

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY

OFFICIAL REPORT

Tuesday, 21st July, 2020

The House met at 11.00 a.m.

[The Speaker (Hon. (Mrs.) Mwangangi) in the Chair]

PRAYERS

Hon. Speaker: Good morning, Hon. Members, and welcome to today's sitting. I will ask the Clerk that we start the Order Paper.

COMMUNICATIONS FROM THE CHAIR
RESUMPTION OF ORDINARY PLENARY SITTINGS

Hon. Speaker: The following is what is coming from the Chair; Hon. Members, Standing Order 24 of the County Assembly of Machakos provides for the regular sessions of the Assembly in the following terms; that except for the Session commencing immediately after a general election, the regular Sessions of the Assembly shall commence on the second Tuesday of February and terminate on the first Thursday of December.

In accordance with this provision, the Fourth Session of the County Assembly of Machakos commenced on 18th February, 2020 and the Assembly continued sitting every Tuesdays and Wednesdays uninterrupted up to 16th March, 2020 when by reason of Presidential orders for partial lockdown of operations in the country and directives aimed at safeguarding public health in the wake of the outbreak of Coronavirus pandemic, the House took a break and was only holding special sittings on need basis to process urgent and pressing business while strictly complying with the public health directives on the pandemic.

Hon. Members, you recall that there has been a closure of public institutions to give the Country time to prepare protocols and measures of dealing with the pandemic. This Assembly was affected and Hon. Members, you will also recall that during that period, the Assembly engaged the County department of Health on safety measures to be taken to ensure the safety of the Members and staff from the pandemic.

In addition, Hon. Members, the CASB together with the House leadership had several directives put in place so that during the period the Assembly was meeting on special sittings the House was taking in to consideration the safety of the Members and the staff involved.

It was in the same breath Hon. Members you remember, that we had decisions that committees do hold online meetings. The pandemic is still very well with us and we know that the infected and those who are losing lives from the virus continue to rise and the numbers are alarming.

So, Hon. Members, our County is among the leading counties in the country in the rising number of infections but we also appreciate that the Assembly has to continue carrying on its mandate in the interest of the people of the County and that means that even as we resume today's ordinary sittings of the plenary every person in the precincts of the Assembly and that includes our visitors, Hon. Members and the staff must be very careful in the manner that we are interacting. We

must act with a lot of caution and in everything we do, we must strictly observe all the public health directives on the pandemic.

It is on this background, when the President opened partially operations in the Country on the 6th July, 2020, the House leadership held meetings and decided that we will open the operations of the Assembly but with a lot of caution and that committees will continue meeting online expect for report writing which I will address later.

But then we also agreed that we start with plenary sittings once every Tuesday and that is why we are here. The communication of the House leadership on that was done to you on 9th July, 2020 and today's sitting has also been communicated to you and to the general public through the Standard newspaper of 20th July, 2020.

Hon. Members, the sittings that we are commencing are intended to go on up to December this year. Unless the President directs otherwise on the basis of fighting Covid -19, which we appreciate is still with us; or unless you Members decide otherwise. It is however important that any one moment we should not drop our guard in taking care in the fight in coronavirus.

It is also important Hon. Members that if any of you feels that they are not capable of attending this physical sitting, they give notice in advance to the Speaker in writing so that the Clerk can make the necessary arrangements for the Member to following the proceedings online of this House because we must continue moving together and remember each Member here represents a sector that must always be informed of what is happening in the House.

PREPARATION OF REPORTS OF COMMITTEES

Hon. Members, I have addressed the issue of how you continued working online on committees and you held many meetings and each committee was very active and each Committee remains active in holding meetings online. However, report writing is difficult to be done online and that is why the House leadership held lengthy discussions and decided that the President partially opened up the partial lockdown in the country on 6th July, 2020, the House leadership immediately had discussions and decided that in the interest of the public you represent, report writing should start from 13th of July, 2020.

I am aware that this has started and what I need to remind Members is that each Member's presence in the report writing is very critical and each Member is expected to be attending the report writing sessions in person, because we must get reports that have the output of each one of you. Going forward, it is hoped and expected that these plenaries that we have started today will have a lot of business because many reports are going to be coming from the committees.

THE MACHAKOS COUNTY FINANCE BILL, 2020

Hon. Members, Section 132(1) and (2) of the Public Finance Management Act, 2012 provides that the County Executive Member for Finance shall, with the approval of the County Executive Committee, make a pronouncement of the revenue raising measures for the County Government each Financial year and on the same date submit to the County Assembly, the County Finance Bill, setting out the revenue raising measures for the County Government, together with a policy statement expounding on those measures.

Further, Section 133 of the Public Finance Management Act provides that not later than 90 days after passing the Appropriation Bill, the County Assembly shall consider and approve the Finance Bill with or without amendments.

In accordance with those provisions of the law, the Executive Committee Member for Finance and Economic Planning made pronouncements on the floor of this House on the revenue raising measures on 26th June, 2020 and on 16th July, 2020, he submitted to this Assembly the County Finance Bill.

There was a slight delay you noticed of about two weeks because I have referred you to the law that the Finance Bill is supposed to be presented to the Assembly on the same day the CEC Member of Finance makes the pronouncements on the revenue raising measures.

It is however appreciated, the conditions in which the whole country is operating and the two weeks difference, we will make up for it by moving fast and processing that Finance Bill and same is hereby committed to the committee of Finance and Revenue collection for consideration, processing and tabling in the House the report for approval not later than 30 days from today.

Remember we want to pass that Finance Bill so that the local revenue can start being collected in good time. Hon. Stephen Mwanthi, if you find difficulties with the time given, you know what to do but you must start working right away.

NOMINATION FOR APPOINTMENT OF A COUNTY ATTORNEY

Hon. Members, Section 4 of the Office of the County Attorney Act No. 14 of 2020, this is a new law, provides for the establishment in each County, the Office of the County Attorney, which is an office in the County public service.

The Office shall consist of:

- (a) The County Attorney;
- (b) The County Solicitor; and
- (c) Such other number of County Legal Counsel as the County Attorney may, in consultation with the County Public Service Board, consider necessary.

Further, section 5 (1) of the same Act, the County Attorney is to be appointed by the Governor with the approval of the County Assembly. In accordance with that requirement of the law, Hon. Members, H.E the Governor nominated Mr. James Musango Kathili, for appointment as the County Attorney.

The County Assembly received the communication on the nomination on 17th July, 2020 for the necessary vetting. Accordingly, since under Section 6(2) of the Office of the County Attorney Act No. 14 of 2020 the County Attorney holds the same status as a Member of the County Executive Committee and therefore requires vetting by the Assembly's Committee on Appointments that nomination is committed to that Committee for urgent processing.

MEMBERSHIP IN HOUSE COMMITTEES

Hon. Members, you are aware that there have been plans amongst the Membership of this House to address Membership of committees of the House and the plans went back even to the last quarter of the year 2019;

This matter has come severally before this House formally and informally in *Kamukunji* sittings. I have had discussions with the chairman of the House Selection Committee the Leader of Majority party, Hon. Mark Muendo who has informed me that the Selection committee has had sittings on this matter and that a further sitting is planned for tomorrow 22nd July, 2020, and out of that, the matter of placement of Members in the various committees will be addressed and the necessary communication will be done to you on the floor of this House in the next sitting, 28th July, 2020.

Further communication, Hon. Members, will be done in the afternoon of today's sitting. Mr. Clerk, proceed

PAPER LAID

REPORT OF PENDING BILLS FROM 4TH MARCH, 2013 TO 30TH JUNE, 2018

Hon. Speaker: Hon. Members, we have one business by Hon. Stephen Mwanthi.

Hon. Mwanthi: Thank you, Madam Speaker. I wish to lay on the Table of the Assembly today, Tuesday, the 21st day of July, 2020; the report of Finance and Revenue Collection Committee on the Pending Bills of the County for the Period from 4th March 2013 to 30th June 2018. Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Stephen Mwanthi.

NOTICE OF MOTION

REPORT OF PENDING BILLS FROM 4TH MARCH, 2013 TO 30TH JUNE, 2018

Hon. Speaker: Hon. Members, we have again one business by Hon. Stephen Mwanthi.

Hon. Mwanthi: Thank you once more, Hon. Speaker

Hon. Speaker, that aware that Article 185(3) of the Constitution of Kenya provides that a County Assembly while respecting the principles of separation of powers, may exercise oversight over the County Executive Committee and any other County Executive organ;

Further aware that Standing Order 190(5) provides functions of a sectoral committee to include among others studying, assessing and analyzing the relative success of the Departments as measured by results obtained as compared with the stated objectives and making reports and recommendations as often as possible including recommendation of proposed legislation;

Noting that pending bills in Counties and their effect on the Economy of the Country has been of great concern and aware that the Cabinet Secretary in-charge of National Treasury directed that County Governments give priority payment of pending bills or face withholding of funds destined to the Counties from the National treasury;

Acknowledging that the Finance and Revenue Collection engaged the Department of Finance and Economic Planning on the pending bills of the County and has compiled a report;

Hon Speaker, I wish to give notice of the motion that this Honorable House discusses and approves the report of Finance and Revenue Collection Committee on the Pending Bills of the County for the Period from 4th March, 2013 to 30th June, 2018.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon Stephen Mwanthi.

STATEMENT

BUSINESS FOR THE HOUSE FOR 21ST JULY, 2020

Hon. Speaker: Hon Members, under this Order, we have one business I am being reminded by the Hon. Majority leader Mark Muendo. I saw Hon Majority leader was here; in the absence of...*badala ya Musa ni Hussein*. Hon. Kiteng'u.

Hon. Kiteng'u: Thank you, Hon Speaker. Hon. Speaker, I stand under Standing Order 41(2)(a) where during the Statement Hour a Member of the House Business Committee designated by the Committee for that purpose shall for not more than ten minutes, present and lay on the table, a statement informing the House of the business coming before the House.

Hon. Speaker, the House Business Committee met on Tuesday, 14th July, 2020 to ballot business for the House pursuant to the provisions of the Standing Order 151. The Committee considered the one business available and balloted it as follows:

Tuesday, 21st July, 2020

Morning at 10.00 a.m.

Report of Finance and Revenue Collection Committee on the Pending Bills of the County for the Period from 4th March 2013 to 30th June 2018.

Afternoon at 2.30 p.m.

Report of Finance and Revenue Collection Committee on the Pending Bills of the County for the Period from 4th March 2013 to 30th June 2018. (Continuation of Debate)

Thank you, Hon Speaker.

Hon. Speaker: Hon. Kiteng'u, Thank you.

MOTION

REPORT OF PENDING BILLS FROM 4TH MARCH, 2013 TO 30TH JUNE, 2018

Hon. Speaker: Hon. Members, under this Order, we have one business by the Hon. Stephen Mwanthi and it will be done by leave of the House because you appreciate that in practice we had agreed that the day you lay the Paper, the day you give the Notice of Motion is not the same day that you are going to move the Motion. By leave of the House, I believe you will allow it because it is the business that that is balloted for today. We are in agreement Hon. Members. Hon. Stephen Mwanthi.

Hon. Mwanthi: Thank you, Hon. Speaker. Report of the Finance and Revenue Collection Committee on the Pending Bills of the County for the Period 4th March 2013 to 30th June 2018.

Hon. Speaker: Hon. Stephen Mwanthi, you are moving the Motion first, before you do the report.

Hon. Mwanthi: Thank you, and thank you for the correction, Madam Speaker.

Hon. Speaker, that aware that Article 185(3) of the Constitution of Kenya provides that a County Assembly while respecting the principles of separation of powers may exercise oversight over the County Executive Committee and any other County Executive organ;

Further aware that Standing Order 190(5) provides functions of a sectoral committee to include among others studying, assessing and analyzing the relative success of the Departments as measured by results obtained as compared with the stated objectives and making reports and recommendations as often as possible including recommendation of proposed legislation;

Noting that pending bills in Counties and their effect on the Economy of the Country has been of great concern and aware that the Cabinet Secretary in charge of National Treasury directed that County Governments give priority payment of pending bills or face withholding of funds destined to the Counties from the National treasury;

Acknowledging that the Finance and Revenue Collection engaged the Department of Finance and Economic Planning on the pending bills of the County and has compiled a report;

Hon. Speaker, I wish to move the motion that this Hon. House discusses and approves the report of Finance and Revenue Collection Committee on the Pending Bills of the County for the Period 4th March, 2013 to 30th June, 2018.

I call upon Hon. Justus Kiteng'u to second the motion.

Hon. Speaker: Thank you, Hon. Stephen Mwanthi. Hon. Justus Kiteng'u.

Hon. Kiteng'u: Thank you, Hon. Speaker. I second.

Hon. Speaker: Thank you. Hon. Stephen Mwanthi.

Hon. Mwanthi: Hon. Speaker, this is the report of the finance and revenue collection committee on pending bills of the county for the period 4th March, 2013 to 30th June, 2018. Page 2 is the table of contents.

1.0 INTRODUCTION

1.1 Preface

Hon. Speaker, the Finance and Revenue Collection Committee is one of the sectoral Committees of the Assembly established pursuant to Standing Order 190 of the County Assembly of Machakos Standing Orders.

Hon. Speaker: Hon. Stephen Mwanthi, just move the mic close to you. You need to be recorded and also heard well by those who are outside.

Hon. Mwanthi: Thank you. The functions of the Committee as stated in Standing Order 190(5) include investigating, inquiring into and reporting on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Department. Pursuant to this mandate and following a National debate on pending bills in Counties and their effect on the Economy, the Committee requested the Department of Finance and Economic Planning to provide a report on pending bills in the County. This request has not been forthcoming with the first request having been made on 28th November, 2019 and the Committee receiving sufficient documents to compile this report on 26th May, 2020. This report details Pending Bills of the County as at 30th June, 2018 and as audited by the Auditor General through a special audit of pending bills.

1.2 Mandate of the Committee

Hon. Speaker, the Finance and Revenue Collection Committee is established pursuant to Standing Order 190 of the County Assembly of Machakos Standing Orders. Standing Order 190(5) defines the functions of a Sectoral Committee. Further, the second schedule of the County Assembly Standing Orders defines the mandate of the Finance and Revenue Collection Committee to include all matters relating to the management of County public finance and revenue collection.

1.3 Committee Membership

Hon. Speaker, the Finance and Revenue Collection Committee as currently constituted comprises of the following Honorable Members:

- | | | |
|----|-----------------------|--------------------|
| 1. | Hon. Stephen Mwanthi | - Chairperson |
| 2. | Hon. Josephat Kasyoki | - Vice Chairperson |
| 3. | Hon. Betty Nzioki | - Member |
| 4. | Hon. Brian Kisila | “ |
| 5. | Hon. Caleb Mule | “ |
| 6. | Hon. Fredrick Muthoka | “ |
| 7. | Hon. Justus Kiteng'u | “ |
| 8. | Hon. Margaret Mwikali | “ |
| 9. | Hon. Moffat Maitha | “ |

- | | |
|-------------------------|---|
| 10. Hon. Phoebe Koki | “ |
| 11. Hon. Grace Mutwiwa | “ |
| 12. Hon. Thomas Mutinda | “ |
| 13. Hon. Hellen Ndeti | “ |

2.0 LEGAL FRAMEWORK

2.1 Functions of the County Assembly

Hon. Speaker, Article 185(3) of the Constitution of Kenya 2010, provides that a County Assembly, while respecting the principle of the separation of powers, may exercise oversight over the County Executive Committee and any other County Executive organs.

2.2 Powers of Committee of the Assembly

Hon. Speaker, Article 195(1) of the Constitution of Kenya provides that, a County Assembly or any of its committees has power to summon any person to appear before it for the purpose of giving evidence or providing information.

Further, Section 18 of the County Assemblies Powers and Privileges Act provides that a County Assembly or its committees may invite or summon any person to appear before it for the purpose of giving evidence or providing any information, paper, book, record or document in the possession or under the control of that person and, in this respect, a County Assembly and its committees shall have the same powers as the High Court as specified under Article 195 of the Constitution of Kenya.

3.0 PENDING BILLS OF THE COUNTY

3.1 Request for a Report on Pending Bills

Hon. Speaker, on 28th November, 2019, the Committee wrote to the Chief Officer County Treasury vide letter MKSCA/PSC/CMM/FRC/VOL.6/48 requesting to be provided with a report on the current status of the pending bills as seen in Annex 1. The Committee further requested to be advised on what measures the Chief Officer had taken in the light of the order by Cabinet Secretary National Treasury that Counties that have not cleared pending bills will not receive further funding.

Hon. Speaker, on 14th January, 2020 vide letter ref: MCG/CT/1/5Y/VOL.11/63, the Chief Officer responded to the Committee's letter which stated that as seen in Annex 2:

1. The eligible pending bills as per the Office of the Auditor-General Report were Ksh. 942,363,607 as at 30th June, 2018.
2. The pending bills of the County as at 30th June, 2019 were Ksh. 828,389,221.
3. As at 14th January, 2020 the County had paid pending bills worth Ksh. 544,389,269 leaving a balance of Ksh. 397,535,337.
4. The remainder of the pending bills was to be paid in three months' time.

Hon. Speaker, the Committee observed that, as at the time of providing this information, the County had paid more than half that is 57.8 percent of its pending bills and was committing to pay the remainder by 31st March, 2020. The Committee also observed that the report did not indicate the firms which were paid their pending bills and those whose were still pending. In addition, the County Treasury did not meet the deadline of clearing bills by 31st March, 2020 as stated.

3.2 Request for a Report on Pending bills containing firms paid and those unpaid

Hon. Speaker, on observing that the report provided did not have sufficient information, the Committee wrote again to the Chief Officer, County Treasury vide letter MKSCA/PSC/CMM/FRC/VOL.7/10 on 18th February, 2020. The Committee requested the Chief Officer to provide a detailed report on the current status of the pending bills. The report was to include the firms paid and those whose payment was pending. The Committee also requested for a detailed plan on how the remaining pending bills were to be cleared within three months as

stated in the letter of 14th January, 2020 ref: MCG/CT/1/5Y/VOL.11/63. The Committee further wrote a reminder on 24th February 2020 vide letter ref: MKSCA/PSC/CMM/FRC/VOL.7/13.

Hon. Speaker, the Department responded to the Committee's letters on 27th February, 2020 vide letter MCG/CT/1/59/VOL.11/95. The Chief Officer County Treasury presented to the Committee a report with a stamp from the Council of Governors showing status of pending bills of all Counties as at 25th February, 2020 (*see annex 4*). The Chief Officer stated that the pending bills as at 25th February, 2020 were Ksh. 47,931,467.00.

The table below is an extract from the report presented by the Chief Officer showing details of pending bills of the County. All the values are in Kenya shillings.

Table 3.1: Details of Pending Bills of Machakos County as at 25th February, 2020

List presented to OCOB by Counties as at 30/6/2018	975,461,203
List presented to OAG by Counties for Special Audit	1,286,526,181
Eligible pending bills as per the OAG Special Audit	942,363,607
Ineligible pending bills as per the OAG Special Audit	344,162,574
Eligible pending bills paid	894,432,140
Ineligible pending bills paid	0
Total pending bills paid	894,432,140
Outstanding eligible pending bills Unpaid	47,931,467
Overall outstanding pending bills unpaid	392,094,041

Source: Report from the Department of Finance and Economic Planning presented to Council of Governors on 27th February 2020

Hon. Speaker, the Committee observed that the County had made significant progress on clearing pending bills. However, the Committee observed that the report presented did not provide details of the firms paid and the firms whose payments were pending as requested in the letters of 18th and 24th February, 2020. The Committee resolved to write again to the Chief Officer requesting for details on the firms paid and those not paid.

3.3 Reminder for submission of a report on Pending Bills on firms paid and unpaid

Hon. Speaker, the Committee wrote to the Chief Officer on 25th March, 2020 vide letter ref: MKSCA/PSC/CMM/FRC/VOL.7/20 requesting to be provided with a detailed report on the current status of the pending bills (*see annex 5*). The report was to include the firms paid and those whose payment was pending. The Committee reminded the Chief Officer to provide the above report twice on 9th April, 2020 vide letter ref: MKSCA/PSC/CMM/FRC/VOL.7/25 and on 20th April, 2020 vide letter ref: MKSCA/PSC/CMM/FRC/VOL.7/26. The Committee noting that Chief Officer was delaying to submit the report, resolved to invite the Chief Officer to a meeting on 24th April, 2020 at 9.30 a.m. vide letter ref: MKSCA/PSC/CMM/FRC/VOL.7/28 dated 23rd April, 2020 (*see annex 6*).

3.4 Discussion of Pending Bills of the County with the Chief Officer – County Treasury

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Hon. Speaker, the Chief Officer, County Treasury appeared before the Committee via Skype on 24th April, 2020 at 9.30 a.m. The Chief Officer informed the Committee as follows:

1. The status of eligible pending bills as audited by the Office of the Auditor General (OAG) was about Ksh. 942 million. These were the pending bills as at 30th June, 2018. The pending bills from 1st July, 2018 up to date had not been included in this amount.
2. The CO confirmed to the Committee that the County had paid pending bills of Ksh. 652 million as at 23rd April, 2020 leaving an outstanding balance of Ksh. 289 million. Out of this outstanding balance, pending bills worth Ksh. 241 million were before Pending Bills Committee undergoing verification and documentation so that payment process can commence. The remaining Ksh. 47 million had been verified and was ready for payment once funds were available.
3. The Chief Officer informed the Committee that, the reason why the bills were being subjected to verification was to ensure due diligence before payment was done. The CO added that this was a normal process in the Department before making any payment. The Chief Officer also observed that some of the pending bills lacked some documentation thus it was important to put all the documents together before payment. The CO committed that the outstanding pending bills will be given priority and be paid once the Pending Bills Committee forwarded them. The Department will endeavor to make payment within a reasonable timeframe subject to funds availability but in not more than 60 days once a certificate was submitted.
4. The Chief Officer further informed the Committee that the County intended to clear all the pending bills before June 2020.
5. While responding on the issue of Chief Officers in some of the County Departments wanting to be begged to forward documents of work done to the Department of Finance for payment, the CO informed the Committee that the Department will take up the matter and ensure documents were submitted without delay. In addition, on the allegation from other Departments that County Treasury was frustrating them, the Chief Officer informed the Committee that the Departments initiated projects, documented and invoiced the process and then forwarded the requests for payment. At times, revenues did not perform as expected and even though the projects were in the Budget, payment was not possible thus becoming a pending bill.
6. On pending bills which may have not been forwarded for audit by the OAG, the Chief Officer informed Members that these were treated as ineligible pending bills. Once a supplier made claim, the case was forwarded to the Pending Bills Committee for scrutiny. Once the Committee verified, they will be paid. The Chief Officer also informed Members that the Pending Bills Committee was analyzing the pending bills classified as ineligible in the OAG. The Pending Bills Committee was Gazetted by the CECM Finance and Economic Planning and the Secretary was an Officer in the Procurement Office found at the County Treasury.
7. While responding on where the Ksh. 652 million was obtained from to pay pending bills, the Chief Officer informed Members that the payments were dully processed from the budget.
8. The Chief Officer informed the Committee that Departments were not supposed to incur further pending bills. The Governor was keen on the matter of not having more pending bills as this was tarnishing the name of the County. Further, the National Treasury had prioritized pending bills and a law was being developed at National Assembly to criminalize failure to pay pending bills.

3.5 Pending Bills Paid

Hon. Speaker, a report on firms paid their pending bills was first submitted to the Assembly on 24th April, 2020 vide letter ref: MCG/CT/1/74/C/115 dated 21st April, 2020. The Committee

observed that the report had some missing pages and was not properly arranged. The Committee while discussing the report with the Chief Officer County Treasury on 29th April, 2020 requested for another report which was submitted to the Assembly on 4th May, 2020 (*see annex 7*). The Committee extracted a summary of pending bills paid as at 30th April, 2020. This information is presented in Table 3.3 below.

Table 3.3: Summary of Pending Bills Paid Per Department as at 30th April 2020 for the period before 30th June 2018 as Audited by Auditor General

PENDING BILLS PAID PER DEPARTMENT AS AT 30TH APRIL 2020				
	DEPARTMENT	RECURRENT	DEVELOPMENT	TOTAL PAID
1.	Health and Emergency Services	7,645,470.00	25,939,153.00	33,584,623.00
2.	Tourism, Culture & Sports	1,699,656.00	30,642,191.00	32,341,847.00
3.	Public Service Mgmt & ICT		14,534,556.00	14,534,556.00
4.	County Public Service board		4,798,840.00	4,798,840.00
5.	Energy, Lands Housing and Urban planning			
6.	Trade, Industrialization & Innovation		11,603,111.00	11,603,111.00
7.	Transport & Roads	900,000.00	190,237,450.00	191,137,450.00
8.	Agriculture & Food Security		21,020,000.00	21,020,000.00
9.	Water & Irrigation	2,111,200.00	144,461,544.00	146,572,744.00
10.	County Administration & Decentralized		1,988,240.00	1,988,240.00
11.	Public Service Mgmt & ICT (Staff payables)	229,959,991.00		229,959,991.00
	TOTAL	242,316,317.00	445,225,085.00	687,541,402.00

Source: Report from the Department of Finance and Economic Planning on Pending Bills as at 30th April 2020 submitted to the County Assembly on 4th May, 2020 and 26th May 2020.

Hon. Speaker, from table 3.3 above, the total recurrent and total development pending bills paid were Ksh. 242,316,317.00 and Ksh. 445,225,085.00 respectively giving a total of Ksh. 687,541,402.00. This represented 72.96 percent of the total pending bills. The outstanding pending bills were Ksh. 249,251,494.00 as at 30th April 2020 representing 27.04 percent. Out of the amount paid for recurrent, Ksh. 229,959,991.00 was paid to LAPFUND and LATRUST for staff pension benefits.

3.6 Pending Bills Unpaid

Hon. Speaker, the Committee having been provided with a report of firms paid pending bills as at 31st March 2020, requested for further details for the firms which were yet to be paid. This information was requested vide letter ref: MKSCA/PSC/CMM/FRC/VOL.7/34 dated 11th May 2020 (*see annex 8*). The Chief Officer – County Treasury submitted the requested report on 26th May 2020 vide letter ref: MCG/CT/1/74/C/127 dated 26th May, 2020 (*annex 9*). From this report, the Committee extracted a summary report on unpaid pending bills per Department as at 30th April 2020. This information is presented in Table 3.4.

Table 3.4: Eligible Unpaid Pending Bills Per Department as at 30th April 2020 for the period before 30th June 2018 as Audited by Auditor General

UNPAID PENDING BILLS PER DEPARTMENTS AS AT 30TH APRIL 2020	
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1		AUDITED UNPAID PENDING BILLS		
2.	DEPARTMENT	RECURRENT	DEVELOPMENT	TOTAL UNPAID
3.	Health and Emergency Services	23,382,216.00	2,452,042.00	25,834,258.00
4.	Tourism, Culture & Sports	6,922,383.00	17,946,172.00	24,868,555.00
5.	Public Service Mgmnt & ICT			-
6.	County Public Service board		8,923,798.00	8,923,798.00
7.	Energy, Lands Housing and Urban planning		12,403,974.00	12,403,974.00
8.	Trade, Industrialization & Innovation	1,519,896.00		1,519,896.00
9.	Transport & Roads		69,447,033.00	69,447,033.00
10.	Agriculture & Food Security	4,025,513.00	28,271,000.00	32,296,513.00
11.	Water & Irrigation		71,864,632.00	71,864,632.00
12.	County Administration & Decentralized	959,835.00	1,133,000.00	2,092,835.00
13.	Public Service Mgmnt & ICT (Staff payables)			-
	TOTAL	36,809,843.00	212,441,651.00	249,251,494.00

Source: Report from the Department of Finance and Economic Planning on Unpaid Pending Bills as at 30th April 2020 submitted to the County Assembly on 26th May 2020

From table 3.4, the total recurrent and total development unpaid pending bills were Ksh. 36,809,843.00 and Ksh. 212,441,651.00 respectively giving a total of Ksh. 249,251,494.00. As per this report, the Department of Public Service management and ICT did not have pending bills.

3.7 Ineligible Pending Bills as at 30th April 2020 for the period before 30th June 2018 as Audited by Auditor General

Hon. Speaker, the Committee was also presented with ineligible pending bills as per the Office of the Auditor General (OAG) special report (*see annex 10*). The Committee was informed by the Chief Officer – County Treasury when she appeared before the Committee on 24th April 2020 that the bills were termed as ineligible by the (OAG) due to the following reasons:

- (a) Some of the bills did not have adequate supporting documents to enable verification.
- (b) Other bills were forwarded whereas they had already been paid.
- (c) Work had not been undertaken for some of the pending bills.

As a result of this, pending bills worth Ksh. 343,078,539.00 were declared ineligible by the OAG. However, the Department has since verified bills worth Ksh. 124,785,172.00 and paid them. The remaining amount of ineligible pending bills as at 30th April 2020 was Ksh. 218,293,368.00. The role of verifying pending bills has been given to a Pending Bills Committee appointed by the Executive Committee Member for Finance and Economic Planning vide Gazette Notice No.8994

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issued on 20th September 2019 (*see annex 11*) and Gazette Notice No. 3296 issued on 30th April 2020 (*see annex 12*). The Gazette notice makes reference to a directive by the Controller of Budget in a letter dated 19th June, 2019, ref: COB/COG/002/VO. 3955 in appointing the five-member Pending Bills Committee.

The Chief Officer, County Treasury informed the Committee that the Secretary to the Committee is the Officer in-charge of procurement in the Department. This officer records cases of pending bills and then schedules meeting of the Pending Bills Committee which meets at the Machakos Youth Center. Table 3.5 presents status of ineligible pending bills as at 30th April 2020.

Table 3.5: Outstanding Ineligible Pending Bills Per Department as at 30th April, 2020

DEPARTMENT	TOTAL INELIGIBLE	TOTAL PAID	OUTSTANDING
Health and Emergency Services	32,575,844.00	1,857,119.00	30,718,725.00
Tourism, Culture & Sports	45,069,781.00	10,948,328.00	34,121,453.00
Public Service Mgmt & ICT	27,809,340.00	612,816.00	27,196,524.00
County Public Service board	-	-	-
Energy, Lands Housing and Urban planning	485,000.00	250,000.00	235,000.00
Trade, Industrialization & Innovation	6,420,803.00	5,891,960.00	528,843.00
Transport & Roads	106,123,563.00	93,613,076.00	12,510,487.00
Agriculture & Food Security	22,813,845.00	-	22,813,845.00
Water & Irrigation	6,563,992.00	4,968,992.00	1,595,000.00
County Administration & Decentralized	2,909,586.00	2,909,586.00	-
Office of the Governor	3,730,000.00	-	3,730,000.00
Finance & Revenue Collection	104,000.00	104,000.00	-
Education, Skills training & Social Welfare	3,822,496.00	3,629,296.00	193,200.00
Public S&ICT (Retirement benefits-interest)	84,650,290.00	-	84,650,290.00
TOTAL	343,078,540.00	124,785,173.00	218,293,367.00

Source: Source: Report from the Department of Finance and Economic Planning on Unpaid Pending Bills as at 30th April 2020 submitted to the County Assembly on 26th May, 2020

Hon. Speaker, from Table 3.5 the total illegible pending bills as per the OAG as at 30th June 2018 was Ksh. 343,078,540.00. The County Treasury verified and paid ineligible pending bills worth Ksh. 124,785,173.00 leaving a balance of ineligible bills of Ksh. 218,293,367.00.

Hon. Speaker: Hon. Mwanthi, I think after the totals, the first sentence, it should be ineligible and not illegible; you can correct that.

Hon. Mwanthi: Sure, Madam Speaker.....the total ineligible pending bills as per the OAG.

4.0 COMMITTEE OBSERVATIONS

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Hon. Speaker, the Committee made the following observations:

1. The Department has been reluctant to provide information on pending bills. This is the reason why the Committee has taken so long on the matter and as a result written six letters were written. The information provided has been contradictory at times. On 27th February, 2020, the Department provided a report indicating that the outstanding pending bills were Ksh. 47 million only (see table 3.1). On 24th April, 2020 when the Chief Officer appeared before the Committee, she informed the Committee that the Department had paid Ksh. 652 million and the outstanding pending bills were Ksh. 289 million.
2. There was a blame game between the County Treasury and the other Departments. The Departments were blaming County Treasury on taking too long to pay contractors yet they had submitted certificate of completion. On the other hand, the County Treasury was blaming Departments for laxity and failure to prepare documents according the required guidelines thus making it difficult to verify them thus be in a position to pay. The County Treasury should manage retention funds in a separate account from other County funds. Departments which offered works should prepare payment of retention funds on time without delay.
3. Pending bills were as a result of non-prioritization of payments by Departments. Once the projects crossed over a financial year without being paid, the Departments failed to prioritize them and ensure that they were submitted to the County Executive Committee for approval to be re-voted for payment as the first charge in the new financial year. The County Treasury should embrace e-procurement whereby the system will not allow commitments for projects when the votes did not have funds.
4. The County Treasury had on 27th February, 2020 made a commitment to clear pending bills by 31st March, 2020 but this has not been achieved. The Department has recommitted to clear the bills by end of June, 2020 and again this was not achieved. The Assembly has budgeted for pending bills in the FY 2020/2021.
5. The amount of Ksh. 687 million used to pay pending bills was mainly from the budget of FY 2019/2020. This means that development projects factored for the financial year 2019/2020 were not be done 100 percent. This FY of 2020/21, the Executive should implement Members' ward projects 100 percent.
6. The County Treasury needs to be more transparent in its dealing with County finances. The Department has been difficult in submitting documents to the Committees thus interfering with their ability to oversight the Executive effectively. This information on pending bills should be available to the public through website portal of the County Government.
7. Some Ksh. 124 million of ineligible pending bills have been paid while Ksh. 249 million of eligible pending bills have not been paid. This brings to question on whether there is an established criterion on paying the bills. It would have been better if the bills were paid as per their age of incurring and verification.
8. Since the County was still paying ineligible pending bills, then the total pending bills of the County were Ksh. 467,544,861.00 consisting of Ksh. 249,251,494.00 eligible and Ksh. 218,293,397.00 ineligible pending bills.

5.0 COMMITTEE RECOMMENDATIONS

Hon. Speaker, the Committee recommends the following:

1. The Department of Finance and Economic Planning should ensure all the remaining pending bills of Ksh. 249,251,494.00 were paid in the FY 2020/2021 as they have been factored in the budget for FY 2020/21. The Department should clear all these pending bills not later than 30th September, 2020.

2. The Department of Finance and Economic Planning should ensure that any pending bills in the FY 2019/2020 are paid as the first charge in the budget of the FY 2020/2021. Any returned CRF issues for FY 2019/2020 should be utilized to clear pending bills of FY 2019/2020 and any deficit factored in the supplementary budget for FY 2020/2021.
3. The Department of Finance and Economic Planning should ensure that the County does not incur further pending bills in the FY 2020/2021. This calls for setting realistic local revenue targets and having a realistic budget as opposed to ambitious revenue targets and budget.
4. The Department of Finance and Economic Planning should fast-track verification on the ineligible pending bills of Ksh. 218,293,367.00 and clear them not later than 31st December, 2020.
5. All the Departments should keep proper records of suppliers and contractors details and forward proper documentation to the County Treasury for payment once a certificate of work has been raised. The Department of Finance and Economic Planning should pay for work done when proper documentation is provided without delay.
6. This FY of 2020/21, the Executive should implement Members' ward projects 100 per cent since very little implementation was done in the FY 2019/2020 as most of the funds paid pending bills.

6.0 ACKNOWLEDGEMENT

Hon. Speaker, the Finance and Revenue Collection committee is grateful to the Office of the Speaker and that of the Clerk to the County Assembly for the support accorded during the Committee sittings. I wish to express my appreciation to the Honorable Members of the Committee who sacrificed their time to participate in the meetings of the Committee and in preparation of this report.

Hon. Speaker, it is therefore my privilege, on behalf of the Finance and Revenue Collection Committee, to table the Report of the Pending Bills in this Honorable House for consideration and adoption. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Thank you, Hon. Stephen Mwanthi.

(Question proposed)

Hon. Members, the Motion is ready for debate but I noted the time and deliberately we opted not to extend time because we know we will be coming back at 2.30 p.m.

ADJOURNMENT

Hon. Speaker: So Hon. Members, we will adjourn at this point but the sitting will resume at 2.30 p.m. on 21st July, 2020 that is today and that will start with the debate on this Motion. Thank you, Hon. Members.

The House rose at 12.13 p.m.

