

REPUBLIC OF KENYA
COUNTY ASSEMBLY OF MACHAKOS

OFFICIAL REPORT

Wednesday, 28th July, 2021

The House met at 10.22 a.m.

[The Deputy Speaker (Hon. Museku) in the Chair]

PRAYERS

Hon. Deputy Speaker: Good morning, Hon. Members. I am being advised that we have challenge with the online system, they are working on it and as soon as it available we are going to be able to go online but in the meantime we just proceed with the Assembly sitting.

PAPER LAID

GABBAGE COLLECTION IN MAVOKO, TALA/KANGUNDO
AND MACHAKOS MUNICIPALITIES

Hon. Kieti: Hon. Speaker, I wish to lay the following Paper on the floor of the House today, Wednesday, 28th July, 2021; report of Committee on Trade Economic Planning and Industrialization on Garbage Collection in Mavoko, Tala/Kangundo and Machakos Municipalities. Thank you.

Hon. Deputy Speaker: Thank you, Hon. Kieti.

NOTICE OF MOTION

GARBAGE COLLECTION IN MAVOKO, TALA/ KANGUNDO
AND MACHAKOS MUNICIPALITIES

Hon. Kieti:

Hon. Speaker, aware that Article 183(3) of the Constitution of Kenya, 2010 provides that, the County Executive Committee shall provide the County Assembly with full and regular reports on matters relating to the County;

Informed that there was significant outcry from members of the public on uncollected garbage across the three municipalities of Machakos County namely Mavoko, Tala/Kangundo and Machakos; Cognizant that Standing Order 190(5) mandates sectorial committees to inquire into, investigate and report on all matters relating to their mandates;

Further, aware that pursuant to the Second Schedule of the Standing Orders the Committee on Trade, Economic Planning is mandated to oversight matters related to municipalities;

Informed that the Committee undertook site visits in the three municipalities to confirm the status of garbage collection and invited the Chief Officer, Decentralized Units and County Administration and Chief Officer, Housing and Urban Development to shed light on the issues raised and consequently compile a report;

Hon. Speaker, I wish to give notice of motion move the motion that this Hon. House discusses and approves the report of the Committee on Trade, Economic Planning and Industrialization on Garbage Collection in Mavoko, Tala/Kangundo and Machakos Municipalities.

MOTION

AUDIT REPORT OF MACHAKOS COUNTY ASSEMBLY CAR LOAN SCHEME FOR THE YEAR ENDED JUNE, 2018

Hon. Musau:

Hon. Speaker, that aware that 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;

Further aware that, Article 229(7) of the Constitution that states that Audit Reports shall be submitted to Parliament or the relevant County Assembly;

Cognizant that the Audit report of Machakos County Assembly Car Loan Scheme for the year ended 30 June, 2018 was received in the Assembly pursuant to Article 229(7) of the Constitution;

Further aware that the report was committed to the Committee on Public Accounts and Investments pursuant to Standing Order 185(2)(b) and (c) that states that “the Public Accounts and Investments Committee shall be responsible for examination of reports, accounts and workings of the County Public Investments and whether the affairs of the public investments are being managed in accordance with sound financial or business principles and prudent commercial practices”;

Aware that the committee after receipt of the report conducted several meetings with the Accounting Officer of the fund together with officers from the office of the Auditor General and consequently compiled a report;

Hon. Speaker, I wish to move the Motion that this House discusses and approves the audit report of Machakos County Assembly Car Loan Scheme for the year ended 30 June, 2018.

I call upon Hon. Ndambuki to Second.

Hon. Ndambuki: I second.

Hon. Deputy Speaker: Go ahead Hon. Musau.

Hon. Musau: The report of Auditor General on the Financial Statements of Machakos County Assembly Car Loan Scheme for the year ended 30 June, 2018 was received in the Assembly pursuant to Article 229(7) of the Constitution that states that “audit reports shall be submitted to Parliament or the relevant County Assembly.”

The report was committed to Public Accounts and Investments committee pursuant to Standing Order 185(2)(b) and (c) that states that “the Public Accounts and Investments Committee shall be responsible for examination of reports, accounts and workings of the County Public Investments and whether the affairs of the public investments are being managed in accordance with sound financial or business principles and prudent commercial practices.

COMMITTEE MANDATE

Hon. Speaker, the Public Accounts and Investments Committee is established pursuant to Standing Order 185(1) and (2), that states that 'there shall be a select committee to be designated the County Public Accounts and Investments Committee which shall be responsible for:

- a) The examination of the accounts showing the appropriations of the sum voted by the County.
- b) Assembly to meet the public expenditure and of such other accounts laid before the County Assembly as the Committee may think fit.
- c) The examination of the reports, accounts and workings of the County Public Investments.
- d) 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.

COMMITTEE MEMBERSHIP

Hon. Speaker, the Public Accounts and Investment Committee comprises of the following Hon. Members.

- | | | |
|----|-----------------------|--------------------|
| 1. | Hon. Joseph Musau | – Chairperson |
| 2. | Hon. Winfred Mutua | – Vice Chairperson |
| 3. | Hon. Paul Museku | Member |
| 4. | Hon. Alice Nzioka | “ |
| 5. | Hon. Johana Munyao | “ |
| 6. | Hon. Josephat Kasyoki | “ |
| 7. | Hon. Peter Mutiso | “ |

BACKGROUND INFORMATION

THE AUDIT PROCESS

Hon. Speaker, the audit process takes the following stages:

1. Letter of understanding sent to the audited entity.
2. Entrance meeting with the management of the auditee.
3. Audit queries raised and feedback sought.
4. Exit meeting is held.
5. Management letter is issued to audit officers and response sought.
6. Draft audit report is issued to auditee and response sought.
7. Final audit report issued.
8. Reporting to Parliament or the County Assembly.
9. Deliberation of reports by parliamentary and County Assemblies committees.
10. Reporting by Parliamentary and County Assembly committees.
11. Follow up on implementation of recommendations.

TYPES OF AUDIT OPINIONS

Hon. Speaker, according to the public audit regime in Kenya, there are four types of audit opinions:

1. Unqualified- It means that the financial statements are clean and give a true and fair view of the financial position of a public entity.
2. Qualified Opinion- It means that the financial statements are, by and large, fairly presented. However, there are specific discrepancies which could include an incorrect accounting policy, unrecoverable debts, misstated inventories or a discrepancy not recurring in the financial statements.
3. Adverse Opinion - It means that the financial misstatements, individually or in aggregate, are both material and pervasive to the financial statements. Simply the report is usually bad and negative.
4. Disclaimer Opinion - This means that the Auditor General was unable to obtain sufficient audit evidence upon which to base an opinion. In short, the available

financial statement could not be relied upon to warrant an opinion. This is the worst form of opinion an auditor can issue.

THE ROLE OF PARLIAMENT AND COUNTY ASSEMBLIES IN PUBLIC AUDIT

Hon. Speaker, according to Article 229(8) of the Constitution of Kenya, the role of Parliamentary and County Assembly committees is to determine outstanding audit issues and ensure appropriate action is taken. The law requires these bodies to prepare a committee report on the audit findings, for action by investigative agencies, which include the Police, Office of the Director of Public Prosecutions (ODPP), Director of Criminal Investigations (DCI) and the Ethics and Anticorruption Commission (EACC).

COMMITTEE SITTING AND EVIDENCE TAKING

Hon. Speaker, on receipt of this audit report, the committee held a meeting with Accounting Officer and representatives of the Auditor General to respond on the queries raised in the Audit report pursuant to Article 226(2) of the Constitution.

The following are the queries that were raised in the Audit report and the corresponding responses, observations and recommendations.

Query 1: Failure to prepare financial statements that complies with applicable Standards

The Fund Administrator of County Assembly of Machakos Car Loan Scheme Fund prepared and submitted annual financial statements to the Auditor General as required by law. However, comparison of the financial statements with the National Treasury financial statements revised template revealed the following anomalies;

- Lack of information on both Fund Committee members and management team.
- Lack of fund chairman's report.
- Lack of fund Administrator's report.
- Statement of corporate governance is lacking.
- There are no dates indicated against signatures.
- This statement is not signed by both chief finance officer and the Clerk to the County Assembly instead of the fund administrator.

The financial statements therefore do not comply with the requirements of IPSAS Accrual as prescribed by the Public Sector Accounting Statements Board.

Response

The Assembly had already prepared the financial statements by the time the revised template from the National Treasury was issued in August, 2018. The financial statements were amended to comply with IPSAS Accrual and included all the reports in question and the dates against the signatures. The Clerk to the County Assembly is the fund administrator and hence, he signed the financial statements in that capacity. A copy of the amended Financial Statement was forwarded to KENAO offices on 15th April, 2019 (*see from page 2 to page 8 for respective amendments*).

Observations

1. Section 101(4) of the Public Finance Management, County Governments Regulations 2015 provides that: An Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed by the Public Sector Accounting Standards Board. Based on this provision the committee observed that the Accounting Officer prepared the Financial Statements using the previous template.

2. The committee confirmed that the amended financial statements conformed to the revised IPSAS template and had included all the information stated in the query.

Recommendations

The Assembly should adopt fully the revised IPSAS template for the purpose of preparing future audit reports. The Institution should always keep in touch with Public Sector Accounting Standards Board (PSASB) for the purpose of acquiring new information.

Query 2: Inaccuracies in the Financial Statements

- i. The Fund Administrator of County Assembly of Machakos Car Loan Scheme Fund prepared and submitted annual financial statements which however were not supported by general ledger contrary to the provisions of Section 116(8) of Public Finance Management Act of 2012.
- ii. Financial Statement-Cash flow statement
The statement of net assets reflects bank balances (corporate savings) amounting to Ksh. 987,569, however the statement of cash flow indicates a Nil balance under cash and cash equivalents as at 30 June 2018, resulting to a variance of Ksh. 987,569 between the two sets of records which has not been explained. In the circumstances the accuracy and validity of financial statements presented for audit cannot be confirmed.

Response

- i. The Assembly engaged SBM (then Chase Bank) to manage the Scheme on its behalf. The Bank was to charge the loans 3 per cent interest and use the same as the administrative expenses of the same. Since SBM were managing the scheme, they managed the individual ledgers concerning the loans. The Assembly only disclosed the amounts outstanding under notes to the financial statements.
- ii. During the FY, the Scheme did not have any additional flow of funds as at the interest paid by members was used by the bank to defray the administrative expenses. The surplus for the FY was nil.

The bank balance (Corporate savings) of Ksh. 987,569 which has remained constant represents the only growth in value of the fund so far. So during the FY 2017/2018, the only inflow/outflow to the scheme was on interest charged (3 per cent) which was used by the bank to defray scheme administrative expenses. The net inflow in the cash flow statement was therefore Nil.

Observations

1. Pursuant to Section 104 of the PFM (County Governments) Regulations 2015, that provides for attachment of relevant documents in the Statements, the Assembly did not avail the supportive ledgers to support the Statements. Despite the Assembly relying on Chase Bank to administer the fund, the Assembly ought to have requested for copies of ledgers from the Chase Bank and avail them to the Auditors during the Audit time as required by the stated provision of the PFM.
2. There was noncompliance by the Assembly to disclose the 3% interest earned as control entry. Control entry indicates monies appearing as cash inflow but channeled to another user.

Recommendations

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1. The committee recommends that the MoU that controls governing the operation of the fund needs to be reviewed.
2. As per the provisions of Section 104 of the PFM (County Governments) Regulations 2015, the supporting ledgers which were not attached to the financial statement should be forwarded to the Auditor within 14 days of adoption of this report for the purpose of closing the query to avoid it recurring in the next audit report.

Query 3: Bank Balance

The financial statement reflects Ksh. 987,569 as bank balance while the trial balance and the bank statements each shows Ksh. 120,987,569 resulting in unexplained differences of Ksh. 120,000,000.

Further, note 7 to the financial statements disclosed bank balance of Ksh. 987,569 relating to Chase Bank, while certified bank balance from Chase Bank shows Ksh. 120,987,569. Further, the County Assembly holds a KCB account for the MCAs' Car Loan Scheme, whose balance of Ksh. 450 is not reflected in the financial statements.

In the circumstances the management is in contravention of Regulation 22(1)(c) of the Public Financial Management Act 2012, which provides that measures be taken to ensure preparation of financial reports that reflect a true and fair financial position of the Car Loan Scheme Fund.

Response

The statement of Net Assets reflects Ksh. 987,569 as bank balance. The trial balance shows a cumulative fund value of Ksh. 120,987,569 which represents the following: Ksh. 120,000,000 represents the seed capital while the Ksh. 987,569 represents the interest that was earned by the scheme (fund growth since the time it was established). It also represents the overall growth in the fund value. The Ksh. 450 in the KCB Car Loan Scheme account will be included in the future financial statements.

Observations

1. The Accounting Officer did not provide sufficient notes to explain the value of Ksh. 120,987,569, where Ksh. 987,569 was to represent bank balance and Ksh. 120,000,000 to represent the original capital deposited to the Chase Bank.
2. Further, the committee noted that the financial statement did not contain all entries required to balance the credit and debit side of the statement hence the disparity noted in the query.

Recommendations

Proper disclosures should be done on audit queries at the time of audit. At the same time all matters raised in the draft report from the Auditor need to be addressed urgently to avoid them featuring in the final audit certificate.

Query 4: Unresolved Prior Year Period Issues

Presentation of Financial Statements and Disclosures

Financial reporting Framework

Contrary to the guidelines issued by Public Sector Accounting Standards Board (PSASB), the financial reporting framework applied was not disclosed in the financial statements. Consequently, the financial statements did not conform to the reporting requirements as prescribed by PSASB.

Response

The County Assembly used Accrual Basis Method of financial reporting and this was disclosed in the statement of Car Loan Scheme Fund Management Responsibilities.

Observations

The queried matter and the response are not matching. The committee sought to confirm from the financial statement the date it was received in the office of the Auditor. Also sought to know when the draft report was received in the Assembly.

The financial statements of the Assembly were received in the office of the Auditor general on 3rd October, 2018. Under the subheading on Management responsibilities, paragraph 3, the committee confirmed that the Accounting Officer stated the reporting framework as accrual basis hence the reporting framework was disclosed. The committee was therefore satisfied with the response.

Statement of Receipts and Disbursements

The statement of receipts and payments is prescribed by the Public Sector Accounting Standards Board as a component of the financial statements to be prepared under IPSAS reporting framework instead of the statement of receipts and disbursements which was prepared and submitted by the Fund's management for the year under review.

Further, administration cost on money disbursed totaling Ksh. 689,223 was not explained in form of a note to the financial statements.

Response

The Assembly prepared statements of Receipts and Payments as a component of the financial statements and not statement of Receipts and Disbursements as indicated in the query.

The County Assembly signed a MoU with Chase Bank that the funds transferred would be kept under lien and that the Bank would lend out its own money to the members and in return earn the 3 per cent interest and use the same to defray administration expenses of the scheme. During the FY, the total interest earned was Ksh. 694,491.98 as indicated in the letter from Chase Bank and the full amount was used by Chase Bank in administering the fund. A note to the financial statement has been provided as shown on page 33 of the amended financial statements.

Observation

Public Sector Accounting Standards Board recommends use of the terms receipts and payments and the committee confirmed from the statements received by the Auditor that the terms used were actually receipts and payments and not receipts and disbursements as raised by the Auditor. On this matter the committee was satisfied with the response.

On the matter of disclosing what the Ksh. 689,223, the committee noted that this is a simple accounting matter that could have been avoided just by providing disclosure notes.

Recommendations

The Management should fully disclose relevant information needed by the auditors during the time audit.

Fund Administrator/ Manager under Receivership

As reported in the previous year, the Machakos County Assembly Service Board contracted Chase Bank (K) Limited to administer the Car Loan Fund Scheme through a memorandum of understanding dated 24 February, 2014. However, on 6 April, 2016 Chase Bank (K) Ltd was placed under receivership by the regulator, Central Bank of Kenya. During the intervening periods, funds held by Chase bank have not been accessible.

Further, interest ought to have been payable on the deposits and fund balances being held by the bank continue to earn nil interest. This state of affairs has negatively impacted the operations of the Fund.

Response

Since April, 2016, Chase Bank had been put under receivership and the Assembly was assured by the receiver manager and CBK that the receivership would be lifted and this was done in August, 2018 when SBM took over. The County Assembly has been able to access funds to disburse loans to the MCAs. This state of affairs has not affected the operations of the fund in a significant way as all new applications are currently being processed.

The Assembly placed the funds in a fixed deposit as it is stipulated in the MOU between the County Assembly and Chase Bank. Since Chase Bank was placed under receivership, there was no interest earned on funds placed under fixed deposit as the bank was paying interest on deposits at a rate of 0 per cent.

Observations

1. The County Assembly had no control over what happened to Chase Bank on being placed under receivership.
2. KCB took over to process applications from April, 2016 to August, 2018, hence members benefited and there was no gap in provision of services.
3. Notwithstanding the above observations, the committee noted that the accounting officer failed to disclose that KCB took over the assignment to serve the Assembly after Chase Bank was put under receivership.

Recommendations

1. The fund administrator should ensure that the MoU is strictly adhered to at all times.
2. The fund administrator should ensure that provisions that adequately address such unforeseen circumstances are incorporated during the review of the MoU.

Query 5: Compliance with the Fund Regulations

Appointment of Fund Administrator

The statement of net assets reflected a reserve balance of Ksh. 120,987,569 (2015/2016-Ksh. 120,983,574) as at 30 June 2017 being transfers from the County Treasury into the Fund and accumulated surpluses. The memorandum of understanding between the Machakos County Assembly Service Board (MCASB) and Chase Bank (K) stipulated that:

- i. The County Assembly was to transfer Ksh. 130,000,000 into the Fund Account, where the money would serve as lien for the car loan scheme fund. However, since inception of the Fund and as at 30 June 2018, only Ksh. 120,000,000 had been transferred into the Funds bank account. No explanation has been provided by the management on the shortfall.
- ii. An amount of Ksh. 6,600,000 representing 5.5 per cent of the fund deposited and non- interest earning was to serve as default reserve; and
- iii. The bank was to manage the Car Loan Scheme Fund. However, the Machakos Car Loan Scheme Fund Regulations, 2014 Section 6(2), denotes the Clerk of the County Assembly as an ex-official of the Fund Committee to Administer the Fund.

Response

- i. During FY 2014/2015, the County Assembly received Ksh. 120,000,000 for Car loan fund scheme. The Assembly has 60 members including the Hon. Speaker and the County Treasury considered this when releasing the funds to the Assembly that is 60

- members with each entitled to Ksh 2 million; hence there was no shortfall in the funding of the seed capital.
- ii. According to the MOU signed between the County Assembly and Chase Bank, a default reserve of Ksh. 6,600,000 was to be established. This was to cushion the bank from default in repayment by members.
 - iii. According to the County Assembly regulations, the Assembly had two options; for the Assembly to either manage the fund itself or a financial institution manages it on its behalf. The Assembly opted for the management of MCAs scheme by a financial institution. SBM is currently doing this to the satisfaction of the Assembly.

Observations

1. The Accounting Officer did not disclose the basis of agreeing to deposit 130 million now that the treasury transferred 120 million considering 60 Members of the Assembly.
2. By depositing 120 million this was a breach of the MoU.
3. The Assembly did not renegotiate to warrant it to deposit 120 million instead of Ksh. 130 million as stated in the MoU.
4. The logic of setting up Ksh. 6.6 million to serve as cushion for default was not realistic since the bank was doing the administration of the fund and since they had money in lien to deduct any default cases there was no reason to set up the default reserve.
5. Further members questioned why Ksh.6.6 Million was deposited earning no interest as per MoU.

Recommendations

1. The fund administrator should ensure that the Machakos Car Loan Scheme Fund Regulations, 2014 are adhered to strictly.
2. The fund administrator should adhere to MOU governing the administration of the fund.

Car Loan Scheme Regulations

The Car Loan Scheme Fund regulations, Machakos County Assembly (Car Loan Scheme) Fund Regulations 9(2) required the log book to be registered jointly with the Fund and the Fund Administrator keep custody of the log book. However, the loans were issued to the members of County Assembly without;

- i. Valuation reports in the case of second hand motor vehicles and manufacturer/ dealer invoice for new vehicles financed; and
- ii. Documentary evidence of joint registration of ownership of the vehicles in name of the Fund and the borrowers.

From the foregoing, the fund was in breach of the Machakos County (Car Loan Scheme Fund) Regulations, 2014 and memorandum of understanding signed between the Board and the bank.

Response

At the start of the first Assembly, most of the Members had obtained loans to buy motor vehicles with commercial banks, and the car loan scheme was operationalized midterm, and what the bank (administrators of the scheme) did was to repay the commercial loans and request the surrender of the original log books to the assembly. The original log books were surrendered to & retained by the office until the loans were fully repaid.

For the members who had not taken loans to buy vehicles from commercial banks, they were requested to bring Proforma invoices/valuation reports for the vehicles they were buying, and the bank (administrators of the scheme) paid the vendors directly. The log books of the said vehicles were also surrendered to the office and were only released upon full repayment of the loans. The Assembly did not pursue the joint registration of the logbooks but all the loans disbursed were fully repaid.

Observations

1. Initially before the regulations were enacted, Members were being funded by commercial banks to purchase cars until when the regulations came into force. From the foregoing, there was no basis to provide the documentaries stated in the query. However during second Assembly, the provisions of valuation report and proforma invoice have been complied with when entering into an agreement with any member applying to benefit from a car loan.
2. As per the response given by the accounting officer, the Assembly did not do joint registration of the vehicles purchased contrary to Section Fund Regulations 9(2) of the car loan regulation scheme.

Recommendations

1. The fund administrator should ensure that due procedure is followed and requisite documents provided before monies are paid from the fund.
2. The management should ensure full disclosure of information to auditors during the time of audit.

CONCLUSION

Hon. Speaker the management of public funds is an issue the Kenyan population is passionate about. A fundamental objective of every government is maintenance of fiscal discipline, resource mobilization, strategic resource allocation, and efficient delivery of public services.

Hon. Speaker, when the devolved system of government was adopted in Kenya, the importance of establishing strong and effective public financial systems at the County level became inevitable. There has been considerable effort towards establishing the foundations of a sound PFM system in many areas within the devolved system of government in Kenya. Although implementation of the PFM systems in the Counties is still in its formative stages, considerable achievements have been made in many fronts.

It is therefore my privilege and pleasure on behalf of Public Accounts and Investments Committee to table before this Hon. House the report on Financial Statements of Machakos County Assembly Car Loan Scheme Fund for the year ended 30 June, 2018 for discussion and adoption. Thank you, Mr. Speaker. Special regards to our Clerk Assistant Luke Maingi.

Hon. Deputy Speaker: Thank you, Hon. Joseph Wambua Musau.

(Question proposed)

Hon. Members, you may discuss the report. Hon. Helen.

Hon. (Ms.) Ndeti: Thank you, Mr. Speaker. First and foremost, I would like to congratulate the Committee that took time to write this report. Secondly, I would plead with the Assembly because right now the internet has not been working we do not have the reports and *Mheshimiwa* is

very fast in reading, I think I picked very few issues here and there. What I would say is that all these irregularities that have been mentioned in the report should be addressed. Thank you.

Hon. Deputy Speaker: Thank you. Hon. Moses Mitaa.

Hon. Mitaa: Thank you, Hon. Speaker, for the opportunity. I want to echo words by Hon. Hellen. I raised a concern yesterday that we are unable to use our iPads and for the last six months, it has been the norm; there is no internet Hon. Chair. I understand yesterday in the afternoon, mid-morning County Assembly Service Board (CASB) had a sitting and I hope that issue was discussed. I think now we must agree that going forward, if there are no enough copies for Hon. Members or internet, reports should not be read. We can cripple business until we get what is duly our, Hon. Chair.

On the report, I want to applaud the PAIC Committee, I want to thank my colleague Hon. Joseph for taking us through the report. Hon. Chair, there are concerns which have been raised in the report and of main interest, there is something I have picked and I want to see if we can get a response, Hon. Chair. Under 4.1.2, statement of receipts and disbursement, there is a response which I would really want to understand when they say, 'during the FY 2018/2019, the total interest earned was Ksh. 694,491.98 as indicated in the letter from Chase Bank and the full amount was used by Chase Bank in administering the fund.' May be Chairman can elaborate as he responds on how these funds were utilized by the bank and yet it was interest. So, Hon. Chair, maybe I need that clarification and if no clarification maybe the accounting officer can explain to this Hon. House much on this thing. Thank you, Mr. Chair.

Hon. Deputy Speaker: Thank you, Hon. Moses Mitaa. Hon. Jeremiah.

Hon. Munguti: Thank you, Mr. Speaker. I have two observations that I have seen from this report and I would like to air them; this is query No. 3 on bank balances. Mr. Chair, you bear me witness that the money which was reflecting in the account was Ksh. 987,569 as bank balance while in the trial balance the statements were showing Ksh. 120,987,569 and the explanation of Ksh. 120 million is not clearly indicated and if it purports in this report that out of the Ksh. 120,987,569, Ksh. 987,569 was interest accrued, Mr. Speaker I would like to know how was the interest beneficial to this County Assembly of Machakos.

Also, Mr. Speaker, according to the report the agreement between the administrator and the Assembly was that Ksh. 130 million was to be deposited and instead Ksh. 120,987,569, was deposited and Ksh. 6.6 million was reserved as default. Mr. Speaker, I would like to know why it was so done because whenever I have issues with my car loan, I am always called by the bank to go and reconcile my accounts. And now as per the report I can see Ksh. 6.6 million was established to cushion for the default of repayment by the Members of the Assembly and therefore the report, according to me, looks like there is something fishy which is not coming out of the report.

I want to congratulate the Chairman because according to the observations and the recommendations and their findings are showing clearly there was some misappropriation of funds which were managed by an administrator which was authorized by our County Assembly and therefore my humble request to your Chair that if we can call the administrator to come and explain further how these funds were utilized as per the members. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you, Hon. Jeremiah. Do we have any other person who want to comment on the outside chamber? Okay no one there. Hon. Minority Leader Alex Kamitu.

Hon. Kamitu: Thank you, Hon. Speaker. I would like to appreciate the good efforts that our chair for PAIC has done and my contribution will be very minimal in a sense that I was in the First

Assembly and Hon. Speaker, in regard to the car loan of the 60 Members of the Machakos County Assembly, we were given Ksh. 120 million in relation to Ksh. 2 million per every Member. So on that regard the observation that has been made by the true Hon. Members who have spoken before me, I would recommend, because so far, the officers of Chase Bank by then which is now known as SMBK, because the same officers are there I think it is important for the committee to summon the officers who are dealing with that transaction so that they may give light on the Ksh. 987 million that has been mentioned or we have seen as a trial balance.

The officers are still there and in existence the MoU of the car loan scheme is still on so that we may not make another further mistake so it is important for the committee now to summon our loan administrator in the Assembly and the bank official to shed light on exactly the questions that have been raised by the Hon. Members. Thank you, Hon. Speaker.

Hon. Deputy Speaker: Let me just comment on that item before we go ahead on this. I think there is a typo in the report which has been brought here because the Ksh. 120 million, if you look at the report itself, it says that the financial statements reflect Ksh. 987,569 as bank balance while the trial balance and the bank statements, the important thing there is the bank statements reflect a balance of Ksh. 120,987,569. The bank statements are the third-party documents; those are the ones you go with.

If I give you my position, my print out from the system of my bank transactions and you have to compare it with the actual bank statements which has been printed by the bank, you go with the one printed by the bank because that is what the bank is showing as the actual balances which were there. So, it is evident here that there was a typo because I am a member of that committee and I remember we clearly said it was an error not to include the Ksh. 120 million as part of the financial statements because they are already included in the bank statements.

So they only reflected the interest the growth of the account Ksh. 987,569 in the financial statements and forgot to include the amount of money which had been deposited there Ksh. 120 million which is what Hon. Members use to get car loan and get it paid back so that fund remains at Ksh. 120 million. You withdraw it but you keep on lumping it back as you repay.

So, when you look at the way the explanation was done here, is that the Ksh. 120 represents the seed capital which is correct and that amount was sitting in the account as at close of business of that period and that is why the bank statement reflected it as Ksh. 120 million. So it is our financial statements which did not capture the Ksh. 120 million but the third-party document which is the bank statement reflected the Ksh. 120 million. So, it was an error by the accounting officer here not to have included the Ksh. 120 million in their financial statements and this would have become an issue if the bank statements were showing Ksh. 987,569, whereas the financial statements were showing Ksh. 120 million and that would have been a problem.

As long as the bank statements are showing Ksh. 120 million and it is our statements which have not reflected the Ksh. 120 million then it is an error on our part and therefore the funds have not been misappropriated. Had they been misappropriated they would not be reflecting in the bank but they would be reflecting in our financial statements. So, that to me and that is why you have seen I have discussed with the Chairman that when the Clerk Assistant was doing the final submission he omitted that portion of it and it is very good that Hon. Members have picked it and I believe the report is going to be amended accordingly to be able to reflect what the committee observations were for. Thank you. Hon. Abdirahman.

Hon. Abdirahman: Thank you, Hon. Speaker. On page 11, 4.2.2 Fund Administrator; I have a question here where it reads "further, interest ought to have been payable on the deposits and fund balances being held by the bank continue to earn nil interest." I think in my entire life where money is committed in any conventional bank, it must earn an interest so this now reads a nil interest so we need clarification on that one.

(Applause)

The other one is about....I want to make a comment on the internet and it is very important. As a committee Vice Chair of broadcasting and library service committee, we will take up the matter to the relevant department and we will make sure that things will go smooth. Thank you.

Hon. Deputy Speaker: Thank you, Hon. Ali. Any other member before I call the mover of the motion to respond and give clearance. Hon. Musau.

Hon. Musau: Thank you, Mr. Speaker. May I start by responding to *Mheshimiwa* Ali on why the money earned nil interest? The Chase Bank, during that time, went under receivership and during receivership, all monies in any given bank account are nil interest; the bank is not operational. Secondly, on the whereabouts of the Ksh. 987,569 interest as asked by Hon. Mitaa, in 2014, the County Assembly of Machakos went into agreement with Chase Bank and they agreed upon an interest of 3 per cent shall be earned by the money deposited with Chase Bank.

The same money, the 3 percent accrued, shall be used as administrative cost. What does this mean? This County Assembly pays us our salaries and whenever that money is paid an amount between Ksh. 120 to 200 is deducted from our salary directly. What is that money for? It is an administrative cost. Every money we get from this Assembly either between Ksh. 100 to 200 depending on which bank is deducted from those monies so instead of the County Assembly paying extra money which is practical they agreed with the bank that the money earned as interest which is three percent far much below the normal 14 per cent should be utilized by the bank to administer.

If the Assembly chose to administer the fund itself then the money with the bank could earn even more interest and the interest would be the County Assembly money, but how practical is it for the county assembly to administer the fund.

In addition to what *Mheshimiwa* Deputy Speaker has said, in the MoU Ksh.120 million was deposited in Chase Bank and put under fixed deposit and now the bank was to lend its own money and that is why it is coming out still as an asset for the County Assembly now that the money is reflecting in the bank statements up to the day of audit, and I still believe up to now if the statements are taken, the same Ksh. 120 million should appear again because the Bank is lending its money this Ksh. 120 million should be in a fixed deposit as agreed between the County Assembly and Chase Bank.

Hon. Speaker, I would wish to thank these members so much despite the major challenges we are facing, they have been very attentive to the report. I want to thank their insights, I want to thank their audience, I want to thank their cooperation. Thank you, Mr. Speaker.

(Applause)

Hon. Deputy Speaker: Thank you very much, Hon. Musau.

(Question put and agreed to)

Hon. Members, as is custom before we adjourn, I have one or thanking you all for the active participation you have had on this very important document which has come before the House. One item which I want to comment on is the Ksh. 6.6 million which has been mentioned and has not been responded to; I think the report is very clear on that, that Ksh. 6.6 million should not have been provided for in the first place and the committee has observed that because it was provided for in case of default but it is the County Assembly which is deducting the fund. How can it default then?

So, there was something fishy there because the County Assembly is the one which is deducting the money so it cannot now say you keep some money in case somebody defaults, you are the one who is deducting, how can someone default? And further still it was not earning any interest, so you put Ksh. 6.6 million there Hon. Ali has said if you put any money anywhere you expect that money to earn some interest and that is why we said that should be completely withdrawn from the MoU, there should be no funds set aside so that now in case somebody defaults it was a way of really putting money somewhere for some other purposes; I don't think it was made for that. I think it might have been meant for something else but the committee has already highlighted that and actually say that it needs to be removed from operation and I do believe the accounting officer has since done the same.

The other item is the issue on internet. Yes, I hear the Hon. Whip what he has said and I have discussed with the Secretariat. We need to ensure we have internet at all times. I understand our internet here is provided for by the government but as an entity we need to procure and have with us as a fallback position because other private organizations that do not get internet from the government have their own internet facilities. An important facility like this one which is serving the people of Machakos we cannot now say Hon. Members cannot access documents because there is no internet.

In the government unless you are saying there is no internet from the service providers, but here I understand it is the issue to do with the kind of service we are getting from the central government. So, what we need to do is to ensure that what I have requested the Secretariat to do is for the Assembly to secure their own internet facility so that if the other system is down then you go on with the other just like a generator.

If Kenya Power goes off-grid you know when to put on a generator and you continue with your operations. So that needs to be done and if it is not put in place then there is no way then we are going to come into the Assembly and say we are not printing documents and Hon. Members cannot access online. So, we need to ensure that either the internet is there provided which is paramount number one, then secondly is to ensure if there is no internet sufficient copies are printed and provided to Hon. Members for them to be able to follow on the debate.

ADJOURNMENT

Hon. Deputy Speaker: So, thank you very much, Hon. Members. The House stands adjourned to resume again on Wednesday 28th July, 2021 at 2.30 p.m. Enjoy the rest of your morning.

The House rose at 11.13 a.m.