

COUNTY ASSEMBLY OF BUNGOMA

COUNTY ASSEMBLY DEBATES

DAILY HANSARD

WEDNESDAY 27TH APRIL, 2022

Afternoon Sitting

COUNTY ASSEMBLY OF BUNGOMA

HANSARD OFFICIAL REPORT

WEDNESDAY 27TH APRIL, 2022

The house met at 2:30 p.m.

(Mr. Deputy Speaker [Hon. Stephen Wamalwa] in the Chair)

PRAYER

PAPERS

REPORT BY THE SECTORAL COMMITTEE OF PUBLIC ADMINISTRATION AND ICT

Hon. Joseph Nyongesa: Thank you, Mr. Speaker. I request that this should be withdrawn to allow consultations with the chairperson of the committee and members. We had information that we requested from the executive but it has not been availed. God willing, we will table the report next week with your permission.

Mr. Deputy Speaker: The request is granted. As per the Order number 5 which has been granted a notice of motion cannot be moved and it is equally removed.

STATEMENTS

A RESPONSE FROM THE CHAIRPERSON, SECTORAL COMMITTEE ON TOURISM, ENVIRONMENT, WATER AND NATURAL RESOURCES TO A STATEMENT SOUGHT BY HON. JOSEPH JUMA IN RESPECT TO THE CONSTRUCTION STATUS OF KIBABII-SASURI WATER PROJECT IN TUUTI/MARAKARU WARD

Hon. Nathaniel Aseneka: Thank you Mr. Speaker Sir. I don't have any response to that effect by now. If you can allow us more time so that we seek for the response.

Mr. Deputy Speaker: The Hon. Aseneka, it is you to tell us what time you require to get the response.

Hon. Nathaniel Aseneka: I request for a maximum of 7 days Mr. Speaker.

Mr. Deputy Speaker: You are granted the 7 days and that means that we have the response on 11th May, 2022. Hon. Joseph Juma?

Hon. Joseph Nyongesa: Sometimes it is good to listen to the member because he wasn't sure and it is through the wisdom of members that he requested for more time. I don't know from which quarter he will be able to get the response yet he seems not sure. As the Speaker and myself as the originator of the statement, how sure am I that within 7 days we shall have the response. In my area, we have Kibabii complex carrying about 50,000 people yet there is no water. We had been assured that the project was 99% percent complete. If that is the case and up to now there is no indication of water, I get worried. Thank you Mr. Speaker.

Mr. Deputy Speaker: I want to reinforce that the honourable member representing the chairperson of Tourism Committee should make sure that we get the response so that the honourable member representing the people of Tuuti/Marakaru especially those around the complex called Kibabii are accessible to water. If not we have to understand as a House why a project has taken so long. On 11th we will not have excuses and as a committee you inform the executive to bring a detailed report to that effect. The Hon. Juma on that day you will get satisfied with the response that will be brought in this House.

MOTION

REPORT BY JOINT COMMITTEES OF PUBLIC INVESTMENTS OF BUNGOMA AND TRANS NZOIA COUNTY ASSEMBLY ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF NZOIA WATER SERVICES COMPANY FOR THE PERIOD ENDED 30TH JUNE, 2019

Hon. Vitalis Wangila (Chairperson, PIC): Thank you Mr. Speaker. I'm on the floor to move a motion on a report by the joint committee of Public Investments of Bungoma and Trans Nzoia County Assembly on the Auditor General report on the financial statements of Nzoia Water Services Company for the year ended 30th June 2019.

Mr. Deputy Speaker: Hon. Kawa, kindly consult in low tones. You can carry on Honorable Chairperson.

Hon. Vitalis Wangila (Chairperson, PIC): Mr. Speaker on behalf of the members of the County Public Investment Committee and pursuant to the provisions of Standing Order number 187 and in accordance with Article, 229 (8) and of the Constitution of Kenya, 2010, it is my great pleasure and privilege to present to this House the joint committee's report by Bungoma and Trans-Nzoia County Assemblies on the Auditor General's report on Nzoia Water Services Company Limited (NZOWASCO) for the period 1st July, 2018 to 30th June, 2019.

JOINT COMMITTEE COMPOSITION

The committee is comprised of;

- | | | |
|-----|------------------------|-------------------------------|
| 1. | Hon. Vitalis Wangila | Chairman- Bungoma |
| 2. | Hon Birir kipchumba | Chairman- Trans Nzoia |
| 3. | Hon. James Chesibok | Vice-Chairperson -Bungoma |
| 4. | Hon Sarah Lubano | Vice Chairperson- Trans Nzoia |
| 5. | Hon. Fredrick Musebe | Member |
| 6. | Hon. Beatrice Wekesa | Member |
| 7. | Hon. Rose Imbega | Member |
| 8. | Hon. Grace Sundukwa | Member |
| 9. | Hon. David Barasa | Member |
| 10. | Hon. Joram Wanjala | Member |
| 11. | Hon. Hildabeda Siang'a | Member |
| 12. | Hon. Florence Wekesa | Member |
| 13. | Hon. Lawrence Asenaka | Member |
| 14. | Hon Obed Mwale | Member |
| 15. | Hon Kagunda Elkana | Member |
| 16. | Hon Patrick Kisiero | Member |

ACKNOWLEDGEMENT

Allow me, Honourable Speaker, to commend each single Honorable Member of this key Committee for their commitment and exemplary work which made the interrogation of the accounts and production of this report a major success. I applaud you all, distinguished Colleagues.

In conclusion, Honorable Speaker, the Committee wishes to register its unreserved thanks to the Offices of the Speaker, the Clerk of the County Assembly, the office of Auditor General, the Acting managing director and Board of directors of NZOWASCO who dutifully honored their obligations and made quality submissions before the Committee. Special appreciation also goes to the secretariat to the Committees which had to go beyond the normal call of duty on numerous occasions.

The commitment and devotion to duty of all those involved in this noble task made the work of the Committee and production of this report a success. We thank each one of them.

Mr. Speaker Sir,

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

Mr. Speaker Sir,

The report was tabled in Bungoma and Trans Nzoia County Assemblies. Pursuant to section 14(5) of the County Governments Act, the Speakers of both houses directed that the report be handled jointly by the respective PIC committees.

This Report covers the financial year 2018/2019 and is issued in accordance with the requirements of Article 229(7) of the Constitution of Kenya, 2010 “Audit report shall be submitted to parliament or the relevant County Assembly.

1. Recoverability of Trade Receivables

As previously reported and as disclosed in Note 19 to the financial statements, the statement of financial position reflects trade and other receivables balance amounting to Kshs 353,555,203 as at 30th June, 2019. The balance includes net trade receivables Kshs. 311,878,640 after general provision of bad and doubtful debts at the rate of 5% included under the debtor balance is receivables balance of Kshs. 203,920,792 which has been outstanding for over a year while another balance of Kshs. 36,925,640 has been outstanding for over 5 years.

Further, there was no evidence that the company had forwarded the defaulters to the Credit Reference Bureau contrary to the Company's debt management policy which requires that on 121st day of debts outstanding, names of the defaulters be forwarded Credit Reference Bureau (CRB) for defaulting and that on the 151st day, legal action may begin after sending the notice of the outstanding bills and all administrative action has failed. Consequently, the recoverability of the trade receivables balance of Kshs. 311,878,640 as at 30 June, 2019 could not be ascertained.

MANAGEMENT’S RESPONSE

The management submitted that the demand letters were issued to customers who had huge arrears out of 5,028 covering arrears of Kshs 102,037,984 only Kshs 6,787,611 was collected. See the table 2 below.

On defaulters we had not listed them with CRB however the new debt management was approved by the BOD on 21st May, 2021 and its being effected.

The uncollectable arrears include untraceable accounts that exist on the system but no corresponding physical location among them the municipal employees, demolitions and change of tenancy.

Committee observation

1. That the demand letters issued were only equivalent to Kshs 102,039,784 out of Kshs 328,293,305. The arrears of ksh 226,255,321 were left out.
2. That the accounting officer failed to identify the untraceable and traceable arrears.
3. That the last demand letters issued to debt defaulters was on 28th October, 2020 and no legal action have been taken against those who have not complied to demand letters.

4. The management has not taken an initiative to take the defaulters to credit reference bureau after the end of 121st day of debts outstanding as per company's debt management policy.

Committee recommendations

1. The management should prioritize to recover the outstanding debts to enable the company to meet its obligation as and when it arises.
2. Proper analysis to establish non recoverable and recoverable debts and the non-recoverable debts should be written off by the Board and the recoverable debts, the management should ensure they have recovered them within 120 days from the adoption of the report.
3. The board should prepare and submit to the county assemblies on the status report on non-recoverable and recoverable debt 30 days from the adoption of this report.

Inaccuracies in the financial statements

Statement of Cash Flows

The statement of cash flows for the year ended 30th June, 2019 reflects amortization of grant of Kshs. 2,896,843 indicated as cash inflow from operating activities but has not been explained or supported. There is no link in the financial statements indicating how this item would have affected cash flows that require adjustment on cash generated from operating activities. The statement of cash flows further reflects proceeds from capital grant balance of Kshs. 13,488,643 which is not supported. However, note 23 to the financial statements shows that the Company received grants amounting to Kshs 12, 623,575 from the Water Sector Trust Fund (WSTF) resulting to a variance of Kshs 865,068. It has also not been explained how the decrease in deferred tax liability of Kshs. 2,685,418 was arrived at yet there is no previous year comparative balance.

Further, the statement of financial position reflects a current assets balance of Kshs 385,544,728 as at 30th June, 2019 while the computed balance amounts to Kshs. 385,549,728 and thus resulting to an unexplained and reconciled variance of Kshs. 5, 000. The statement of changes in equity also reflects adjustment in retained earnings balance of Kshs. 1,761,973 which has not been explained or supported.

In addition, the statement of profit and loss and other comprehensive income reflects finance costs comparative balance of Kshs. 2,135,899 while the supporting Note 12 reflects a balance of Kshs 2,633,569, resulting to a variance of Kshs. 497,670 which has not been explained or reconciled. Similarly, the statement of financial position reflects ordinary share capital balance of Kshs. 90,100,000 which has not been referenced to the supporting Note 22 to the financial statements on ordinary share capital.

Consequently, the accuracy of the financial statements for the year ended 30 June, 2019 could not be ascertained.

MANAGEMENT'S RESPONSE

The management agreed with the auditor's findings on the report and submitted that the following action has been taken to improve on the situation.

1. The financial statement was adjusted in the subsequent year and it reflects a true copy of the Statement.
2. The reconciled variance of current assets of Kshs. 5,000 was an oversight and the true reflection was reconciled in the subsequent year.
3. The deferred tax liability computation has been attached as an evidence to show how the organization arrived at the figure of Kshs. 2,685,418.
4. All the issues raised has been incorporated and updated in the subsequent financial year. (Appendix 2).

Committee observation

1. The committee observed that the management failed to give satisfactory reason why financial statement was reconciled on time.
2. The committee observed that the accounting officer is not committed to prepare proper financial statements.

Committee recommendations

1. The management is hereby directed that in future financial statement should always be reconciled and required information availed to the Auditor at the time of Audit to avert unnecessary audit queries.
- 2.

Unsupported Cash and Bank Balances

As disclosed in Note 21 to the financial statements, the statement of financial position reflects cash and bank balance of Kshs. 13,987,722 as at 30th June, 2019. However, bank reconciliation statements were not availed in respect of five (5) bank accounts to support the reported balances as summarized below:

In the circumstances, the accuracy and correctness of cash and bank balances of Ksh 13,987,722 as at 30th June, 2019 could not be confirmed.

MANAGEMENT'S RESPONSE

The management submitted that the cash and bank balances of Kshs 13,987,722 reflect the true balances as provided in the bank certificates and cash book attached for referencing and appropriate documentation is maintained and additional adjustment in the general ledger to ensure that the variances has been reduced appropriately. (Appendix 3)

Committee Observations

1. It is observed that the accounting officer failed to provide necessary information during the Audit.
2. That the management prepares the financial statements without first preparing bank reconciliations.

Mr. Speaker, I don't know if you can allow Hon. Sophie to assist me with some water?

Mr. Deputy Speaker: Hon. Sophie, the chairperson is requesting that you specifically assist him with water. I don't know why but he has his own reasons.

Hon. Vitalis Wangila: Committee Recommendations.

The committee hereby recommends that the accounting officer should always ensure that bank balances with all necessary details are reconciled with the cashbook balance to reflect accurate financial statements and should also ensure that the reconciled figures are availed to the auditors on time pursuant to the provisions of section 149(2) (k) of the Public Finance Management Act, 2012 to forestall unnecessary audit queries.

Non-Compliance with Memorandum & Articles of Association

Although Management indicated that the Company's Memorandum and Articles of Association were changed to incorporate the current state of affairs and operation, the registration of the amendments had not been implemented. As a result, the registered documents remained as they were presented at the time of registration in 2004, and for which the Company has violated. Whereas the authorized share capital is Kshs. 100,000 divided into 5000 shares of Kshs.20 each, note 22 to the financial statements has recorded an authorized share capital of Kshs. 150, 100,000 divided into 7,505,000 shares of Kshs.20 each, out of which 2,005,000 shares have been issued and fully paid up while 2,500,000 shares have been issued but not paid for.

Further, there is no evidence of transfer of shares to the County Governments of Bungoma and Trans Nzoia by the Municipal Council of Bungoma (1,649 shares). Municipal Council of Kitale (1,854 shares) and Municipal Council of Webuye (1,497 shares) who were the registered owners of the Company while no evidence was provided to indicate that the Company has been filing returns at the Registrar of Companies as required.

Consequently, Management is in breach of the law.

MANAGEMENT'S RESPONSE

The management submitted that the process of filling returns is still underway pending the outcome of the decision of the task force appointed by the AGM in FY 2020/2021 to determine status of shareholding between the two county Governments. (Appendix 4)

Observations

The committee notes the provisions of section 24 of the Companies Act, 2015 which stipulates that if a company amends its Articles, the company shall lodge with the registrar for registration a copy of the articles as amended not later than fourteen days after the resolution containing amendment is passed and thus the formation of the task-force is not a justifiable reason as to why the company has failed to file returns

Committee recommendations

Therefore, the committee finds the management is in breach of section 24 of the companies Act, 2015 and directs the Board of management to liaise with taskforce on the status of shareholding and file returns within 14 days from the adoption of this report and submit a report to the both county assemblies.

Accounting for Non-Revenue Water

According to the Company's water production and sales records, 8,608,931 cubic meters of water was produced during the year under review out of which 4,587,023 cubic metres was billed to customers for Kshs. 327,700,227 leaving 4,021,908 cubic meters or representing 46.72% non-revenue water, which is 21.72% over and above the Water Services Regulatory Board (WASREB) guidelines allowable loss of 25%. The significant amount of non-revenue water of 4,021,908 cubic meters at a rate of Kshs.71.44 per cubic meter may have resulted to a loss of sales estimated at Kshs. 287,325,107 which may impact negatively on the Company's profitability and long-term sustainability.

In the circumstances, the existence of an effective mechanism to safeguard against loss of water cannot be confirmed.

MANAGEMENT'S RESPONSE

The management submitted the following:

1. That the NRW is the greatest challenge in the water sector as most of the volumes of water produced are lost through technical or commercial ways. This is a great concern to the company and this has been shared with the County Government of Bungoma and Trans Nzoia who have promised to upgrade the old infrastructure in order to seal the technical losses, leakages and bursts along our supply lines. Inspection of these materials is conducted in order to ensure that the pipes supplied meet the quality. Requisition and orders for the HDPE and PPR pipes are attached for reference.
2. The road construction works within the county has seriously damaged our water distribution infrastructure leading to water losses. The company has made efforts to reach the contractors for the purposes of immediate repairs, relocation and reconstruction of supply lines. Attached to this is correspondence on road damages with the Road contractor within the town as part of our effort to mitigate against the losses.

3. The company has purchased motorbikes for purposes of easing line patrol movements by operation and maintenance officers along supply lines. Leakage survey helps to ensure that early attention is given to such losses before they occur in massive amounts. Motorbikes also help to ensure that there is quick response to water leakages and bursts.
4. The Company has also made efforts to relocate, rehabilitate and replace old pipelines which have been instrumental in raising the NRW. This can be confirmed from the requisitions made by the department to replace and rehabilitate old water distribution infrastructures.
5. The company has embarked on creating DMAs and at the same time monitoring the performance of those DMAs. Case study St. Teresa Sinyereri DMA pilot project in Cheranganyi and Lessos Estate DMA in Bidii ward.
6. The Company regularly initiates crack down on illegal connections. The illegal connections are registered in every Zone and the Operation and maintenance team is sent to attend to them. The company has also engaged security organs in curbing illegal connections especially in Chwele where many consumers had initially connected to the Company's main water supply illegally. Illegal connections have been attracting penalties as shown in the billing statements.
7. Some of the rural community water schemes handed over to the company are a high contributor to NRW because of;
 - a) Rural schemes are sparse and the response to leaks and bursts challenging.
 - b) Water theft is also a cause of concern
 - c) The construction of most of the line was done by entities other than the company and the quality of the works is wanting.
 - d) This contributed to the high NRW. The company has purchased water meters and installed at each consumption point.
8. The company takes NRW issue seriously and has set a NWR section at the headquarters and the regional level as entrenched in the company's Human Resources policy.
9. The company purchased an ERP online system to ensure that billing and meter reading is done on real time, to enhance accuracy.
10. Mapping of meters and distribution lines of our water networks has been conducted across the cluster in order to track the location of our infrastructure.
11. The Company developed a NRW Management policy that provides coordinated strategies and systems in management of NRW. With above measures the company is deemed to reduce NRW to the permissible levels as set by regulators. (Appendix 5)

Committee observations

1. The committee notes that the audit query has re-occurred for the last Five year and despite the management submitting good prevention measures the management has not demonstrated serious efforts to curb the un-a counted for water.
2. The committee observed that there is no serious surveillance to curb illegal connections and leakages where some leakages take a very long time to be fixed.

3. The committee observed that most of the treatment plants do not have master meters and thus no accuracy in the amount of water produced and those with master meters are not properly secured and thus prone to security risks.
4. The Management is not committed to reduce un-accounted for water to the allowable non-revenue water loss of 25% as per the Water Services Regulatory Board. (WASREB).
5. The company has not put in place automation systems to curb water bursts and leakages.
6. The Company faces challenges in logistical support to its personnel to enhance surveillance on illegal connections and pipe bursts.
7. There is minimal coordination between the company and the County Government, specifically the department of roads and infrastructure on road construction and maintenance as most of the water pipes are damaged during road maintenance.

Committee recommendations

- i. The company should endeavor to automate water leakage detectors and meter zoning to expedite quick response for water leakages and illegal connections.
- ii. The committee recommends that both the company and the county government departments on roads and infrastructure forge a working relationship to minimize water pipes breakages during road maintenance and construction.
- iii. That the company should create a feedback platform for water consumers and other stakeholders to report issues such as water vandalism, water bursts, water leakages and illegal water connections.
- iv. The company should fast track procurement of quality pipes (HDPE) that will minimize water bursts and leakages.

Mr. Speaker Sir, allow me to call Hon. Rose Imbega to second this motion. Thank you Mr. Speaker.

Hon. Rose Imbega: Thank you Mr. Speaker Sir. Before I second the report allow me applaud our chairperson who has taken us through the comprehensive report. I second the report. Thank you.

(Applause)

Deputy Speaker: Honourable members, a report having been moved and dully seconded, I now propose that this House adopts a report by joint committees of Public Investments of Bungoma and Trans Nzoia County Assembly on the report by Auditor General on the financial statements of Nzoia Water Services Company for the period ended 30th June 2019; I propose;

There being no contribution, I put the question that this House adopts a report by joint committees of Public Investments of Bungoma and Trans Nzoia County Assembly on the report

by Auditor General on the financial statements of Nzoia Water Services Company for the period ended 30th June, 2019.

(Question put and agreed to)

The ayes have it.

(Applause)

The report is adopted. The table clerks will transmit as required. Honourable members, there being no other business on the Order Paper, this House stands adjourned to tomorrow Thursday 28th April, 2022 at 2:30 p.m.

(House Adjourns)