

KWALE COUNTY



COUNTY ASSEMBLY OF KWALE

SECOND ASSEMBLY – THIRD SESSION

REPORT

OF THE

COMMITTEE ON PUBLIC INVESTMENT AND ACCOUNTS

ON THE

THE FINANCIAL STATEMENTS OF

KWALE WATER AND SEWERAGE

COMPANY FOR YEAR ENDED 30TH

JUNE 2015

DATED 2/5/2018.

Table of Contents

LIST OF ACRONYMS AND ABBREVIATIONS 4

PREFACE 5

COMMITTEE MANDATE 5

ACKNOWLEDGMENT 5

BACKGROUND 6

COMMITTEE MEMBERSHIP 6

COMMITTEE OBJECTIVES 8

METHODOLOGY 8

COMMITTEE REPORT 8

1. ADMINISTRATIVE COSTS..... 9

 Management response 9

 Committee observations 9

 Committee recommendations 9

2. EMPLOYMENT COST 10

 Management response 10

 Committee observations 11

 Committee recommendations 11

3. BOARD’S EMOLUMENTS 11

 Management response 12

 Committee observations 12

 Committee recommendations 12

4. IRREGULAR CASH PAYMENTS..... 13

 Management response 13

 Committee observation..... 13

 Committee recommendations 14

5. CUSTOMER DEPOSITS..... 14

 Management response 14

 Committee observations 15

 Committee recommendations 15

6. TRADE AND OTHER RECEIVABLES..... 15

 Management response 16

 Committee observations 16

 Committee recommendations 16

Public Investment and Accounts Committee Report, 2/5/2018

7. TRADE AND OTHER PAYABLES..... 17
 Management response 17
 Committee observations 18
 Committee recommendations 18

8. UNREMITTED STATUTORY DEDUCTIONS..... 19
 Management response 19
 Committee observations 19
 Committee recommendations 19

COMMITTEE GENERAL OBSERVATIONS..... 20

COMMITTEE GENERAL RECOMMENDATIONS..... 20

LIST OF ACRONYMS AND ABBREVIATIONS

1. CEC - County Executive Committee
2. HON - Honourable
3. KWAWASCO - Kwale Water and Sewerage Company.
4. SRC - Salaries and Remuneration Commission
5. PAYE - Pay As You Earn.
6. FY - Financial Year.
7. KRA - Kenya Revenue Authority.

PREFACE

Mr Speaker sir, one of the salient roles of the Public Accounts Committee is the examination, in the context of the autonomy and efficiency of the county public investments. The Committee examines whether the affairs of county public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices. It is therefore in this regard that the committee has come up with this report.

COMMITTEE MANDATE

The Committee on County Public Investment and Accounts is one of the Select Committees established pursuant to provisions of *Standing Order No. 186*. It is tasked with the responsibilities:-

- (a) The examination of the accounts showing the appropriations of the sum voted by the County Assembly to meet the public expenditure and of such other accounts laid before the County Assembly as the Committee may think fit.
- (b) The examination of the reports, accounts and workings of the county public investments;
- (c) The examination, in the context of the autonomy and efficiency of the county public investments, whether the affairs of the county public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices:

Provided that the Committee shall not examine any of the following, namely:

- (i) Matters of major County or National Government policy as distinct from business or commercial functions of the public investments;
- (ii) Matters of day-to-day administration; and,
- (iii) Matters for the consideration of which machinery is established by any special statute under which a particular county public investment is established.

ACKNOWLEDMENT.

Mr Speaker Sir, I want to sincerely thank the members of the Public Accounts and Investment Committee for their dedication throughout the period of compiling this report, the Office of the Speaker and the Clerk for their support and adequate facilitation.

BACKGROUND.

Mr Speaker sir, the office of the Auditor General has the mandate to audit and report on the accounts of the National and County Governments under article 229 of the Constitution of Kenya and Public Audit Act, 2003.

It is in this regard that the committee is privileged to table a report of the **Financial Statements of Kwale Water and Sewerage Company limited for the year ending 30th June 2015.**

COMMITTEE MEMBERSHIP

The County Assembly Select Committee on Public Investment and Accounts was constituted on October, 2017 comprising of the following Members:-

- | | |
|--------------------------------|------------|
| 1. Hon. Patrick Mangale Nyawa | - Chairman |
| 2. Hon. Melda Nyakiti | - V/Chair |
| 3. Hon. Raia Mkungu | - Member |
| 4. Hon. Mweruphe Jackson Ngoro | - Member |
| 5. Hon. Alfred Ruwa Bavu | - Member |

Mr Speaker sir, it is in this regard that I present before this Honourable House the report on the **Financial Statements of Kwale Water and Sewerage Company limited report for the year ended 30th June 2015.**

Public Investment and Accounts Committee Report, 2/5/2018

Hon Patrick Mangale Nyawa

Chairman, Public Investment and Accounts Committee.

Signature **Date**

Hon Melder James Nyakiti

Vice chairperson, Public Investment and Accounts Committee

Signature **Date**

Hon Raia Mkungu

Member, Public Investment and Accounts Committee

Signature **Date**

Hon Ngoro Mweruphe

Member, Public Investment and Accounts Committee

Signature **Date**

Hon Alfred Ruwa Bavu

Member, Public Investment and Accounts Committee

Signature..... **Date.....**

COMMITTEE OBJECTIVES.

Mr Speaker sir, the committee's main objective in this report is:

- a) The examination of the accounts showing the appropriations of the sum voted by the County Assembly to meet the public expenditure and of such other accounts laid before the County Assembly as the Committee may think fit.
- b) The examination of the reports, accounts and workings of the county public investments;
- c) The examination, in the context of the autonomy and efficiency of the county public investments, whether the affairs of the county public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices.

METHODOLOGY.

Mr Speaker sir, in compilation of this report the Committee used the following methods to gather information:

- i. Interviewing the key officers from the Kwale Water and Sewerage Company (KAWASCO).
- ii. Review of applicable legislations and regulations
- iii. Examination of vouchers, cash books, vote books, bank statements, tender and contract documents, store documents and other related records
- iv. Review of minutes of meetings especially where there are resolution affecting management of cash.
- v. Physical inspection/verification of relevant documents.

COMMITTEE REPORT.

The Committee scrutinized the Auditor General report on the financial statement of KAWASCO for FY 2014/2015, which had raised some queries. The Committee met with the management of KAWASCO on 3rd and 4th April, 2018 who then responded to the queries raised by the Auditor General as below.

1. ADMINISTRATIVE COSTS.

The statement of profit or loss and other comprehensive income reflected an expenditure of Kshs. 42,853,175 as administrative cost. Included under this cost is transport, travelling and subsistence allowance of Kshs. 5,122,757 out of which Kshs. 1,143,095 was not supported with documentary evidence. Consequently, the propriety of Kshs. 1,143,095 spent on transport, travelling and subsistence allowance for the year ended 30 June 2015 could not be confirmed.

Management response.

Mr Speaker Sir, the management responded as follows:

When the manager took office on 14th July 2015 the company had poor records management and most of the documents were not properly kept. After he assumed office the filing system has been improved and any payments made are supported by vouchers and all other relevant documents. The management has provided five files with original documents in support of the expenditure on transport, travelling and subsistence allowance of Ksh 1,143,095 for the committee to peruse.

Committee observations.

Mr Speaker sir, the committee made the following observations:

- (i) The management failed to provide payment schedules and vouchers for expenditure of transport, travelling and subsistence allowance amounting to Ksh. 1,143,095 during the time of audit.
- (ii) The company portrayed poor record keeping.
- (iii) The management adequately provided payment schedules and vouchers in support of expenditure on transport, travelling and subsistence allowance amounting to Kshs. 1,143,095 for committee scrutiny and verification.

Committee recommendations.

Mr Speaker sir, the committee recommends as follows:

- (i) That the Accounting officer be reprimanded for failure to adhere to the Public Finance Management Act 2012 and the Public Finance Management Regulations 2015 when making payments using public funds.

- (ii) The management should provide all relevant documents to the auditors during the time of audit.
- (iii) The management should ensure proper record keeping.

2. EMPLOYMENT COST.

The statement of profit or loss and other comprehensive income reflects employment cost of Kshs. 36,185,674 which includes an amount of Kshs. 3,185,000 paid to officers whose employment contracts had expired and not renewed. Further, the payroll for the month of March was not availed for audit verification. The management explained that it had been sent to Ethics and Anti-Corruption Commission (EACC). In addition, the Company did not have an approved salary structures and as a result, disparities in salaries for officers of same cadre were noted. Under the circumstances, the validity and accuracy of employment cost of Kshs. 36,185,675 for the year ended 30 June 2015 could not be confirmed.

Management response.

On realizing that fifteen members of staff whose contract had expired and were still on payroll the management made a decision to discipline the Human Resource Officer and later renewed their contracts. The management has provided for copies of letters showing extension of contracts these members of staff.

The payroll for the month of March 2015 and other documents could not be availed during the audit since it had been taken by the EACC for investigations upon official request by the company. The payroll for the month of March 2015 was retrieved from the payroll system and availed to the committee for verification.

Initially the company was operating without an approved salary structure which led to disparities in salaries for officers working in the same cadre. When new management assumed office it took steps to ensure a new salary structure was put in place approved and adopted by the board. The management has provided copies of approved salary structure for KWAWASCO for your scrutiny.

Committee observations.

Mr. Speaker sir, the Committee observed the following.

- (i) The management failed to avail a certified copy of the March payroll before the Committee for verification as queried by the Auditor General.
- (ii) The salary structure provided before the committee was not approved and signed by the Board.
- (iii) Disciplinary letter to the Human Resource Officer was not availed before the committee as alleged by the management hence it could not be confirmed.
- (iv) That the management allegedly gave out the original copy of the March payroll 2015 to Ethics Anti-Corruption commission instead of a certified copy contrary to established government procedures.

Committee recommendations.

Mr. Speaker sir, the Committee recommends as follows.

- (i) The Accounting Officer should ensure that the terms and conditions of service for the recruitment of employees on contract is adhered to as guided by the government personnel regulations and circulars from the Directorate of Personnel Management.
- (ii) That the Accounting Officer should ensure that the existing salary structure is approved by the KWAWASCO Board of Directors and the Salaries and Remuneration Commission.
- (iii) The Accounting Officer should ensure that any company document given out to boards, institutions and agencies should be a certified copy of the original and that such documents are signed for by the recipient agencies.

3. BOARD'S EMOLUMENTS.

The statement of profit or loss and other comprehensive income reflects administrative costs of Kshs. 42,853,175 which includes an amount of Kshs. 3,065,100 paid as directors' emoluments under Note 7 out of which Kshs. 2,064,000 was paid as sitting allowance. However, there was no attendance register to support the number of meetings held and the board members who attended the board meetings. Further, letters of appointment indicated that each director was to be paid

Public Investment and Accounts Committee Report, 2/5/2018

an allowance of Kshs. 11,000 per sitting. However, the board members were paid Kshs. 20,000 per sitting and no explanation was provided for this anomaly. Under the circumstances, it was not possible to confirm that Kshs. 2,064,000 paid as sitting allowance for the year ended 30 June 2015 was appropriately applied.

Management response.

The Board of Directors were appointed vide Gazette notice number 2599 of 17th April 2014 by the County Executive Member in charge of Water Services, Health Services and Environmental Sanitation as conferred by part (4) subsection 15(1), (2) of the Constitution as read with section 23 and 24 of the Transition to Devolved Government Act 2012.

We have availed a document to support the increment of the directors sitting allowance.

The management has provided copies for the directors minutes in relation to meetings held by them in that financial year.

Committee observations.

Mr. Speaker sir, the Committee observed the following.

- (i) There were no attendance registers for the board sittings availed before the Committee for verification.
- (ii) The increase in sitting allowances for the board was as a result of a request by the secretary to the Board.
- (iii) No minutes of the board sittings were availed before the committee for verification in support of the paid sitting allowances.
- (iv) The management failed to produce any SRC circular that guided the increment of sitting allowances for the Board Members.
- (v) Board Members were paid sitting allowances of Kshs.20, 000 per sitting contrary to Kshs. 11,000 per sitting as stated in the appointment letters.

Committee recommendations.

Mr. Speaker sir, the committee recommends as follows.

- (i) The Accounting Officer shall ensure proper maintenance of the attendance register and minutes of the board sittings.

- (ii) The Accounting Officer must be guided by Salaries and Remuneration Commission circulars in paying board sitting allowances.
- (iii) That the Accounting Officer be held accountable to ensure that any excess amounts paid as sitting allowances to the Board of Directors contrary to the appointment letter and Salaries and Remuneration Commission circular are recovered immediately after the adoption of this report failure to which the Accounting Officer shall be surcharged of the same.

4. IRREGULAR CASH PAYMENTS.

Records availed for audit review indicated that a total of Kshs. 6,470,176 was withdrawn in form of cash. This amount was for procurement of items above Kshs. 10,000 and was expended using petty cash vouchers and recorded in petty cashbook. These payments contravened the Public Procurement and Disposal Regulation, 2006 Section 26 clause 6 (3) which requires that all low value procurement above Kshs. 10,000 be made by cheque to prequalified suppliers. Consequently, the propriety of Kshs. 6,470,176 drawn in cash for the year ended 30 June 2015 could not be confirmed.

Management response.

There were no irregular cash payments, the office runs a petty cash float of Ksh.50, 000 which is replenished when it gets low. The amounts are always withdrawn by the company bank agent, Ms. Agnes Ngalingali. The company paid casuals in cash and the amounts were entered into the system with the name of the Human Resource Officer by then, Mr. Phillip Nyakundi. In instances of urgency in acquiring of electromechanical spares, the company used cash to procure. Payments were done by the procurement officer, Mr Said Nyondo in order to reduce non-revenue water which is a critical issue in the company.

Committee observations.

Mr. Speaker sir, the committee observed the following.

- (i) The management failed to avail payment vouchers, LSOs, LPOs and Invoices before the committee for verification in support of the payments made as queried by the Auditor General.

Public Investment and Accounts Committee Report, 2/5/2018

- (ii) The management failed to observe the Public Procurement and Asset Disposal Act 2012 and Public Procurement and Asset Disposal Regulations 2006 Sec 26 clause 3(c) when procuring low cost goods/services.
- (iii) That in the year under review the company was operating with no procurement plan contrary to Public Procurement and Asset Disposal Act 2015.

Committee recommendations.

Mr. Speaker sir, the Committee recommends as follows.

- (i) That the Management should strictly adhere to the Public Procurement and Asset Disposal Act 2015, its regulations and all other Treasury procurement circulars.
- (ii) The Accounting Officer should ensure that disciplinary action is taken against all officers who were involved in the irregular cash payments as queried by the Auditor General.
- (iii) The Accounting Officer should ensure that Kwale Water and Sewerage Company has a central store and that requisition and counter requisition provisions are adhered to.

5. CUSTOMER DEPOSITS.

The statement of financial position reflects an amount of Kshs. 6,611,425 in respect of customer deposit. During the year, the Company received Kshs. 1,338,000 in respect of customer deposits, however, no deposit register was availed for audit verification. Further, Kshs. 6,067,939 was withdrawn from the customer deposit cashbook to an expenditure account although the management indicated that the funds would be refunded, the cash had not been refunded as at 10 February 2016.

In absence of customer deposit register it was not possible to ascertain the correctness and completeness of Kshs. 6,611,425 received as customers' deposit.

Management response.

KWAWASCO management provided six copies of the customer deposit listing/register that is maintained through the Quick books software. Ksh 6,067,939 was withdrawn from the customer deposit and spent on bulk power payments. The management further explained that the funds were withdrawn to cater for emergencies in consultation with the Board Finance Committee and with an approval of the Board of Directors. There was a commitment to

Public Investment and Accounts Committee Report, 2/5/2018

refund the money within the Financial Year, but due to weak cash flows it has not been realized. The management affirmed that there were plans under way to refund the monies to the customer deposit accounts.

Committee observations.

Mr. Speaker sir, the Committee observed the following.

- (i) That Kshs. 6,067,939 was irregularly withdrawn from the customer deposit account contrary to customer deposit service agreement.
- (ii) That Kshs. 6,067,939 withdrawn from the customer deposit account has not been refunded to date despite a commitment to refund the amount by the end of the financial year under review.
- (iii) The management availed the deposit register before the committee for verification and scrutiny.

Committee recommendations.

Mr. Speaker sir, the Committee recommends as follows.

- (i) That the management shall avail all necessary documents to the auditors during audit.
- (ii) The management shall ensure that Kshs. 6,067,939 withdrawn from the customer deposit account is refunded.

6. TRADE AND OTHER RECEIVABLES.

As reported in the previous year, trade and other receivable balance of Kshs. 112,362,471 as at 30 June 2015 reflects a figure of Kshs. 67,376,047 in respect of a provision of bad and doubtful debts. The company had a total of Kshs. 178,679,005 owing from various trade debtors as at 30 June 2015 prior to this provision. However, there was no evidence that the management had made any effort to collect these long outstanding debts. Further, included in the trade and other receivables is Kshs. 454,920 staff imprest and Kshs. 263,793 staff debtors. These amounts have been outstanding for a very long time and the Company has made no effort to recover the same. Consequently, the recoverability of trade and other receivable balances of Kshs. 112,362,471 as at 30 June 2015 could not be confirmed.

Public Investment and Accounts Committee Report, 2/5/2018

Management response.

Kwale Water engaged a debt collector by the name Gikera and Vadgama Advocates to collect the long outstanding debts who has so far collected Ksh. 800,000. The company has also reviewed terms with the debt collector and entered into a new agreement as had been recommended by the Committee in the previous audit report.

Imprest/Staff debtors.

Some of the staff members with bad debts and long outstanding imprest were recalled by the mother ministry and others are deceased. Those who are still working with the company have had the imprest recovered from them. The management is doing all it can within its mandate to resolve the issue through the Board of Directors.

Committee observations.

Mr. Speaker sir, the Committee observed the following.

- (i) The management was still servicing the contract with Gikera and Vadgama advocates despite an earlier House resolution to terminate the contract. **(Recommendation 4 of the Public Investment and Accounts Committee report on Kwale Water Auditor General report for the year ending 30th June 2014 on Trade and Other Receivables which states as follows [To cut down on cost, the committee recommends that the two contracts entered by the company be terminated]**
- (ii) The debtors register had not yet been updated despite an earlier House resolution to ensure the debtor's data base is updated. **Recommendation 1 of the Public Investment and Accounts Committee report on Kwale Water Auditor General report for the year ending 30th June 2014 on Trade and Other Receivables which states as follows [That the Kwale Water and Sewerage Company carry out a process of updating the debtors register including updated provisions for bad debts within 30 days after adoption of this report]**
- (iii) That there was an outstanding staff imprest and staff debtors amounting to Kshs. 454,920 and Kshs. 263,793 respectively.

Committee recommendations.

Mr. Speaker sir, the Committee recommends as follows.

- (i) That the money paid to Gikera and Vadgama advocates after the adoption of the House resolution be surcharged from the Accounting Officer.
- (ii) That the debtor's data base be updated within thirty days after the adoption of this report.
- (iii) The management should fast track the recovery of outstanding staff imprest and debts from staff who were recalled to the mother ministry.
- (iv) The management to write off the outstanding imprest and debt owed by the deceased staff.
- (v) That the Board of Directors undertake disciplinary action against the Accounting Officer for failure to implement an Assembly resolution.

7. TRADE AND OTHER PAYABLES.

Included in trade and other payables of Kshs. 129,794,463 is trade creditors of Kshs. 92,136,720 out of which Kshs. 5,000,000 is advance from Kwale County and Kshs. 62,000,000 payable to Coast Water Board. However, there was no evidence or agreement to indicate the Company entered into an agreement with the County for the advance. Further, records held at Coast Water Services Board indicates that the Company owes the Board Kshs. 110,430,875 resulting to unreconciled balance of Kshs. 48,430,875 which the Company has indicated as old balances inherited from Coast Water Board. There is no evidence to confirm this assertion. In addition, included in the trade and other payables are trade creditors totalling to Kshs. 11,400,000 whose invoices, delivery notes and local purchase orders were not availed for audit verification. Under the circumstances, the accuracy and completeness of trade and other payables balance of Kshs. 129,794,463 as at 30 June 2015 could not be confirmed.

Management response.

In the month of May 2015, the County Government advanced KAWASCO with Ksh. 5,000,000 so as to sort out operational issues which was to be refunded before the end of the financial year but owing to weak cash flows, this has not happened.

KAWASCO purchases bulk water from Coast Water Service Board through a principal and agency relationship as provided in the service providers agreement. The company is billed on

Public Investment and Accounts Committee Report, 2/5/2018

monthly basis, we have availed copies of bills for the financial year 2014/2015 in support of the Ksh 62,000,000.

Committee observations.

Mr. Speaker sir, the Committee observed the following.

- (i) Records availed before the Committee showed a letter done by the Chief Officer Department of Water Services to KWAWASCO asking for refund of the advance of Kshs. 5,674,843 but there was no agreement between the County Department of Water Services and KWAWASCO to effect the same.
- (ii) That the County Department of Water Services advanced Kshs. 5,674,843 to KWAWASCO that had not been appropriated for, without any agreement entered into between the two parties.
- (iii) That KWASCO has to date not paid the sum advanced to it by the County Department of Water Services despite a request to refund within the Financial Year 2014/2015.
- (iv) That there was an alleged disparity of unreconciled balance of Kshs. 48,430,875 between Coast Water Service Board and Kwale Water and Sewerage Company.
- (v) That the management availed invoices, delivery notes and local purchase orders amounting to Kshs, 11,400,000 owed to trade creditors before the Committee for verification and scrutiny.

Committee recommendations.

Mr. Speaker sir, the Committee recommends as follows.

- (i) The management shall ensure that Kshs. 5,674,843 advanced to Kwale Water and Sewerage Company is paid to the County Department of Water Services.
- (ii) That any future financial engagements and commitments made between KWAWASCO and County Government of Kwale shall be entered into with a clear concise agreement.
- (iii) The KWAWASCO management should engage Coast Water Service Board to reconcile the disparities and update on their trade payables.

8. UNREMITTED STATUTORY DEDUCTIONS.

As reported in the previous year, the trade and other payable balance of Kshs. 129,794,463 as at 30 June 2015 includes an unremitted deduction amounting to Kshs. 37,657,743 out of which Kshs. 35,482,883 is in respect of Pay as You Earn. Kenya Revenue Authority (KRA) has instituted a recovery process for unpaid taxes and imposed a tax penalty of Kshs. 14,805,454.

The amount which may be paid as penalty in the process constitutes a nugatory expenditure and no value for money.

Management response.

The company has been paying its monthly deduction on account of Pay As You Earn (PAYE) from March 2015 to date. However due to weak cash flows the company has not started clearing the arrears but is doing everything possible to start paying.

Committee observations.

Mr. Speaker sir, the Committee made the following observations.

- (i) The employer failed to remit statutory deductions to Kenya Revenue Authority amounting to Kshs. 35,482,883.
- (ii) That Kenya Revenue Authority had imposed a tax penalty of Kshs. 14,805,454 for failure to remit statutory deductions.
- (iii) That records availed before the committee showed the company had made payments to KRA vide cheques no. 006507 and 006508 amounting to Kshs. 500,000 against an outstanding amount of Kshs. 35,482,883.
- (iv) That the company has been unable to pay the outstanding statutory deductions amounting to Kshs. 35,482,883 and its imposed tax penalty of Kshs. 14,805,454 as it operates on a negative working capital.

Committee recommendations.

Mr. Speaker sir, the Committee recommends as follows.

- (i) That the management should prioritize payment of the statutory deductions to avoid auction of Company's fixed assets.

COMMITTEE GENERAL OBSERVATIONS.

Mr. Speaker sir, the Committee generally observed the following.

1. That from the management responses KWAWASCO is experiencing serious financial constraints evidenced by weak cash flows and negative working capital. It can therefore be concluded that the Company cannot stand on its own and its continued existence depends on continued support from creditors and the County Government.

COMMITTEE GENERAL RECOMMENDATIONS.

Mr. Speaker sir, the Committee generally recommends as follows.

1. That Kwale Water and Sewerage Company be immediately dissolved and be taken over by the County Department of Water Services to undertake the operations of water services in the County.

Public Investment and Accounts Committee Report, 2/5/2018

Mr Speaker sir, once again I wish to thank the Members of the Assembly, the Office of the Speaker and the Office of the Clerk for their support during the compilation of this report.

Thank you.

SIGNATURE **DATE.....**

HON PATRICK MANGALE

CHAIRMAN, PUBLIC INVESTMENT AND ACCOUNTS COMMITTEE