

COUNTY GOVERNMENT OF BUNGOMA

COUNTY ASSEMBLY OF BUNGOMA

COUNTY ASSEMBLY DEBATES

THE DAILY HANSARD

WEDNESDAY, 24TH APRIL, 2024

Afternoon Sitting

Third County Assembly

Third Session

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COUNTY ASSEMBLY OF BUNGOMA
THE HANSARD- OFFICIAL REPORT
WEDNESDAY, 24TH APRIL, 2024

The House met at the County Assembly Chamber at 2:30 p.m.

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

PRAYER

COMMUNICATION FROM THE CHAIR

1. REORGANIZATION OF THE ORDER PAPER

Honourable Members, looking at the report on our Order Paper; Report from the PAIC and then our meeting... we are supposed to conduct a pre- vetting brief in preparation for the vetting exercise of the County Attorney tomorrow morning and a subsequent meeting of the Leader of Majority. We wish to take motion number nine out of the Order Paper. We will only handle motion number eight. The one for Joint Committee of PAIC the other one is taken out to tomorrow at 2:30 p.m.

MOTIONS

1. REPORT BY JOINT COMMITTEES OF PUBLIC ACCOUNTS AND INVESTMENTS OF BUNGOMA AND
TRANS NZOIA COUNTY ASSEMBLIES

Mr. Speaker: The Chair of PAIC or any Honourable Member of the Committee who is possessed by the Holy Spirit to proceed.

Hon. Anthony Lusenaka: Thank you Hon. Speaker. Today I have a seconder and so we are ready to proceed.

Mr. Speaker: I wish you said that in the morning; you were the only person in this House at that time proceed.

Hon. Anthony Lusenaka: Thank you Speaker. I will start form page four, that is on the preface and introduction.

Mr. Speaker: Now for guidance purposes, I will ask that you give us the introduction, Committee Membership, Mandate is known. Being a joint committee report, you have to cover the entire page four; five up to page six proceed.

Hon. Anthony Lusenaka: Thank you Hon. Speaker. This is a joint report of the Public Accounts and Investment Committee of Bungoma and Trans Nzoia County Assemblies on the interrogation of the Nzoia Water Services Company Limited (NZOWASCO) audit queries for the period ended 30th June, 2022.

Introduction

A 21 Committee comprising Members of the Committee on Public Accounts and Investments drawn from the County Assemblies of Bungoma and Trans-Nzoia respectively undertook a joint interrogation exercise in respect to the report of the Auditor-General on the Financial Statements of Nzoia Water Services Company Limited for the Year ended 30th June, 2022. The interrogation and subsequent report writing exercise took place from 16th to 20th September, 2023 at Queens Gardens Hotel in Eldoret.

Committees' Membership and Mandate

The Bungoma County Assembly Public Accounts and Investments Committee membership as currently constituted comprises of the following members;

- | | |
|----------------------------|------------------|
| 1. Hon. Everton Nganga | Chairperson |
| 2. Hon. Timothy Chikati | Vice-chairperson |
| 3. Hon. Jerusa Aleu | Member |
| 4. Hon. Stephen Kaiser | Member |
| 5. Hon. Everlyne Mutiambu | Member |
| 6. Hon. Alfred Mukhanya | Member |
| 7. Hon. Anthony Lusenaka | Member |
| 8. Hon. Benard Kikechi | Member |
| 9. Hon. John K Wanyama | Member |
| 10. Hon. Mitrine Nangalama | Member |
| 11. Hon. Violet Makhanu | Member |

Mandate of the Committee

The Bungoma County Assembly Public Accounts and Investments Committee is a Select Committee established under Standing Order No. 209 of the Bungoma County Assembly Standing Orders. Standing Order No. 209(5) provides that, the functions of the Public Accounts and Investments Committee shall be to-

- (a) Pursuant to the provisions of Article 185(3) of the Constitution, exercise oversight over the County Executive Committee and any other County Executive organ.
- (b) Pursuant to Article 229(7) and (8) of the Constitution, examine the reports of the Auditor-General on the Annual Accounts of the County Government.
- (c) Examine special reports, if any, of the Auditor-General on County Government Funds.
- (d) Examine the reports, if any, of the Auditor-General on County Public Investments; and
- (e) Exercise oversight over County Public Accounts and Investments.

The Trans-Nzoia County Assembly Public Accounts and Investments committee membership as currently constituted comprises of the following members;

- | | |
|---------------------------|------------------|
| 1. Hon. Simon Murei | Chairperson |
| 2. Hon. Kennedy Mugushu | Vice-chairperson |
| 3. Hon. Barbara Kisuya | Member |
| 4. Hon. Jacqueline Kurgat | Member |
| 5. Hon. Ann Anjiko | Member |
| 6. Hon. Kefa Were | Member |
| 7. Hon. Kibet Ndiwa | Member |
| 8. Hon. Eric Wafula | Member |
| 9. Hon. Adan Nassir | Member |

The Trans-Nzoia County Assembly Public Accounts and Investments Committee is a Select Committee established under Standing Order Numbers Nos. 185 and 186 respectively of the Trans-Nzoia County Assembly Standing Orders.

Standing Order No. 185 provides that, the County Public Accounts and Investments Committee shall be responsible for-

(2) The examination of the working of the public investments

(3) The Public Investments Committee shall be responsible for-

(a) The examination of reports and accounts and workings of the County Public Investments

(b) The examination of the reports, if any, of the Auditor-General on public investments

(C) The examination of affairs and efficiency of public investments. Whether they are being managed in accordance with sound financial or business principles and prudent commercial practice

(d) Matters for the consideration of which machinery is established by any special statute under which a particular County Public Investment is established.

The provisions of Standing Order No. 186(2) states that;

The County Public Accounts Committee shall be responsible for the examination of the accounts showing the appropriation of the sums voted by the House to meet the public expenditure and of such other accounts laid before the House as the Committee may think fit.

Acknowledgement

On behalf of the members of the joint Committee of Public Accounts and Investments drawn from the two County Assemblies and pursuant to the provisions of the Standing Orders quoted herein and in accordance with the provisions of Article 229(8) of the Constitution of Kenya 2010.

Finally it is my pleasure and privilege to present to this House, the Joint committees' report on the Auditor General's Report on the Financial Statements of Nzoia Water Services Company Limited for the Year ended 30th June, 2022 for its adoption and consideration.

Signed by Hon. Everton Nganga- Chairperson, Public Accounts and Investments Committee, Bungoma County Assembly; and

Hon. Simon Murei – Chairperson, Public Accounts and Investments Committee, Trans-Nzoia County Assembly

CHAPTER TWO

Report on the Financial Statements

Qualified Opinion

1. Inaccuracies in the Financial Statements

The statement of financial position reflects comparative balances of Kshs506, 832,199 and Kshs28, 767,270 in respect of total assets and retained earnings respectively. However, the balances are at variance with the corresponding balances of Kshs507, 911,659 and Kshs29, 846,730 reflected in the audited financial statements for the year ended 30th June, 2021 resulting to variances of Kshs1, 079,460 and Kshs1, 079,460 respectively, which were not reconciled. Further, Note 6 and 16 in the statement of profit and loss and other comprehensive income and the statement of financial position reflect cost of sales and intangible assets balance of Kshs148,377,080 and Kshs1,777,214 respectively while Notes to the financial statements reflects balances of Kshs146,336,128 and Kshs1,765,757 resulting to un-reconciled variance of Kshs2,040,952 and Kshs11,457.

In the circumstances, the accuracy and completeness of the respective balances could not be confirmed.

Management Response

The balances of Total Assets Kshs506, 832,199 and retained earnings Kshs28, 767,270 were picked from the draft financial statement, when they received the audited statements they had already submitted the books of account for FY 2021-2022. The inaccuracies were to be amended in the subsequent year.

The figures of Kshs146,336,128 Cost of sales and Kshs1,765,757 Intangible assets as per the notes to the financial statement are correct but erroneously posted to profit and loss and financial position and will be restated in Financial statements for 2022/2023.

Oral Submission

The Managing Director agreed with the query and promised to correct in the subsequent audit years. He further stated that the Financial Statements for financial years 2018/2019-2019/2020 and 2020/2021 were received in May whereas the dead line for updating the books was by 30th September, 2023. The delay for updating the books was occasioned the back log at the office of the Auditor General.

Committee's Observations

1. There was a delay in submission of draft reports from the office of the Auditor General and as such, the management was not in position to make the necessary changes on time.
2. There was a breach of regulation 42(1) (a) of the PFM (County Government) Regulations, 2015 on correctness of Financial Statements.
3. There were no verifiable financial statements showing the restated figures in the financial statements for 2022/2023 and as such, the matter remains unresolved.

Committee's Recommendations

1. Requisite documents supporting financial statements should always be submitted on time to the office of the Auditor General for verification as per the PFM Regulations, 2015.
2. The Managing Director should submit the financial statements to the OAG within three months from the date of tabling and adoption of this report.
3. The Committee on Implementation should follow up and ensure compliance to this recommendation.

2. Variances between Amounts in the Financial Statements and Supporting Schedules

The financial statements provided for review reflected variances between amounts in the financial statements and those in supporting schedules as indicated below:

Component	Financial Statements balances (Kshs.)	Schedules balances (Kshs.)	Variance (Kshs.)
Cost of Sales Note 6	148,377,080	146,336,128	2,040,952
Trade and Other Receivables – Chwele – Note 19(a)	20,614,735	20,599,478	15,257
Staff and Other Related Expenses – Note 8(a)	144,520,230	143,528,743	991,487
Repairs and Maintenance – Note 8(d)	23,770,516	28,958,336	(5,187,820)
Specialized Services – Note 8(e)	11,482,749	10,664,749	818,000
Furniture – Note 15	7,895,929	1,560,129	6,335,800
Computer & Equipment – Note 15	15,872,093	3,181,908	12,690,185
Network (Water Pipeline & Infrastructure) – Note 15	78,377,013	17,134,766	61,242,247
Water Meters – Note 15	40,843,647	26,069,123	14,774,524
Water Pump - Matisi T/W – Note 15	6,604,600	5,806,346	798,254
Motor Cycles – Note 15	1,219,086	678,585	540,501

Component	Financial Statements balances (Kshs.)	Schedules balances (Kshs.)	Variance (Kshs.)
Mobile Phones – Note 15	713,505	323,905	389,600
Capital Works – Note 15	-	12,623,575	(12,623,575)
Other Income - Note 7	34,332,949	-	34,332,949
Grant CLSG - Note 7	37,598,469	-	37,598,469
Depreciation - Note 15	20,633,191	9,025,716	11,607,475
Amortization - Note 16	142,607	476,991	(334,384)

In the circumstances, the accuracy and completeness of the respective balances could not be confirmed.

Management Response

During the period of audit, they reconciled and submitted amended schedules to Auditors on 23rd March, 2023; also, they attached the supporting schedules to the relevant accounts.

Oral Submission

About the amended supporting schedules that were submitted to the Auditor on 23rd March, 2023 minus the supporting Schedules, the Managing Director stated having submitted but the Auditor General stated that the vote heads were not in agreement with the ledgers that were submitted. In the circumstances, the Managing Director submitted the correct ledgers which were confirmed by the Joint Committee.

Committee's Observation

1. The Management failed to submit necessary supporting documents of the financial statements for verification by the OAG. However, the Managing Director submitted the documents to the Joint Committee as at the time of interrogation.

Committee's Recommendations

1. The Management to ensure that all supporting documents of the financial statements that were submitted before the Committee are also forwarded to the Office of the Auditor General as required by law.

2. The matter remains partially resolved until the OAG verifies the reinstated figures in the financial statements for the FY 2022/2023.

3. Failure to adhere to recommendation two above by the Accounting Officer, the provisions of Section 156 of the PFMA ... shall be invoked.

3. Long Outstanding Trade and Other Receivables

The statement of financial position and as disclosed in Note 19 to the financial statements reflects a trade and other receivables balance of Kshs376, 922,075 which includes balances of Kshs1, 365,849, Kshs67, 020, Kshs1, 045,560 and Kshs4, 507,226 relating to deposits and pre-payments, unpaid share capital, customer water deposits and unclaimed Value Added Tax (VAT) which have remained the same from the previous year. No explanation was provided for the failure to recover the long outstanding receivables.

In the circumstances, the recoverability of the receivables balance totalling Kshs6, 985,655 is doubtful.

Management Response

- i. The Managing Director submitted that Kshs1, 365,849 was a deposit payment made to Kenya Power and Lighting Company during transition by the defunct Municipal Council. The money represents meter deposits for various accounts.
- ii. The amount of Kshs67, 020 relates to 1,854 shares of Kitale Municipal Council @Kshs20 par value and 1,497 shares @Kshs20 par value of Webuye Municipal Council that remain

unpaid at the close of the financial year. 1649 shares @Kshs20 of Bungoma Municipal council was the only amount paid amounting to Kshs32, 980 leaving the balance of Kshs67, 020 as unpaid.

- iii. The Managing Director stated that Kshs1,045,560 was composed of Customer water deposit to National Water Conservation and Pipeline Corporation but was not transferred to Nzoia Water and Sanitation Company
- iv. That the amount of Kshs4, 507,226 was composed of unpaid VAT refunds to the company as at the close of June, 2021 when the supply of natural water was zero-rated.

Action;

- i. The Company has communicated to the shareholders to pay for the shares allocated to them. The question on share ownership is also a subject of the pending issues to be resolved through the Joint Task-force formed by the two shareholders to give a report on assets and liabilities. **Appendix 3(a): Terms of Reference for the Taskforce Committee**
- ii. After the winding up of National Water Conservation and Pipeline Corporation, the Company was unable to make further pursuit of the debt after the Company was wound up. However, the Management has written to Water Harvesting and Storage Authority for follow-up. **Appendix 3(b): Extract of the Water Act, 2016**
- iii. The company has written to KRA its intents to enter into a negotiation so as to use the outstanding VAT refunds of KShs4, 507,226 to off-set future liabilities. **Appendix 3(c): Correspondences to KRA**

Oral Submission

The Managing Director in his oral submission stated that the trade and other receivables amounting to Kshs1, 365,849 was the deposit made to KPLC during the transition from the defunct Local Authorities and the amount represents meter deposits for various accounts and the amount of Kshs67, 020 relates to 1854 shares of Kitale Municipal Council @ Kshs20 per value and 1497 shares @ Kshs20 Per value for Webuye Municipal Council that remained at the close of the financial year.

On the strategies put in place to collect all the outstanding receivables, the Managing Director stated that the Company has formulated policies to guide the management on debts of the company and further the company is working on the performance contract for its employees to fast track achievements of targets in the collection of outstanding receivables. He further stated that communication had been made to regional managers concerning performance contracting.

Committee's Observations

1. Supporting documents submitted for verification to the OAG and the Public Accounts and Investment's Committee were inadmissible since they lacked proper authentication including lack of the Auditor Generals stamp.
2. The Management lacked a substantive strategy to collect all the outstanding receivables as well as a credit policy for debt management.

Committee's Recommendations

1. The Management should expedite and come up with a Credit Policy for debt management and strategy for effective collection of outstanding debts.
2. The Managing Director should submit the required documents authenticated by the OAG within three months from the time of adoption of this report.

3. Unaccounted for interest

The statement of financial position and as disclosed in Note 20 to the financial statements reflects an amount of Kshs15, 815,266 in respect to short-term deposits. Review of the fixed deposit placement certificate revealed that the amount had been deposited for a fixed period of 11 months starting 30th July, 2021 to 30th June, 2022 and that the funds, upon maturity were to be transferred to the Company's operations account together with interest as at 30th June, 2022. However, a review of the bank statements provided revealed that the funds were wired to the operations account on 16th August, 2022 instead of 30th June, 2022 as provided for in the fixed deposit placement certificate. No explanation was provided on why the funds were transferred thirty-six (36) days after the stipulated date and how the accruing interest for those days was accounted for.

In addition, the statement of cash flows reflects an amount of Kshs6, 746,359 in respect of adjustments in fixed deposit. However, no explanation or documentary evidence was provided on the nature and purpose of the adjustment.

In the circumstances, the accuracy of the short-term deposit balance of Kshs15, 815, 266 as at 30th June, 2022 could not be confirmed.

Management Response

Concerning delayed receipt of interest the management stated that the company received KShs.739, 634 on 19th July, 2022 from the company's banker as interest on short-term deposit during the period under review. They had also engaged the bank concerning the extended period of 36 days after the stipulated date.

The cash flow amount of Kshs6, 746,359 is as a result of previous years adjustment in short term deposit amounts.

Oral Submission

The Management Director explained the delayed receipt of interest amounting to Kshs739, 634 on 19th July, 2022 from its bankers as interest on short term deposits that the bank delayed the transfer of the money and they had written to the bank for clarification and correct a matter which the company was waiting for the responses. This was confirmed by a communication from the bank on the status which was tabled by the Managing Director.

The amount of Kshs739, 634 was not accounted for which the Managing Director provided the supporting documents i.e. Payment Vouchers and journals

Committee's Observation

1. There was official communication from the bank admitting liability for the interest accrued from the extra 36days after the stipulated period. 30th June, 2022 to 16th August, 2022.

Committee's Recommendation

With the provision of the certified communication from the bank with regards to the interest accrued from the 36 day period, the query stands resolved.

Other Matters

4. Prior year reports

In the audit report of the previous year, several paragraphs were raised under the report on Financial Statements, Report on Lawfulness and Effectiveness in the Use of Public Resources. However, the Management has not resolved issues nor given any explanation for failure to adhere to the provisions of the public sector Accounting Standards Board templates and the National Treasury's Circular.

Management Response

No management Response was given.

Oral Submission

The MD agreed having not submitted the relevant documents during the time of audit which was an oversight that he promised to be handled in the subsequent audit. He further said the matter was being handled by the SENATE and was yet to be concluded.

Committee's Observation

1. Management did not properly go through the report of the Auditor General on Nzoia Water Services Company Limited for the year ended 30th June, 2022 and therefore, did not respond to the issue.

Committee's Recommendations

1. Management should submit to the PAIC and the OAG a response in relation to Prior Year Matters raised in the OAG report.
2. The submission of the prior year matters to the Auditor General should be within 30 days from the date of tabling and adoption of this report

5. Report on Lawfulness and Effectiveness in Use of Public Resources

1. Non-Revenue Water

During the year under review, the company produced 8,333,282 cubic meters of water, out of which only 4,304,400 cubic meters were billed for Kshs303, 265,106 as indicated in Note 5 to

the financial statements. The balance of 4,028,882 cubic meters or approximately 48.35 per cent of the total production, which represents non-revenue water, was not billed. This translates to 23.35 per cent above the 25 per cent loss allowed by Water Services Regulatory Board. No explanation was provided on the disallowable loss of 23.35 per cent, equivalent to Kshs1,945,561.

Additionally, and as reported in the previous audit reports, all the Company's eight production plants at Matisi, Kapolet, Nzoia had abstraction meters save for , Nabuyole, Terem, Kapkateny, Chesikaki and Kamutiong which did not have abstraction meters on reasons that the residents had resisted implying that the amount of water drawn from the rivers was based on estimates.

In the circumstances, the residents of Bungoma and Trans Nzoia Counties did not obtain value for money from the Company.

Management Response

The management responded that the significant losses were created as a result of;

a. Non-revenue water at 48.35 per cent

- i. The company used PVC pipes which were prone to leakage and bursts and deliberate destruction by independent water vendors.
- ii. The road construction works done within the Counties damaged the water distribution infrastructure leading to water losses. The company makes efforts to reach out to the contractors through communication to counties for the purposes of immediate repairs, relocation and reconstruction of supply lines as part of our efforts to mitigate against the losses.

Appendix 5(a): Sample Memos to the relevant departments in the Counties.

- iii. Old dilapidated pipe infrastructure which results to frequent leaks and bursts.
- iv. Some of the rural community water schemes handed over to the company are a high contributor to Non-Revenue Water because of;
 - Rural schemes are sparse and the response to leaks and bursts is challenging
 - Water theft is also a cause of concern. This is done by meter tampering, where customers using private plumbers interfere with the meters.
 - The construction of most of the lines was done by entities other than the company and the works need to be redone with proper quality materials.
 - Some of the water connections in these water schemes e.g. Chesikaki treatments were metered but meters removed by the community. Currently they are disconnected because of non-payment.

b. Lack of Abstraction Meters

The abstraction meters/master meters are capital intensive in nature. The eight treatment schemes were handed over by the Water Boards without master meters. However, the management has factored in the budget of FY 2023/2024 and partnered with USAID for support in procurement of the master meters and smart meters.

Appendix 5(b): correspondence from USAID and Safari-com

Action taken; The Company has since undertaken the following actions.

From the year 2018, the company has been replacing the old PVC pipes with modern HDPE and PPR pipes which are of high quality in order to reduce regular leakages and bursts along the supply lines.

Appendix 5(c): Sample Inspection and Acceptance Committee Report

- i. The company has since purchased 8 motorbikes for purposes of easing line patrol movements by operation and maintenance officers along supply lines. Leakage survey helps to ensure that early attention is given to such losses before they occur in massive amounts. Motorbikes also help to ensure that there is quick response to water leakages and bursts.

Appendix 5(d): Log books

- ii. The company has embarked on calibrating production meters and creating District Metering Areas and at the same time monitoring the performance of those District Metering Areas.

Appendix 5(e): Calibration Certificate;

- iii. Crack down on illegal connections. The crackdown was complemented by a meter audit exercise sanctioned by the board. The report helped to identify **34** illegal connections. The company has also engaged security organs in curbing illegal connections especially in Chesikaki and Terem water schemes where many consumers had initially connected to the Company's main water supply illegally. Illegal connections have been attracting penalties as shown in the billing statements.

Appendix 5(f): Sample of Billing Statements

- iv. Progressive installation of water meters to non-metered consumers that are handed over by the rural water schemes to the company
- v. The company has upgraded to mobile meter reading using smart phones coupled with procuring and operationalization of an ERP system which has integrated the meter reading, billing, customer care, NRW and other modules thus enhancing data handling efficiency
- vi. The residents in low income areas e.g. Mjini in Bungoma and Kipsongo in Kitale are unable to afford individual water connections, this has made them resort to vandalism of the company's pipeline to draw water. However, the company through Water Services Trust Fund has constructed water kiosks which provide water to the locals at affordable prices (Kshs2 per 20 litre).
- vii. Due to financial constraints, the company was not able to procure meters as per the procurement plan; the management is therefore doing proposals to development partners to source for funds towards investing in smart meters for abstraction and production.

- viii. With the creation of Water Police Unit, the company will engage the unit for arrest and prosecution of illegal connection culprits engaging in illegal water connections. This will assist the company to reduce the Non-revenue water levels.

Oral Submission

The MD in his submission agreed with the finding of the Auditor General that the company has a paid up share of Kshs32, 980 made up of 1649 shares by Bungoma Municipality in which the audit under note 22 confirmed the authorized share capital to be increased from 100,000 to 150,100, 000 which was through a resolution of the company dated 21st June, 2016. It was noted that the process was incomplete awaiting the report from the task force.

The MD stated that the company had procured an ERP system to assist in the integration of meter reading, billing and customer care thus enhancing data handling efficiency. Most of the water was lost during the construction of Dual Carriage project in Bungoma and Kitale Towns. It was further explained by the technical Manager that the pipes were uprooted by the contractor and the amount of water lost was qualified through measurement of the diameter of the pipe and the duration that water spilled, this then gave the volume of water lost amounting to 4,028,882 cubic meters. The MD further explained that lack of abstraction meters led to the company fail to account for non-revenue water The MD further stated that the components of non-revenue water comprise commercial and real loses.

On the issue of turn around strategies, it was explained that the company has developed a non-revenue Water policy to cushion the escalation of the menace in the company. The company has also purchased eight motor bicycles for mobility by the operation and maintenance officers along supply lines

The company has also engaged security organs in curbing illegal connections which have been part of the causes of non-revenue water. The company has engaged partners i.e. Safaricom smart Water metering solution and Water sector trust Fund to strengthen its operations. The MD also asked the respective County Executive Committee Members for water to legislate laws that will assist the operations of the Company. De- clustering will be handled by a task force that was gazetted whose report is being awaited for.

Committee's Observations

1. On site visit, the Committee observed that there were abstraction metres in place and in good working condition.
2. The company lacked a litrosonic machine that would help separate commercial and physical (real) losses.
3. There was no evidence on the use of the ERP System.

Committee's Recommendation

There should be prior compensation agreements between the company and respective County Governments with regard to water that is wasted during maintenance of roads.

The ERP System should be installed and put to use.

2. Non-Compliance with Memorandum and Articles of Association

As reported in financial statements in Note 22, Management has indicated that the Company has an authorized share capital of Kshs150, 100,000 divided into 7,505,000 shares of Kshs20 each, out of which 2,005,000 shares have been fully paid up while 2,500,000 shares of Kshs20 per value have been issued but not paid for. Further, review of the Memorandum of Association revealed that the Company has an authorized share capital of Kshs.100, 000 divided into 5,000 shares of Kshs20.

No explanation was provided on the contradiction between the information in the financial statements and the Memorandum of Association. Further, no evidence was provided to confirm that the company made regular returns with the Registrar of Companies as required by law.

In the circumstances, the correct shareholding and ownership of the company could not be confirmed.

Management Response

- i. Change of authorized share capital.** The Management agrees with the finding. The company has a paid-up share of Kshs32, 980 made up of 1649 shares by Bungoma Municipality. As reported in Note 22 in the financial statement of 2021/2022. The authorized share capital was increased from Kshs100, 000 to Kshs150, 100,000 by a resolution of the Company dated 21st June, 2016. However, the process was not completed and has been overtaken by event awaiting the report from task-force committee.

Appendix 6(a): Resolution of the Company

- ii. Returns not filed with the Registrar of Companies.** The company has experienced significant challenges on the ownership structure and composition since devolution when the defunct local authorities ceased to exist. With the incoming of the county governments, the ownership structure and composition became more complex and unresolved. This challenge has made it difficult for the company to file appropriate returns as the ownership of the company is still with the defunct local authorities.

A task force has since been formed so as to facilitate the resolution of the current pending issues on ownership subsequent to which proper returns can then be filed.

Appendix 6(b): Appointment of the task force committee

- iii. Shareholding and Ownership of the County Governments.**

During the Annual General Meeting held on 21st January, 2021. The stakeholders recommended that the County Executive Committee Members consult with the respective County Governments

and advice on the shareholding of the company. The County Governments ought to agree on the way forward.

Oral Submission

The Managing Director stated that the ownership structure of NZOWASCO was not definite hence a challenge to file the returns. Ownership is still with the defunct Local Authorities.

He further submitted that the current CR 12 indicates the shareholders as Webuye, Kimilili, Kitale and Bungoma.

The issue of shareholding was part of the matter being handled by the task force on the de-clustering of the Company.

Committee's Observations

1. The company failed to make regular returns with the registrar of companies owing to the ownership stalemate.
2. During the site visit, the sub-committee noted that the company had shareholders(**refer to annexure CR-12**)
3. The shareholding issue is being handled by the task force from the de-clustering of the company

Committee's Recommendation

The management to adhere to the laid down rules and procedures as contained in the MOA and AOA of the company with regards to the company's authorized share capital.

3. Non-Remittance of Pension Scheme Contributions

The statement of profit and loss and other comprehensive income and as disclosed in Note 8(a) to the financial statements reflects an amount of Kshs222,453,610 in respect of administration costs which includes Kshs144,520,230 relating to staff and other related expenses out of which Kshs12,246,462 relates to employees' benefits not remitted to pension scheme. No explanation was provided for the failure to remit the amounts deducted from staff salaries as required by the law.

In the circumstances, Management was in breach of the law.

Management Response

The company has been facing cash flow challenges due to inflation resulting to high cost of electricity and chemicals. This has led to financial constraints making it difficult to honor all its current obligations.

The company has taken the following cost recovery interventions to improve its financial performance and enable it pay its obligations:

- A new tariff for (**2023-2025**) will be completed as it is in the final stages of gazettelement. This will increase the revenues. The tariffs have already been approved by Water Services Regulatory Board awaiting gazettelement.

Appendix 7(a): Proposed tariff structure

- The company is projecting an increase in revenue collection once the new billing system stabilizes. This will enable the company meet its obligations.
- The Debt Management Policy will be implemented by procuring a debt collector to increase recover-ability of trade receivables.

Appendix 7(b): Requisition

The Management has since engaged both LAPFUND and CPF Financial Services (LAPTRUST) to negotiate on a payment plan of the pension contribution and waiver of penalties.

Appendix 7(c): Communications to LAPFUND and CPF Financial Services

Oral Submission

The MD submitted that the company was unable to meet their financial obligation due to the financial constraints they encountered.

The non-payment was also as a result of an outdated tariff but the company has since upgraded to the new tariff of 2023-2025 which was awaiting gazettelement.

Currently the Company has a debt management policy in place which will make use of a debt collector to recover receivables.

Committee's Observations

1. The Management has not remitted employees' contributions to the Pension Scheme for the past three Financial Years.
2. Though the Management claims that the company is facing financial constraints, it is recruiting new members of staff.
3. The company only availed schedules of deductions without confirmation of the payment receipts

Committee's Recommendations

1. The Management should be compelled to remit the employees' contributions to the relevant pension schemes immediately since the same has been deducted from their payroll.
2. Compliance to recommendation one (1) above should be within three months from the date of adoption of this report.

4. Staff Ethnic Diversity

Examination of human resource records revealed that during the year under review, the Company had a total of 273 employees. However, out of this number, 211 employees (or 77 per cent) were from the same ethnic community. This is contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which provides that no public establishment shall have more than one third of its staff from the same ethnic community. In the circumstances, Management was in breach of the law.

Management Response

The majority of the members of staff were from the defunct Kitale, Bungoma, Webuye, and Kimilili municipalities that Nzoia Water Services Company inherited and are still in employment. However, there is a reasonable ethnic distribution at the managerial level. The company is taking steps to comply with the National Cohesion Act of 2008 in its continuing recruitment process.

Oral Submission

The Head of HR admitted that 77 per cent of the employees were from the Luhya community. She however stated that regional balance had been achieved in the recruitment for management positions that took place in August, 2022.

She further stated that the current HR Strategy will ensure that diversity and inclusion is upheld. She also indicated that the company received limited applications whenever adverts were run.

Committee's Observations

1. The Management does not comply with section 7(2) of the National Cohesion and Integration Act, 2008 during its recruitment exercises.
2. The staff establishment in the bio-data report availed indicated members of staff dominated from one tribe.

Committee's Recommendation

The Management should comply with section 7(2) of the National Cohesion and Integration Act, 2008 to create a diverse ethnic balance.

5. Staff Over Establishment

Examination of the human resource records revealed that the Company had more staff in some cadres than what was provided for in its staff establishment as tabled below. This is contrary to Part 2.3(v) (b) of the Company's Human Resource Policy Manual.

Designation	Level	Department	Optimal No.	Current No.	Variance
Assistant II/I, Commercial	5-6	Commercial	7	9	2
Assistant I/II Customer Care	5-6	Commercial	5	9	4
Assistant II/I Accounting	5-6	Finance	1	4	3
Officer II/I ICT	7-8	Commercial	0	1	1
Stores supervisor	5-6	HR & Administration	0	1	1

Designation	Level	Department	Optimal No.	Current No.	Variance
Officer II/I	7-8	HR & Administration	1	2	1

In the circumstances, Management was in breach of the law.

Management Response

The over-establishment in certain cadres occurred as a result of re-designations and promotions of the officers due to job evaluation carried on reviewing the organogram. The Management is in process of reviewing the current staff establishment plan so as to ensure that it facilitates career progression of the existing officers.

Oral Submission

The members of staff at NZOWASCO were inherited from the defunct local authority and were mixed up. An evaluation was conducted and proper placement done. Recruitment was done but over establishment was due to promotions and re-designations following an advisory from Intex Consultants upon conducting an evaluation.

Committee's Observation

The company has surpassed its staffing levels contrary to part 2.3 (v) (b) of the Company's Human Resource Policy Manual.

Committee's Recommendation

The management must ensure compliance to the Company's Human Resource Policy Manual.

ANNEXTURE:

1. Certificate of Audit from the office of the Auditor General on the Nzoia Water Services Company Limited for the period ended 30th June, 2022
2. Copies of the management responses from the Managing Director Nzoia Water Services Company dated 18th August, 2023
3. Copy of the Joint-Committees site visit and minutes of the minutes of the Joint-Committees

The Members of the Joint Public Accounts and Investments Committees Bungoma and Trans Nzoia County Assemblies do hereby append their signatures adopting the report on the Auditor Generals audit of Nzoia Water Services Company for period ended 30th June, 2022 with recommendations therein.

That is the end of the report. I therefore, call upon the Chairperson of the Committee, Hon. Nganga to second this motion.

Hon. Everton Nganga: Thank you Hon. Speaker. First I would like to thank the mover of the motion Hon. Anthony Lusenaka- Member representing Bukembe East who is also our Leader of Minority in this Assembly. I have gone through this report and its recommendations as read by Hon. Lusenaka.

I second this report by saying that all the recommendations therein are good. Looking at the first query on inaccuracies in the financial statements, I am looking at the way they posted the figures where they have taken an intangible asset which should appear in the statement of financial position and here it is appearing in the statement of financial performance which is the profit and loss. I wonder if an intangible asset is shown in the statement of financial performance as an expense it will understate the profit or the sales of the company. Again if it appears as an income, it will automatically overstate the profit which is wrong. When you look at the issue of non-revenue water; 8,333, 282 cubic meter, this is water that is being produced but at the end you discover that what is billed is only 4304400 which is big blow to the company. I wonder how this company will operate if it cannot generate revenue from the water that it is producing

Again, looking at the issue of obstruction; there is lack of obstruction meters, especially in areas like Cheskaki and Teremi in Mt. Elgon. When our Committee moved to Mt. Elgon to check and verify what is happening, we discovered that there are no obstruction meters and most of the residents feel that actually this water should just be given for free; that they should not pay anything. By doing that, the company will fail to earn revenue, which is to assist them to pay salaries and also pay other expenses. This is a problem, and that is why we are recommending that we should have a de-clustering process.

A de-clustering process where those companies that are found in Trans-Nzoia County to be managed by the County Government of Trans-Nzoia then water sources or water plants found in Bungoma County to be managed by the County Government of Bungoma.

Again, we have this issue of non-compliance with the Memorandum and the Article of Association. An Article of Association is just a document that normally explains the internal rules on how the company should be managed. Looking at the authorized share capital, the company started with an authorized share capital of 150,100 divided into 7,505, each at shillings 20. But when we looked at the books, the authorized share capital of the company has dropped, which means it has contravened the rules of the Article of Association and once the share capital of a company reduces, then it means that the company has to be wound up.

In this case, the authorized share capital of the company reduced to 1,000 divided into 5,000, each at 20 shillings... this is wrong!

Again Hon. Speaker, for a company to be recognized, it has to file...

Mr. Speaker: Now that you are saying the share capital has dropped to the minimum level, why can't you initiate the one for wounding up the company yourself as a CPA?

Hon. Everton Nganga: Thank you, Hon. Speaker, I think, if consulted, I can do that.

For a company to exist, every year, it must file the returns to the Registrar of Companies and this company has not been doing that. It doesn't remit. It means it is supposed to cease, or not to exist.

There is a Committee that has been designated to do de-clustering and from our recommendations, actually, the de-clustering process is supposed to start, so that we, as the County Government of Bungoma we run our own sources of water, manage our own water schemes or plants, so that we can give or distribute clean water to our people, manage it very well and get revenue from the water. Honorable Speaker, I urge the House to adopt the report the way it is.

Mr. Speaker: Honourable Member, you are out of order. Reframe your submissions.

Hon. Everton Nganga: Thank you Hon. Speaker. I second the report.

Mr. Speaker: You are now in order. Honorable Members, allow me to propose a motion for debate.

(Motion proposed)

Hon. Joseph Nyongesa: Thank you, Speaker. First, allow me to appreciate the mover and the seconder of the report. I want to be very brief; this is a third report since devolution started. In our first regime, we had such a report, during the last regime we had such a report and again now we are having this report. The recommendations and observations are almost the same when you look at them.

The critical issue is that we as a County may be left with a great burden because of what is being suggested that the Trans-Nzoia people should pull out. The way we see and the way the management of NZOWASCO is doing, it is we as Bungoma people who will suffer a lot because the issue of KRA is there. NZOWASCO is taxing people, but the way they are managing these resources... they are managing them in a very poor way. I thought, through the wisdom of the Committee, they could have recommended for disbandment of management before saying that they are making some clusters so that at least every county could manage its own. The first thing to do is to disband the management of NZOWASCO for this county to be safe. The way it is, we are still in problems, I don't know whether I should support or not.

Anyway, Mr. Speaker, the same thing has been happening for some time and maybe the only answer to this or the only savior on this is to take the political direction to ensure that the management is disbanded.

Hon. Joan Kirong: Thank you, Mr. Speaker, for giving me this chance to contribute on the motion before us.

There is something that has touched me when the mover mentioned that there is illegal connection in Teremi and Chesikaki. In the areas that the mover is mentioning, we have not heard about this management called NZOWASCO; we don't know this animal called NZOWASCO! The report says that there are illegal connections and yet we don't have the people to connect this water legally. If you say that it is illegal and yet there is no correct way of connecting water, then I don't know how you want us to help our people because what we have been doing, we have been connecting water ourselves, and even me.

Mr. Speaker: You know members are wondering what you are saying! That you don't know this animal called NZOWASCO.

Hon. Joan Kirong': Yeah, we don't know it.

Mr. Speaker: It is strange to you; but you and your voters have been connecting to their main connection with your own pipes.

Hon. Joan Kirong': Yes, we have been connecting and we have been taking water. If you say that we don't have the obstruction meter, who is supposed to put up those meters? It is good to know before blaming our people or leaders from that region. I heard there was a topic somewhere in a certain committee that I am the one who is telling the people to take water.

Mr. Speaker: Hon. Joan Kirong', you know what happens. Anytime you want to discuss a member in this House, you bring it as a substantive motion then we discuss that individual. If people are saying that Hon. Joan is having short hair and she is blind; there is no problem. But discussing your conduct is not allowed. Proceed.

Hon. Joan Kirong: So, Mr. Speaker, there is no way we can blame our people and we don't have the management in that place. Saying that it is an illegal connection is out of order...

Mr. Speaker: Hon. Joan Kirong, it reminds me of my neighbors and I hope Hon. Rugut is not going to hear me, where some people claim all the cows belong to them; whether in Kisii or in Nyanza, they belong to them. So, saying that it is not legal is not proper.

I think you have finished. Hon. Jacob Psero, please, you proceed. I am not seeing you...then Hon. Meshack, you can be next then I will hand over to the Deputy Speaker.

Hon. Jacob Psero: Thank you very much Mr. Speaker, for this opportunity. I wish first of all to thank the mover of the motion Hon. Lusenaka for reading through the report so well. I think it is well understood by everybody.

This water project of Chesikaki falls in my Ward and the management of NZOWASCO has been a problem since I took over leadership of that Ward. Before I came in, there was a big rift between the former MCA and the people of Chesikaki against the company- NZOWASCO because of a failure by NZOWASCO to supply water to the various destinations.

Right now, we have a number of schools in that particular Ward that have no water; both girls and boys schools. Despite the fact that Chesikaki Ward is an area where water originates from, it is very sad that residents and even the students are still going to the river for water; including the area MCA.

I am still wrestling with the donkeys in the river for water just because of poor management at NZOWASCO and I agree with the Honorable Leader of Majority who has said that its management should be disbanded; they are not doing anything on the ground. Had it not been the young men who have learned the techniques of fixing these machines, it could be very difficult to have water. A school like Toroso Secondary with a population of over 2,000 has no water connection. When you go to Kimabole, the school of the Leader of Majority and there is no water available, yet we are proud to say that we have the rivers and a number of springs.

It is my prayers that as we separate from Trans-Nzoia, let us ensure that we disband NZOWASCO and start a new company. Otherwise, I have made fruitless efforts to talk to the Managing Director...

Mr. Speaker: Members, be very clear here, you either disband the management or you wind up NZOWASCO. There are very distinct issues you are discussing here... you are getting me? You can discuss disbanding the management; but when you talk of winding up the company or disbanding it, it is like you winding up the share that is available.

Your argument of disbanding NZOWASCO is different from disbanding the management of NZOWASCO. I hope you are getting me. Proceed.

Hon. Jacob Psero: Thank you, Mr. Speaker for that correction. I think the right word is actually to disband NZOWASCO; we wind up and get another company besides this one since it has failed to serve the citizens.

Again, Chesikaki is a rural area, and NZOWASCO is serving mainly the towns and that is why it has been very difficult for us to manage water activities in Chesikaki. The rates have been very high, and when you compare to community water which is available in my neighboring Ward of

Cheptais; and Hon. Cheseto, can attest to this, the water in Cheptais is cheaper than water in Chesikaki and they are just neighbors.

So the best way out is to ensure that NZOWASCO is actually disbanded completely and let the County come up with another organization which can run this project; particularly in Chesikaki Ward if possible. Let us have the community running the water project in the rural areas and big companies running the urban areas.

Hon. Meshack Museveni: Asante Mheshimiwa Spika kwa kunipa nafasi pia nataka niungane na wenzangu kwa kusema kuwa yule aliyeisoma ripoti Mheshimiwa Lusenaka amesoma vizuri. Ukweli ya mambo ni kuwa mambo ya NZOWASCO hayatusaidii kama wakaaji wa Kaunti ya Bungoma. Haya maji yanatoka Teremi yanapita katika wadi yangu sehemu ya Makhonge; na ukienda kwetu, tunaweka watu wanachimba wenyewe na kuweka *pipe* (mirija) na kila kitu lakini watu wa NZOWASCO hawaonekani, tunawaita walete *meter* (mita) na hawapatikani.

Niliwaambia watu wangu tunywe tu maji na tusipige simu kwa sababu sisi wenyewe tumejitengenezea na hakuna pahali ambapo kampuni ya NZOWASCO imehusika. Mimi mwenyewe nilichukua pesa nikaenda na bajeti yangu nikaleta maji hadi kwenye wadi yangu; kisha nikaambia wana wadi yangu sasa kila mtu ayaelekeze hadi kwa boma lake. Mwishowe tumeita wale watu wa NZOWASCO ya kwamba walete mita ili watu waanze kulipa na hawaonekani! Sasa shida iko wapi? Shida iko kwa kampuni ya NZOWASCO!

Ninataka niombe ya kwamba wale watu wa Kaunti ya Trans-Nzoia wameona kuwa wanataka kuhepa majukumu tulio nayo kama Bungoma. NZOWASCO ina deni kubwa na hao wanataka kuhepa! Wacha pia sisi Bungoma tuwe na kampuni yetu na pia Trans -Nzoia iwe na kampuni yao; lakini hatuwezi kubaki na jina NZOWASCO kwa sababu tukichukua hiyo tutachukua kila kitu na madeni yote yatakuwe kwetu.

Naomba kwa heshima kuu ya kwamba kama ni kugawana tugawane sisi wote. Shida ambayo iko hapo...

Nikimalizia, naomba kwa heshima jina la NZOWASCO litolewe na wasimamizi wote.

Mr. Speaker: Thank you, Hon. Linda but before her members, you know, on the issue of winding up the company, you cannot do it on the floor of this House. You must be able to invoke the relevant provision of the Company's Act and do it from the court. Here you can only plead for, for basically change of management, but winding up cannot be done on this floor of the House.

It will be an illegality. But what Hon. Meshack is saying is not on disbandment of management, he wants it to be disbanded, and everyone goes home. Proceed, Hon. Linda.

Hon. Linda Kharakha: Thank you Mr. Speaker. On the point you have spoken, I was just about to say the same that actually NZOWASCO is a disease, that needs cure and the cure is not *per se*, to disband it; but we can recommend as a House that it is disbanded within its Memorandum of Articles because I am sure it provides for its closure. That now a new board is made with recommendations and regulations made by this House and that new body operates within the same.

If you go through this report, the issues are the same over and over. Mismanagement, illegal connection, lack of remittance, they are still employing and yet they do not have money. You realize that Trans-Nzoia is already asking to pull out and if they do, it weakens the board of the company that supplies water.

I wonder why NZOWASCO has had problems until now yet companies like Nairobi Water are able to manage their meters, new connections, and people are able to remit their funds to the same body. Mr. Speaker, this is an issue of either incompetence or people taking advantage of the few coins that are within the company to enrich themselves or somebody somewhere does not have the well-wishes of the members of this county. Water is an essential commodity. If our people lack water, then we are going to have diseases coming in. There are real outbreaks that are coming in.

So, my humble wrap-up request and submission is that NZOWASCO can actually be disbanded, but through a recommendation of this House.

Mr. Speaker: Well spoken, before I go to Hon. Sheila, I will have Hon. Simotwo, but now the question here is, if what you are proposing is not part of the recommendations at the moment, what direction do we take?

Hon. Franklin Simwoto: Thank you Mr. Speaker; allow me first appreciate the mover of the motion who has done it properly. I wish to join my colleagues on issues raised concerning NZOWASCO. I came to know of NZOWASCO after the KOICA phase II and immediately they took over problems started. The management seems to have a problem because there are some people who have connected water in phase II and up to this time, they have not responded and yet there is nothing. If they cannot manage other areas, now we are adding more water points; like now the Phase II and the Phase III. If NZOWASCO is still the same, this Bungoma is not going to move anywhere. You can't connect water where nobody is taking it.

We must come up with solutions. The recommendations should be stronger for the disbandment of this management and we come up with a proper management board that can sustain the capacity of the people. If you look at the multi-billion project from Chepyuk, I think really if they cannot manage Chesikaki- Teremi and then you are adding another one; problems are accumulating. I support the disbandment of the Management Committee.

Mr. Speaker: I don't know which Management Committee you want to disband...yes Hon. Sheila.

Hon. Sheila Sifuma: Thank you Mr. Speaker for this opportunity. Maybe just to add voice to the conversation, I think the report misses out on very important issues and these are the issues that Bungoma people are facing because of NZOWASCO.

Number one, in terms of the staff; salaries are delayed for the staff of NZOWASCO and I think this has been mentioned time and again. Sometimes, the statutory deductions that are taken from employees' salary are not remitted to banks. This has been raised many times and I was waiting to hear it even in the report, but maybe it missed out.

There is rampant nepotism at NZOWASCO; people who are qualified to be promoted are surpassed and younger people or people who belong to relatives of the Managing Director Mr. Matthew and the rest of the team there are promoted.

They lack meters; residents are paying for meters and yet connections are not made to their homes.

There is a water pipeline on the Sikata-Lusaka Road, it was made some time back, but I am not sure; maybe it can be confirmed by the committee. That pipeline is yet to be operationalized and a lot of money was spent on the same. I am happy that this conversation is on the Floor because previously I raised questions, but they never made it to the Floor of the House for reasons I don't know and I never got.

It is high time we get rid of NZOWASCO by whichever means we agree as this House. I remember that time when I had these queries I reached out to the Minister of Water at national level just to get an advice and it was stated to me that this House has power to actually restructure even the leadership if we want through recommendations. That is the best we can do because we are a legislative body.

I would really want the document and the report that has been read on the Floor of the House to have it as a recommendation and from there; we can pick it up and see. You see, by the time Trans-Nzoia is isolating itself and they are forming Transwasco or something, they have seen the issues that are facing their people. Water is a basic need and when people cannot access water, surely we are not doing justice to the people of Bungoma.

Lastly, there was a time there was water shortage in Bukembe-Sikata area and I remember there were a lot of complaints. When I went to the office of NZOWASCO, I realized we don't have a water bowser for emergencies and the only water bowser that is there has to come all the way from...they said Webuye and you have to pay Kshs10,000 to get it. So, looking at normal residents in Bungoma, how many people will afford to get water in case you have an emergency

even in a hospital when there is no water? Maybe in a school when there is no water; how do you expect them to afford that Kshs10,000 to get a water bowser from wherever it is coming from and yet even locally? Today I will tell you for free that we don't have a water bowser for any emergency... it comes all the way from Webuye.

I think those are questions that are pertinent and the Committee has to address and help us on how to navigate through them. On that note, I do not support the report because it misses out on very important issues.

Mr. Speaker: Members, having heard your sentiments and submissions, do you still want to go with the report the way it is or what is next; because it is missing basic recommendations the way you have said. You have spoken so well but they are missing in the report here. So, do I assist you to pass it the way it is or what do I do. Yes Hon. Stephen

Hon. Linda, you had spoken; you know you cannot speak more than once on the same debate.

Hon. Stephen Wamalwa: Hon. Speaker, thank you so much for this time accorded to me. I want to first of all thank the Hon. Namunyu for moving the report eloquently. You know, he is a lawyer himself, he is your learned friend, and like for us who maybe other things, I don't understand what to say.

I wish to commend the Committee also for coming up with this, although, when you look at the report, it is actually a report that resembles other reports that have come before this House for consideration. So, maybe this time round, we can do things a little bit different because we cannot be doing the same things, same way, and expect different results year in, year out. I want to agree with the colleague Honourable Members who have contributed to this motion and they have given maybe wishes. I can say, or recommendations, but we cannot just wish that they are part of this report without acting on it appropriately.

I want to agree with them that we have weighty matters that need to be acted upon decisively in this report, but how do we go about that? We have very many things ranging from misappropriation of funds, nepotism, we have incompetency, just to mention but a few. Therefore, I wish to request that under Standing Order No. 66, that we work on amending this report so that we can incorporate those desired contributions of Honourable Members, because we have to remember that a task force was formed and it was given three months to submit its report.

As we speak today, the report of the task force has not yet reached this House and yet we need that task force report so that it can inform the liabilities that are required to be shared between the two counties.

There is need for an audit to ascertain assets and liabilities by NZOWASCO. Therefore, the report of the same has to be brought before this House. We have to give timelines.

We cannot just pass this report without timelines. We must have timelines brought before this House so that we can consider that. I wish to suggest under Standing Order No. 64 (b), that we adjourn this motion without any ill feeling so that we can have all those desired issues mentioned by the Honourable Members here brought before this House so that we can add to this and make recommendations and demand that we have the same.

So, under Standing Order No. 64 (b), I seek to adjourn the debate of this motion, and I wish to request that everybody agrees with me so that we can bring all those proposed issues and add to this so that we pass this report with amendments; so that we can force those issues to be acted upon. I wish to request Hon. Linda Kharakha to second the proposal under Standing Order No. 64 (b); so that we adjourn debate on this motion for us to introduce those amendments. Hon. Kharakha, please!

Mr. Speaker: Yes, before I allow Hon. Linda, Hon. Lusenaka, what are you saying? Sorry.

Hon. Anthony Lusenaka: Thank you Hon. Speaker. I appreciate all the sentiments by the members here and before we move in that direction, I just wish to inform the House that we have a task force at the Senate that is looking into these NZOWASCO issues, which is touching on expanding the management and even winding up as per the Memorandum and Articles of Association. So, maybe as we move in the direction that the Deputy Speaker wants, we also have to consider what is being handled at the Senate.

Mr. Speaker: It is okay, thank you. Members, let me say what I wished to say that we are moving a motion to adjourn this debate.

I have heard well, views from Hon. Linda, Meshack, Simotwo here, and the one from Hon. Joan admitting they just take water illegally without any... Now, allow Hon. Linda to speak; you had called her already, you can't be given back the microphone, Deputy Speaker.

Hon. Linda Kharakha: Thank you Mr. Speaker for giving me this opportunity to second a proposal from Hon. Stephen. I support that we adjourn with these sentiment; Hon. Lusenaka is saying the report is being checked out at the Senate right now but with the recommendation in this report, it will not move a regulatory body to even listen to us; and it is very much in order that this adjournment is taken with seriousness from the Committee concerned to input what Honourable Members have spoken about here; so that our report has strength to even move when another body comes in. I support that we adjourn.

Mr. Speaker: Members, what has happened is now a motion within a motion. So, I will be proposing a question on a motion within a motion, so that you debate it first before we can pass it.

(Question for deferment of debate on the motion proposed)

I will proceed to put a question. Sorry Hon. Leader of Majority, I didn't see your microphone on!

Hon. Joseph Nyongesa: Thank you Mr. Speaker. I just rise in support of our adjournment on this debate and even basing on what my colleague Hon. Lusenaka said, that they are well aware of the Senate; that actually they are on their way to disband the management. But as a Committee, they lied low. So we are supporting you knowing that you are aware that the management is so poor and we should disband it. I support.

Mr. Speaker: Commissioner Ali, I am giving you a microphone, please. Proceed!

Hon. Ali Machani: Thank you Hon. Speaker. First of all, I am not for the adjournment. There are several things we need to observe;

First we need to understand the formation of NZOWASCO. Those Honourable Members who were in local authorities and the Speaker might be very much informed; NZOWASCO was created after confusions from water ministry, where we used to get water direct from the ministry. When the local authorities sat together within the catchment of Nzoia, they agreed to come up with a company in the name of NZOWASCO; that is Nzoia Water Services Company and we have an agreement in between the different players to run NZOWASCO. What is failing is the management of the company?

Mr. Speaker: Commissioner Ali Machani, there are two versions here. Your contribution is very nice but on the main motion; but now we are discussing the issue of adjournment.

Hon. Ali Machani: That is now where I am driving my point, Hon. Speaker. I was only building the foundation to deliver the point. Now, why am I against the adjournment? First, we could deliberate as a House.

Secondly, get the point why the two counties handled this report. If we adjourn, we have not also considered what the other county is going to say. Also, there are other areas where one of the Honourable Members said the Senate is also handling... it is also doing oversight. When they are handling it, they are also doing oversight. So, how I wish that we could play our part as an Assembly, but through your proposal and the guidance you had raised before, adjourning could be the last option.

We could deliberate and raise issues that will generate main argument on how we want NZOWASCO to be run because as we are talking, we may adjourn, but we have not cured the real cause of all these challenges.

Mr. Speaker: Thank you, Hon. Nganga!

Hon. Everton Nganga: Thank you Hon. Speaker. I am looking at the motion that has been proposed by Hon. Deputy Speaker, Hon. Stephen. It is like some of us have not actually gone through the report properly, and that is why maybe they are proposing that we adjourn. I feel that adjourning this motion is just a waste of time and this is the reason. When you look at our recommendations that we came up with; recommendation number five, I am not contributing on the main motion, but this is something that Honourable Members were supposed to understand. Let them get the proper meaning of the word “de-cluster”. The word “de-cluster” means to remove things you do not need from a place in order to make it more pleasant and more useful. To remove things and from...

Hon. Speaker, protect me from Hon. Linda!

Mr. Speaker: Hon. Nganga, you are protected when we have an aggressor!

Hon. Everton Nganga: You Know...

Mr. Speaker: Hon. Nganga!

Hon. Everton Nganga: She is a lawyer but...

Mr. Speaker: Hon. Nganga, I have not seen her being aggressive or anything towards you. Proceed!

Hon. Everton Nganga: Hon. Speaker, this is what I was saying, but she whispered some words.

Mr. Speaker: No, I did not hear anything!

Hon. Everton Nganga: To de-cluster, from our recommendation number five, the way I have actually read from the Oxford English Dictionary is to remove things you do not need from a place in order to make it more pleasant and more useful. So, in this perspective, to de-cluster may include removing the management the way Honourable Leader had proposed. You can remove the management. That is one of the processes of de-clustering. You come up with the liabilities and the assets of the company.

Liabilities and the assets of the company, the way Hon. Deputy Speaker mentioned... after coming up with the liabilities, they will determine in which manner the two counties are going to

share. After coming up with the total assets, they will also determine the percentage at which the two counties; that is Bungoma and Trans Nzoia, are going to share.

So, we are not blind and it is the two committees, that is the Public Accounts Committee of Bungoma and Trans Nzoia who interrogated this report and we know the gravity of the matter. This report...

Mr. Speaker: Hon. Nganga!

Hon. Everton Nganga: Yes!

Mr. Speaker: Can I know one thing from you; are you saying that since you did joint interrogation, this House's hands are tied; that they can't amend this report?

Hon. Everton Nganga: Hon. Speaker...

Mr. Speaker: Just confirm that; are you saying these Honourable Members can't amend this report; add or minus, the way it is, because you did joint interrogation?

Hon. Everton Nganga: Hon. Speaker, if there is any amendment to be made...

Mr. Speaker: Honourable Member, answer a very simple question. Are we hand-tied or barred from amending?

Hon. Everton Nganga: Hon. Speaker, we are not hand-tied.

Mr. Speaker: Okay, proceed.

Hon. Everton Nganga: We are not hand-tied but this is what I am saying. The members who had interrogated were the ones who know what is required from this. Looking at the observations and the recommendations and after interrogating, we don't just do this interrogation blindly. We are always guided by the person who prosecuted the report.

The person who came up with the query because he is the one who knows the intensity; how did this query occur and at the end of everything, he will move with the same report to the Senate, with the same recommendations the way you have also come up with these recommendations and observations. So let us understand the report properly and in this report we say that external experts and lawyers like Hon. Linda, Hon. Lusenaka., commissioners of oaths, like you, Speaker, Auditors, members of ICPAK like Hon. Nganga, the one talking. So, I am against, but if there are amendments that will come, let them come, but those are my submissions.

Mr. Speaker: Thank you; we listen to Hon. Ipara then I will have Kirong'. Hon. Stephen, prepare to reply to the motion for deferment! Proceed, Hon. Ipara.

Hon. Johnston Ipara: Thank you, Hon. Speaker. I begin by saying that I stand to support the motion for the deferment of debate on this particular report. The reason is Hon. Nganga the seconder of this report has said de-cluttering.

Mr. Speaker: Honourable, the seconder of the other motion!

Hon. Johnstone Ipara: I am saying the contributor of this report.

Mr. Speaker: Thank you, proceed!

Hon. Johnston Ipara: Thank you Hon. Speaker. He has just picked up that word de-cluttering that is used in his report for like ten times. De-cluttering in simple English tells us it is something that is undone and if it is undone, I was expecting the seconder of the report and the person who has also debated on this report to tell us the way forward. He has failed to tell us the way forward. Serious issues were raised in that report which they ignored.

One of them was talking about salary; and salary is a very major issue. The second thing was about statutory deductions which were not remitted. They were not remitted and they have not spoken on any part of it. Nepotism, which I said is one of the driving factors that have psyched up Trans Nzoia to go alone. They have not said anything about that. The worst of them all is a bank loan. You deduct from an employee on behalf of the bank and you don't remit the money; that is a serious omission. When we say that we just recommend and we say we are pastors and because we are pastors and we forgive people as Jesus forgave us; that is the worst of the mistakes we are doing in this Honourable House.

Mr. Speaker: Forgiveness only comes after confession.

(Laughter)

Hon. Johnston Ipara: Thank you Hon. Speaker. Forgiveness comes only after confession, and the management must confess. The management themselves also admitted, I want to use that word admitted, that actually they have not been able to connect water to more users. The UN Convention says that water is a necessity, that every person must be connected and you heard Hon. Joan confess and you being a lawyer, I expected that you will prepare some charges against her since she said that actually they did the wrong things. These wrong things were done because the management was not able to provide water for these people.

I tried to follow this report with a lot of respect. The report is scattered all over. You can't understand where you are going after step one. You can't understand.

(Applause)

Why should we waste time? Those are the reasons why I stand to support that we adjourn; the committee gets time, amends and if they are unable to amend, they can also invite some of us to assist them. There are so many avenues. Voluntary winding up of a company; we can't recommend for that. We can also recommend for compulsory winding of that company because actually, it has not lived to the expectation of the people of Bungoma County. With that, I support.

Mr. Speaker: Hon. Kirong' then Hon Sheila; I have seen she is online. I will allow her to speak then the Deputy will reply. The day is still very young. Where is it? Proceed, Hon. Kirong'. It is okay. Sheila, you're given a chance to speak. You are on, Proceed, then Hon. Stephen you reply.

Hon. Sheila Sifuma: Thank you Mr. Speaker, for the opportunity. Allow me to refer on a memo dated... Give me one minute... dated 13th September, 2023 from the Managing Director to all the members of staff of NZOWASCO.

Mr. Speaker: Is it part of the annexures here?

Hon. Sheila Sifuma: Yes.

Mr. Speaker: Hon. Nganga, you are out of order! If it is part of the annexures here, you cannot bar her from speaking, proceed!

Hon. Sheila Sifuma: Thank you Mr. Speaker. In the memo, it reads, de-clustering. De-cluster not de-cluttering. So, I would like to be advised or to be informed maybe later on when they get a chance where they got the word de-cluttering from because de-cluttering and de-clustering are two different things and the memo reads the de-clustering of Nzoia Water Services Company Limited and the MD is telling the people that all services continue as normal until de-clustering. Maybe, we will have to educate some of our colleagues on the difference of de-clustering and de-cluttering. I support the adjournment of debate on this motion.

Mr. Speaker: Hon. Nganga, equally I have found that notice. Task force on de-clustering not the one you have been flashing here and scaring some of us

(Applause)

Hon. Steven, you proceed!

Mr. Speaker: Thank you Hon. Speaker. I wish to appreciate the Honorable Members because from the mood, from the look on their faces, I know they have a lot of issues that will come forward as we work on amending this report so that we make it to have some teeth to bite. I also wish that the chair of PAIC, a respected member that I do much respect, the CPA, Hon. Nganga should have known actually the functions of NZOWASCO.

If actually you knew all the functions of NZOWASCO Hon. Nganga, my friend, CPA, maybe we could be reading from the same script. I want to actually agree with the members from your sentiments supporting the deferment of this report that we go back and all of us, anyone of us with an idea of beefing up this report should bring the amendment so that we can work on it. In fact at the end of the day, the people to take the credit will be the PAIC because the report will be in this House with the support of every member; and credit goes out to the Public Accounts Committee.

I wish to say this; we cannot have the same management in place when we are doing investigations; when we are working on winding up. This management should be forced to step aside. The management of this company has been accused of all these things that have been flying around should step aside and a caretaker committee formed to oversee the transition of this company.

We cannot have the same devils; the same people who are doing those things in office. They say that they intimidate anybody who goes there to find out the truth. So, I wish to request that one of the recommendations that will come should be known that the management will step aside so that a caretaker committee is charged with overseeing transition.

We are not in any way against the de-clustering of the company as one member suggested here. What we are saying is, we agree that if Trans Nzoia wants to have their own company it is well and good because they have complained very many times that the company is running at losses because of Bungoma. So, if they want their company to operate in Trans Nzoia, we have no problem; but what we are saying is that we must understand the issues that are afflicting this company and that we share responsibility, we share the profits and losses and we know exactly what to take. The management should step aside and caretaker committee formed. That is one thing.

Mr. Speaker: Hon. Deputy Speaker, that is out of order. What you are proposing to bring forward is up to you. Insist on adjournment of debate on the motion and it ends there. What you want to bring forward is none of our business.

Hon. Stephen Wamalwa: Thank you so much Hon. Speaker. I want to urge each one of us, if you have any issue that you think will go a long way in improving this report and taking care of

the welfare of the people of Bungoma and by extension the people of Trans Nzoia; bring the same forward so that we work on it and bring a report that is actually good to stand the test of time. I beseech all the Honourable Members that you agree with me and we support the adjournment of debate on this motion.

(Applause)

Mr. Speaker: Thank you, Hon. Stephen. Honourable Members, a motion has been moved and seconded; and debate having ensued that this House adjourns the debate on the motion beforehand under Standing Order No. 64(b) to allow amendments on the recommendations.

(Question for deferment of debate on the motion put and agreed to)

The ayes have it!

Honourable Members, this will be the way forward; it is not the work of the Committee anymore; it is an amendment being moved by the Deputy Speaker. To avoid multiple amendments, we agree that if it is Hon. Stephen doing the amendments or Hon. Sheila or Hon. Linda, Ipara, or Nganga himself, Meshack, Kirong' and Psero; you bring all your amendments as one so that we amend the recommendations.

Hon. Leader of Minority you are not barred from bringing yours as well. You can unleash one and join them in amending your own report... there is nothing wrong in that. You will have up to Tuesday at 2:00 p.m. when this report will be heard. We are only seeking to amend recommendations and nothing else, are we together? I think that is done.

ADJOURNMENT

This report shall be heard next week on Tuesday, 30th April in the 2:30 p.m. session. Before we adjourn, the Committee on Appointments shall be having its pre-vetting session at 4:40 p.m. at the CASB boardroom on the fifth floor of our new administration building to prepare for the vetting of the County Attorney nominee. From here, we go the other side for the pre-vetting meeting then I think we will be given further guidance.

We now adjourn to resume tomorrow at 2:30 p.m. Thank you, have a good evening.

(The House rose at 4:33 p.m.)