

**COUNTY GOVERNMENT OF BUNGOMA**

**COUNTY ASSEMBLY OF BUNGOMA**

**COUNTY ASSEMBLY DEBATES**

**THE DAILY HANSARD**

**THURSDAY 13<sup>TH</sup> APRIL, 2023**

**Afternoon Sitting**

## COUNTY ASSEMBLY OF BUNGOMA

### HANSARD OFFICIAL REPORT

THURSDAY 13<sup>TH</sup> APRIL, 2023

The House met at 2:30 p.m.

(Mr. Speaker [Hon. Emmanuel Situma] in the Chair)

### PRAYER

### COMMUNICATION FROM THE CHAIR

Honourable members, I have three communications to make;

The first one is from the Office of the Governor to the Clerk of Bungoma County Assembly forwarding the names of the nominees for consideration for appointment to the position of the County Executive Committee Member to Bungoma County Government.

Forwarded here in, please find the details for the nominee for the above position for consideration and vetting and approval by the County Assembly.

Department; Gender, Culture, Youths and Sports, Name of the Nominee; Engineer Agnes Naliaka Wachie, Gender; Female, Sub County Sirisia, Qualifications Bachelor's Degree in Electrical and Electronics Engineering. Honourable members, being a CEC nominee that is basically the work of the Committee on Appointments and I proceed and commit the said nominees' name to the Committee on Appointment for vetting and reporting back to the House accordingly.

The second communication is from the County Government of Bungoma, Office of the Governor to the Clerk County Assembly of Bungoma, Reference; Forwarded names of nominees for consideration of Appointment to the positions of the Chief Officer in County Government of Bungoma.

Forwarded here in, please find the details of the nominees for the above positions submitted for vetting and approval by the County Assembly of Bungoma.

Department; Education and Vocational Training, Name of the Nominee Nicholas Kiboi, Gender Male, Sub county, Mt Elgon, Qualification BED in Science. I proceed to commit the said name to the committee on Education and ICT for vetting and reporting back to the House accordingly.

Second nominee is for the Department of Trade, Energy and Industrialisation. Name of the nominee is Reuben Wambwa, Gender is male, sub county Kanduyi. Qualification Masters of

Business Administration. I proceed and commit the said nominee's name to the Committee on Trade, Energy and Industrialisation for vetting and reporting back to the House accordingly.

*(Members standing at the door to take seats)*

**Mr. Speaker:** Honourable members, kindly take up your positions before I proceed!

Thank you.

Thirdly, Department of Health and Sanitation. Dr. Mayama Magrina Kilui, female; Sub County, Webuye West; Qualification, Bachelor of Dental Surgery. Honourable members, I proceed and commit the nominee's name to the Committee on Health and Sanitation for vetting and reporting back to the House for consideration.

We go to Department of Public Service and Management. Nominee's name Everlyne Teresa Wekesa. Gender Female, Sub County Sirisia, Qualifications Masters of Education in English and Education. Honourable members, I proceed and commit the said nominees name to the Committee on Public Administration and ICT for vetting and reporting back to the House accordingly.

*(Other members standing at the door to take seats)*

Honourable members, kindly take up your positions before I proceed!

Honourable members, the next department is Agriculture. The name of the nominee is Robert J. Simiyu Gender is male Sub county is Kanduyi, Qualification Masters in Planning. Honourable members, I proceed equally and commit the said nominee's name to the Committee of Agriculture, Livestock and Fisheries for processing, vetting and reporting back to the House.

Lastly Honourable members, the next department is Co-operatives. The name of the nominee is Beatrice Nakhumicha Wafula. Gender is female, Sub County is Kabuchai, and Qualification is B.A with Education. Honourable members, I equally proceed and commit the said nominees name to the Committee on Lands, Physical Planning and Co-operatives for processing and reporting back to the House accordingly as per our relevant Act on vetting and approvals.

It has timelines and I urge the respective sector chairs and committee members to proceed and process and report back to the House before we go for our long recess.

Looking at our calendar, we are proceeding on long recess on 5<sup>th</sup> of May for one full month, so between now and that 5<sup>th</sup> of May, we must run around to process the names and report back to the House for approval or rejection before we proceed to that long recess.

Lastly, in our public gallery today, we have visitors who are basically students from St. Antony Sirisia that is from Sirisia Sub County. I think Malakisi/Kulisiru ward. They have

come to the Assembly of Bungoma to learn from us and they are very specific on what they want to learn from us here.

They want to know how the National Government relates with the County Government, how devolved units foster unity with the National Government, duties of the Clerk, Speaker of the County Assembly, Leader of Minority, Leader of Majority, the Whips, Sergeant at Arms and how is the Speaker elected and other challenges that face and other items and I think our communication department has done their work.

They are now doing the practical part of it. They are 55. I will ask all students to be upstanding.

*(Students rose)*

Thank you, Kindly be seated!

They are accompanied by the following teachers;

1. Maria Musamali - H.OD
2. Euniva Kiveu - H.O.S
3. Makokha Samwel
4. Geoffrey Khisa

Kindly be seated!

Honourable members, during our statement hour, we will be able to allow Honourable members to make some brief remarks before we go to the next item on our Order Paper.

We will now proceed as per the Order Paper.

## **STATEMENTS**

BUSINESS OF THE WEEK COMMENCING TUESDAY 18<sup>TH</sup> TO THURSDAY 20<sup>TH</sup>  
APRIL 2023

**Mr. Speaker:** Hon. Joseph Nyongesa!

**Hon. Joseph Nyongesa:** Thank you, Mr. Speaker. I hope you have settled with Hon. Waiti.

**Mr. Speaker:** After some small consultations, I will be able to come back to him if there is any error in the committing of the name, then I will be able to rectify. There is no problem. We are still in session.

**Hon. Joseph Nyongesa:** Thank you, Mr. Speaker. Allow me read the tentative weekly program for the business of the County Assembly pursuant to the Standing Order No. 42 for the week commencing from Tuesday 18<sup>th</sup> - 20<sup>th</sup> April, 2023.

**Tuesday 18<sup>th</sup> April, 2023 at 2:30 p.m.**

### **Petitions**

Chairperson of the Committee on Justice, Cohesion and Legal Affairs; on the Joint report by the Committee on Justice Cohesion and Legal Affairs and sectoral Committee on Health on the petition by the Kenya National Union of nurses, Kenya Medical Union of Laboratory Officers and Kenya National Clinical Officers.

### **Statements**

1. Response from the County Executive Committee Member for Roads, Transport, Infrastructure and Public Works on a statement sought by Hon. Jack Wambulwa in respect of the implementation of CEF Road projects in Kimaeti ward in the Financial Year 2019/2020 and 2020/2021 and 201/2022.
2. Response from the County Executive Committee Member for Roads, Transport, Infrastructure and Public Works on the statement sought by Hon. Antony Lusenaka in respect of the construction of Lumoro to Lutaso to Namirembe Road.
3. Response from the County Executive Committee Member for Public Administration and ICT to a statement sought by Hon. Antony Lusenaka in relation to the construction of ward offices in Bukembe West ward.

**Wednesday 19<sup>th</sup> April, 2023 at 9:30 a.m.**

### **Papers**

Chairperson, Committee on Trade, Energy and Industrialisation to table a report by the sectoral Committee on Trade, Energy and Industrialisation on the status of the Trade loans in Bungoma County

### **Notices of motion**

Chairperson, Committee on Trade, Energy and Industrialisation to move a notice of motion on the report by the sectoral Committee on Trade, Energy and Industrialisation on the status of the Trade loans in Bungoma County

### **Motion**

Chairperson, Roads to move a motion on the report by the sectoral Committee on Roads Transport, Infrastructure and Public Works on the status of Construction of the Kanduyi to San'galo junction C33 road to Dual Carriage Way contract number BGM/CNTY/OT/184 2018-2019

**Wednesday 19<sup>th</sup> April at 2:30 p.m.**

### **Papers**

Chairperson, Committee on Selection to table a report by the Committee on Selection on balancing of Honourable members to County Assembly committees

### **Notice of motion**

Chairperson Committee on Selection to move a notice of motion on balancing of the Honourable members to the County Assembly committees.

### **Motion**

Chairperson, Committee on Gender, Culture and Social Welfare to a motion on the status of Gender Based Violence cases in Bungoma County.

**Thursday 20<sup>th</sup> April at 2:30 p.m.**

### **Papers**

Chairperson on Implementation to table a report on the status of the Bungoma County Vocational Training Centres Policy

### **Notices of motion**

Chairperson on Implementation move a notice of motion on the status of the Bungoma County Vocational Training Centre Policy

### **Statements**

Statement informing the County Assembly of the weekly business for the week commencing Tuesday 25<sup>th</sup> to Thursday 27<sup>th</sup> April, 2023.

### **Motions**

1. Chairperson, Committee on Selection to move a motion on the balancing of Honourable members to the County Assembly committees.
2. Chairperson, sectorial Committee on Lands, Urban, Physical Planning and Housing to move a motion on the implementation status of the special plans land registry and GIZ laboratory in the County

**Mr. Speaker:** Honourable majority, once you finish you table it; you don't retain it. It is no longer your property.

**Hon. Joseph Nyongesa:** Thank you, Mr. Speaker. Allow me table it.

**Mr. Speaker:** Honourable members; that is our tentative weekly program for next week. Honourable members, I have just been able to cross check this department of Co-operatives. It is under Agriculture and not Lands as per my earlier committal of the name. Honourable members, you have Standing Orders, you can go and check Standing Order 218.

I did that committal; I must rectify and expunge it. It is on HANSARD members! Honourable members, that means my earlier committal of the name of Beatrice Nakhumicha Wafula from Kabuchai with qualification B. Education to the Committee on Lands, Physical and Urban Planning is hereby expunged from our HANSARD and I make a fresh committal of the department being Co-operatives the nominees name is Beatrice Nakhumicha Wafula, Gender

is female, Sub county is Kabuchai, Qualification B. Education. I commit the said nominees name to the Committee on Agriculture, Livestock, Fisheries, Irrigation and Co-operatives development to the said committee for vetting and reporting back to the House accordingly.

Honourable members that is being provocative to your brothers and sisters. The other day one member was making fun on my Committee of Appointment with Honorable Majority Leader, but luckily God has heard our prayers.

Allow me allow Honorable Members to make few remarks about our visitors in the Public Gallery before we proceed.

#### ENCOURAGEMENT MESSAGES TO STUDENTS FROM ST. ANTONY SIRISIA

**Hon. Everlyn Mutiambu:** Ahsante sana Spika kwa kunipa fursa hii kukaribisha Walimu na Wanafunzi wa shule ya upili ya Sirisia. Ni shule kati ya shule kumi zipatikanazo katika Wadi ya Malakisi. Nataka kushukuru Walimu kwa kuongoza wanafunzi wa somo la historia kuja ili wajifunze jinsi mjadala hufanywa katika jumba hili.

Wanafunzi nataka kuwaambia ya kwamba mtie bidii katika masomo yenu. Mwe na heshima kwa walimu, Viongozi na kwa wazazi wenu pia. Shule ya upili ya Sirisia ni shule inayofanya vema katika eneo langu. Shule hii hupeleka watoto wengi katika vyuo vikuu na ni kwa ajili ya bidii ya walimu, kwa hivyo nasema kongole sana kwa walimu wa shule yetu ya Sirisia.

Nataka kuhimiza wanafunzi watie bidii katika masomo yao, wakimaliza kidato cha nne, kuna matatizo mengi sana kule nnje. Sasa hivi wazazi wenu wanasumbuka kuwanunuliwa nguo, vitabu na kila kitu lakini makimaliza kidato cha nne, maisha itabadilika. Kwa hivyo nawahimiza mtie bidii katika masom yenu ili maisha yenu yawe mazuri baadaye.

*(Applause)*

Nataka kusema kwamba mimi binafsi nlikuwa mwanafunzi katika shule hii. Ilikuwa kabla ya kufanywa kuwa shule ya wavulana. Ndiposa mwaona kwamba kisiasa mimi nang'ang'ana na wanaume.

*(Applause)*

Mimi hujiona kuwa sawa na wanaume ndio maana nimechaguliwa mara tatu niking'ang'ana na wanaume nikipewa hiyo nafasi. Nilikuwa kati ya wasichana wanne. Nilikuwa msichana pekee kutoka kidato cha kwanza hadi cha nne, kwa hivyo mimi napenda shule yetu na ningependa kuwahimiza wanafunzi wetu ya kwamba mtie bidii na msome vema ili muweze kufanikiwa katika maisha. Ukitaka kula vizuri, tia bidii katika masomo. Ukitaka kununua gari nzuri kama hizi za waheshimiwa, naomba mtie bidii. Ahsanteni, Mungu abariki shule yetu ya Sirisia wanapoendelea na masomo yao.

*(Applause)*

**Mr. Speaker:** Thank you, Hon. Mutiambu. I think she has been so clear. I don't want to hear Hon. Nangulu claiming that the students are coming from his area.

**Hon. Charles Nangulu:** Thank you, Mr. Speaker. I stand here to welcome St. Anthony Sirisia School. I'm told this is a History Class Form 4. You are welcome and this is our Assembly. This School comes from Kulisiru in Sirisia Ward that neighbours Namwela. Since I'm the MCA for Namwela and I come from Sirisia, St Anthony is one of the best Schools that we have in Sirisia Constituency, Sirisia Sub County. It is right behind Namwela Boys, Chwele Girls and Butonge.

What I can say to students is that I wish them the best and as they sit for their exams, every grade counts. We do not only look for As, now we have every grade counting to have everyone joining University, College or any TVET institutions. As you struggle to get As, others who will get other grades, we congratulate you and ask you to come and face the World. We are prepared as a Government and as a Country that every student who sits for form four exams, apart from E's. If you get an E ensure that you have class eight certificate that will take you to college.

When I'm seated with these students I keep on telling them those who have graduated, it is hard for us as leaders for you to come and ask us that you need a job, that I can do any job. Any jobs are not available nowadays. As soon as you clear your form four, you have your KUCCPS; find yourself a college so that you become a professional. You could be a plumber, carpenter or even a doctor from these Colleges. All marks are welcome. We wish you the best and as Hon. Mutiambu will be sitting you out there, I will join you so that we can talk to you privately.

*(Applause)*

**Hon. Maureen Katila:** Thank you for the opportunity to address the students from Sirisia. My name is Hon. Maureen Katila from Sirisia Constituency, Namwela Ward a nominated MCA. I want to tell our students from Sirisia that education is the key to success and it is the only bridge between the poor and the rich.

Secondly, you need to have discipline, respect and obey your teachers always, if you want to be successful in your life. You are the future generation and the future counts on you. The community therefore requests you to work harder to be the leaders of tomorrow.

**Hon. Stephen Kaizer:** Ahsante Bwana Spika kwa kunipa fursa hii kuongea na wanafunzi kutoka katika shule ya Sirisia. Jambo la kwanza ningependa kuwaeleza kwamba dunia ya sasa yapendelea akina dada sana. Kuna Makundi mengi ambayo yamechipuka ya kutetea haki za akina dada. Kama wavulana inabidi mtie bidii sana ili tupate kufunga lile pengo na ile tetezi iliyo kwa akina mama, la sivyoy, siku zinavyosonga, tutapata ni akina mama wanaotuongoza katika kila jambo.

*(Applause)*

Jinzi mwakilishi wenu amesema kwamba anang'ang'ana na wanaume na anawabwaga, nataka mvunje rekodi katika lile Wadi lenu. Mhakikishe kwamba baada ya mheshimiwa Mutiambu, twapata mwanamme atakaye kuwa wakilishi Wadi lile.



**Mr. Speaker:** Thank you, Honorable Stephen. Hope you know that I'm the chairman for Maendeleo ya Wanaume Bungoma County.

**Hon. Metrine Wilson:** Thank you for the opportunity to encourage our students from St. Anthony Sirisia. I want to acknowledge that Sirisia is a good school. My first born son went through St. Anthony Sirisia Secondary School and it really nurtured my son to be good in basketball and he was a captain even at the University and he has come out as an IT expert and I just want to acknowledge that school as the best school.

I also want to encourage students of St. Anthony Sirisia that this is the best school and you are in the best place at the best time. So make use of it and make use of your teachers and make everything out of them because they are there to stir up whatever that is in you and at the end of it, you will be the one to benefit. I will also want to appreciate the teachers and Hon. Mutiambu for making it possible for our students to be here, so that they can learn on how proceedings are done in this House.

I also acknowledge the sentiments of Hon. Sonko that this generation...

**Mr. Speaker:** Hon. Metrine, my HANSARD doesn't recognize such a name. Who is that?

**Hon. Metrine Wilson:** Hon. Stephen Kaizer. I would like to echo his sentiments that us women are privileged but for you as a son, to find an able woman, you should up your game otherwise you will not have space so fight for your space and make sure that you come out successfully to be a better man in our Country.

**Mr. Speaker:** Thank you. Other questions you will ask later but not now.

**Hon. Jeremiah Kuloba:** Nashukuru bwana Spika kwa kunipa nafasi hii. Wanafunzi wa Sirisia hasa mnaofanya historia mna nafasi nzuri ya uongozi kwa kuwa wanahistoria wengi wamerudi wakawa viongozi. Langu ni kuwaambia kuwa muwe na nidhamu kuanzia nyumbani hadi shuleni. Nanyi mkitaka uongozi wa kesho, lazima mtie jitihada katika masomo yenu.

Langu ni kuwaambia kuwa muweke bidii ukitoka shuleni utoke na cheti, na sio cheti tu bali cheti kizuri ambacho kitakuwezesha usimame mahali ambapo unawezaomba nafasi yoyote. Wakati huu hata ubawabu, watakuuliza iwapo uko na cheti cha ktdato channe kama hauna unanyimwa nafasi ile. Hata mimi natoka sehemu ile ya Sisiria ingawa ninangoza upande huu. Kwa hivyo nanyi pia mje siku nyingine mkisha soma mchukue nafasi za uongozi upande huu. Naitwa Jeremiah Kuloba, natoka katika sehemu ya mulikhu iwapo mwajua kule, bali kwetu ni huku mji wa Bungoma.

**Hon. Polycarp Wandabusi:** Thank you Mr. Speaker for this opportunity. I would like to congratulate the efforts of teachers and the area MCA for making the efforts to bring these students here. I only have one key thing to mention. I would like to advice the students that there are no people who are born genius. It is only a matter of focus and working persistently. I encourage the students to work very hard. If you want success, good life and you want to

achieve anything that you are admiring at the moment, you must work extremely hard and it is through hard work and discipline that you can make it in life.

**Hon. George Tendet:** Thank you for giving me a chance to talk something about education. I want to thank teachers for working hard. I have been a teacher for 35 years. Being a teacher calls for a lot. I want to thank the teachers who have come here. I know teachers earn peanuts but one thing I know about teachers is that their children, many of them join universities. I think that is the only way, God will reward you. Otherwise, the salaries you earn is peanuts. I want to thank you for that sacrifice.

In Kenya, if you go to all these offices, there is no office that opens at five. If you go to school, you will find that teachers are teaching at 5:00 a.m. and some even at 4:00 a.m. So teachers, God will reward you for working hard.

Secondly, I want the students to put God first because if you don't put God first, you will not succeed in your studies. Respect your teachers and your parents at home that is the only way you can succeed. All these people you are seeing here did exactly what we are saying.

Follow School rules to the later, don't break even one. If you are told to sweep, you do it. If you are told to sit down please do. Nobody has died because of sitting down. Work hard! Nothing comes for free. Be disciplined and do not be pushed around by teachers. Know that this is the time for lunch, there is time for games and then there is also time for studies. So be self-disciplined and self-driven.

For now, be away from your phones; don't come closer to phones for there is time for that because it is time to read. Once you work hard and succeed in life, you will buy a phone of even one million. So don't waste your time calling other people. Avoid boys and girls relationships which will deter you from your studies.

**Mr. Speaker:** That is wisdom from a retired teacher.

**Hon. Meshack Simiyu:** Ahsante Bwana Spika kwa kunipa nafasi ili niongee na wanafunzi wa Sirisia. Nataka kushukuru walimu wa shule ya mtakatifu Antonio kuweka bidii. Wako na bidii kwa sababu wanafunzi pia wanasoma kwa bidii. Naomba wanafunzi wetu kwamba watie bidii. Jambo moja mbaya kwa wanafunzi ni kuchoma shule; watoto wetu wakiambiwa na Walimu wafanye jambo fulani, kazi yao ni kukimbilia kuchoma shule. Jambo hilo linafanya wazazi wanaumia. Ukiangalia Namwela ambapo Mheshimiwa Nangulu anatoka, wanafunzi wamechoma shule mara nne kwa mwaka mmoja.

Tunawaomba kwa heshima kuu ya kwamba mkirudi nyumbani, someni kwa bidii kwa maana mbele ni kuzuri; usiposoma, mbele ni kubaya. Utakuja kupalilia laini ya miwa, mtoto ni mgonjwa, unatoka kulima unapeleka mtoto hospitalini pesa inaisha. Kwa hivyo naomba kwamba mkirudi shule soma kwa bidii.

*(Applause)*

**Mr. Speaker:** I think we have heard enough. We will not require the chair of the Committee of Education and Vocational Training to speak. On behalf of the Honorable Members who have not spoken and the Speaker, we wish the candidates best of luck in their KCSE exam and wish that they will be disciplined, respect their teachers and work hard. They are saying that good things are ahead. Work hard and pray to your God

## **MOTION**

### **REPORT BY PUBLIC ACCOUNTS AND INVESTMENT COMMITTEE ON AUDITOR GENERAL'S REPORT ON STAFF CAR AND MORTGAGE FUND FINANCIAL YEAR 2018/2019 AND FINANCIAL YEAR 2020/2021**

**Mr. Speaker:** I'm told Hon. Ken Wanyama is having the Honour of moving the Motion today on behalf of the Committee on PAIC

**Hon. Ken Wanyama:** Thank you. Today I'm honoured to move this Motion. This is a report on the Auditor General's report on Bungoma County Assembly Staff Car and Mortgage Fund. This is a report that covers two financial periods that is 2018/2019 and 2020/2021. I will straight away move to chapter one.

## **PREFACE**

On behalf of the Members of Public Accounts and Investments Committee and pursuant to the provisions of Standing Order No. 209 and in accordance with Article 229 of the Constitution of Kenya 2010, it is my pleasure and duty to present to this Assembly, the committee's reports on the Auditor General's Report on the Financial Statements of the Bungoma County Assembly Employee Car Loan and Mortgage Scheme Fund for the period 1<sup>st</sup> July 2018 to 30<sup>th</sup> June, 2019 and 1<sup>st</sup> July, 2020 to 30<sup>th</sup> June, 2021.

## **MANDATE OF THE COMMITTEE**

The mandate of Public Accounts and Investments Committee is drawn from Standing Order number, 209 (5) with the functions to:

- a) Pursuant to Article 185 (3) of the Constitution of Kenya to exercise oversight over the County Executive Committee and any other County Executive Organ
- b) Pursuant to Article 229 (7) and (8) of the Constitution to examine the reports of the Auditor General on the annual accounts of the County Government.
- c) To examine special reports if any, of the Auditor General on County Government Funds
- d) To examine the reports if any of the of the Auditor General on the County Public Investments
- e) To exercise oversight over County Public Accounts and Investment's

The Committee pursuant to the provisions of Article 185(3) is mandated to exercise oversight over the County Executive Committee and any other County organs and also to examine special reports of the Auditor-General on County Government Funds in respect of the appropriation of sums granted by the County Assembly to meet the public expenditure, and to

enforce adherence to the fiscal responsibility principles as provided under *Article 201 of the Constitution of Kenya, 2010*. The Committee executes its mandate on the basis of annual and special audit reports prepared by the Office of the Auditor-General (OAG).

## **GUIDING PRINCIPLES**

### **AUDIT OF PUBLIC ACCOUNTS**

According to Article 229(4) (b) of the Constitution of Kenya, within six months after the end of each financial year, the Auditor General is required to examine the Financial Report on the Accounts of all funds and authorities of the National and County Governments and express an opinion on the report on whether money appropriated by Parliament or the relevant County Assembly and disbursed;

- i. Has been applied for the purpose for which it was appropriated or raised;
- ii. Was expended in conformity with the authority that governs it; and was expended economically, efficiently and effectively.
- iii. The Audit reports shall then be submitted to Parliament or the relevant County Assembly for debate and consideration.

### **OBLIGATIONS OF ACCOUNTING OFFICERS**

**Section 149(1), of the PFM Act, 2012 stipulates that:** *“An accounting officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is lawful and authorized; effective, efficient, economical and transparent.”*

### **DIRECT PERSONAL LIABILITY**

Article 226(5) of the Constitution is emphatic that “If the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not”.

Section 116(1) of the Public Finance Management Act provides that, the County Executive Committee Member for Finance may, with the approval of the County Executive Committee and the County Assembly, establish Public Funds.

Section 116 (7)(a) (b) (c) of the same Act directs that “The administrator of a County Public Fund shall prepare accounts for the fund for each financial year and not later than three months after the end of each financial year, submit financial statements relating to those accounts to the Auditor-General and the County Assembly.”

Furthermore, the *Public Audit Act, No. 34 of 2015* stipulates that;

- 1) All reports of an Audit shall be submitted to Parliament or the relevant County Assembly.
- 2) Within seven days of receiving the report, Parliament shall publicize it on its official website and other public spaces.

- 3) Within fourteen days after submitting the report to Parliament or the relevant County Assembly, the Auditor-General shall publicize the report on the official website and other public spaces.

Further, Section 35 of the same Act stipulates that, the Auditor-General shall conduct audits of financial statements under Article 229 of the Constitution for State Organs and public entities and report annually to Parliament and the relevant County Assembly.

Section 36(1) states provide, that the Auditor-General shall conduct performance audit to examine the economy, efficiency and effectiveness with which public money has been expended pursuant to Article 229 of the Constitution

Further and without prejudice to the foregoing, Section 4 of the Bungoma County Assembly (Employees-Car Loan Scheme Fund) Regulations, 2017 stipulate that the object and purpose of the Fund shall be to provide a loan scheme for the purchase of vehicles by members of the scheme.

Section 8(2) of the same Regulations states that the Log-book of a vehicle subject to a loan from the fund shall be issued jointly between the County Assembly and the member of the scheme and shall be kept in the custody of the officer administering the fund until the loan is repaid in full by the member of the scheme.

Section 4(a) of the Bungoma County Assembly(Employees-Mortgage scheme fund)Regulations,2018 provide that, the object and purpose of the fund is to provide a loan scheme for the purchase, development, renovation or repair of residential houses to members of the scheme.

Section 10(1) of the same Regulations stipulates that an application for a loan under these Regulations shall be accompanied by the following documents where appropriate-

- (a) Copies of the designs of the proposed residential property duly approved by the relevant Government agency;
- (b) Bills of quantities in respect of the proposed development, renovation or repair;
- (c) An official search of the title to the property intended to be purchased; and
- (d) A certified copy of the sale agreement relating to the property.

The Report of the Auditor General on the financial statements of the Bungoma County Assembly, Employees Car Loan and Mortgage Scheme Fund for the period beginning 1<sup>st</sup> July, 2018 to 30<sup>th</sup> June, 2019 has been produced in accordance with these provisions of the law after having been submitted to the County Assembly for tabling on 10th November, 2022.

The Public Accounts and Investments committee strongly holds the view that these provisions of the law were meant to ensure prudent and responsible use of public funds. The Committee has accordingly applied these provisions to recommend varying actions. The committee also places a premium on these principles, among others, and has been guided by them in the entire process that has culminated to this report.

## **CONFIDENTIALITY UNDERTAKING BY THE COMMITTEE**

To enhance the integrity of the committee and its work, members of the Public Accounts and Investments Committee have signed a confidentiality undertaking in accordance with Bungoma County Assembly Standing Order No 98. In relation to the provisions of the said standing order, members have undertaken that in relation to the Bungoma County Assembly Employee Car Loan and Mortgage Scheme Fund for the period 1<sup>st</sup> July, 2018 to 30<sup>th</sup> June, 2019 and 1<sup>st</sup> July, 2020 to 30<sup>th</sup> June, 2021. No member of the Committee shall refer to the substance of the proceedings touching on the subject matter which shall include any evidence or documents presented to the committee and any information under discussion or deliberation at its meetings before it is tabled in the County Assembly.

## **MEMBERS OF PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE**

- |                             |                  |
|-----------------------------|------------------|
| 1. Hon George Kwemoi Tendet | Chairperson      |
| 2. Hon. Bernard Kikechi     | Vice Chairperson |
| 3. Hon. Everlyne Mutiembu   | Member           |
| 4. Hon. Everton Nganga      | Member           |
| 5. Hon. Stephen Kaiser      | Member           |
| 6. Hon. Jerusa Aleu         | Member           |
| 7. Hon. Anthony Lusenaka    | Member           |
| 8. Hon. Violet Makhanu      | Member           |
| 9. Hon. Tim Chikati         | Member           |
| 10. Hon. Alfred Mukhanya    | Member           |
| 11. Hon. John K Wanyama     | Member           |

## **ACKNOWLEDGMENT**

In conclusion, the Committee wishes to express its gratitude to the Offices of the Speaker and the Clerk for the support rendered to it during the consideration of the report of the Auditor General's Report on the Financial Statements of the Bungoma County Assembly Employee Car Loan and Mortgage Scheme Fund for the period 1<sup>st</sup> July, 2018 to 30<sup>th</sup> June, 2019 and 1<sup>st</sup> July, 2020 to 30<sup>th</sup> June, 2021.

The Committee further wishes to thank the Clerk and his officers who appeared before it for their cooperation.

Finally, the Committee acknowledges the valuable input and services rendered by the Office of the Auditor-General in considering submissions from the County Assembly.

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

The report is signed by Honorable George Kwemoi Tendet Chairman, Public Accounts Committee.

## **REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF BUNGOMA COUNTY ASSEMBLY - EMPLOYEE CAR LOAN AND MORTGAGE FUND FOR THE YEAR ENDED 30<sup>TH</sup> JUNE, 2019**

### **Accuracy of the Financial Statements**

The statement of financial performance reflects total expenses balance of Kshs 526,868. However, the statement of Comparison of Budget and Actual Amounts reflects Kshs 355,008 on total expenditure resulting to a variance of Kshs 171,860, which relates to fund administration expenses. Further, the same statement indicates that the Notes to the financial statements are set out on pages 27 to 32 instead of pages 1 to 27.

### **Written Submissions**

The management agrees with the findings of audit. However, on the financial statements, for FY 2018/2019 under Financial Performance, the expenses had been categorized as fund administration expenses of Kshs.171, 860 and general expenses of Kshs.355008. The fund administration expenses amount had been omitted in the statement of comparison of budget and actual amount. The amended financial statements have been attached.

### **Oral Submissions**

The Accounting Officer agreed with the Audit findings. He stated that the said corrections had since been made in the Subsequent statements.

This lapse is attributed to lack of adequate personnel in the accounts department during the said period; a situation which had been addressed through recruitment of additional staff to the department. Currently, there is an accountant who is dedicated to the operations of the Car and Mortgage funds.

### **Committee Observation**

The variance errors in the misstatement on the financial statements were amended in the subsequent year as verified.

### **Committee Recommendations**

Management should ensure they always prepare accurate financial statements in compliance to the Public Finance Management Act and Public Sector Accounting standards guidelines on IPSAS accrual basis.

### **Cash and Cash Equivalents**

As disclosed in note 4 of the statements, the statement of financial position reflects, a bank balance of Kshs 869,186 as 30 June 2019. However, review of the bank reconciliation statements revealed that the management used the bank certificate balance instead of the reconciled cashbook balances of Kshs 2,742,872, resulting into un-reconciled variance of Kshs 1,873,686.

In the circumstances, it was not possible to confirm that the cash and cash equivalents balance of Kshs. 869,186 as at 30 June 2019 is fairly stated.

### Written Submissions

The figures have been rectified to reflect the cashbook balances. Attached find the extract of the financial statements for FY 2019/2020 reflecting the amended cash and cash equivalents (the amended financial statement has been attached)

		<b>FY2018/2019</b>	<b>FY 2017/2018</b>
<b>Financial Institution</b>	<b>Account number</b>	<b>Kshs</b>	<b>Kshs</b>
Current Account			
Kenya Commercial Bank	1206004991	817398	8244
Kenya Commercial Bank	1206090308	1925474	227
Grand Total		2742872	8471

### Oral Submissions

The Accounting Officer submitted that an accountant had been assigned to attend to bank reconciliation statements and that the current figures reflect the accurate cash book balances.

### Committee Observation

There were glaring weak internal control systems in management of cash and cash equivalents by failing to prepare regular monthly reconciliation of the cashbook.

The management provided an updated reconciliation for cash and cash equivalents for the reported un-reconciled variance of Kshs. 1,873,686.

### Committee Recommendations

The Accounting officer to strengthen internal control systems by ensuring that regular monthly reconciliation of the cashbook is done.

### Report on Lawfulness and Effectiveness in Use of Public Resources

#### Car loan and Mortgage Scheme

##### Lack of Security on Mortgage and Car Loan Disbursed to staff

As disclosed in Note 5B to the financial statements, the total non-current receivables balance of Kshs 79,517,372 in respect of the outstanding mortgage and car loan balance as at 30 June 2019. However it was noted the properties were not charged contrary to Regulation 16(1) of Bungoma county assembly (Employees mortgage scheme fund) Regulations 2018 which stipulates that the committee shall have a charge registered on the property financed through a loan granted and shall be entitled to have its name entered in all documents of title of the property.

Further there was no evidence that the borrowers had taken out an insurance cover on the mortgage protection policy and a fire policy with a reputable insurance firm as per Regulation



17 of Bungoma County Assembly (Employees mortgage scheme fund) Regulations 2018

Further it was noted that the logbooks were not registered on joint ownership with the county assembly contrary to Regulation 8(2) of Bungoma county assembly (Employees car loans scheme fund) Regulations 2017 which states that the logbook of a vehicle subject to a loan from the fund shall be issued jointly between the County Assembly and the member of the scheme and should be kept in the custody of the officer administering the fund until the loan is repaid in full by the member of the scheme. In addition there is no evidence that the vehicles purchased through the scheme were comprehensively insured as per Regulation 12(1) of the same regulations

### **Written Submissions**

The management agrees with the findings of the audit. However, the process of charging mortgage property for a few beneficiaries was initiated by the registrar of lands ministry Bungoma and the properties are at the Land Registry as per the attached lawyers correspondences.

As for the Logbooks, the securities have been issued jointly between County Assembly and members of the scheme (Co owned logbooks attached for verification)

### **Oral Submissions**

The Accounting Officer submitted that the logbooks and title deeds for loan beneficiaries had been subjected to joint ownership with the County Assembly and charged respectively; and as that, the County Assembly had engaged an Advocate who was facilitating the charging process on the properties.

Further the Accounting Officer stated that recoveries on most of the issued car loans were almost complete.

That the administration was working on the security of the mortgage loans through insurance to forestall any losses.

### **Committee Observation**

The committee notes that at the time of audit, the accounting officer had not complied with the provisions of Regulation 8 (2) of the Bungoma County Assembly employees Car loan scheme fund regulations 2017. However, at the time of interrogation of this report, the management had complied with the regulations by co registering the log books in the joint names of the County Assembly and the beneficiary members of the scheme.

The committee further notes that staff mortgage scheme regulations had not been fully complied with by charging all mortgage properties as per regulation 16 (1) of the Bungoma County Assembly Employees mortgage scheme fund regulations of 2018. A few of the land titles had not been charged since the process was still on-going with the titles taken to Land registry for processing.

The committee notes that the borrowers had not taken out an insurance cover on the mortgage protection policy and a fire policy with a reputable insurance firm as per Regulation 17 of Bungoma County Assembly (Employees mortgage scheme fund) Regulations 2018.

### **Committee Recommendations**

The management should ensure that all loans disbursed to beneficiaries should have security as per regulations governing the funds.

The management should fast track the process of charging titles of the member beneficiaries at the lands registry. Going forward all disbursements on car and mortgage should be transferred and charged within 60 days.

### **Irregular Advances of Mortgage Loans**

As disclosed in Note 5(b) to the financial statements, the statement of financial position reflects Kshs 79,517,350 on long term receivables

From exchange, transactions which include Kshs 21,100,000 on loan disbursements paid out. However included in Kshs 21,100,000 is Kshs 19,700,000 whose application for the advanced mortgages were not supported with the following documents as prescribed Regulation 10 (1) of the Bungoma county assembly (Employees mortgage scheme fund) Regulations 2018

- i. Copies of designs of the proposed residential property duly approved by relevant Government Agency.
- ii. Bills of quantities in respect of the proposed development, renovation or repair.
- iii. An official search of the title to the property intended to be purchased.
- iv. A verified copy of the sale agreement relating to the property.

NB/In the circumstances, the fund management is in breach of law.

### **Written Submissions**

The management agrees with the findings, in that at the time of the audit members of the scheme who had been advanced mortgage loan were in process of availing the supporting documents. The same were later availed. (Official searches and sale agreements attached).

### **Oral Submissions**

The accounting Officer submitted that beneficiaries have complied with the Regulations and had availed all the necessary supporting documents for the loans facility as per the stipulated conditions. The charging process was being effected on the titles and security on the properties.

### **Committee Observation**

The fund management was in breach of Regulation 10 (1) of the Bungoma County Assembly (Employees mortgage scheme fund) Regulations 2018 on irregular advancement of mortgage loans without adhering to requisite guidelines. The charging process on mortgage facilities had not been concluded for all the advanced loans.

### **Committee Recommendation**

The Management to ensure that compliance in respect to issuance of mortgage facilities is adhered to as per the provisions in the regulations.

### **Lack of an Approved Budget**

Documents provided for Audit revealed that the fund did not have an approved budget contrary to Section 149(2h) of the Public Finance Management act 2012, which requires the Accounting officer to prepare estimates of expenditure of the entity in conformity with the strategic plan.

### **Written Submissions**

The management agrees with the audit findings that at the time of Audit, the fund management committee had not prepared and approved its budget but moving forward the management promises to prepare the budget and it will be provided in subsequent audits.

### **Oral Submissions**

The Accounting Officer agreed with the Audit findings and undertook to prepare and approve the subsequent fund budgets.

### **Committee Observation**

The management was in breach of Section 149(2h) of the Public Finance Management Act 2012 which requires that estimates of expenditure are prepared in conformity with the strategic plan.

### **Committee Recommendations**

The management should ensure that approved budget is used to control expenditure and avoid unauthorized reallocations.

The management to ensure the fund meets the purpose for which it was established through ensuring proper strategic planning and budgeting processes.

### **Outstanding Borrowings by the County Assembly Service Board**

As disclosed under note 5A the statement of financial position reflects Kshs 17,402,830 on the current portion of long term receivables from exchange transactions. However included the Kshs 17,402,830 is Kshs 17,190,318 in respect of the un-refunded borrowings by the County Assembly Service Board contrary to regulation 4 of both the Public Finance Management (County Assembly Employee car loan scheme Fund) Regulations 2017 and the Public Finance Management (County Assembly Employee Mortgage Fund) Regulations 2018 which states that the purpose of the fund is to provide a loan scheme for purchase of vehicles by staff of the scheme and the purchase, development, renovation or repair of the staff of the scheme respectively.

Further, the management did not provide loan application forms and management committee approval minutes and loans agreement.

### **Written Submissions**

The management agrees with the findings of the audit. However, the County Assembly Service Board has refunded the borrowed funds as per the attached vouchers (voucher and bank statements attached)

### **Oral Submissions**

The Accounting Officer submitted that the outstanding amount at the time of audit i.e. Kshs 17,190,318 has since been cleared.

That the borrowings are often necessitated by delayed exchequer releases against financial demands.

That amendment of the Fund Regulations has assisted the management in streamlining some of these borrowings. Initially the CASB Secretary (Clerk) was also the Fund Administrator and thus created systemic gap. Administratively, the management has worked on proposed amendments to the Regulations which have delegated the Fund Administrator's role away from the Accounting Officer.

### **Committee Observation**

The Staff and Car loan fund regulations don't have provisions for borrowings however, section 142 of the PFM Act 2012 provides for borrowing by the County Assembly which should be observed whenever the County Assembly Service Board borrows monies from the fund.

The committee notes that the borrowings by the County Assembly Service Board have always taken long to be repaid.

### **Committee Recommendations**

The accounting officer should be repaying the borrowed monies from the fund within a stipulated period of one month from the date of borrowing and further no borrowing should go beyond the financial year.

### **Failure to remit Fringe Benefit Tax**

Documents provided for audit revealed that the fund management did not remit to Kenya Revenue Authority the Fringe Benefit Tax amounting to Kshs. 720,076 which accrued from the low interest loans extended to its members during the year as tabulated below:

Interest @3 P.A (Kshs.)	Interest at KRA Prescribed Rate @7%P.A (Kshs)	Taxable Fringe Benefit (Kshs)	FBT@30%(Kshs)
1,800,194	4,200,446	2,400,252	720,076

The management of the fund did not therefore, comply with section 12 (b) (1) and (3) of the income tax act 2010 that require an employer to pay fringe benefit tax on behalf of the employee or direct an interest rate lower than the market interest rate and section 12(3) which

require the benefit tax to be charged on the total taxable value of a fringe benefit provided by an employer in a month and remitted on or before the tenth day of the following month to KRA

#### **Written Submissions**

The management agrees with the findings of audit. However, through the examination of payments by the Kenya Revenue Authority a demand letter was issued and the funds were remitted by the County Assembly of Bungoma Service Board. (Demand notice attached).

#### **Oral Submissions**

The Accounting Officer agreed with the Audit Findings and stated that they entered into an agreement with the Kenya Revenue Authority and had settled the outstanding tax arrears and penalties.

#### **Committee Observations**

The management was in breach of section 12(b)(1) and (3) of the income tax act, 2010 and section 12(3) which requires that Fringe Benefit Tax to be charged on total taxable value of a fringe benefit provided by an employer in a month and remitted on or before the tenth day of the following month to KRA. However the tax had been cleared by the County Assembly.

#### **Committee Recommendations**

The management should always ensure that fringe benefit Tax and remittances to Kenya Revenue Authority are remitted whenever such loans are issued in compliance with Section 12 of the income tax Act.

### **REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF BUNGOMA COUNTY ASSEMBLY- EMPLOYEE CAR LOAN AND MORTGAGE FUND SCHEME FOR THE YEAR ENDED 30<sup>TH</sup> JUNE 2021**

#### **Outstanding Borrowings by County Assembly Service Board**

As previously reported, Note 5A to the financial statements reflects a current loan repayments due balance of Kshs.9,862,225 in respect of un-refunded borrowings by the County Assembly Service Board in contravention of Regulation 4 of the Public Finance Management (County Assembly Employee Car Loan Scheme Fund) Regulations, 2017, and, Regulation 4 of the Public Finance Management (County Assembly Employee Mortgage Fund) Regulations, 2018, which state that the object and purpose of the Fund is to provide a loan scheme for the purchase of vehicles by staff of the Scheme and for the purchase, development, renovation or repair of residential property by staff of the Scheme, respectively. In the circumstances, the Fund Management was in breach of the law.

#### **Written Submissions**

The management agrees with the findings of audit on the borrowing of Kshs. 9,862,225 by County Assembly Service Board. However, the funds were repaid on 10th November, 2021 as per the attached voucher and bank statement excerpt.

#### **Oral Submissions**

The Accounting Officer submitted that the outstanding amount of Kshs 9,862,225 which was arising from the CASB borrowing at the time of audit has since been repaid. The Accounting Officer availed the payment voucher and bank statements to that effect.

#### **Committee Observations**

The committee observed that the outstanding amount of Kshs 9,862,225 which was arising from the CASB borrowing at the time of audit has since been repaid.

#### **Committee Recommendations**

The management to ensure that the fund remains within its mandate in which its main object and purpose is to provide a loan scheme for the purchase of vehicles by members of the scheme, and for the purchase, development, renovation or repair of residential property by members of the scheme respectively.

The accounting officer should be repaying the borrowed monies from the fund from the subsequent exchequer releases since the borrowings is attributed to late exchequer releases, and no further borrowing should be granted until the previous debt is cleared.

#### **Late Submission of the Financial Statements**

The financial statements for the Fund were submitted for audit on 7 October, 2021, contrary to the provisions of Section 116(7) (b) of the Public Finance Management Act, 2012, and Section 47(1) of the Public Audit Act, 2015, which require financial statements to be submitted to the Auditor-General for audit within three months after the end of the financial year to which they relate, in this case 30 September, 2021. In the circumstances, the Fund Management was in breach of the law.

#### **Written Submissions**

The management agrees with the audit findings and commits to adhere to statutory timelines as required. The late submission was due to COVID- 19 pandemic that rendered most staff away from office environment.

#### **Oral Submissions**

The Accounting Officer agreed with the audit findings and attributed the delays to the hitches brought about by the COVID-19 pandemic and disruptions occasioned by human resource reorganization within the department of Finance and Accounts.

#### **Committee Observations**

The committee notes that the accounting officer submitted late financial statements contrary to Provision of the PFM Act.

#### **Committee Recommendations**

The accounting officer should ensure compliance to the law on submission of financial statements and other statutory records which require financial statements to be submitted to the Auditor-General for audit within three months after the end of the financial year to which they relate, in this case 30 September each year.

#### **Professional services Costs**

The expenditure of Kshs 2,696,665 shown in the statement of financial performance under general expenses includes, as shown under note 3, expenditure of Kshs 619,628 incurred on professional services. The amount was paid to a local law firm for provision of legal services relating to preparation and registration of legal charges on staff mortgage loans, despite the fact that the Assembly has an internal legal officer. No explanation was provided for incurring expenditure on duties that ordinarily should be performed in-house

#### **Written Submissions**

The management agrees with the findings of the audit that the registration of charges should be done by the institution's legal team which had staffing problems but currently the problem has been sorted by employing a Legal Counsel who will be handling the issue raised by the auditor.

#### **Oral Submissions**

The Accounting Officer agreed with the audit findings and submitted that the recent staff recruitment exercise addressed staffing issues in the Legal Department. That, competent officers had been brought on board including a Legal Counsel who has been mandated to handle all legal obligations related to the fund.

#### **Committee Observations**

There was shortage of staff in the Legal department which has been addressed by recruitment of more qualified staff to handle litigation matters on behalf of the Assembly.

#### **Committee Recommendations**

The Legal department of the County Assembly should be assigned to handle legal matters affecting the County Assembly instead of out sourcing the services.

### **CONCLUSION**

The audit report of 2018/2019 and 2020/2021 indicates an improvement by the accounting officer in the management of the County Assembly staff Car and Mortgage funds to an extend of achieving un qualified audit report for FY 2020/2021 .

### **ADOPTION SCHEDULE**

All members of the committee have signed the report

**Mr. Speaker:** Honorable Member, you already gave us the names unless there is something new.

**Hon. Ken Wanyama:** Okay, next are the annexures which we have attached. There is a copy of the queries on the Bungoma County Staff Car and Mortgage Fund Financial Year 2018-2019 and 2020-2021. We also have written responses on the queries. I would like to ask the Chairperson, Hon. George Kwemoi Tendet to second.

**Hon. George Tendet:** Thank you Mr. Speaker Sir for giving me this chance to second this motion. I want to thank your office for assisting us greatly. I also want to appreciate the

Office of the Clerk for helping us. Likewise, I want to thank and appreciate the Office of Majority Leader for his good advice whenever we have sought for the same.

Lastly, I want to thank and appreciate the work done by PAIC members. Honorable members, you remember that when we started we had a backlog of 11 reports to handle and up to this day, we have done 7 and 4 are remaining. Therefore, I thank you for the good work members of the committee.

This scheme of Car and Mortgage touches the hearts of our honorable members; therefore we need to come out with proper way of assisting our honorable members so that when their term ends, they don't have loans to re-pay back.

Car and Mortgage funds should be disbursed immediately the members are sworn in so that they have humble time or repaying the same. Many conditions attached to this scheme should be minimized or removed all together so that honorable members can have humble time of doing the same. Honorable members, you remember that the MPs are giving free car grants. Immediately they are sworn in they are given 7 million...

**Mr. Speaker:** Honorable members, just to clarify as he responds; there are two clear mortgage funds; one for the Car and Mortgage Fund for MCAs and staff. Therefore, the one that we are discussing right now is for the members of staff. When supporting the report, talk about the staff, ours is going to come and you will make your contribution.

**Hon. George Tendet:** As I said earlier that MPs are giving this facility as a grant. And it is my prayer that members of staff you should be given the same together with the Honorable members.

**Mr. Speaker:** Hon. Tendet, I repeat, that the motion you are seconding is basically a facility meant for members of staff. If you want the government to give us free facility, wait for the report, it is going to come.

**Hon. George Tendet:** Thank you for your indulgence. Hon. Speaker Sir, I request the House to adopt this report. I second.

**Mr. Speaker:** thank you Hon. Tendet for seconding the report. I propose the question that this House adopts a report on the Auditor General's report on Bungoma County Assembly Staff Car and Mortgage Fund.

*(Question proposed)*

Hon. Wafula Waiti then I will have Hon. George.

**Hon. Wafula Waiti:** Thank you Mr Speaker for awarding me this time so that I may comment on the report. First of all, I thank my neighbour who is none other than Hon. Ken to have eloquently moved the report. I want clarifications to be made here on the floor so that



we avoid conflicting reports. When we look at page nine of the report under written submissions, the report refers to financial year 2019/ 2020 financial statements yet the period under review is 2018 /2019. If they may clarify for the consumption of this Honourable House. When you look at the total non-current receivables as per the attached financial statement is kshs 79,517,350 but they have given us Kshs 79,517,372. If they can clarify which one we can use in the report then I would be satisfied. Otherwise I suppose the report.

**Hon. George Makari:** Thank you, Honourable Speaker. There are a few issues that we might have to be forced to look at. If you go through the report properly, even if the pages were later corrected, you will find that all this amount that was borrowed was later paid but you if you look at the report critically, you find that there are areas where there were law breakages. It outlines that this one was not done but then at the end of the day, they did the remedy but that remedy was done later on after breaking the law. So we don't want this trend of breaking the law to continue, so that the accounting officer must be able to follow properly the accounting procedures and the timelines in submitting the financial statements.

My attention has been captured on point number 3.3. There is an expenditure of 619,628 and this was the amount that was paid to a law firm for provision of legal services relating to preparation and registration of legal charges on staff mortgage loans despite the Assembly having an internal legal team. Even at the footnote part of it, they rectified and said at that particular point in time the staffing level were very low. Did the committee try to find out if at all the accounting officer tried to give this job to the in-house legal team before going outside to pay these monies to a law firm away from the Assembly? That is what we want to know. Was there evidence that the accounting officer actually tried to say now we have our own legal team even if the staffing levels were low? There are two or three people in this department, can you give them this job they try to do legal charge? From the Assembly to the Lands registry is around 80 metres, and they can walk there and have these...

**Mr. Speaker:** Hon. George, it cannot be eighty metres, we all stay here...

**Hon. George Makari:** How many metres Honourable Speaker?

**Mr. Speaker:** It cannot be eighty metres like the football pitch of soccer so you do the calculations from the Assembly to the other side.

**Hon. George Makari:** In fact I am saying this because of the new offices but if you come from this gate it is 20 metres to the Lands registry. I am putting 80 because of the new offices but by the time this report was being compiled we had not moved the other side. So in fact the metres are less. So when my good friend Hon. Wanyama comes to reply, kindly let us know as a House.

I want to congratulate Hon. Ken for moving the report so eloquently; I think we are only second to Hon. Katila who read out for our Health Committee report. So we should appreciate such eloquence in this House.

*(Applause)*

As much as you are eloquent Hon. Wanyama, you will be able to clarify when you reply. That actually this committee tried to ask the accounting officer. Did they attempt to use our

legal team in the Assembly before paying Kshs 619,628 to a legal firm outside the Assembly? That's my question because in the committee observation, the committee observes and says there was shortage of staff in the legal department and now the same has been addressed by recruitment of more qualified staff to handle litigation matters on behalf of the Assembly. Note that this has been addressed by recruitment of more qualified staff; do we want to mean the staffs that were there were not qualified? Are we looking at the qualification or are we looking at understaffing? The committee must be able to come out clearly and say what they are referring to? Are they looking at the qualification of the staffing that were there or the staffing level that necessitated the Assembly to go on a loss of 619,628 in paying legal services away from the Assembly?

**Hon. Johnstone Ipara:** Thank you, Honourable Speaker. First of all, let me start by saying that there was an omission where this particular paper was not circulated to Honourable Members both the hardcopy and soft copy, maybe you will confirm later. First of all, I want to appreciate Hon. Ken Wanyama for presenting the report in a way that every one of us who was listening was able to pick one point at a given time and the way.

I am so much worried is on omissions and commissions where the management makes outright admissions and I don't know what the committee did recommend because when one makes an admission and confession that they did realise that they were making an error that costs an institution in the name of car and mortgage facility lose a lot of money and I want to say this these two facilities are very important in terms of human resource management, because it motivates these men and women such that when they were awarded such facilities, they will work hard and assisted institution realise her targets and goals. When it is mismanaged what it means is it will affect the performance of these particular officers because one who admired to have a car will not get a car or a beautiful House because the fund has been mismanaged.

Secondly, I also want to appeal to this committee that next time when you make such recommendations, they must be in tandem with enforcing and assisting a human resource officer Work hard, be part of the organisations and say that organisation do appreciate me as a worker of the institution. When car and mortgages are awarded, they should not be broken into many instalments because actually, if my wish was to buy a car, and you break that into two instalments, will I realise that? The answer is no. So the best thing is even if we give it to let's give it to in full instalment of one package and also delayed awards of this will not make this man and woman appreciate that actually that facility...

I need this committee to be very firm where logbooks are not transferred or jointly owned by the two owners, because when our facilities are given, it means that the beneficiary of the facility and the one who awarded me the facility will become conjoined owners of that property. When you don't do that, then it means this person whose name appears in the logbook at a given period they will walk away with the logbook and dispose of that particular facility they purchase using the car loan or the building build using mortgage. So we must make sure that at least these small regulations that make an organisation effective and

efficient are followed to the latter and also to make sure that when we make recommendations which look at the tail end are criminal we must recommend the criminal proceedings against the persons who are found or who facilitated them to take place. I support.

**Mr. Speaker:** Hon. Ken Wanyama, you reply to the motion.

**Hon. Ken Wanyama:** Thank you, Mr. Speaker. So I will start with responding to the issues raised by *Mheshimiwa* Waiti and *Mheshimiwa* George Makari. Yes, I have looked at the report on page nine and indeed there is a typo error. The period under review is 2018/2019. So the report referring to financial year 2019/2020 is erroneous. That's a typo error. Then number two, the issue he raised about the total non-current receivables; yes, I have looked at the attached financial statements, the correct amount of non-current receivables as at 30<sup>th</sup> June, 2019 should be 79, 517,350 shillings.

Issues raised by *Mheshimiwa* George Makari, we were equally concerned on this issue of professional services that were given to an external law firm, yet the County Assembly has an internal legal officer. We were equally concerned and we followed up on the matter and the accounting officer was actually able to give us evidence that he had forwarded the work to do the charging and registration of the logbook and mortgages to the legal officer but he was taking unnecessarily long because his hands were full. So we were satisfied, but as much as we were satisfied, that is why we gave a very emphatic recommendation that says the legal department of the County Assembly should be assigned to handle all legal matters affecting the institution. So *Mheshimiwa* Makari, yes, we confirmed there was evidence that the work was forwarded to him.

Then on the issue you raised it's not actually about qualification, we are talking about understaffing. That was the main problem, not the issue of whether someone is qualified or not. So as my chairman mentioned this fund is a very good scheme as it gives an opportunity to our staff, to own houses and to own cars at much more low interest rates compared to commercial banks. So it's good that we put in place good controls so that it's managed better for them to maximise the use of the fund.

I also want to take this opportunity to thank the County Assembly Service Board for filling up the personnel vacancies because most of the issues we came across were actually occasioned by the lack of enough staff especially in the Finance and Legal departments but as we speak, I think most of those vacancies were filled, so we don't expect to see such gaps in our subsequent audits.

The Accounting Officer needs to continue enforcing strong internal controls and specifically, the accounting officer must ensure that we have monthly bank reconciliations which will arrest any gaps of time, so that to ensure that by the time of the audit then we don't have any audit queries.

Also the accounting officer should ensure that all loans that are disbursed have security as per the regulations governing the funds and that is why we again emphatically proposed that on loans, that is car loan and mortgages must be charged within 60 days after disbursement so that then the County Assembly is not exposed at all.

As a committee, we thought that it's very important to ensure that these two funds are left to serve the core mandate of which they were created. Yes, we understand that once in a while the County Assembly Service Board may borrow but for prudent management, we have proposed that no further borrowings by the County Assembly Service Board should be done until the previous debt is cleared and then secondly that no borrowed amounts should spill over to the next financial year. That way then we will ensure that the fund is serving the purpose for which it was created.

Further, the accounting officer should ensure compliance with the law in two very critical areas. The first one is in preparation and presentation of the financial statements on IPAS accrual basis. Then the second one is submission of the financial statements to the Office of the Auditor General within three months after end of our financial year, so that means that by 30<sup>th</sup> of September all the financial statements should be ready, then we will be able to avoid a lot of audit queries.

Lastly, I want to commend the accounting officer because there is visible improvement. When you compare the audited accounts for 2018/2019 and 2020/2021 the report for 2018/2019 was actually qualified but when you look at the report for 2020/2021, it was unqualified maybe just to put it simpler, the report was...

**Mr. Speaker:** I was going to tell that basically use the language that members can understand.

**Hon. Ken Wanyama:** Thank you, Mr. Speaker. For qualified report it means there are visible material misstatements. But for an unqualified report, just means the statements reflect a fair position of an entity and to practically show that when you look at the 2018/2019 audit report, we had seven audit queries. Why the 2020/2021 audit report had only three audit queries. So for this, I want to commend the accounting officer and just encourage him that he needs to continue strengthening the internal controls, so that these funds can be managed better. All said, I want to urge these Honourable members to adapt the report so that together, we can improve management of this fund.

**Mr. Speaker:** Thank you, Hon. Kennedy Wanyama. Honourable Members, it is now my duty to be able to put a question to the said motion to allow Honourable Members in this House to make their decision over the same.

Honourable Members, a motion was moved, seconded and debate having ensued that this House adopts the report by the Public Accounts and Investment Committee on the Auditor General's report on the Staff Car and Mortgage Fund of the financial year 2018/2019 and for financial year 2020/20221

*(Question put and agreed to )*

Honourable members, the report, its observations and recommendations are hereby adopted by the House accordingly for implementing those recommendations by the concerned entities.

Honourable Members, looking at the Order Paper for today, we will be able to adjourn our sitting to Tuesday 18<sup>th</sup> of April 2023 at 2:30 p.m.

*(House adjourns)*