



REPUBLIC OF KENYA
COUNTY GOVERNMENT OF MACHAKOS
COUNTY ASSEMBLY OF MACHAKOS



Along MwatuaNgoma Rd
P O Box 1168 – 90100
Machakos – KENYA

Email: assemblymks@gmail.com

THIRD ASSEMBLY
SECOND SESSION (02)

**REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF
MACHAKOS WATER AND SEWERAGE COMPANY LIMITED FOR YEAR ENDING
30 JUNE 2020**

BY THE
PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE

SEPTEMBER, 2023

CONTENTS

EXECUTIVE SUMMARY	3
1.0. INTRODUCTION.....	4
1.1 Preface	4
1.2 Committee Membership	4
1.3 Background.....	4
2.0. GUIDING LEGAL FRAMEWORK.....	5
2.1. The Constitution.....	5
2.2. The Public Audit Act 2015	6
2.3 County Assembly of Machakos Standing Orders	6
3.0. QUERIES IN THE FINANCIAL STATEMENTS.....	6
3.1 Long Outstanding Trade and Other receivables.....	6
3.2 Statutory Deductions	8
3.3 Customer Deposit Balances	9
3.4 Material Uncertainty on Going Concern	10
3.5 Unclear Ownership of the Company	12
3.6 Irregular Procurement of Chemicals	13
3.8 Non-Revenue Water	14
3.9 Non Disclosures on Appointment of Board Members	15
3.10 Lack of Ethnic Diversity in Staffing	16
3.11 Lack of Risk Management Policy	17
3.12 Lack of Information Technology Policy.....	18
4.0. COMMITTEE GENERAL OBSERVATIONS	19
5. COMMITTEE GENERAL RECOMMENDATIONS	20
6.0. CONCLUSION AND ACKNOWLEDGEMENT.....	21

EXECUTIVE SUMMARY

Hon Speaker, this report on the Financial Statements of Machakos Water and Sewerage Company for the year ended June 2020 was received in the Assembly pursuant to Article 229 (7) of the Constitution. The report, it was committed to Public Accounts and Investments committee pursuant to Standing Order No. 185 (2) (b) and (c) and the report had a qualified opinion. The key queries raised in the audit report include long outstanding trade and other receivables, delayed remittance of statutory deductions, unconfirmed customer deposit balances, undisclosed material uncertainty on the company's going concern and unlawful and un effective use of public resources.

The Committee while exercising its mandate scrutinized the queries and noted some issues such as debts which have been outstanding for quite a long time, high company liabilities exceeding available assets, unremitted statutory deductions, expenditure of customer deposits contrary to the law, unprocessed company ownership documents and high water loses resulting from dilapidated water system hence affecting the financial performance of the Company.

In order to address these issues raised from the particular queries the committee recommends measures such as providing budgetary allocation to help the company expand its only water source (Maruba dam) as the Company puts in place measures to increase its revenue collection and also developing a debt management policy that will enable the company collect its debts which have been outstanding for long among other recommendations.

1.0. INTRODUCTION

1.1 Preface

1. Hon. Speaker, The Public Accounts and Investments Committee is a Select Committee established pursuant to Standing order No. 185. The Committee is mandated to;

- a) Examine 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) Examine 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

1.2 Committee Membership

2. Hon. Speaker, the Committee comprises of the following Honorable members;

1. Hon. Philip Ndolo Chairperson
2. Hon. Ruth Wanjiru Vice Chairperson
3. Hon. Raphael Lucky Member
4. Hon Charles Mbuva “
5. Hon. Muoki Musila “
6. Hon. Douglas Musyoka “
7. Hon. Caroline Mutuku “

1.3 Committee Secretariat

1. Mr. Luke Maingi – Clerk Assistant
2. Mr. Patrick Muange – Clerk Assistant
3. Mr. Joseph Mutiso – Hansard Officer
4. Ms. Miriam Nthoki – Serjeant at arms

1.4 Background

3. Hon. Speaker,

The Audit report on the Financial Statements of Machakos Water and Sewerage Company for the year ended June 2020 was received in the Assembly in 4th March 2022 pursuant to Article 229 (7) of the Constitution that states that *Audit Reports shall be submitted to Parliament or the*

relevant County Assembly. On receipt of the audit report, it was committed to Public Accounts and Investments committee pursuant to Standing Order No. 185 (2) (b) and (c) and the report had a qualified opinion.

4. It is good to note that while observing the Constitutional requirements, this report should have been received in the Assembly latest by end of January 2021 hence the report was late by almost a year. This is in contravention of Section 48 (1) of the Public Audit Act 2015 that requires the Auditor General to audit and report on accounts audited six (6) months after the end of the fiscal year in question.
5. The Committee on Public Accounts while exercising its mandate as provided in Standing Order 185 invited the Accounting Officer and conducted interrogation on the audit report on 24th February 2023. This is as per the provisions of Article 226(2) of the Constitution that provides that *the Accounting Officer of a County public entity is accountable to the County Assembly for its financial management.*

2.0. GUIDING LEGAL FRAMEWORK

6. Hon. Speaker,
In the execution of its mandate the afore-stated, PAIC was guided by core Constitutional and Statutory Laws on public finance management below:

2.1. The Constitution

7. Article 201(a) (d) (e) provides that;
 - (a) *there shall be openness and accountability, including public participation in financial matters;*
 - (d) *public money shall be used in a prudent and responsible way; and*
 - (e) *financial management shall be responsible, and fiscal reporting shall be clear.*
8. Article 226(2) of the Constitution states that the accounting officer of a county public entity is accountable to the county assembly for its financial management.
9. Further, Article 229 (5) of the Constitution provides that “*the Auditor-General may audit and report on the accounts of any entity that is funded from public funds.*”
10. Article 229(8) of the Constitution states that “*within three months after receiving an audit report, the parliament or the County Assembly shall debate and consider the report and take appropriate action.*”

2.2. The Public Audit Act 2015

11. Section 47 (1) provides that;
 12. (1) The financial statements required under the Constitution, the Public Finance Management Act, 2012 (No. 18 of 2012) and any other legislation, shall be submitted to the Auditor-General within three months after the end of the fiscal year to which the accounts relate.
12. Section 48 (1) states that within six months after the end of each financial year, the Auditor-General shall audit and report, in respect of that financial year, on the accounts specified in Article 229 of the Constitution

2.3 County Assembly of Machakos Standing Orders

- a) Standing Order 185 mandates the Committee on Public Accounts and Investments to Examine reports, accounts and workings of the County Public Investments

3.0. QUERIES IN THE FINANCIAL STATEMENTS

13. Hon. Speaker, in adherence to Section 48 (1) of the Public Audit Act, 2015, the Auditor General audited the financial Statements of the Machakos Water and Sewerage Company in question as disclosed below. Further, the Accounting Officer in observance of Article 226(2) provided responses to each of the queries as outlined below.

3.1 Long Outstanding Trade and Other receivables

14. The statement of financial position reflects trade and other receivables balance of Kshs.94,553,267; (2020-Kshs.77,977,519) and as disclosed under note 17 to the financial statements. Included in the balance are inactive trade receivables amounting to Kshs.69,736,208 against which a Kshs.34,868,104 provision for bad debts has been made, equivalent to 50% of the balance. However, the basis for classification of the debts as inactive and the measures being put in place to recover the same was not made available for audit review. Consequently, the adequacy of the general provision for the inactive debtors could not be ascertained as some debts may have required specific provisions. In the circumstances, the accuracy, fair statement and recoverability of the reported trade and other receivables balance of Kshs.94,553,267 as at 30 June, 2020 could not be confirmed.

3.1.1 Management Response

15. Under the prudence concept the company recognizes an asset at a value that is higher than the amount which is expected to be recovered from its sale or use. The management considered

active debts to be debts outstanding below 120days and inactive debts outstanding over 120days. Out of the Inactive debts corporate and government institutions including county government of Machakos had outstanding amounts. Though the payments of these institutional debtors take time to be settled, the management believes this will ultimately be paid thus provides a bad debt provision of 50% of the inactive debts instead of 100%. Some of the outstanding debts were inherited during establishment of the water company.

16. High defaulters rate, Lack of honoring debts by government institutions, Impact of Covid -19, economic dip, and inflation has led to increase in trade receivables. In a view to address this challenges the company is engaging in aggressive water and Sanitation disconnection exercises and monitoring of the same, issuance of demand notices as well as reminders, customer relationship management, use of part payment agreements. The company is in the process of analysis debtors to determine their recoverability and seek Board of Director's approval in writing off the unrecoverable debts.

3.1.2 Committee Observations

- i. The Company has high outstanding trade receivables which increased with higher margin during the Corona period when the government gave a directive for continued supply of water to the customers even when they were unable to pay.
- ii. The Committee noted that by June 2023 this year, the arrears for all Machakos County Departments totaled to Ksh. 29,353,661 but as at July this new financial year, the Department had paid the Company a total of 10 Million, hence there is good progress in clearing of the debts.
- iii. The company has formulated a debt management policy that will enable them engage debtors with a view of recovering these debts.

3.1.2 Committee Recommendations

17. Honorable Speaker, the Committee recommended that;
 1. The Assembly by exercising its oversight role should ensure that County Government departments make timely payment of their water bills as a way of supporting these water companies.

2. That the Water Company should intensify their debt collection efforts by even disconnecting water to the defiant customers who have long outstanding debts as an enforcement measure to ensure they clear their bills.

3.2 Statutory Deductions

18. The statement of financial position and Note 21 reflects trade and other payables balance of Kshs.98,384,364 out of which Kshs.8,602,568 was owed to LAP Trust Pension in respect to employees and employer's contribution to the scheme. This amount is further analyzed into; opening balance of Kshs.4,068,223, interest accrued as at 30 June 2020 of Kshs.2,230,712, actuarial deficit of Kshs.577,351 and unremitted contributions for the year of Kshs.1,726,282. Also included in the trade and other payables is Kshs.12,895,933 in respect of National water pension scheme which comprised of; opening balance of Kshs.10,921,985 and employer and employee's contribution for the year of Kshs.1,973,948.
19. Failure to remit the deductions within the stipulated timelines has occasioned interest charges and may lead to further interest expenses if not paid to the respective pension schemes.
20. To this extent, the Company was in breach of the law.

3.2.1 Management Response

21. The management has been paying the pension deductions to the pension schemes but due to cash flow challenges the outstanding arrears, that have accumulated over time, have not been settled in full. The cash-flow challenges have been occasioned by various factors not limited to;
 - *Lack of a cost reflective tariff. Application for a new one is done and is awaiting approval by the Water Services Regulatory Board (WASREB) upon successful public participation and further confirmation of support from the County Government of Machakos.
 - *Inability by major consumers to honor their obligation notably the government Institutions, This include the prisons department and County Government of Machakos departments. The company owed County Government of bills of Ksh. 19,275,239
 - *Lack of anticipated support from the National County,
 - *Economic slowdown during Covid-19 pandemic,
 - *Political statements and directives on free water during Covid -19 period,
 - *Increase in inflation,

*Drought

22. However, the company is committed to continue submitting the deduction and has entered into pay plans with the various pension schemes reviewed in the current year. This will ensure all deductions are submitted as required
23. Current measures have been taken to improve the company cash flow which include; use of aggressive disconnection exercise to enhance collections, development of a debt management policy to guide recovery of debt and also write-off of unrecoverable ones, issuance of demand notices as well as reminders, customer relationship management with various stakeholders, use of part payment agreements towards enhancing revenue collection efficiency , disconnection of services for clients who are not honoring their dues and monitoring of the same, and engagements with County Government of Machakos as well as Institutions for settlement of bills owing and requesting for operational and financial support in order to bridge the variation between the current applied tariff and cost of delivery.

1.2.2 Committee Observations

24. Honorable Speaker, the Committee noted that;
 - i. Delayed remittance of the statutory deductions to the relevant institutions was majorly occasioned by low revenue collection during the Corona period.
 - ii. The Company has placed a standing order with a bank to deduct this money and is currently remitting Ksh. 250,000.00 on monthly basis.

1.2.3 .Committee Recommendations

25. Honorable Speaker, the committee recommends that;
 - i. The Company should ensure compliance of the law by making timely remittance of the statutory deductions as required.
 - ii. The Company should come up with realistic payment plan to ensure that all the deductions due are fully remitted.

3.3 Customer Deposit Balances

26. The statement of financial position reflects customer deposits balance of Kshs.10,895,664;(2020-Kshs.10,201,264) and as disclosed under Note 22 to the financial statements. However, the holding bank account to the customers deposits at the Co-operative

Bank, had a balance of Kshs.1,156,678 resulting to unexplained variance of Kshs.9,738,986. In the circumstances, the accuracy and completeness of the water deposits balance of Kshs.10,895,664 as at 30 June, 2020 could not be confirmed.

3.3.1 Management Response

27. The statement of financial position captures the total outstanding liability of Ksh. 10,895,664 whereas the cash book balance for the deposit account by June 30,2020 was Ksh. 1,156,678 as per note 18. The variance in the deposit account has been occasioned by various borrowings approved by the Board of Directors for the following expenditures between the year 2010 and 2020; Purchase of motor vehicle KCA 226V, Board of Directors training and payment of critical expenditure towards electricity and chemicals during cash challenges. However, the management has put in place a plan to refund monies borrowed from the deposit account to ensure the same is fully recovered.

2.3.2 Committee Observations

28. Honorable Speaker, in regard to this query, the Committee observed that;
- i. The Company has been borrowing funds from the Customer deposits account to finance its operations at times when it experiences cash challenges.
 - ii. The Company is currently remitting Ksh. 250,000.00 on monthly basis towards repaying the amount due for customer deposits.

3.3.2 Committee Recommendations

29. Honorable Speaker, the Committee recommends that;
- i. The fact that in Machakos Town there is high demand for water, the Company should expand its water reserves which will in turn lead to increase in revenue. This will reduce cases of borrowing which might have negative impact to its financial position.

3.4 Material Uncertainty on Going Concern

30. The statement of profit or loss and other comprehensive income reflects a loss after taxation figure of Kshs.93,194;(2020-Kshs.3,435,544) further deteriorating the retained earnings balance to negative Kshs.8,576,266 from negative Kshs.9,775,379 recorded in 2020. Further, the current liabilities balance of Kshs.109,280,028 exceeded the current assets balance of Kshs.98,849,518 resulting to negative working capital of Kshs.10,430,510.

31. The unsatisfactory performance indicates the existence of a material uncertainty on the going concern status Company. Therefore, the financial statements have been prepared on the going concern basis assumption that the Company will continue to receive financial support from creditors and the County Government of Machakos.
32. No disclosure has been made by the Management in the financial statements on the actions taken or plans to reverse the unfavourable operational performance and put the Company on the path to profitability

3.4.1 Management Responses

33. During the period under review, the company negative working capital was notably attributed to the adverse effects of the Covid-19 pandemic . Measures put in place is revive the situation include; application of a cost reflective tariff and aggressive disconnection exercise with an to raise more revenues. The company is a beneficiary of Kenya Towns Sustainable Water Supply and Sanitation Program funded by African Development Bank. The project is currently at 45% level of completion. The project will see additional water sources ,replacement of the precolonial infrastructure which is old and dilapidated. This will reduce losses and improve on the company's performance.

34. 3.4.2 Committee Observations

35. Honorable Speaker, the Committee noted that;
 - i. The Company is tending towards insolvency since its currents liabilities exceeded current assets resulting to negative working capital of Kshs.10, 430,510.
 - ii. The Company did not adhere to the set accounting standards by failing to disclose the plans it had to reverse the unfavorable operational performance and put the Company on the path to profitability.
 - iii. The current water tariff is not cost reflective and therefore the Company depends much on support from the County Government and other non-governmental agencies to continue operating.
 - iv. The Company is currently engaging the Water Services Regulatory Board (WASREB) with an aim of reviewing the water tariff and also conducting aggressive water disconnection exercise with an aim to raise more revenues.

3.4.3 Committee Recommendations

36. Honorable Speaker, the Committee recommended that;
- i. The Company should fully automate its income collection in order to reduce flow of liquid cash which might lead to cases of corruption.
 - ii. The Company should come up with strategies to reduce its losses as well as to increase their income in order to reduce its dependency on funding from the County Government.
 - iii. The Company should adhere to the set accounting standards by fully disclosing all the information in the Financial Statements required by the Law.

3.5 Unclear Ownership of the Company

37. Note no 19 to the financial statements indicates that the company has 5000 authorized ordinary share capital of Kshs.20 par value with total authorized share capital of Kshs.100,000. However, information on ownership of the fully paid up shares has not been disclosed in the financial statements and further, share certificates identifying the owners of the Company were not provided for audit.
38. In the circumstances, it was not possible to confirm whether the ownership structure of the Company was in compliance with its Articles and Memorandum of Association and Section 154 of Water Act, 2016.

3.5.1 Management Response

39. As per the Water Act 2016, Municipal council of Machakos Water & Sewerage Company is a Semi-Autonomous Government Agency (SAGA) owned by the County Government of Machakos. An amended Memorandum and Articles of Association is in the last stages of review. Refer to **Annex IX**. This will clearly show the ownership structure of the company.

3.5.2 Committee Observations

40. Honorable Speaker, the Committee noted that;
- i. During the audit, the management did not provide share certificates identifying the owners of the Company.
 - ii. The Committee noted that the transfer of Ownership of the Company to County Government of Machakos has taken long time due to regular changes of the Company

management and also in Tanathi Water Services Board causing periodic changes in the Memorandum and Articles of Association.

3.5.2 Committee Recommendations

41. Honorable Speaker,

- i. The Committee recommended that the Company management liaises with the office of County Attorney and fast track the process of transfer of the Company as required by Section 154 of Water Act, 2016.
- ii. Within the next 90 days after the approval of this report, the management should furnish the Committee with information on the progress of transfer of the Company shares to the County Government.

3.6 Irregular Procurement of Chemicals

42. The annual procurement plan for the year under review showed the planned expenditure on water chemicals of; calcium hypochlorite - Kshs.11,275,200 and aluminum sulphate - Kshs.5,011,200 with a total expenditure during the year of Kshs.7,377,360. However, the Company used request for quotations method of procurement despite the expenditure being within the threshold of open tender procurement method as prescribed under Section 96(2) of the Public Procurement and Asset Disposal Act, 2015. Management explained a framework contract agreement had been signed with the suppliers. However, no evidence of such agreement was made available for audit review. In the circumstances, the Company was in breach of the law.

3.7.1 Management Response

43. The company advertised for pre-qualification of suppliers in various categories after which quotations were issued. The evaluations were done in accordance to the procurement law based on preliminary evaluation, financial evaluation and technical quality evaluation of the chemical samples. Based on technical evaluation, Kel Chemicals Company was awarded the tender for the supply of the chemicals.. However, the company has since procured chemicals through open tender advertisement.

3.7.2 Committee Observations

44. Honorable Speaker, the Committee noted the following;

- i. The Company breached the Law by using quotations to procure Chemicals totaling to Kshs.7,377,360.00 despite the expenditure being within the threshold of open tender procurement method.
- ii. The Company had entered into a framework Contract agreement with the Supplier hence the decision to issue the quotations.

3.7.3 Committee Recommendations

45. Honorable Speaker, the Committee recommends strict adherence of the Company to the provisions of Section 96(2) of the Public Procurement and Asset Disposal Act, 2015 that provides for advertising in the dedicated Government tenders' portals or in its own website, or a notice in at least two daily newspapers of nationwide circulation, if the estimated value of the goods, works or services being procured is equal to, or more than the prescribed threshold.

3.8 Non-Revenue Water

46. During the year under review, the Company produced a total of 1,025,430 cubic meters of water (M³) out of which 741,578M³ was billed to the customers at a market value of Kshs.122,696,447. The balance of 283,852M³ or approximately 27.68% of the produced volume represented non-revenue water (NRW) which was above the allowable loss threshold of 25% prescribed by the Water Services Regulatory Board guidelines. Further, the NRW resulted into lost sales estimated at Kshs.46, 964,219 which negatively affected the financial performance and profitability of the Company.
47. Consequently, management was in breach of the law.

3.8.1 Management Response

48. During the year under review the company managed to reduce Non-Revenue water from 38% in the year 2018-2020 to 27% in the year 2020-2020. Non-Revenue Water/Unaccounted for water of 27% in the financial statements was due to aged infrastructure and corrosion of galvanized iron by acidic soils.
49. Current measures put in-place to reduce NRW include but not limited to; a dedicated NRW team , formulation of a NRW manual to guide management and reduction of NRW, benchmark with the best performers in the sector , use of recommended pipe pressures as guided in the pressure map to manage leak/bursts , working hand in hand with other stakeholders i.e road agencies to avoid pipe damage when doing construction works, continuous customer sensitization and creation of awareness on demerits of NRW through open door customer

clinic, engagement of County Inspectorate team and County Commissioner to address anomalies of vandalism and theft amongst others.

50. The company is a beneficiary of a water project funded by African Development Bank whose scope entails replacement and extension of the old and dilapidated system. The project is ongoing at 45% completion stage. Attached see **Annex VII** on Project brief dated 3rd February 2023 on Water Project. The completion will see further reduction of NRW to below set benchmarks.

3.8.2 Committee Observations

51. Honorable Speaker, the Committee noted that;
- i. The Company's non - revenue water (NRW) was at 27.68% of the total production, an amount higher than the allowable loss threshold of 25% prescribed by the Water Services Regulatory Board guidelines. This was majorly occasioned by the old and dilapidated water system.
 - ii. The Company had put measures to reduce this amount of non - revenue water (NRW). Further, the Auditor confirmed that this rate is gradually reducing towards the allowed threshold as noted in the current audit report.

3.8.3 Committee Recommendations

52. Honorable Speaker, the Committee recommends the following;
- i. The Company should investigate to establish other possible causes of the huge water loss such as illegal connections.
 - ii. The County Government considers allocating funds in the subsequent budgets to assist this water company in overhauling the old dilapidated water system. This will help in reducing water loss and hence increasing the volume of water availed to its residents.

3.9 Non Disclosures on Appointment of Board Members

53. Report on Board of Directors on page vi of the financial statements shows that the Company has nine (9) board members. However, management did not provide evidence to show how the members were identified and that appointment was done through a competitive process as required under section 2(2) of schedule 1 of water Act, 2016. Further, four (4) Board members had O -level indicated against their academic/professional qualifications while no academic

qualification is indicated for another member thus casting doubt as to whether they had met the minimum qualifications as set out in the Water Act, 2016.

54. To this extent, the appointment of the Board members may have been done irregularly.

3.9.1 Management Response

55. Municipal council of Machakos Water & Sanitation Company is owned by the County Government of Machakos who has the mandate of selection, recruitment and appointment of board members as provided for Water Act 2016 and guided by Water Services Regulatory Board (WASREB). During the year under review the Company Board of Directors were gazetted as per gazette notice No.9031 dated 16th August 2016.

3.9.2 Committee Observations

56. Honorable Speaker,

The Committee noted that some Members of Board of Directors in Municipal council of Machakos Water & Sewerage Company don't meet the minimum qualifications as set out in the Water Act, 2016. This makes their appointment to the Board irregular. Further, the committee could not establish whether the appointment was done in a competitive manner as required by Law.

3.9.3 Committee Recommendations

57. Honorable Speaker, the Committee recommends that the Assembly in the spirit of exercising its oversight role should ensure that right people are appointed as Board Members in this Water Companies as they play an important role in the policy making function of board.

3.10 Lack of Ethnic Diversity in Staffing

58. A scrutiny of the payroll and the Human Resources bio data revealed that out of the workforce of sixty-nine (69) employees as at 30 June 2020, sixty-three (63) or 91% were from the local dominant ethnic community. This is contrary to Section 7 (1) (2) of the National Cohesion and Integration Act, 2008 (Revised 2012) which stipulates that no public establishment shall have more than one third of its staff from the same ethnic community. Consequently, the Company is in breach of the law.

3.10.1 Management Response

59. During establishment, the company inherited most of her staff from the former local municipalities and also National Water Conservation and Pipeline corporation. At that time, ethnic diversity was not considered. As per the provision of National Cohesion and Integration Act 2008 and the recommendation made by the auditors the company has considered these provisions when recruiting and is adhering to the same.

3.10.2 Committee Observations

60. The committee noted that the Company's non - adherence to the Ethnic Diversity in Staffing has been occasioned by the Company's staffing history where it inherited most of its staffs from the former local municipalities and also National Water Conservation and Pipeline Corporation. However, the management showed genuine efforts towards achieving the required threshold.

3.10.3 Committee Recommendations

61. Honorable Speaker, the Committee recommended that the Company should ensure compliance with provisions of Section 7 (1) (2) of the National Cohesion and Integration Act, 2008 (Revised 2012) which stipulates that no public establishment shall have more than one third of its staff from the same ethnic community.

3.11 Lack of Risk Management Policy

62. Audit revealed that the Water Company did not have in place an approved risk and fraud management policy. This is contrary to section 158(1)(a) and (b) of the Public Finance Management (County Government) Regulations 2015 which requires the accounting officer to develop risk management strategies, which include fraud prevention mechanism and internal control that builds robust business operations. It was further noted that the management had not formulated a disaster recovery plan/ business continuity plan and thus lacks a blue print for identifying, preventing and mitigating against disasters and ensuring that its operations are not interrupted.
63. Consequently, the Company is in breach of the law and is exposed to risk of loss from fraud and other unmitigated threats to its operations.

3.11.1 Management Responses

64. Being an entity of the County Government of Machakos, the company used the disaster recovery plan for the County Government of Machakos. A Business Continuity Plan was developed and is in place. The company has an independent internal audit department which is in charge of risks management. A risk management framework is in place to guide the management on various and real and potential risks. Attached refer to **Annex V**.

3.11.2 Committee Observations

65. Honorable Speaker, the Committee noted that the Company was at did not have a risk management policy in place. Instead, it was using the disaster recovery plan for the County Government of Machakos.

3.11.3 Committee Recommendations

66. Honorable Speaker, the Committee recommended that the Company should formulate a risk management policy as an instrument for identifying, preventing and mitigating against disasters and ensuring that its operations are not interrupted.

3.12 Lack of Information Technology Policy

67. The Management did not present for audit review, evidence of existence of an approved IT Policy to guide on matters related to; data/IT asset ownership, access control, backup procedures and business continuity/data recovery plan. In the absence of an IT policy, the Company is exposed to risk of unauthorized access to information assets which may compromise on its integrity and security.

3.12.1 Management Responses

68. The Company has formulated an IT Policy (A draft has been provided). This is awaiting Board discussion and approval for it to be implemented. **See Attached annex VI**. Currently the company maintains a backup within the company server, another with the service provider and a third one on an external hard disk under the IT officer. The IT Policy once implemented will provide guidance on data and access controls.

3.12.2 Committee Observations

69. Honorable Speaker, the Committee noted that the Company has a draft IT policy awaiting Board discussion and approval.

3.12.3 Committee Recommendation

70. The committee recommends that the Management should hasten the approval process of the IT policy in order to shield the Company from risk of unauthorized access to its information which may compromise on its integrity and security.

4.0. COMMITTEE GENERAL OBSERVATIONS

71. Honorable Speaker, the Committee after scrutinizing the Queries in part one on basis of qualified opinion, and part two of the report on lawfulness and compliance to relevant laws makes the following general observations in addition to the specific observations made under each query;

1. THAT the Company has high outstanding trade receivables (unpaid debts) which increased with higher margin during the Corona period when the County Government gave a directive for continued supply of water to the customers even when they were unable to pay. The Committee noted that by June 2023 this year, the arrears for all Machakos County Departments totaled to Ksh. 29,353,661 but as at July this financial year, the Department had paid the Company a total of 10 Million, hence there is good progress in clearing of the debts.
2. THAT the delayed remittance of the statutory deductions to the relevant institutions was occasioned by low revenue collection during the Corona period and the Company has placed a Standing order with the bank to deduct this money and is currently remitting Ksh. 250,000.00 on monthly basis.
3. The Company has been borrowing funds from the Customer deposits account to finance its operations at times when it experiences cash challenges and currently the company is making good progress by remitting Ksh. 250,000.00 on monthly basis towards repaying the amount due for customer deposits.
4. On the material uncertainty on going concern, the Company is tending towards insolvency since its current liabilities exceeded current assets resulting to negative working capital of Kshs.10, 430,510. The current water tariff is not cost reflective and

therefore the Company depends much on support from the County Government and other non-governmental agencies to continue operating.

5. That the Company just like the other water companies are semi-autonomous and have not been fully devolved to the County and are still controlled by Tanathi and this causes challenge in management of the Company which has also led to operational challenges.
6. The Company breached the Law by using quotations to procure Chemicals totaling to Kshs.7, 377,360.00 despite the expenditure being within the threshold of open tender procurement method.
7. The Company's non - revenue water (NRW) was at 27.68% of the total production, an amount higher than the allowable loss threshold of 25% prescribed by the Water Services Regulatory Board guidelines. This was majorly occasioned by the old and dilapidated water system. The committee was informed that measures to reduce this amount of non - revenue water (NRW) has been instituted and the Auditor confirmed that this rate is gradually reducing towards the allowed threshold as noted in the current audit report.
8. On appointment of Board members the Committee noted that some Members of Board do not meet the minimum qualifications as set out in the Water Act, 2016. Further, the committee after interrogating on the criteria used in appointment established that the appointments were done politically hence not conducted competitively as required by Law.
9. The Company did not have a risk management and Technology policies in place and instead, it was using the disaster recovery plan for the County Government of Machakos but the Accounting Officer promised the Committee that within 90 days the said policies will be ready for use.

5. COMMITTEE GENERAL RECOMMENDATIONS

72. Hon Speaker, the Committee after considering the specific observations under each query and the above general observations makes the following general recommendations;
 1. The County Government departments should make timely payment of their water bills to the various water companies as a way of supporting them water in order to continue offering this essential service of water provision

2. The Company should ensure compliance of the law by making timely remittance of the statutory deductions as required and further come up with realistic payment plan to ensure that all the deductions due are fully remitted.
3. The fact that in Machakos Town there is high demand for water, the Company should expand its water reserves which will in turn lead to increase in revenue. This will reduce cases of borrowing which might have negative impact to its financial position.
4. The Company management should liaise with the office of County Attorney to fast track the process of transfer of the Company to the County Government of Machakos as required by Section 154 of Water Act, 2016. Further, within the next 90 days after the approval of this report, the management should furnish the Committee with information on the progress of transfer of the Company shares to the County Government.
5. The Company should strictly adhere to the provisions of Section 96(2) of the Public Procurement and Asset Disposal Act, 2015 that provides for advertising in the dedicated Government tenders' portals or in its own website, or a notice in at least two daily newspapers of nationwide circulation, if the estimated value of the goods, works or services being procured is equal to, or more than the prescribed threshold.
6. The County Government should allocate funds in the subsequent budgets to assist this water company in overhauling the old dilapidated water system. This will help in reducing water loss and hence increasing the volume of water availed to its residents.
7. The County Water Committee which H.E, the Governor constituted this year to investigate on the state of water companies in the County and whose report is yet to be forwarded to the Assembly should provide lasting solutions to address the current managerial and operational challenges facing all the water companies.
8. Pursuant to the provisions of Section 53 (1) of the Public Audit Act 2015, the Accounting Officer should within 90 days after approval of this report take the relevant steps to implement the recommendations in this report or give an explanation in writing to the Assembly why the report is not implemented.

6.0. CONCLUSION AND ACKNOWLEDGEMENT

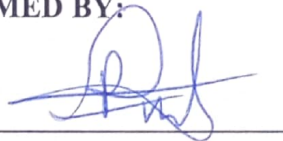
73. Hon. Speaker, water service providers (water companies) in Machakos County as provided in the Water policy 2020 recognized these service providers as key players in provision of water for all as outlined in the Constitution. However, these water companies have faced challenges

ranging from high cost of operation, long outstanding bad debts, high water leakages and political interference. This therefore calls for the County Government of Machakos to put up strategies to support these water service providers if at all they are going to continue providing water to the residents of Machakos.

74. Hon. Speaker, the Committee on Public Accounts and Investments is grateful to your office for facilitating the committee to undertake its work, the Office of the Auditor General for the advisory given and Members of the Committee and the Secretariat for commitment and effort throughout the process of report writing.
75. Hon. Speaker, it is therefore my pleasure to table before this Honorable House the report on Financial Statements of Machakos Water and Sewerage Company for the year ended 30 June 2020 for discussion and adoption.

Thank you Honorable Speaker.

CONFIRMED BY:



HON. PHILIP NDOLO

CHAIRPERSON, PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE