASCO so that those people who are working for these companies can enjoy the benefit of our independence. There are a lot of recommendations about KIWASCO Water Company. I agree with the Committee that the entity be investigated further and if found culpable, the people should be prosecuted. There is a lot of wastage in this particular company. I urge the Assembly to move with speed and adopt this particular report so that the anti-corruption bodies can move in to investigate this company. Thank you, Mr. Speaker.

Temporary Speaker (Hon. Okumu): Thank you so much Hon. George Ogutu.

Temporary Speaker (Hon. Okumu): Yes Hon. Majority whip.

Chief Whip (Hon. Misachi): Thank you Mr. Speaker. I want to commend the Committee of PIC/PAC for the report they have released today. Though long awaited, it has been properly done. It is true that KIWASCO was under the Municipal Council of Kisumu which surrendered all their networks to KIWASCO when they were forming it as a company. I believe there have been negotiations to have NYANAS and other small water companies to be amalgamated with KIWASCO. Now that KIWASCO has been taken over by the County Government of Kisumu, and being that the two water companies are within Kisumu County, I go with the recommendation that they be put fully under KIWASCO. But before that, let us investigate and know the status of KIWASCO.

Mr. Speaker, we need to be told if NYANAS and KIWASCO are making profits or losses? If that can be established then we would recommend that the two water companies whose fortunes have been dwindling be fully managed by KIWASCO. Way back, fifteen years ago when I was still the Mayor of Kisumu Municipality, workers from the two water companies were not being paid. There was hue and cry for them to be paid their salaries yet they were working for a company that was started as a 'Harambee'. Now that we have an organized company called KIWASCO, it should put its house in order and take over the two water companies as per the recommendations of this Committee. I support this report.

Temporary Speaker (Hon. Okumu): Thank you so much the Hon. Chief Whip.

Temporary Speaker (Hon. Okumu): Yes, Hon. Ameso.

Hon. Ameso: Thank you Mr. Speaker. I wish to thank the Committee on PIC/PAC for the job well done and I would like to concur with the sentiments of my Senior Member, the Chief Whip that if possible as per the recommendations of the committee that the two small companies be merged and be placed under one umbrella that is KIWASCO. The committee has highlighted so

many issues on the report relating to misappropriation of funds, loss of funds and this has also been highlighted by the Auditor General which really needs to be looked into.

However, I fail to note a recommendation here whereby it is indicated that these culprits are put into book since this matter should not go scot free. When you see a huge amount of money lost as indicated in this report, there must be somebody somewhere who has taken advantage to take the money into his/her own pocket. This matter is mostly touching my Committee of Water, Environment and Natural Resources where we have been having problems of even tracing how these funds are being channeled. It is true that the funds that we are talking about here are not small amount of money to the extent that remitting statutory deductions to the employees cannot be remitted in time. A serious action should be taken and I pray that we bring in the Ethics and Anti-Corruption Commission (EACC) to help us find where these funds have gone to. Maybe somebody is busy building Houses somewhere at the expense of others. I support.

The Temporary Speaker (Hon. Okumu): Hon. Miruka.

Hon. Miruka: Thank you Mr. Speaker. I would like to commend the PIC/PAC Committee for doing a good job. This is the kind of thing that we have always yearned for. I would like to support the investigations and recommendations that they did and recommend that we adopt it very fast. I wanted to go on record and I have been wondering on the existence of the two companies that have had a lot of losses for many years. Personally, I had a brother who worked with NYANAS as early as 1998 and he died a poor man because there were no salaries and if they are not being paid then the companies should cease to exist.

Mr. Speaker, the investigation has revealed very clearly that we have had misappropriation of resources to an extent that money cannot be accounted for, the workers are not getting their salaries and remittances are not done and cannot be traced. Mr. Speaker, I would recommend and support my fellow Members who tirelessly worked to bring this that, it should be adopted and taken to the right authority because we cannot lose millions at the expense of the people that are suffering outside there. If you go to most parts of our area more so West Nyakach, we have areas with pipes underground with no water; we even have people who are servicing their lines paying what they are not supposed to pay monthly but they are not getting the services. NYANAS and Gulf Companies should be merged to KIWASCO because I know that KIWASCO can attract funding, international support and it is also recognized by the County Government of Kisumu.

The Temporary Speaker (Hon. Okumu): Hon. Members, I believe that in the interest of time let us dispense with this matter so that Members can travel back home and reach before curfew time.

The Temporary Speaker (Hon. Okumu): Yes Hon. Olga.

Hon. Olga: Thank you Mr. Speaker. I wish to call the mover to reply.

The Temporary Speaker (Hon. Okumu): Thank you. Yes Hon. Otiang’.

Hon. Otiang’: Thank you Mr. Speaker. I will not get into so many details since the report is already with us. I will only highlight that the committee was really shocked by the findings given that we have entities with no offices and addresses yet being serviced by the County Government of Kisumu.

Mr. Speaker, the Committee was equally shocked that statutory deductions which are things that are helping us get cautioned during retirement cannot be gotten by the management of both KIWASCO and NYANAS. As a committee we want to be committed to unearthing most of these things that are not remitted and very soon we have three report to issue and let us keep our eyes opened because we are not going to spare anybody since the committee is very much straight forward and strict because we have to do this on behalf of the people of Kisumu.

Otherwise Mr. Speaker I want you to make a ruling that these findings are taken over by the appropriate investigative bodies and maybe if we do another committees as Ad Hoc where we can ask that it is expedited and that the Members who are mentioned here are called to shed more light on the same. Thank you.

The Temporary Speaker (Hon. Seth Okumu): Thank you Hon. Members. A report on findings and recommendations on submissions and responses on the Auditor General’s Report on KIWASCO for the year ended 30th June 2016 has been moved as a motion by Hon. Otiang’, seconded by Hon. Samo and debated upon. I therefore want to put a question on the adoption of the same.

(Question put and agreed to)

The Temporary Speaker (Hon. Seth Okumu): The report on findings and recommendations on submissions and responses on the Auditor General’s report on KIWASCO for the year ended 30th June 2016 is hereby adopted today 3rd June 2020 at 16:18 hours. I want to ask the Office of the Clerk to communicate to the relevant offices mentioned in their conclusion so that we can find conclusive justice on places that they feel was not done right.

The Temporary Speaker (Hon. Seth Okumu): Next Order!

ADJOURNMENT

The Temporary Speaker (Hon. Seth Okumu): The being no any other business to transact, the House stands adjourned to tomorrow Thursday 4th June 2020 at 2.30 p.m.

House rose at 4.22 p.m.

Addendum

<i>Zablon Otiende</i>	-	<i>Head of Department</i>
<i>Edward Odanga</i>	-	<i>Hansard Reporter</i>
<i>Fanuel Okode</i>	-	<i>Hansard Reporter</i>
<i>Patrick Okoyo</i>	-	<i>Hansard Reporter</i>
<i>Jacqline Atieno</i>	-	<i>Hansard Reporter</i>
<i>Denis Odhiambo</i>	-	<i>Hansard Reporter</i>
<i>Jesca Otieno</i>	-	<i>Hansard Reporter</i>