

COUNTY GOVERNMENT OF KISUMU



COUNTY ASSEMBLY OF KISUMU

THE HANSARD

SECOND ASSEMBLY – FIFTH SESSION

Tuesday, 07th September, 2021

House met in the Main Chamber at 2:30 p.m.

(The Speaker (Hon. Elisha Jack Oraro) in the Chair)

PRAYERS

The Speaker (Hon. Oraro): Madam Clerk, please take us through the Order Paper of the day.

The Speaker (Hon. Oraro): Next order!!

COMMUNICATION FROM THE CHAIR

The Speaker (Hon. Oraro): Honourable Members, I want to welcome you to this afternoon session. This is to remind you that we still have Covid-19 with us, we need to observe the Ministry of Health protocols. I also want to bring to your attention that the Standing Committee Water, Environment and Natural Resources shall be having a meeting with different stakeholders in Nakuru County. I am told that the check in is today and it is ending on 10th September, 2021. That is official.

The Speaker (Hon. Oraro): Next order!

PAPER LAID

THE KISUMU COUNTY HEALTH FACILITIES IMPROVEMENT FUND BILL, 2021

BY

HON. KENNETH ONYANGO

LEADER OF MAJORITY

The Speaker (Hon. Oraro): Honourable Leader of Majority.

Leader of Majority (Hon. Onyango): Thank you Mr. Speaker. Pursuant to the provisions of the Kisumu County Assembly Standing Order No. 113 (7), I wish to table today Tuesday 07th September, 2021, The Kisumu County Health Facilities Improvement Fund Bill, 2021. Thank you.

(Leader of majority lays the Bill before the House for consideration)

The Speaker (Hon. Oraro): Honourable Members, I wish to acknowledge the Kisumu County Health Facilities Improvement Fund Bill, 2021. I want to direct that it follows the appropriate procedure as per our Standing Orders. Thank you.

The Speaker (Hon. Oraro): Next order!

MOTION

FIRST READING OF THE KISUMU COUNTY HEALTH FACILITIES IMPROVEMENT
FUND BILL, 2021

BY

HON. VINCENT JAGONGO

CHAIRPERSON, HEALTH, HOUSING AND SANITATION COMMITTEE

The Speaker (Hon. Oraro): Hon. Jagongo Vincent.

Hon. Jagongo: Thank you Mr. Speaker. May I request the Clerk to read the Kisumu County Health Facilities Improvement Fund Bill, 2021 for the first time?

(The Clerk, reading the Kisumu County Health Facilities Improvement Fund Bill, 2021 for first time)

THE KISUMU COUNTY HEALTH FACILITIES IMPROVEMENT FUND BILL, 2021

A Bill for AN ACT of the County Assembly of Kisumu to establish the Kisumu County Health Facilities Improvement Fund (FIF) for the improvement of healthcare services in dispensaries, health centers and hospitals, to provide for administration of the Fund and for connected purposes.

The Speaker (Hon. Oraro): Honourable Members, the Kisumu County Health Facilities Improvement Fund Bill, 2021 has been read for the first time. Having considered the workload of different House Committees and this being a Health Bill and the Finance at the same time, I want to commit this Bill to the Health, Housing and Sanitation Committee. I want to direct the Chairperson, Standing Committee of Health and Sanitation to consult closely with the Chairpersons of Select Committee of Budget and Appropriations and Standing Committee of Finance, Co-operative and Enterprise Development. The Health, Housing and Sanitation Committee must move with speed to carry out public participation as appropriate within the stipulated time and bring the report for discussion.

The Speaker (Hon. Oraro): Next order!

MOTION**PUBLIC INVESTMENT AND ACCOUNTS COMMITTEE REPORT ON THE
CONSIDERATIONS OF THE AUDITOR GENERAL'S REPORT ON THE FINANCIAL
STATEMENT OF THE COUNTY EXECUTIVE OF KISUMU FOR THE FY 2017/2018****BY****HON. MAUREEN OTIANG'****CHAIRPERSON, PUBLIC INVESTMENT AND ACCOUNTS COMMITTEE****The Speaker** (Hon. Oraro): Hon. Maureen Otiang'.

Hon. Otiang': On behalf of the Public Accounts and Investments Committee and pursuant to the provisions of the Standing Order No. 188(2) (Second Schedule), it is my pleasant privilege and honour to present to this Assembly the report of the Public Accounts and Investments Committee on the Consideration of the Auditor General's report on the Financial Statements of the County Executive of Kisumu for the Financial Year ended 30th June 2018.

Hon. Speaker, the role of the County Assembly in holding accounting officers accountable in the spending of public funds cannot be over emphasized. Section 131 of the Public Finance Management Act, 2012 mandates the County Assembly to authorize any expenditure by County Government entities. The Assembly is therefore expected to oversight the use of funds. Consequently, it goes without saying that in matters of oversight of County Government entities, the Assembly is the first point of call. Any other institution that may play a similar role is only a secondary. It is against this backdrop that the Auditor General Pursuant to Article 229 of the constitution submits annual reports to the County Assembly in order for the Assembly to take appropriate action. Once the report is submitted and tabled, it is committed to Public Accounts and Investments Committee for consideration and reporting.

This Committee report is a culmination of rigorous and a long exercise carried out by the Committee in the scrutiny of the report of the Auditor General. In its scrutiny, the Committee was concerned in determining whether, in the year under review, the accounting officers upheld the principles of Public Finance Management namely; value for money, efficiency, and effectiveness in public spending. The Committee also endeavored to hold the County Government and its officers to account for delivery of Public Services.

A major challenge that the Committee frequently encountered was the high level of unpreparedness on the part of the Accounting Officers. In addition, other accounting officers sought for last minute postponement of their appearances, further eating into the Committee's limited time. It is important to note that some of the accounting officers totally failed to appear before the committee nor did they submit written responses on the same.

Hon. Speaker, the Committee upon examination of the evidence brought before it, identified several issues that continue to hinder prudent financial management leading to misappropriation of public funds. The issues include irregularities in procurement processes, challenges in implementation of development projects, irregular allocation and encroachment of public

properties and mismanagement of own source revenue. To this point, the Committee has taken a pragmatic step in holding to account the accounting officers for their various acts of omission or commission that occasioned loss of Public Funds.

In conclusion Hon. Speaker, I would like to thank all the Accounting Officers who appeared before the Committee and provided responses, which provided valuable insights into the issues raised by the Auditor General.

I wish also to register my appreciation to the members of the Committee, the offices of the Speaker, the Clerk of the County Assembly and the office of the Auditor General for their steadfast support. Special appreciation also goes to our Committee Clerk and members of the secretariat who have had to go beyond the normal call of duty on numerous occasions.

Hon. Speaker, on behalf of the Public Accounts and Investments Committee, I now wish to table the report and urge the Assembly to adopt it and the recommendations therein.

Introduction

Establishment and Mandate of the Committee

Mr. Speaker and Hon. Members, the Public Accounts and Investments Committee is established under Standing Order No. 188 of the Kisumu County Assembly Standing Orders whose mandates, pursuant to the Standing Order No. 188 (2) (Second Schedule) is as follows;

- a. 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 House as the committee may think fit;
- b. Examination of the working of the Public Investments
- c. Examine the reports and accounts of the Public Investments and,
- d. Examine in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices.

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,
 - i. Openness and Accountability including public participation in financial matters;
 - ii. Public money shall be used in a prudent and responsible way; and
 - iii. Financial management shall be responsible and fiscal reporting shall be clear.

The Committee places high regard in these principles, among others and has been guided by them in the entire process that has led to this report.

- b) Obligations of the Accounting officer

Article 262(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 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;
 - i. Lawful and authorized and;
 - ii. Effective, efficient and transparent

These provisions obligate all the accounting officers to appear before the Public Accounts and Investments Committee to respond to audit queries raised by the Auditor General

c) Direct Personal Liability

Article 226(5) of the Constitution is unequivocal that, if the holder of a Public Office or a political office, directs or approves the use of Public Funds contrary to the law or instruction, the person is liable for any loss arising from that use and shall make good, the loss, whether the person remains the office holder or not, Consequently, Section 203(1) of the Public Finance Management Act enacts that; a public officer is personally liable for any loss sustained by a County Government and is attributed to;

- i. The fraudulent or corrupt conduct, or negligence of the officer or,
- ii. 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.

Committee Composition

The Committee as currently constituted comprises of the following Honourable Members,

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

Committee Secretariat

- | | |
|--------------------|------------------|
| 1. Austine Ochieng | Committee Clerk |
| 2. Geoffrey Omollo | Accountant |
| 3. Dominic Muinde | Legal Counsel |
| 4. Edward Odanga | Hansard Reporter |
| 5. Abraham Odegi | Sergeant-at-arm |

Acknowledgement

Mr. Speaker and Hon. Members. It is my privilege and pleasure to convey my gratitude to all Members of the Committee for their valuable input throughout the period of investigation into this matter.

I extend my warmest appreciation to Members of the Committee for taking their valuable time out of their busy schedules to participate in the activities of the committee for the entire period culminating in the production of this report.

The Committee also appreciates the invaluable support from the offices of the Speaker and the Clerk who made it possible for the committee to carry out its work in various ways.

To our Clerk and the technical staff who worked tirelessly to beat all the odds and make this exercise a success, I thank you and applaud your tireless efforts.

I now hereby submit this report to the House for consideration on behalf of the Public Accounts and Investments Committee.

FINANCIAL STATEMENTS AND REPORTS OF THE COUNTY EXECUTIVE OF KISUMU FOR THE FINANCIAL YEAR ENDED JUNE 30, 2018

The queries raised by the Auditor General are outlined in the paragraphs as below;

Basis for Adverse Opinion

HEALTH AND SANITATION

1. Retention Money Paid to County Government of Kisumu
 - a) Provide valid reasons as to why the Department procured Specialized Materials at inflated costs of Kshs. 33,007,450 above those charged by Kenya Medical Supplies Agency (KEMSA) contradicting Section 54 of the Public Procurement and Asset Disposal Act, 2015 which stipulates that standard goods and services with known market prices shall be procured at the prevailing market prices.
 - b) Submit detailed documentary evidence ascertaining if the County Government obtained value for money on expenditure totaling Kshs. 33,007,450.

Response from the Department

The department had the following to submit;

That the department sometimes procures medical commodities outside KEMSA. When the required medical commodities are stocked out in KEMSA, the department floats RFQs to prequalified suppliers to supply and deliver the medical commodities for use in the health facilities. The department outlined the following steps in regard to this;

- a) On a regular basis, the health facilities within the County are given allocations with which to make the orders for health products. The orders are collected and consolidated at the department headquarters on the Logistics Management and Information (LMIS) Platform. As per the law, all orders for the medical commodities are sent to KEMSA as the first point of call.
- b) KEMSA provides a proforma invoice indicating the items that are available in the stores as well as a non-supplies list. The non-supplies list shows the items that are not available in KEMSA which then must be procured from other sources in order to be supplied to the health facilities. Both the proforma invoice and the non-supplies lists are available for download on the LMIS platform.
- c) The department issues an LPO to KEMSA based on the proforma invoice.
- d) The non-supplies list is sent to the procurement department to buy from the prequalified supplies at the country.
- e) Request for Quotations (RFQ) are prepared and sent out
- f) Responses are then evaluated by a committee appointed by Chief Officer of Health
- g) Because the suppliers have to factor in their profits, taxes and other overhead costs, their prices are often higher than those of KEMSA.
- h) The department provided documentary evidence for this.

Committee Recommendation

- a) The Committee recommends that the County Government should consider giving tenders to the lowest bidders in such scenarios. This would help the County save money which can be used to purchase other medical equipment.

Leasing of Medical Equipment

- a) Explain why no intergovernmental agreement on leasing of medical equipment was availed for audit verification
- b) Provide valid explanation as to why Kshs. 95,744,681 was not captured in the budget estimates according to intergovernmental agreement in line with Article 187 of the constitution and in accordance with County Allocation of Revenue Act, No 23 of 2017, Section 5(1) on conditional allocation for leasing of medical equipment as set out in column F of the second schedule

Submission from the department;

That the office did a letter to the National Treasury requesting for information on payment regarding the leased medical equipment.

A letter was also addressed to the Principal Secretary, Ministry of Health on the same requesting for Intergovernmental Agreement on Leasing of medical equipment.

However, the office is yet to receive any response from both offices. (Annex 1)

Committee Recommendation

- a) The Committee noted the presence of the letter addressed to the Principal Secretary requesting for intergovernmental Agreement on leasing of medical equipment. However, the letter came much later in the financial year 2020/2021.
- b) The committee recommends that the follow up on this matter be done by the Directorate of Criminal Investigations and the Ethics and Anti-Corruption Commission.

FINANCE AND ECONOMIC PLANNING

1. Unsupported Pending Bills

- a) The Department to supply a detailed documentary evidence such as invoices, LPOs and delivery notes justifying pending bill amounting to Kshs. 271,169,741.
- b) Provide documentary evidence to authenticate a pending bill of Kshs. 1,953,793,412
- c) The Department to vividly explain to the Committee why they failed to submit an analysis of the pending bills to the Auditor as required by the law.

Management Response.

It is true that some of the pending bills were not properly supported as at the time of audit, the County invited the office of the Auditor General to verify pending bills before payment. This was indeed undertaken vide the report dated 21st April 2019 where the pending bills were cleared as eligible for payment and others declared as ineligible.

A committee was again gazetted to further verify the ineligible pending bills. This committee has completed the process and submitted the recommendations to the Auditor General for review.

We were not provided with the list of pending bills amounting to Kshs. 271,169,741 and therefore not possible to identify the specific invoices, LPOs and delivery notes. It is important to also note that pending bills accumulation has been continuous over the years since inception of County Government.

Committee Recommendation

The Assembly has for a long time been asking for the department to submit the list of pending bills. In the management response, the committee could only get the Auditor General's report and the summary of the pending bills. We were unable to find the delivery notes, Local Purchase Orders and invoices that were mentioned in the Auditor General's report. Failure to provide these documents means the audit query was not responded to satisfactorily.

The Committee therefore recommends that this matter be taken up by the Directorate of Criminal Investigations and the Ethics and Anti-Corruption Commission.

2. Integrated Financial Management Information System (IFMIS) Payment Details

- a) The Department to explain why disbursements of large sum of money to contractors was done through cash payment contrary to Financial Accounting and Reporting Manual Section 6.7.6.
- b) The Department to clarify why an amount of Kshs. 29,989,409 was paid but not reflected in the IFMIS.
- c) The Department to produce evidence of payments totaling to Kshs. 6,928,623,445.

Management Response.

The disbursement of a large sum of money were transfers to health facilities which were treated as advances amounting to 357,906,415. These appear as cash payments in the IFMIS payment details since they are treated as cash advances (imprest). These payments were later regularized through journal entries which were present during the audit and submitted again to the office of the Auditor General in our management processes.

All payments going through CBK have to be processed through IFMIS contrary to the letter. The payment vouchers for Kshs 6,928,623,445 are available at the county treasury for audit verification. It is not convenient availing all the payment vouchers to the County Assembly.

Committee Recommendation.

The Assembly has the power of the High Court and the mention of inconvenience in providing all the payment vouchers is unfair from the department. The committee has all the powers to request for all the documents to help it carry out its mandate.

The Committee therefore recommends that the documents be submitted to the County Assembly of Kisumu for verification or the matter be taken up by the Directorate of Criminal Investigations and the Ethics and Anti-Corruption Commission.

The Committee further recommends that going forward, no payments should be done outside the IFMIS system.

Evidences of receipt of payments by the health facilities were not provided and should form part of the documents to be submitted to this Assembly.

3. Outstanding Property Rates

- a) Explain what kind of stringent measures put in place by the County Treasury to recover an outstanding revenue of Kshs.9,089,779, 053.
- b) The Department to provide explanation as to why the valuation roll has not been made up to date.

Management response

The County has put on measure to recover outstanding rates by giving the incentives such as waiver of accumulated interests, giving public notices of intention to repossess or initiate legal proceedings which are currently being enforced. We have also engaged a private debt collector to enhance collection of the outstanding property rates.

The valuation roll has already been prepared and handed over to the County Executive by the consultant. It will soon be tabled in the Assembly after certain matters are finalized.

Committee Recommendation

- a) The committee recommends that a copy of the mentioned public notices be forwarded to the County Assembly for verification.
- b) The Committee also recommends that the engagement with a private debt collector be supported with a copy of the letter

4. Outstanding House Rent

- a) The Department to justify why Kshs. 5,305,200 deducted from employees as House rents was not captured in the LAIFORM revenue returns.
- b) The Department to furnish the Committee with a comprehensive documentary evidence of outstanding house rents totaling to Kshs. 224,900,316 as required under IPSAS.

Management response.

We have noted the anomaly and will initiate programs to ensure that LAIFORMS is updated regularly as per the payroll and we have submitted the payroll by products to the housing department at the city for updating. The outstanding amount of 5,305, 200 had been deposited in the County revenue fund account as per the attached bank statement. The outstanding house rents are herewith attached.

Committee Recommendation

The Committee recommends that the department furnish this Assembly with the evidence of a deposit of Kshs. 5,505,202 to the County Revenue Fund account as it was not provided in the response.

5. Transfer to other Government Units

- a) The Department to provide details of which Government entities received payment of Kshs. 717,579,546.
- b) The Department to supply documentary evidence acknowledging the receipt of Kshs. 369,017,342 transferred to Jaramogi Oginga Odinga Teaching and Referral Hospital.

Management Response

The County Government of Kisumu did transfer funds to Jaramogi Oginga Odinga Teaching and Referral Hospital on various months as can be confirmed by the attached extracts of the CRF Central Bank account which was availed during the audit.

Committee Recommendation

The department failed to attach evidence confirming receipt of money by the entities. The Committee recommends that this matter be taken up by the Directorate of Criminal Investigations and the Ethics and Anti-Corruption Commission.

6. Medical Services Revenue

- a) The Department to provide documentary evidence explaining the Variance of Kshs. 1,524,396 rising from a difference of data enumerated from six medical facilities amounting to Kshs. 196,834,246 and Kshs. 195,309,850 disclosed in the Financial Statement.

Management response

The anomaly has been noted and referred to the Internal Audit department to verify the cause of the variance.

Committee Recommendation

The Committee noted the presence of communication to the Internal Audit department and therefore recommends that the Internal Audit department speed up their investigations and submit their report in 30 working days

7. Unsupported Project Administration, Supervision and Management Fee

- ✓ Provide Elaborate and Comprehensive reasons as to why Kshs. 11,500,000 was withdrawn from Kisumu County Cost and Contingency Fund Account No.1177287080 held at Kenya Commercial Bank with Main Purpose and Objective of Catering for the Supervising Engineers, Project Management Committees Allowances and to enhance Capacity Building and used to pay various contractors without any supporting documents of works done.

Management response

We noted the anomaly after initiating the internal audit and reported the issue to the Ethics and Anti-Corruption Commission (EACC) for further investigation and action.

Committee Recommendation

Communication to the Internal Audit and the Ethics and Anti-Corruption Commission was acknowledged. The Committee recommends that both the Internal Audit department and the Ethics and Anti-Corruption speed up their investigations and submit their reports.

8. Unsupported Payment for Legal Fee

- a) Explain why an amount totaling to Kshs. 2,500,000 was transferred to imprest account and later withdrawn to pay for Legal Services without the Legal fee demand note and case number attached to the payment voucher.
- b) Explain why the information provided indicated that the expenses were incurred during County Security meetings which were not related to the Legal Services.

Management response

We acknowledge that this transfer was made to the KCB account on 7/12/2017 and was meant to fund operational costs in the office of the governor and not legal fee as it appears on the IFMIS payment register. This appears to be the case of misclassification or changing of wrong accounts or items. We have attached the KCB transfer voucher of Kshs. 2,500,000 and supporting payment vouchers that were used to pay off this amount from KCB imprest and operations account.

Committee Recommendation

The recommends that this matter be taken up by the Directorate of Criminal Investigations and the Ethics and Anti-Corruption Commission for further investigations.

9. Expenditure Budget Analysis

- a) Explain the sources of funds used to finance the over absorption rates realized from the City of Kisumu, Kisumu County Public Service Board, Health Services, Industrialization and Enterprise Development and Finance and Planning totaling to Kshs. 124,158,107,165 representing 122% respectively above the approved budget.
- b) Explain why despite a budgetary allocation of Kshs. 2,837,890,784 to the twelve departments during the year under review, the implementation of the projects were behind schedule and only Kshs. 941,433,931 had been spent which represent only 33% of funds allocated for Development.

Management response.

Over absorption of expenditure as reflected in the mentioned department relate to 2016/2017 expenditures that were processed in early July 2017 after a window was opened by National Treasury to finalize payments for the year 2016/2017 hence being reflected as 2017/2018 expenditure.

The 2017/2018 being an election year and subsequent transition arrangements delayed implementation of development projects. The unusual heavy rains during the first half of the year 2018 also made it almost impossible to implement the projects. This is regrettable and the County has now made arrangements to ensure that development plans are given priority over recurrent.

Committee Recommendation

The committee recommends for timely processing to avoid repeat of the same in future

10. Record on Revenue not availed.

- a) Provide approved list of liquor License of Businesses from the five (5) Sub County offices to validate the accuracy of Kshs. 15,981,564 reported as collected from Liquor license.

Management response

The list of licensed businesses from the five sub counties are herewith attached.

Committee Recommendation

The committee acknowledged the list of the licensed businesses from the five sub counties in the response from the department. The Committee recommends that in future, the department should cooperate in the best possible way with the Auditor General's team.

11. Retention Money paid to County Government of Kisumu

- a) Provide clear explanation as to why the County Government incurred the Expenditure and paid herself 10% retention money equivalent to Kshs. 14,500,000 as if it's a supplier or contractor. Further information also indicated that payment vouchers did not have supporting documents to reallocate funds from the deposit account which belongs to suppliers hence was not possible to ascertain how the funds were utilized.
- b) Provide legitimate explanation on how the funds were utilized.
- c) Provide vivid explanation confirming the propriety of the expenditure of Kshs. 14,500,000.

Management response.

Due to the delay in exchequer release in the month of May 2018, the County treasury made a borrowing from the retention deposit account to pay May salaries that was already due. This money was later repaid to the retention deposit account as can be confirmed by the extract of the CRF Central Bank account statement.

Committee Recommendation.

The committee acknowledged the evidence for repayment to retention deposit account. However, there was no evidence to ascertain that the money was used to pay the salaries. The Committee

therefore recommends that the department furnish this assembly with the evidence showing that the money was used to pay salaries or the matter is taken up by the Directorate of Criminal Investigations and the Ethics and Anti-Corruption Commission.

12. Payment made during weekends

Provide valid explanations supporting why deposits and withdrawals were made from the Kisumu County deposits account on weekends i.e., Kshs 6,436,174 deposited on Saturday, 1st July, 2017, Kshs. 6,245,234 paid out of Kisumu deposits bank account on Sunday 2nd July, 2017 while Kshs. 5, 375,508 retention money was refunded to various contractors on the very Sunday.

Management response.

Documents processing on IFMIS can happen on any day of the week, however payments through CBK Internet Banking only happens on weekdays i.e., Monday to Friday and within normal working hours. Due to IFMIS downtimes especially towards the closure of the financial year, payments are processed during weekends to meet end year deadlines. These payments could not have been exported to IB over the weekend as reported since Central Bank System are shut down.

Committee Recommendation

The Committee recommends that this matter be taken up by the Director of Criminal Investigations and the Ethics and Anti-Corruption Commission.

WATER, CLIMATE CHANGE, ENVIRONMENT AND NATURAL RESOURCES

1. Incomplete Works (East Kolwa Buoye)

- a) Why was contract letter given before acceptance letter to the Contractor in question?
- b) Produce justifiable evidence that erection of a wooden signpost costs 80,000.
- c) Explain why the Contractor was fully paid despite incomplete and poorly done masonry chamber at the Centre.
- d) Explain why the water points were located on private individual people's lands.
- e) Explain why no Land title deeds or legal contract agreements for the sale of private land where the water points are located were availed audit view.
- f) Supply the Committee with proper documentary evidence justifying the propriety of Expenditure of Kshs. 2,399,805

Response from the Department

- a) The date of the acceptance letter by the Contractor was a typing error. This was corrected.
- b) The wooded signpost erected at Chiga Market was just one of the sign posts and a publicity element of the project. There was another sign post of steel structure mounted at Masawa Primary School where there is also a community water point. The Kshs. 80,000 included branding of other auxiliary works such as storage tanks and pipeline routes.

- c) The contractor had constructed the Masonry Chamber properly but during that time, the area was experiencing floods which interfered with the plaster work. The contractor made the correction.
- d) At the time the Auditors visited the site, the final finishing to the project were still on going under the defects liability period. The tanks were labeled and the project declared complete.
- e) The water points in question are located within the school compounds which are public lands. The first two community water points (C.W.P) are located within GP Owiti Primary School while the third community water point (CWP.3) is located at Masawa Primary School. They are located within the institution but accessible to the community for use.
- f) The water points in question are located within the school compounds which are public lands. The first two community water points (CWP) are located within GP Owiti Primary School while the Third Community Water Point is located at Masawa Primary School. These are public utilities hence there was no need to provide title deeds.

Committee Recommendation

The department must strengthen the Internal Control System to avoid simple mistakes like typing error, otherwise, the errors will be viewed as intentional and aimed at defrauding this County.

2. Incomplete works and Inflated Cost (Nyangande Water Project)

- a) Furnish the Committee with proper reasons as to why a contractor was paid Kshs. 2,800,000 in respect of construction of Nyangande water despite having done substandard work and inflated cost of materials as stated below:
 - i. A poorly done Masonry Chamber (not finished and exposed to vandalism).
 - ii. 1 No. Roto Tank 3000litres at Kshs. 55,000.
 - iii. 2 No. sign post as per the BQ at Kshs. 20,000 total Kshs. 40,000.
 - iv. One water Point at Arombo area done on a private person's land fenced but no gate and another pipeline done at Kaponyo/Nyakar (Awino village), but no tank was installed.
- b) Provide explanations as to why the project was not labelled thus making it difficult to know the client, financier, contractor and the period of construction.
- c) Provide legitimate explanation as to why no land title deeds or legal contract agreement on sale were availed for audit view.
- d) Provide proper documentary evidence confirming the propriety of expenditure of Kshs. 2,800,000.

Response from the Department

- a) The contractor did a good job but since the area is prone to flooding, the floods interfered with the plaster work. The issue was brought to the attention of the contractor to rectify the defects. This included fabrication of the cover for the same.

- b) The cost of the Roto tank 3000 liters was not inflated as alleged. The Kshs. 55,000 is inclusive of the cost of transporting the tank, installation as well as plumbing connections costs, the contractor's profit and 16% VAT.
- c) The signposts were erected by the Contractor, but were vandalized by unknown people.
- d) The Community made a commitment through the area Chief who was a member of the Project Management Committee that the said portion piece of land on which the water point was constructed is communal water point.
- e) The sign posts were erected by the contractor but were vandalized by unknown people. During the contract period the General Public and Stakeholders were well aware of the Project Financier as the County Government of Kisumu, the Contractor as well as the year of construction. This was displayed on the branded tanks.
- f) The community made a commitment through the area Chief

Committee recommendation

Going forward, the department must ensure that contractors erect sign posts that meet the required standards to avoid vandalization by unknown people as was alleged by the department.

GENERAL RECOMMENDATION

Mr. Speaker and Hon. Members, the Committee recommends that this report be adopted and the recommendations herein be communicated to the offices of the Director of Criminal Investigations, the relevant departments and the Ethics and Anti-Corruption Commission for implementation and further action where necessary.

CONCLUSION

The Committee having considered the Auditor General's Report on the Financial Statements of the County Executive of Kisumu for the Financial Year ended 30, June 2018 and the oral/written responses by witnesses it invited, has made various recommendations that require implementation by the County Executive Committee member for Finance and Economic Planning and Accounting Officers. The recommendations are aimed at deterring future misappropriation of Public Funds. It is therefore my humble request to this Honorable House to adopt this report with the recommendations herein.

May I call upon Leader of Minority, Hon. Benny Oiko Pete to second?

The Speaker (Hon. Oraro): Yes, Leader of Minority.

Leader of Minority (Hon. Oiko): Thank you Mr. Speaker. I stand to second.

The Speaker (Hon. Oraro): Honourable Members, now that the Public Investment and Accounts Committee report on the considerations of the Auditor General's Report on the Financial Statement of the County Executive of Kisumu for the FY 2017/2018 has been moved by the Select Committee Chairperson and seconded by the Vice Chairperson, as per our Standing Orders I want to declare that the report is opened for debate.

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

Leader of Majority (Hon. Onyango): Thank you Mr. Speaker. I may not have so much to say about this report. However, I am only worried that sometimes we don't adhere to the law because if you read Section 50 (2) of the Public Audit Amendment Act, 2015 and I read, *within three months of receiving an audit report referred to under subsection (1), Parliament or the relevant county assembly shall debate and consider the report and take appropriate action.*

Mr. Speaker, we are aware that this report was laid in December, 2020. Naturally you can see that the time that has lapsed is more than the statutory requirement that is in the Act. Moreover, this report should usually form the basis upon which the Senate queries the prudence in the County Government expenditures. Which means, once the Assembly adopts this report then it can be forwarded to various agencies. One of them should be the Senate.

The Executive was at the Senate to be interrogated on this same report. A report which by now, we should have forwarded to the House of Senate to make them have insightful engagements with the County Executive. Mr. Speaker, my plea is that, we need to pull up our socks so that we are in tandem with the provisions of the law. Mr. Speaker, usually, when an Audit report is given by the Office of the Auditor General, then the Audit report may be Qualified, Unqualified, or it may be Adverse.

Mr. Speaker, when the Audit report is categorized as Adverse, then it raises weight matters that the County Government must respond to. If it is Unqualified or Qualified then probably, there are just a few issues that need to be corrected. Mr. Speaker, when you look at this report, the impression that we get is that it was an Adverse Audit Report, because nearly all the recommendations therein point to the effects that these matters should be taken to the Office of the Director of Criminal Investigations (DCI), the matters should be taken to the Ethics and Anti-Corruption Commission (EACC) which generally gives a negative picture that it was an Adverse Audit Report. We are all aware that, that this report was not an Adverse Report.

Mr. Speaker, if you look at the Public Audit Amendment Act, it states that, when the report is first brought, then the County Government has got the leverage to clarify certain issues flagged in the report. Mr. Speaker, what is being presented today does not give us the picture as to whether the County Government in this case the County Executive had been accorded the opportunity to clarify some of these issues with the Office of the Auditor General so that as this report was being tabled before this House, we would get the impression that some of these issues which were raised in the National Audit Report could have been clarified because there is that leverage which is given by the Act.

Mr. Speaker, I must admit that, there are a lot of grey areas which we are not very sure and does not give us the accurate picture, but, most importantly, I would wish that whenever these kinds of reports are brought to this House, we should take cognizance of the timeframes that is prescribed by law so that our delivery conforms to that timeframe. Thank you.

The Speaker (Hon. Oraro): Yes, Leader of Minority.

Leader of Minority (Hon. Oiko): Thank you Mr. Speaker. This report is an Adverse Auditor General's Report as recommended by the Office of the Auditor General. We cannot challenge that

because it was the final report that the Office of the Auditor General brought to the attention of the County stating that this is how funds were expended in Kisumu County between the periods 2017 and 2018.

Mr. Speaker, the only leeway to correct what the Office of the Auditor General has conceived is that this should have been done by the County Executive. So, when you want to gang up to challenge this report but it could have been corrected, I believe that is misleading this House.

Leader of Majority (Hon. Onyango): Mr. Speaker, Point of Order!!

The Speaker (Hon. Oraro): Who do you want to inform?

Leader of Majority (Hon. Onyango): Mr. Speaker, I want to inform the House.

The Speaker (Hon. Oraro): Please proceed.

Leader of Majority (Hon. Onyango): Mr. Speaker, you know we should not rely on conjecture in this House. Mr. Speaker, I am not very sure if the Hon. Leader of Minority reaffirm that this was an Adverse Audit Report? Mr. Speaker, to the best of my knowledge, this report was a Qualified Audit report. Thank you.

The Speaker (Hon. Oraro): Leader of Minority, the 2017/2018 Report, was it an Adverse Audit Report or a Qualified Report?

Leader of Minority (Hon. Oiko): Mr. Speaker, when you look at this report on the second page, indicating Basis for Adverse Opinion and this was not a creation of the Investigative Committee.

Mr. Speaker, this was an Adverse Report and the Office of the Auditor General has adheringly assert to the report. When you look at page eleven to the last page of twelve of this report, on the item Expenditure Budget Analysis moving to page twelve, this is where the Auditor has analyzed the total amount for Development in Kisumu County for the financial year ending 2017/2018.

Mr. Speaker, we are being informed that the total amount for Development Expenditure Component, was Kshs 2,877,890,784.00 against what was spent which was Kshs 941,433,931.00. Mr. Speaker that translates to Kshs 1.9 billion unspent amounts for Development. Mr. Speaker, the Office of the Auditor General is asking what happened and you are telling us only 33% of Development Funds was expended. This gives us a gloomy picture of how Development Expenditure lagged behind.

Mr. Speaker, it is this kind of situations, the Office of the Auditor General has all the reasons to condemn the report. Mr. Speaker, it is now upon the County Executive, the CEC Finance and Economic Planning to address these issues flagged by the Auditor General in the report after the three months of submissions of the report to the County Executive. Mr. Speaker, if this was not done, then these officers' needs to question as to what is happening is the Finance Department. Mr. Speaker, what is happening in the County Executive?

Mr. Speaker, when you go through the report, the Office of the Auditor General has flagged a number of issues that needs to be addressed. These issues raised herein were not adequately responded to. Why? It was interpreted that the issues raised by the Audit were not addressed and

we need to call the County Executive to pull up their socks. Mr. Speaker, if you allow me digress a little bit on the FY 2017/2018 and let us reflect on this financial year's Supplementary Estimates up to now. Mr. Speaker, for those who are keen enough, these Estimates was flagged because a number of Development Projects were removed from this Estimates and most likely that is the reason as to why a mere less than Kshs 1 billion was expended from the approved figure of Kshs 2.8 billion. Mr. Speaker, these are fact. If we could look at the Kisumu County Supplementary Estimates for the Fiscal Year 2017/2018 you will see what really transpired. So, the Office of the Auditor General has correctly captured the financial position of Kisumu County for the Fiscal Year 2017/2018. Mr. Speaker, as has been recommended by the House Committee, that this report, needs to be investigated further, if adopted well and good.

Mr. Speaker Sir, we are all aware that, a report can be Adverse, Qualified and Unqualified. When a report is committed to a House Committee, like this one presented before us, it is the prerogative of the House Committee to go through it, interrogate it and take appropriate decisions. Mr. Speaker, there are instances where Audit Reports have been qualified by the Office of the Auditor and we have to relook at the recommendations. So, it is upon this House to recommend that it has to go under investigation. Consequently, the House Committee has recommended therein on the various expenditures raised by the Office of the Auditor General. I support the report. Thank you.

The Speaker (Hon. Oraro): Hon. Khan.

Hon. Khan: Thank you Mr. Speaker. I arise to support this report, though in the views of other Hon. Members it might be an Adverse Report and I believe that it was an Adverse Report.

Mr. Speaker, the issue here before us is, that even the Auditor General gave an opinion that there were some anomalies of expenditure of funds that were expended by the County Executive of Kisumu County Government's account. Especially, when you look at the report and the issues of Retention of Funds into County Government of Kisumu of over Kshs 33 million which Kenya Medical Supplies Agencies (KEMSA) could not account for the prices that were there even issues like Request For Quotations (RFQs) were over flouted because they were not able to provide this RFQs which were requested by the House Committee.

Mr. Speaker, further, if you go down into the report, there are issues of Leasing of Medical Equipments. Mr. Speaker, the Inter-governmental Agreements on Leasing of Medical Equipments was availed for Audit verifications but where a valid explanation as to why Kshs 95,744,681.00 was not factored in the Budget Estimates in accordance to the Inter-governmental Agreements on Leasing of Medical Equipments Act specifically article 187 still remains a question.

Mr. Speaker Sir, submissions from the Department was very clear that the office did a communique' to the National Treasury requesting for information regarding the Leasing of Medical Equipments. The letter was addressed to the Principal Secretary, Ministry of Health on the same requesting for the same Agreements on Lease of Medical Equipments. If you look at the House Committee recommendations, the response came much later in the Fiscal Year 2020/2021. Yet, this was an Audited report for the Fiscal Year ending 2018. Therefore, as the House Committee has recommended on this that, follow-up on this matter be conducted by the Director of Criminal Investigations (DCI) and the Ethics and Ant-corruption Commission (EACC).Mr. Speaker, I do very much take side on this one.

Mr. Speaker, if you look at the report in general, if you look at the Unsupported Pending Bills. You find that Kshs. 271,169,741.00 wasn't justified because there wasn't documentation of evidence in form of Local Purchase Orders (LPOs) and delivery notes. The House Committee was looking for evidence to authenticate a Pending Bill of Kshs. 1,953,793,412.00, but the Management's Response was wavy and didn't provide the documents.

Mr. Speaker, the House committee therefore recommended that this matter be taken up by the Director of Criminal Investigation (DCI) as well as the Ethics and Anti- corruption Commission (EACC) because this will actually save the House Committee and the citizens of Kisumu County and to know the accountability and appropriation of this money.

Mr. Speaker, similarly, the issue applies to the Integrated Financial Management System (IFMIS), with problems in payment details. You find that the House Committee recommendation on the same and if you go further, you find that so much is still unexplained. Where a department justifies having Kshs. 5 million deducted from employees' House Rent was not captured in the Local Authority Integrated Financial Operations Management Systems (LAIFOMS) Revenue Returns. Mr. Speaker, if you look at this report in depth, you will discover that other units can absorb other government units because it is merely a question, we must ask to see what can be done to ensure the financial stability of this county is realized through the vigilance of us members.

Mr. Speaker, finally, on the Unsupported Projects Administration, Supervision and Management Fee, there was a time when members in the villages were members of those Project Management Committees (PMCs) but their allowances were not paid, which brought a huge debate here. Their Management Committees' Responses were not in tandem with the audit. This House Committee has recommended that the same issue be presented to the internal department and Ethics and Anti-Corruption Commission to speed up and conclude this investigation. Mr. Speaker, there's just so much I would want to talk about but I want to leave for other Members to also do so and come up with a recommendation. Through the Chair and the House Committee, ensure that the perpetrators are put to justice for mismanaging of public funds. Thank you.

The Speaker (Hon. Oraro): Yes, Deputy Minority Leader, Hon. George Ogutu

Deputy Leader of Minority (Hon Ogutu): Thank you Mr. Speaker, I will let my chair, Hon. Olwal have my time now so that I debate later after consulting with Hon. Khan.

The Speaker (Hon. Oraro): Yes Hon. Olwal.

Hon. Olwal: Thank you Hon. Ogutu for donating to me your time. Mr. Speaker, on this report we have several weighty issues concerning Fiscal Responsibility Principles within our county. It is also true that we are not here to discuss whether the report is Adverse or Qualified because even a qualified report can also have anomalies that need to be discussed by the Assembly.

Mr. Speaker, as read by our Leader of Majority, section 50 of the Act says that we as an Assembly must discuss the report despite its adversity or if it's qualified. However, the issue that comes in is on the timelines and the technicalities that the Hon. Leader of Majority brought to the attention of the House, especially on our diligence as a House Committee. How long did it take them to come up with a report? Remember there was a time this report was even brought to the House but there wasn't any member from this House Committee to read it. Despite the weighty issues, are we

going against our legal framework? It says that it shall be discussed within 3 months but how long did they take to come up with the report? That also brings the aspect of responsibility as a House Committee in exercising our mandate and authority of this House.

Hon. Okiri: A point of information Mr. Speaker

The Speaker (Hon. Oraro): What is it Hon Paul Okiri?

Hon. Okiri: *(On a point of information)* Thank you Mr. Speaker, I want to inform this House that it isn't the work of a Chairperson to bring the report to the House because there is a House Business Committee which slots businesses to be transacted in the House. Therefore, if PIC/PAC hasn't been given a slot to present a report then, there is no way a Member can come up and ask how long it takes for the report to reach the House because the report has been there just waiting for a slot hence the day finally came for our able Chairperson to present it.

Hon. Agolla: A point of order Mr. Speaker

The Speaker (Hon. Oraro): Yes, Hon. Erick Agolla

Hon. Agolla: *(On a point of order)* Mr. Speaker, my point of order is to inform this House that Hon. Paul Okiri is misleading this House. If you read our Standing orders no. 41(2) (b), it is quite clear and says that;

“The Majority Leader, the Minority Leader, or a committee chair person, as the case may be or their designees, may make a statement relating to their responsibilities...”

Mr. Speaker, without reading it all, the Chairperson of the respective House Committee ought to have stood under this cited Standing Order and raised alarm that time was elapsing for tabling this report once they were ready to present it.

The Speaker (Hon. Oraro): Thank you Hon. Agolla. Hon. Okiri, I also want to rule you Out of Order. This is because I heard the Hon. Chairperson stating that there was a time this report was brought to the Assembly after being scheduled by the House Business Committee; and I remember I was the one chairing the session, but there wasn't any member from the PIC/PAC Committee to read it.

Hon. Members, It was quite difficult deciding what to do with the report and I recommended that the House Business Committee to reschedule the debating of the report to an appropriate time. On the same note, I have issued several reminders on pending reports, and this one being one of them. That is from December to July when the report came to this House.

Hon. Olwal: Thank you Mr. Speaker

The Speaker (Hon. Oraro): Chair, please let me give Hon. Paul Okiri time first.

Hon. Okiri: Thank you Mr. Speaker, I respect your ruling but be informed that the Chairpersons find it rough under circumstances through which their reports reach this House. Some of the reports are long done with but because the House Business Committee has no Chairpersons to present these reports on behalf of the Committee, the reports get stalled for quite some time.

The Speaker (Hon. Oraro): Hon. Okiri, I again rule you Out of Order. This is because I Chair the House Business Committee and, in several occasions, we have missed what to bring to the House as schedule because these reports haven't come to us. I even have the reminder put today for the pending reports and even you as the Chairperson of the Standing Committee of Finance being a culprit.

(Feet thumping)

Majority Chief Whip (Hon. Misachi): A point of information Mr. Speaker

The Speaker (Hon. Oraro): What is your point Senior Member?

Chief Whip (Hon. Misachi): *(On a point of information)* I want to inform the House that it is very unfortunate that the House Business Committee even tried to call the person who was addressing the floor on a point of order asking the House Business Committee to give him a slot to bring his report, yet he did not answer his phone. All the Chairpersons are mandated to come and ask for a slot and the House Business Committee is always on the members WhatsApp wall. Mr. Speaker this is a House of order.

The Speaker (Hon. Oraro): Thank you, I have ruled on that matter and I have severally reminded the Chairpersons and just to bring to your attention I have 25 pending reports including that of Finance and Enterprise Committee, which Hon. Okiri is the Chairperson. I remember you were slotted last time but only four members were present and the Standing Committee could not proceed. So, do not blame the delay on the House Business Committee because theirs is to schedule business only when they come.

The Speaker (Hon. Oraro): Hon. Olwal kindly proceed.

Hon. Olwal: Thank you Mr. Speaker, and just off the cuff I didn't put blame on any specific Chairperson but on the entire assembly and its House Committees. I put pressure on the entire Assembly and its committees to ensure we do our work diligently and meet deadlines. I oppose the report, because passing it will put the Assembly in disrepute especially on the timelines. Thank you.

The Speaker (Hon. Oraro): Hon. Eric Agolla.

Hon. Agolla: Thank you Mr. Speaker. One of our fundamental roles is Representation and Oversight. As we undertake our mandate, we should adhere to the law. Given that our Project Management Committees (PMCs) are affected from the report of the Auditor General, the report from PIC/PAC, the report from Finance – these are statutory reports that must be presented within stipulated timelines. Where will this House take this report if adopted?

My other worry is that the only recommendation that was adopted by this Select Committee is to take this government to EACC, DCI as if we are so toothless that we cannot handle such issues. Consequently, this report is overtaken by events and I therefore beg to oppose the report.

The Speaker (Hon. Oraro): Hon. George Ogutu.

Deputy Leader of Minority (Hon Ogotu): Thank you Mr. Speaker. I stand to support the report. The House Committee has done its work except that the report has delayed to be brought to the Assembly. It is not the first time we are discussing delayed reports.

Mr. Speaker, I have heard arguments from some Hon. Members and I conclude that we as leaders are letting this county down.

This report is very adverse; if you look at Financial Year 2017/2018 in terms of development, we underperformed. The Auditor General highlighted this – that our Absorption Rate was very low. It means there are some Development Projects which were not done, thus affecting our people.

We must accept that the Assembly is somehow toothless and that is why this House Committee is recommending that some of these issues be handled by other relevant government institutions. If we can summon the Executive and they don't appear, where do you go? The option we were left with is to recommend the way the House Committee did.

Mr. Speaker, I differ sharply with the Hon. Leader of Majority. If at all this report took too long to be brought to the Assembly, there was an opportunity for the County Executive to highlight the areas the Leader of Majority was talking about for them to respond. But because they didn't have answers then, even if the report were to be read in the next five years, the answers wouldn't have come.

The Auditor General's Report was in the public domain and was easily accessible to those who were supposed to give response to the PIC/PAC Committee. They chose to ignore, despite the House Committee delaying in tabling of their report in the House.

Mr. Speaker, we are all aware that the County Executive has been summoned to appear before the Senate because of this report. But it is also the responsibility of this House because it is in the Act that it has to come through the Assembly. Do we ignore our responsibility because the report is late? We have to do our work and if you feel the report is going nowhere, leave it at that point. History will judge you that you discussed the report, whether it came late or not and that as an Assembly we did our part.

We should not at any times give the County Executive a blank cheque – let us address what is not right for our county. It is not about the County Executive because the Executive will not stay there forever but our county will remain and our people will keep on multiplying. With those remarks, I support the report. Thank you.

The Speaker (Hon. Oraro): Hon. Paul Okiri.

Hon. Okiri: Thank you Mr. Speaker. I rise to support this report. This Assembly is so funny. Just as one of the Hon. Members has stated – that one of our key roles is representation. We are also here to legislate. Mr. Speaker, I want to talk about representation, which is one of the main reason why we are here today. We are here to represent “Wanjiku” and “Achieng” at home who are not privileged to be in this House today. That “mama mboga” who cannot be here today knows very well that the senior member Hon. Paul Okiri, MCA West Kisumu Ward is here to represent her.

Mr. Speaker, I wonder whether we are in a good line. If “Achieng” from “Obambo” and “Akinyi” at Lisuka are not here but they have nominated me to be here on their behalf. Then, “Achieng” at

Obambo and “Adhiambo” at Kolwa cannot be in this House because she knows very well that they as members of the public are represented at the Assembly and whatever Hon. Members discuss there, concern them.

My first question are;

- a) Are you representing “Achieng” at Obambo?
- b) Are you representing “Auma” at Kolwa?

Mr. Speaker, if a report of this magnitude can be watered down, a report of this magnitude can be turned into a political show down or a report like this can go to a waste; then, I am taking different dimension by sticking to the exact point. If we want to represent our people, let us do that. If it is representation, you are here to represent “Achieng” at home then today you are saying that the report is late. Yes, the report is late but, did you represent her? What is your work at the Assembly? Did you represent “Auma”, or was it the Chairperson of the PIC/PAC Committee who was to carry the blame? Or if this bargain was for the Kisumu County, where were you to represent your people because it is a lot of money and you are there representing them? Finally, where were you?

I just want to contribute because, considering what I have seen in this House, I have lost direction.

Mr. Speaker, let us go to No. 7- Unsupported project Administration, Supervision and Management Fee?

Mr. Speaker, you can clearly see what the Auditor General has raised. Then, you are telling us about representation of our people. She raised this issue; what is the management responded? You are here giving us so many responses more than what the County Executive are supposed to give. Shame on this Assembly! The Assembly is even ready to give more support to unsupported document; you give more than what they can do.

In their one minute response is that; ‘we have noted anomaly’ *wameiona*. They have admitted that they have seen it. How do you respond to that? Let us be good leaders by helping this County. It is the same management that is admitting that they have seen where the problem is. However, you will stand and start by saying ‘oh no, the report has taken a lot of time’, while “Akinyi” is waiting for you your verdict. You will tell them that you accepted that because the report came very late and that is why their money is lost and there was nothing you could do about it because the person who was to represent you actually agreed?

My last submission is based on page 13 on the Outstanding House Rent. Management Response

‘We have noted the anomaly...’ they have again accepted that they have seen the problem. If we have seen the problem, what actions have we taken, really? Hon. Members of County Assembly of Kisumu, what is the legacy that we want to leave in this House, during the First Assembly (2013-2017) and Second Assembly (2017-2022)?

The management has said that they have noted the problem and that is what the House Committee focused on and wanted to dig deep and know exactly what transpired. To date, that issue has not been addressed.

Mr. Speaker, we are a replica of the Senate. We have got the powers as that of the High Court and the Senate but what do we do in a case like this as members of the County Assembly of Kisumu? The only thing you will recommend is that those people must have some more respect as compared to how they respect you. That is why the PIC/PAC Committee went ahead and recommended that this matter can be taken to the Director of Criminal Investigation (DCI). With those few remarks, I beg to support, thank you.

The Speaker (Hon. Oraro): Honourable Pamela Odhiambo.

Hon. Pamela Odhiambo: Thank you Mr. Speaker, may I call upon the mover to reply?

The Speaker (Hon. Oraro): Hon. Maurine Otiang'; Chairperson Pic & Pac Committee.

Hon. Otiang': Thank you Mr. Speaker Sir. I want to give my sincere thanks to the Members for a good debate. Before I move on, I want to categorical state that, the report was Adverse, as I answer the Leader of Majority.

Mr. Speaker, as the Chairperson and a member of this House Committee, it has been a very difficult journey to come up with a report like this. People may see that we are late in our submission of the report. But, sometimes you cannot come to the House and give no report, moreso when you are dealing with a matter that can make somebody culpable to an illegality. Nobody finds it easy for him/her to further with an investigation when it is already known that there is a problem.

As a House Committee, we did our level best to get responses. Sometimes we do letters and they are not respond to. While sometimes we call them and they snub but, we still had to soldier on and managed to get something out of our duty as a House Committee.

Mr. Speaker, let me ask this House some questions; does it matter what time the crime is committed? So that we can exonerate a crime because of time lapse. If that is so, does it mean that impropriety is exonerated by lapse of time? I am asking Hon. Members. Does it mean that only when the report is laid, it becomes null and void or a bad report without being objective or subjective?

Mr. Speaker, does it mean that we should exonerate public servants whom misappropriate funds so that we are seen to be good and supportive? Is that our work? Does it mean that all Auditor General's Reports must be rejected just for the win of it because we are an Assembly and we have to please people?

We have our last Auditor General's report which was also very good but this House rejected it. They did not do that because it was a bad report but they did reject it because they wanted so. It was destined to be rejected.

Mr. Speaker Sir, you have been saying that, all the time when we have this report either there is a no show by Hon. Members or something of sort. Mr. Speaker and Hon. Members, PIC and PAC Committee is a very challenging House Committee to sit on because of various excuses that people bring into this House. I would call it excuses because people do not respond to the questions, they do not even interrogate and they do not also even debate. They have a fixed mind that the report must be shot down (rejected) by all means.

Mr. Speaker, this is not going to be the first one. Even if today the Assembly decides to shoot this report down, it is not going to be neither the first nor the last one. However, I want to promise this House that however hard it is for you to accept that money was misappropriated, however difficult for you to agree that there is impropriety. Even in their own eyes, they admitted with their own words that things were not done right and we have also read that. If today the Assembly decides that this report is rejected, it will make us look like we do not even understand our mandates.

Mr. Speaker, I want to report to this House that yesterday, the House Committee was supposed to join the County Executive in Nairobi to respond to the same Auditor General's report. However I want to inform this House further that we were not even given a letter. The letter was written to the PIC/PAC as a Committee; neither did the Chairperson, Vice Chairperson, a member or the Clerk of this House Committee accompanied the County Executive to Nairobi. Is this an act of omission or commission?

Mr. Speaker, I know it is very hard to respond to these questions but, when somebody is sitting somewhere and has already done impropriety to public funds, I personally as the Chairperson of PIC/PAC, I will not give an excuse. Somebody must be culpable to their crime and to whatever they have done. Public money is public money and not personal money. We as an Assembly cannot sit and give a pat on the back for people who have embezzled public money. We cannot sit here and say; because the House Committee found it necessary to hand it to the DCI or the EACC to do further investigation. We are not the people who are going to take anybody to jail.

Nevertheless, we want these people to help us. Because, if you go by the report, we asked for several documents, we sought for several answers but the House Committee was given none. If we are given then, we are given piece meal kind of information and yet the House is waiting on us. We had to do what we need to do and in this world there is nobody who is 100%. If PIC/PAC gives 70% and found out that there was a problem, we give 30% to EACC because these are Government officials who have the expertise and the know-how to dig into the matters.

Mr. Speaker, I want to tell all the Hon. Members present here that I as Hon. Otiang' will try the much I can to enact most of these things, I would look bad to the eyes of anybody who feels that I am doing bad to them but this is a call of duty which I have to do. I want to stand strong despite all the opposition, despite being branded as somebody how is anti-government. I am not anti-anybody but I am just anti-crime. As an officer of the Government everybody must always answer for what they need to answer for.

With all those few remarks I want to ask the House that we adopt this report and let us give Kisumu what is due for it. Let us look at ourselves and see that we can be able to do this. We can be able to see where we get the 10% for people who have already worked in our wards. If the Auditor General is not even in Kisumu and he is already telling us that there is a problem then who are we as an Assembly to say that there is no problem. Let us look deep in our hearts when we are walking in the streets of Kisumu. How do we look at the people who elected us? Do we look at the people who are above reproach? Do we look like the people who know representation and what oversight is all about? If we shoot this report down, it will show that we are not serious and we are hiding something or maybe we have been compromised for doing the same. I therefore conclude by saying that I beg the House to adopt this report so that we may be able to get the answers that we need. Thank you.

The Speaker (Hon. Oraro): Before I put a question. Hon. Otiang' I believe the report that the of the PIC/PAC Committee that was criticizing was for FY 2017/2018.

Hon. Otiang': Yes Mr. Speaker.

The Speaker (Hon. Oraro): Before I proceed. I want to make it clear that the 2017/2018 report for the Auditor General that is for the year ending 30th June 2018 for the Kisumu County Executive was Qualified Report. The report for 2016/2017 that is the year ending 30th June 2017 was adverse report. The report for Kisumu County Assembly for the year ending 30th June 2018 was adverse report.

Hon. Otiang': Thank you Mr. Speaker it is an omission on my part. It was for 2018 that is the one that we are using right now.

The Speaker (Hon. Oraro): Hon. Members, then I believe that you should use the right terms or report because what this House Committee is presenting is Adverse Report which is for 2016/2017 and the report for 2017/2018 which I have downloaded for the website of the Auditor General is showing Qualified Report. The one for the Kisumu County Assembly for the same period is Adverse Report. I don't know if you are discussing the Assembly report of the Executive report?

Hon. Otiang': Mr. Speaker we are reading the Executive Auditor General's Report.

The Speaker (Hon. Oraro): I stand to be corrected but I have picked it from the Auditor General's report and I have seen 2017/2018 as Qualified. Maybe it is important that the Leader of Minority clarifies that.

The Speaker (Hon. Oraro): Yes Hon. Pete.

The Leader of Minority (Hon. Pete): The report presented to us by the Clerk...

The Speaker (Hon. Oraro): What is it Hon. Seth Okumu.

Hon. Okumu: Mr. Speaker I just heard the Leader of Minority saying that a report has been presented in this House by the Clerk. I just want to get your guidance on that.

The Speaker (Hon. Oraro): Thank you. I wanted to ask the Leader of Minority on that. The report that we are discussing is by the Committee on PIC/PAC.

The Leader of Minority (Hon. Oiko): Mr. Speaker, that is true but, we have our secretariat that does our paper work for us and when they have done it for us then we go by that. If they had mislead us and we come with a wrong document in the House then we would be very sorry.

The Speaker (Hon. Oraro): Hon. Members, you know that sometimes when I say that we need to take our work seriously then I really mean it and not in bad light. Unfortunately, I am looking at the endorsement section of the report I can see the Leader of Minority has not appended his signature. I am seeing the section of Hon. Otiang', Hon. Samo, Hon. Guya, Hon. Nancy Owiti, Hon. Okiri and Hon. Genga. I want to assume that the reason as to why the report is presented to the Select Committee for endorsement after the secretariat has worked on it is so that you look at

it and you concur with it as to whether it is making sense or not. By the time the above mentioned Hon. Members were endorsing the report then it means they had confirmed that the report is okay.

The Speaker (Hon. Oraro): Yes Hon. Okiri.

Hon. Okiri: Mr. Speaker, when a House reaches at this level then we depend on your ruling and the House Committee will take it positively.

The Speaker (Hon. Oraro): Hon. Members, I am aware of that ruling but, I felt it is important that I give room for opinion especially this should come from the PIC/PAC Committee and any other Member before I give a ruling.

(Silence)

The Speaker (Hon. Oraro): Hon. Members, now that there is no additional opinion on what we have raised, I want to appreciate that the debate was very okay in as much as we are debating the Auditor General's report for 2017/2018 in 2021; that is quite unfortunate. I want to agree with most of the contributions from the Hon. Members that whether it is being discussed late or on time it is still makes sense because even the recommendations that are made some of them will apply however late they are. I believe that let us make it a practice that we debate the reports on time. Right now, we could be debating report for 2019/2020 or 2018/2019 plus the other reports. I called upon the Standing Committee of Finance, Co-operative and Enterprise Development; the financial statements of the Assembly; I have hear Members taking about Opening Balance and how money is spent but already the financial statements for the year ending 30th June 2021 is already in the Assembly.

Hon. Members, we need to discuss them so that issues are raised and they are dealt with. Hon. Ogutu, sometimes when you for long it becomes very difficult to recover the money that is already lost but when you discuss them on time then you save a lot. Like in the 2017/2018 report if you look at it keenly there are so many things that if could have been discussed earlier then we would have sorted so many things before we reach 2021.

Hon. Members, I am also aware that the County Executive is in the Senate presenting their response on various financial years including 2017/2018 audited account questions. We could have done it earlier communicated to them and made it part of the Senate Hearings. Hon. Otiang' you know that we are over sighting the County Executive. They may not be happy to invite you to oversight them but when we do our work earlier and communicate to the Senate then the Senate will be very happy to invite us alongside the County Executive to accompany them. I believe that you have raised it well and subsequently we also need to be getting into close contact with the Senate to know when the County Executive are appearing before the PIC/PAC Senate Committee so that the County Assembly PIC/PAC Committee Members plus the Chairperson and the Vice Chairperson can accompany them.

However for the purposes of this report, I want to defer putting a question like the senior Member was saying that the ruling lies with me so that I do necessary consultative research on how to move forward in such a scenario. Allow me to defer putting the question until Tuesday 14th September at 2.30 p.m.

The Speaker (Hon. Oraro): Next Order!

ADJOURNMENT

The Speaker (Hon. Oraro): There being no any other business to transact, the House stands adjourned to Wednesday, 08th September 2021 at 9.00 a.m.

(House rose at 4.47 p.m.)

Addendum

The Hansard Team

Zablon Otiende – Senior Hansard Reporter

Edward Odanga – Hansard Reporter

Fanuel Okode – Hansard Reporter

Patrick Okoyo – Hansard Reporter

Jacklyne Otieno – Hansard Reporter

Denis Onyango – Hansard Reporter

Jesca Otieno – Hansard Reporter